

# ACT

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## THE BANKING ACT, 2011

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SIGNED this 28th day of December, 2011.

DR. ERNEST BAI KOROMA,  
*President.*



No. 14



2011

**Sierra Leone**

**THE BANKING ACT, 2011.**

Short title.

**Being an Act to provide for the licensing of persons carrying on banking business, the regulation and supervision of banking activities, the protection of depositors and to provide for other related matters with a view to developing and promoting a safe and sound banking system in Sierra Leone.**

[ ] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

## PART 1—PRELIMINARY

Commence-  
ment. **1.** This Act shall come into operation on a date to be fixed by the Central Bank by statutory instrument; and different dates may be fixed for the commencement of different provisions of this Act.

Application. **2.** This Act shall apply, where appropriate, to the overseas operations of banks.

Interpretation. **3.** In this Act, unless the context otherwise requires-

“affiliate” means a body corporate that directly or indirectly controls or is under common control with, a bank;

“bank” means a body corporate licensed by the Central Bank in accordance with this Act to carry on banking business;

“banking business” means-

- (a) accepting deposits from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order, or by any other means; and
- (b) using the funds, whether in whole or in part, to make loans or investments for the account, and at the risk of, the person doing the business;

“bank-related party” means any person that maintains any of the following relationships with respect to a bank:-

- (a) a director or executive officer;
- (b) a significant shareholder;
- (c) a subsidiary or affiliate;

(d) a director or executive officer of a legal person described in paragraph (b) or (c);

(e) a spouse, parent, child, grandparent, grandchild, brother or sister of an individual described in paragraph (a), (b), or (d);

(f) a legal person of which an individual described in paragraph (a), (b), (d), or (e) is a director or executive officer;

(g) a legal person of which an individual described in paragraph (a), (b), (d) or (e) is a significant shareholder; and

(h) any other similar relationship, as prescribed by regulation of the Central Bank;

“branch” means an office of a bank that is not separately incorporated, through which a bank may be permitted to engage in banking business;

“capital base” means the sum of core capital and eligible amounts of supplementary capital, as prescribed by the Central Bank;

“Central Bank” means the Bank of Sierra Leone;

“control” means a relationship where a shareholder, directly or indirectly, alone or in concert with other shareholders-

- (a) has the power to appoint or remove the majority of the board of directors of a legal person;
- (b) owns a majority of the capital or voting stock of a legal person; or

- (c) has the ability to exert a significant influence on the management or policies of a legal person pursuant to a contract entered into with that legal person, or to a clause in the by-laws of that legal person;

“core capital” means permanent shareholders’ equity in the form of issued and fully paid-up shares plus all disclosed reserves, perpetual non-cumulative preference shares and retained earnings, less goodwill and any other intangible assets, as may be prescribed by the Central Bank;

“credit exposure” means the amount at risk from a claim or transaction of a bank, whether on or off-balance sheet, and whether contingent or actual, including extensions of credit, credit openings, letters of credit, credit commitments, advances, guarantees, acceptances, debt securities, as well as investments by a bank;

“credit reference bureau activities” means the activities set out in the Credit Reference Act, 2010.

“deposit” has the meaning assigned to it in section 8;

“director” in relation to a bank, includes a person, by whatever name he may be referred to, carrying out or empowered to carry out substantially the same functions as those carried out by a director of a company registered under the Companies Act, 2009 or subsequent enactment or a director of a cooperative society registered under the Cooperative Societies Act, 1977;

“direction” means a legally binding directive of the Central Bank issued to a specific bank, all banks, or any particular group thereof, in the implementation of this Act;

“executive officer” means–

- (a) the chief executive officer, chief financial officer, chief operating officer, chief risk officer, chief internal auditor, chief compliance officer and chief accounting officer of a bank; and
- (b) any other person who participates or has authority to participate in major policymaking functions of the bank, whether or not the person has an official title or receives compensation for the actions, and is designated as an executive officer by the Central Bank;

“financial company” means a person, including a bank, that primarily engages in one or more of the permissible banking activities referred to in section 31;

“financial institution” means an institution subject to regulation and supervision by the Bank under this Act or any other enactment.

“finance leasing” means a contract between two parties whereby a lessor gives the lessee possession and use of a specific asset (or portfolio of assets) in consideration for payment of rentals over a given period in which the lessor retains ownership or title with the intention to transfer ownership of these assets to the lessee upon termination of the finance lease;

“foreign bank” means a person that is organized, has its principal place of business, and holds a licence to engage in the banking business in a jurisdiction other than Sierra Leone;

“foreign supervisory authority” means the relevant supervisory authority in the country or territory where the foreign bank has its principal place of business;

“licence” means an authorization granted by the Central Bank under section 11 for the carrying on of banking business in Sierra Leone;

“non-financial company” means a person that primarily engages in commercial, industrial or agricultural activities;

“person” means an individual, company, enterprise, partnership, association, or undertaking, whether or not incorporated;

“place of business” means a branch, agency, office, mobile office or booth of a bank that is open to the public;

“regulation” means a legally binding directive adopted by the Central Bank and applied to all banks in the implementation of this Act;

“significant shareholder” means a person who directly or indirectly, alone or in concert, holds five percent or more of the capital or voting stock of a bank or any other shareholder who, based on a determination by the Central Bank, controls a bank;

“subsidiary” means a legal person under the control of another legal person;

“supplementary capital” means general provisions which are held against future and current unidentified losses and are freely available to meet losses which subsequently materialize, and includes subordinated debt, cumulative and redeemable preferred stock, revaluation reserves on fixed assets, and any other form of capital, as prescribed by the Central Bank.

Objectives and functions of Central Bank.

4. (1) The objective of this Act is to promote a safe and sound banking system and to provide an appropriate level of protection for depositors’ interests.

(2) The Central Bank shall have exclusive licensing, supervisory and regulatory responsibility in all matters relating to banking business and shall be responsible for interpreting and implementing this Act through regulations, directions and any other means consistent with this Act.

(3) The Central Bank shall keep under review the operation of this Act and developments in the field of banking which appear to it to be relevant to the exercise of its powers and the discharge of its duties.

## PART II – LICENSING AND OWNERSHIP OF BANKS

5. (1) Subject to section 6, no person shall engage in banking business in Sierra Leone or otherwise solicit deposits from the public unless that person holds a valid licence issued by the Central Bank for that purpose. Banking business and deposit-taking to be licensed.

(2) No foreign bank shall be permitted to engage in banking business in Sierra Leone unless the foreign bank establishes a subsidiary in Sierra Leone and has obtained a licence issued by the Central Bank to conduct banking business.

(3) The Central Bank may instruct a person who contravenes this provision to immediately terminate any illegal deposit-taking activities and repay the funds so raised.

(4) No person shall use the word “bank” or derivatives of the word “bank” in respect of a business, product or service without having a licence issued by the Central Bank to engage in banking business, except where the usage relates to-

- (a) the name of an association of banks or of employees of a bank formed for the promotion of mutual interests of its members;
- (b) an international organization; or
- (c) a context that does not concern the conduct of an activity permissible for a bank under section 31.

(5) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not less than fifty million leones or to imprisonment for a term not less than three years.

(6) Where the Central Bank has reasonable grounds to believe that a person has contravened subsection (1) or (2), it may, under a warrant issued by a Magistrate, enter any premises and examine the books, accounts and records of that person.

(7) In the exercise of its powers in subsection (6), the Central Bank may take copies of or extracts from, any documents or records examined.

(8) A person who intentionally obstructs the Central Bank in the exercise of the powers conferred by subsection (6) or (7) commits an offence and is liable on conviction to a fine not less than fifty million leones or to imprisonment for a term of one year.

Exempted persons.

**6.** The restrictions on the conduct of banking business and deposit-taking in section 5 does not apply to *osusu* and friendly societies whose total deposits remain less than an amount prescribed by the Central Bank.

Restrictions on bank names.

**7.** No bank shall use words in its title which would likely, in the opinion of the Central Bank, mislead the public.

Meaning of "deposit".

**8.** (1) For the purposes of this Act, "deposit" means a sum of money paid on terms-

- (a) under which it will be repaid, with or without interest or premium, and either on demand or at a time or in circumstances agreed to by, or on behalf of, the person making the payment and the person receiving it; and
- (b) which is not referable to the provision of property or services or the giving of security, and references in this Act to money deposited and to the making of a deposit shall be construed accordingly.

(2) For the purposes of paragraph (b) of subsection (1), money is paid on terms which are referable to the provision of property or services or the giving of security if-

- (a) it is paid by way of advance or part-payment under a contract for the sale, hire or other provision of property or service, and is repayable only in the event that the property or service is not in fact sold, hired or otherwise provided;
- (b) it is paid by way of security for the performance of a contract or by way of a security in respect of loss which may result from the non-performance of a contract; or
- (c) without prejudice to paragraph (b), it is paid by way of security for the delivery or return of a property, whether in a particular state of disrepair or otherwise.

**9.** (1) No person shall be eligible to apply for a licence under this Act unless that person is a registered company, a registered cooperative society or a statutory body. Eligibility to apply for a licence.

- (2) For the purposes of this Act-
- (a) "registered company" means a company incorporated or registered in Sierra Leone under the Companies Act, 2009 and whose name has not been struck off the companies register;
  - (b) "registered cooperative society" means a cooperative society registered in Sierra Leone under the Cooperative Societies Act, 1977 and whose name has not been struck off the Register of Cooperative Societies; and
  - (c) "statutory body" means an entity established by an enactment.

Application  
for a licence.

**10.** (1) A registered company, registered cooperative society, or statutory body wishing to carry on banking business in Sierra Leone shall apply to the Central Bank for a licence.

(2) An application shall be-

- (a) in writing and in English;
- (b) in the form that the Central Bank may determine;
- (c) accompanied by-
  - (i) a copy of the memorandum of association of the applicant or other instrument governing the establishment of the applicant ;
  - (ii) a statement indicating the address of the proposed head office of the applicant;
  - (iii) a statement indicating the nature and scale of the banking business which the applicant intends to carry on, development plans for the business, and particulars of the applicant's arrangements for the management of that business;
  - (iv) projected financial statements for three years and, if applicable, audited financial statements and annual reports for the past two years;
  - (v) the authorized capital, including the amounts that have been paid-up;
  - (vi) a management service agreement if any;
  - (vii) a list of proposed significant shareholders stating their names, addresses and respective share holdings; and

(viii) for each person who would be a director, executive officer, or significant shareholder of the proposed bank, an affidavit disclosing-

- (a) the name, nationality, place of residence, business and professional history for the past ten years, and audited financial statements for the past three years (if applicable);
- (b) any convictions by a court for offences punishable by imprisonment or involving fraud or dishonesty;
- (c) any personal bankruptcy filings, suspension of payments to, or compounding with, creditors;
- (d) any disqualifications or suspensions by a competent authority from practising a profession;
- (e) any past or present involvement in a managerial function of a body corporate or other undertaking that is, or has been subject to, insolvency proceedings; or
- (f) any removal from the position of director or executive officer at any bank or other financial company ordered by a competent authority.
- (g) in any case where the proposed bank would be a subsidiary of a foreign bank, a statement from the foreign supervisory authority that it has no objection to the foreign bank's proposed establishment of operations in Sierra Leone and that it exercises global consolidated supervision over the foreign bank; and
- (h) any other information or documents that the Central Bank may require for determination of the application.

(3) The Central Bank may, prior to the determination of an application, by notice in writing, require the applicant to provide additional information or documents.

(4) Information or documents required under subsection (3) shall be in a form that the Central Bank may determine.

(5) An application may be withdrawn by notice in writing by the applicant at any time before its determination.

(6) The Central Bank shall charge such fees, which shall be non-refundable, as it may think fit for the processing of a licence application or the issuance of a licence.

Grant or  
refusal of  
licence.

**11.** (1) The Central Bank shall within ninety days of receipt of a complete application for a licence, including any relevant information or documents that may have been requested from the applicant, grant or refuse to grant a licence.

(2) The Central Bank may grant a licence to an applicant, only if it is satisfied as to-

- (a) the character and fitness of the directors and executive officers or proposed directors and executive officers of the applicant;
- (b) the identity, financial resources, and reputation of existing or proposed significant shareholders of the applicant;
- (c) the adequacy of the applicant's capital structure in relation to the nature and scale of the proposed banking business;
- (d) the financial position and financial history of the applicant;
- (e) the quality of the applicant's risk management, internal controls and internal and external audit functions;
- (f) the likely conduct of the affairs of the applicant in relation to the interests of depositors,

(g) the extent to which the proposed corporate structure of the applicant and its affiliates may hinder the effective supervision and regulation of the bank; and

(h) the impact on the banking system more generally of the issuance of the licence.

(3) In addition to the criteria established in subsection (2), in the case of an applicant that is a subsidiary of a foreign bank, the Central Bank may grant a licence to the applicant, only if-

- (a) the foreign supervisory authority issues a statement to the Central Bank indicating that it has authorized the foreign bank to engage in banking business in that jurisdiction and that it is satisfied with the prudential and overall financial management of the foreign bank;
- (b) the foreign supervisory authority gives its written consent to the establishment of a subsidiary in Sierra Leone by the foreign bank; and
- (c) the Central Bank is satisfied as to the nature and scope of the supervision exercised by the foreign supervisory authority, including that the foreign bank is adequately supervised on a global consolidated basis.

(4) If the Central Bank determines that the conditions in subsections (2) and (3) have been satisfied, it shall issue a licence.

(5) A licence shall be granted in writing for an indefinite period of time and shall not be transferable.

(6) A licence granted under this Act shall be subject to the terms and conditions that the Central Bank may specify, including restrictions regarding the nature and extent of activities in which the bank may be engaged.



(7) A holder of licence shall pay an annual fee as prescribed by the Central Bank, and be subject to an additional fee for late payment.

(8) Where the Central Bank determines that the conditions in subsections (2) and (3) have not been satisfied, it shall refuse to grant a licence to the applicant and shall issue a written statement to the applicant giving reasons for its decision.

Display of licence.

**12.** A bank shall display at its head office and all its branches, a copy of its banking licence, for the information of the public.

Register of banks.

**13.** (1) The Central Bank shall keep a register of banks that shall record for each bank, the name, the head office and branch office addresses, and the date on which the banking licence was issued.

(2) For a bank the licence of which has been revoked, the Central Bank shall specify in the register the date on which the licence was revoked.

Termination of operations.

**14.** No bank shall terminate its operations in Sierra Leone without the prior approval of the Central Bank.

Revocation of licence.

**15.** (1) The Central Bank may revoke the licence of a bank if it appears to the Central Bank that-

- (a) the bank has failed to comply with any obligation imposed on it by or under this Act;
- (b) it has been provided with false, misleading or inaccurate information or that material information has been suppressed by the bank in connection with its application for a licence;
- (c) the interest of the bank's depositors or potential depositors are in any way threatened, whether by the manner in which the bank is conducting or proposes to conduct its affairs or for any other reason;

- (d) the bank has insufficient assets to cover its liabilities;
- (e) the bank has ceased to carry on banking business in Sierra Leone;
- (f) the bank has failed to fulfill or comply with the terms and conditions stipulated in its licence;
- (g) a merger, consolidation or sale of substantially all of the assets of the bank has occurred;
- (h) the activities of the bank differ substantially from those presented in the application for a licence and, in the opinion of the Central Bank, the difference is not justified;
- (i) in the case of a bank that is a subsidiary of a foreign bank, it appears to the Central Bank that the foreign supervisory authority has withdrawn from the foreign bank an authorization to conduct banking business; or
- (j) the Central Bank has approved a request by the bank to voluntarily terminate its operations.

(2) For the purposes of paragraph (e) of subsection (1), a bank shall be deemed to have ceased to carry on banking business in Sierra Leone if it appears to the Central Bank that the institution-

- (a) has not accepted a deposit in Sierra Leone in the course of carrying on banking business within the period of twelve months, beginning with the day on which the licence was granted; or
- (b) having accepted a deposit or deposits has subsequently not done so for a continuous period of more than six months.

(3) Where the Central Bank determines to revoke the licence of a bank, it shall give notice in writing to the bank, specifying the grounds on which the action is based.

Approval required for directors and executive officers.

**16.** No person shall become a director or executive officer of a bank, whether on initial licensing or after that without obtaining the prior approval of the Central Bank.

Disqualification of directors and executive officers.

**17.** (1) Each director and executive officer of a bank shall be fit and proper and shall meet the criteria established by the Central Bank regarding qualifications, experience and integrity; but no person shall be regarded as a fit and proper person if the person -

- (a) has been convicted of an offence punishable by imprisonment or of any offence involving fraud or dishonesty;
- (b) has been declared bankrupt by a court within the past seven years or is currently suspending payment or compounding with his creditors;
- (c) has been disqualified or suspended by a competent authority from practicing a profession on grounds of personal misconduct;
- (d) has past or present involvement in a managerial function of a body corporate or other undertaking that is or has been subject to insolvency proceedings; or
- (e) has been removed by a competent authority from the position of director or executive officer at a bank or other financial institution.

(2) No person who, at any time during the immediately preceding twelve-months, has served in a management position with the Central Bank shall serve as a director or executive officer of a bank, without obtaining the prior approval of the Central Bank.

(3) No Governor, Deputy Governor or Director of the Central Bank shall serve as a director or executive officer of a bank, during the one-year period immediately following the date on which the person ceased to occupy the position with the Central Bank.

(4) No person who has been a director or has been directly or indirectly concerned in the management of a bank which has had its licence revoked in accordance with this Act, shall serve as a director of another bank without the express approval of the Central Bank.

(5) Except with the consent of the Central Bank, no bank incorporated in Sierra Leone shall have as a director a person who is a director of another bank.

(6) No person who on the date of the coming into operation of this Act is an executive officer or director of a bank shall, thirty days after the coming into operation of this Act remain an executive officer or director of that bank unless the person satisfies the conditions specified in section 17.

(7) A director or executive officer who ceases to satisfy the requirements of subsections (1) to (5) shall resign from office immediately on becoming ineligible to serve in that position.

(8) A bank shall immediately notify the Central Bank on becoming aware of circumstances that indicate that a director or executive officer may not satisfy the requirements of subsections (1) to (5).

**18.** (1) No person, acting directly or indirectly, alone or in concert with another person, shall become a significant shareholder in a bank without obtaining prior written authorization from the Central Bank.

Restrictions on ownership of banks.

(2) No significant shareholder, acting directly or indirectly, alone or in concert with another person, shall increase its percentage of the capital or voting stock of a bank above five percent, and every subsequent increase without obtaining prior authorization from the Central Bank.

(3) Applications for the acquisition of capital or voting stock in a bank or increases to holdings of capital or voting stock in a bank shall be in the form prescribed by the Central Bank and shall include -

- (a) the name, nationality, place of residence, and business or profession history for the past ten years of the applicant, and any ultimate beneficial owner of the applicant that, as a result of the transaction, would indirectly acquire five percent or more of the capital or voting stock of the bank;
- (b) a list of undertakings in which the applicant, including any ultimate beneficial owner of the applicant, holds an interest that as a result of the transaction, would indirectly acquire five percent or more of the capital or voting stock of the bank, specifying the size of the interest and the registered address of those undertakings;
- (c) for each individual who applies, an affidavit disclosing-
  - (i) any convictions by a court for an offence punishable by imprisonment or involving fraud or dishonesty;
  - (ii) any personal bankruptcy filings, suspension of payments to or compounding with, creditors;
  - (iii) a disqualification or suspension by a competent authority from practising a profession;
  - (iv) any past or present involvement in a managerial function of a body corporate or other undertaking that is or has been subject to insolvency proceedings;

(v) a removal from the position of director or executive officer at a bank or other financial institution ordered by a competent authority;

- (d) for each legal person applicant, audited financial statements for the past three years;
- (e) the terms and conditions of the proposed acquisition, including the source and amount of the funds to be used in making the acquisition;
- (f) any plans or proposals regarding a major change in the bank's business, corporate structure or management;
- (g) in any case where the acquisition would cause the bank to become a subsidiary of a foreign bank, a written statement from the foreign supervisory authority that-
  - (i) it has authorized the foreign bank to engage in banking business in the jurisdiction where the foreign bank has its principal place of business;
  - (ii) it is satisfied with the prudential and overall financial management of the foreign bank;
  - (iii) it gives its written consent to the establishment of a subsidiary in Sierra Leone by the foreign bank; and
- (h) any other information the Central Bank may require.

(4) In making a determination whether to approve an application or disapprove of a notice to acquire the capital or voting stock of a bank, the Central Bank shall-

- (a) satisfy itself as to the identity, financial resources and reputation of the proposed shareholder;

- (b) assess the expected effects of the proposed acquisition on the financial soundness of the bank, the interest of depositors and the banking system more generally;
- (c) consider the extent to which the proposed corporate structure of the applicant and its affiliates may hinder the effective supervision and regulation of the bank; and
- (d) in any case where the acquisition would cause the bank to become a subsidiary of a foreign bank, satisfy itself as to the nature and scope of the supervision exercised by the foreign supervisory authority, including that the foreign bank is adequately supervised on a global consolidated basis.

### PART III—CAPITAL, LIQUIDITY AND RESERVE REQUIREMENTS

Minimum paid-up capital.

**19.** (1) Every bank shall maintain at all times minimum paid-up capital in the amount prescribed by the Central Bank.

(2) Every bank whose minimum paid-up capital has been impaired by way of losses shall be required by the Central Bank to bring in additional funds to address the deficiency in the capital.

(3) No bank shall purchase its own shares without the prior written approval of the Central Bank.

Capital adequacy.

**20.** (1) Every bank shall maintain at all times a minimum capital adequacy ratio as may be determined by the Central bank from time to time.

(2) The Central Bank may prescribe a higher capital adequacy ratio-

- (a) with respect to a particular bank, if, in the judgment of the Central Bank, the bank has insufficient capital to shield itself against risks arising from the business activities of that bank; or

- (b) generally with respect to all banks, and for the period that the Central Bank may determine, if, in the judgment of the Central Bank, conditions in the financial system so warrant.

(3) The Central Bank may require a bank which has a subsidiary to calculate and maintain the minimum capital adequacy ratio on a consolidated basis.

(4) The capital adequacy ratio shall be measured as a percentage of the capital base of the bank to its risk-weighted assets in accordance with regulations or directions, which the Central Bank may from time to time prescribe.

**21.** (1) Notwithstanding subsections (1) and (2) of subsection 20 and subject to subsection(2), a bank shall not incur deposit liabilities and other indebtedness, which together with all interest accrued on them, exceeds in the aggregate, twenty-five times the amount of its capital base.

Deposit liabilities.

(2) The Central Bank may vary the multiple prescribed in subsection (1) in the manner as it thinks fit, so that the multiple under this section is decreased.

(3) A bank affected by the prescription shall be permitted a reasonable period of time of not less than twelve months within which to comply.

**22.** (1) Every bank shall maintain at all times the amount of liquid assets that may be determined by the Central Bank.

Minimum liquidity requirements.

(2) The minimum liquidity requirements shall be expressed as a ratio of a bank's liquid assets to its deposit liabilities.

(3) The Central Bank may prescribe a higher liquidity ratio with respect to a particular bank, if, in the judgment of the Central Bank, the business activities of that bank, including the operation of subsidiaries, so require.

(4) For the purposes of this section “liquid assets” shall consist of freely transferable assets, free from any charge or lien, of all or any of the following classes:-

- (a) notes and coins which are legal tender in Sierra Leone;
- (b) the bank’s balance in current account with the Central Bank;
- (c) inland bills of exchange and promissory notes which are eligible for rediscount at the Central Bank, subject to the limitations in amount as the Central Bank may determine;
- (d) Government securities the terms of which are determined by the bank; and
- (e) other assets that may be specified by the Central Bank.

Restriction on payments of dividends.

**23.** (1) No bank shall pay a dividend and bonus on its shares without the prior approval of the Central Bank.

(2) No bank shall pay a dividend out of the net profits of a bank until it has completely recovered all its capitalised expenditure and accumulated or unprovided for losses.

(3) For the purposes of subsection (2), “capitalised expenditure” includes preliminary expenses, share-selling, commissions, brokerage losses incurred by the bank and any other items of expenditure not represented by tangible assets.

(4) No bank shall declare or pay a dividend on its shares in any year if its level of paid-up capital, capital adequacy or liquidity of the bank is or would be as a result of the payment of the dividend less than that provided in sections 19, 20 and 22.

**24.** (1) Every bank shall maintain a reserve fund into which shall be transferred out of its net profits for each year before it declares any dividend and after it has made provision for any taxes, the following amounts: - Maintenance of reserve fund.

- (a) where the amount of the bank’s reserve fund is less than fifty percent of its paid-up capital, an amount which shall not be less than fifty percent of the bank’s net profit for the year;
- (b) where the amount of the bank’s reserve fund is fifty percent or more, but less than hundred percent of its paid-up capital, an amount which shall not be less than twenty-five percent of the bank’s net profit for the year.

(2) A bank shall not appropriate any sum or sums from the balance in its reserve fund unless prior approval in writing is obtained from the Central Bank for the purpose, which may be granted for such amount, and subject to compliance with such conditions, as the Central Bank may determine.

#### PART IV—CORPORATE GOVERNANCE

**25.** (1) Every bank shall, within twenty-eight days of the date of approval by its shareholders or Board of Directors as the case may be, of any alteration of its Memorandum of Association or of any other document representing its constitution, furnish to the Central Bank the particulars of the alteration for approval by the Central Bank. Alteration of Constitution.

(2) Notwithstanding anything contained in the Companies Act, 2009 or in any other enactment, no application for registration or confirmation of an alteration in the Memorandum of Association or any other document representing the constitution of a bank shall become effective without the approval of the Central Bank.

(3) Approval for the alteration shall not be granted by the Central Bank unless it is satisfied that the proposed alteration is not detrimental to the interests of the bank’s depositors.

(4) A bank which fails to comply with the requirements of subsection (1) shall be liable to pay to the Central Bank a penalty to be determined by the Central Bank from time to time.

Composition of board of directors.

**26.** (1) Every bank shall be governed by a board of directors that meets the following requirements:-

- (a) not less than five and not more than nine members, majority of whom shall be resident in Sierra Leone;
- (b) at least a majority of the board members shall be non-executive;
- (c) at least two directors of the board shall be executive; and
- (d) the board shall be chaired by a resident non-executive member.

(2) Directors shall be fit and proper and subject to the requirements of sections 16 and 17.

Duties of directors.

**27.** (1) The board of directors shall be ultimately responsible for ensuring that the business of the bank is carried on in compliance with all applicable laws and is consistent with safe and sound banking practices.

(2) The board of directors may not delegate its ultimate responsibility for the safe and sound operation of the bank to others, and any actions taken by the bank will be presumed to be actions taken by the board of directors.

Committees of Board.

**28.** (1) From among its members, the board of directors of the bank shall designate an Audit Committee and any other committee authorized by its memorandum of association, other constitutional document or by-laws.

(2) The Audit Committee shall comprise at least three members, a majority of whom are non-executive, and shall be chaired by a non-executive director of the bank.

(3) The Audit Committee shall -

- (a) meet at least quarterly;
- (b) recommend to the board appropriate accounting, operational and administrative internal controls;
- (c) supervise the bank's compliance with internal policies and procedures;
- (d) request and review reports from the bank's internal auditor;
- (e) monitor compliance with this Act and applicable regulations or directions;
- (f) recommend the appointment of an external auditor;
- (g) monitor the performance of the external auditor, review the external auditor's report on the bank's financial statements; and
- (h) deliver opinions to the board of directors on any of the matters referred to in paragraphs (a) to (g), any matter referred to it by the board of directors, or any other matter that the committee wishes to address.

**29.** (1) Every bank shall appoint annually external auditors, who shall be independent and professionally qualified persons satisfactory to the Central Bank and whose duties shall be to perform an audit in accordance with international audit standards and submit a report on the bank's annual balance sheet, profit and loss accounts and cash flow statements to its shareholders. Appointment of external auditors.

(2) A person shall not be appointed an external auditor of a bank unless that person—

- (a) is a member of the Institute of Chartered Accountants in Sierra Leone;

- (b) is not disqualified by any enactment either in Sierra Leone or elsewhere from being appointed as an auditor of a body corporate.

(3) A person appointed as an external auditor to a bank who after the appointment, fails to comply with the requirements in subsection (2) shall immediately cease to be an auditor for the bank.

(4) At least once in every year, the external auditor shall submit to the bank a statutory audit report and a long-form report in a manner that may from time to time be determined by the Central Bank.

(5) The bank shall submit to the Central Bank, within such time as the Central Bank shall determine, copies of the auditors' reports submitted to the institution under subsection (4).

(6) The external auditors shall state in the statutory audit report whether -

- (a) the accounts give a true and fair view of the state of affairs of the bank and its results for the period under review;
- (b) it was able to obtain all the information and explanations required for the efficient performance of its duties; and
- (c) the bank has complied with the relevant provisions of this Act.

(7) If the external auditors, in the course of the performance of their duties are satisfied that-

- (a) there has been a serious breach or non-observance of the provisions of one or more sections of this Act;
- (b) an offence involving fraud or dishonesty has been committed;
- (c) serious irregularities have occurred, including irregularities jeopardising the security of the depositors or other creditors;

- (d) a situation exists that the claims of depositors or other creditors are not fully covered by realisable assets,

it shall immediately report the matter to the Central Bank with full the particulars.

(8) The Central Bank may, at the expense of the bank-

- (a) require the bank's external auditor to undertake further audit or provide additional information or both as the Central Bank may consider necessary; and
- (b) if a bank fails to appoint an auditor satisfactory to the Central Bank or if the Central Bank is not satisfied with the report produced by the external auditor hired by the bank, engage independent auditors to audit either in whole or in part the accounts of the bank and to produce a report,
- (c) demand from external auditors such reports as may be required in the exercise of its functions.

(9) The Central Bank shall, from time to time, being at least once a year, arrange trilateral meetings with each bank and its auditors, to discuss matters relevant to the Central Bank's supervisory responsibilities which have arisen in the course of the statutory audit of that bank, including relevant aspects of the bank's business, its accounting and internal control systems, and its annual balance sheet and profit and loss accounts.

(10) The Central Bank shall, if it considers it desirable or necessary in the interest of depositors, from time to time arrange bilateral meetings with auditors of banks.

(11) A report submitted by an external auditor pursuant to subsection (5) shall not be construed as a violation of the auditor's professional duty of confidentiality nor constitute grounds for liability for civil damages.

Appointment  
of internal  
auditor.

**30.** (1) Every bank shall have an internal auditor, appointed by the board of directors, who shall operate independently of management and report to the Audit Committee.

(2) The internal auditor shall be suitably qualified in banking, finance or accounting.

(3) The internal auditor shall be given meaningful access to management to discuss matters relevant to its functions and shall have the right, upon request, to obtain from them any information or documentation which the auditor shall require.

(4) The internal auditor shall be responsible for -

- (a) monitoring the bank's systems for internal controls and critiquing applicable policies and procedures;
- (b) reporting non-compliance with policies, procedures or applicable laws or other irregularities to the Audit Committee at least quarterly, and more frequently when necessary;
- (c) assisting and cooperating with the external auditor in the performance of its duties; and
- (d) performing such other duties as may be assigned to the internal auditor by the board of directors or Audit Committee.

#### PART V—BANK ACTIVITIES AND INVESTMENTS

Permissible  
bank  
activities.

**31.** (1) A bank shall not carry on any business other than the following permissible bank activities:-

- (a) conducting banking business;
- (b) lending;
- (c) financial leasing;

- (d) hire purchase;
- (e) investing in financial securities;
- (f) conducting money transmission services;
- (g) issuing and administering means of payment including credit cards, traveler's cheques and banker's drafts;
- (h) entering into guarantees and commitments;
- (i) trading for its own account or for the account of customers in—
  - (i) money market instruments;
  - (ii) foreign exchange, or
  - (iii) transferable securities;
- (j) participating in securities issues and providing services related to those issues;
- (k) advising on capital structures, acquisitions and mergers of undertakings;
- (l) performing portfolio management and advisory services;
- (m) keeping and administering securities;
- (n) credit reference bureau activities;
- (o) safe custody of valuables;
- (p) engaging in electronic banking; and
- (q) providing any other services as the Central Bank may prescribe to be related to banking business or incidental to it.



(2) The Central Bank may, by the terms of the licence granted to a bank under section 11, restrict the nature and the extent to which the bank may engage in the activities identified in subsection (1).

Local assets. **32.** At the close of business on any day, the assets in Sierra Leone of every bank shall not be less in value than an amount representing such percentage of its liabilities payable at or through its branch or branches in Sierra Leone as may be determined by the Central Bank from time to time.

Foreign currency open position limit. **33.** Every bank shall maintain the maximum limits on its open positions in foreign currencies, precious metals and precious stones that the Central Bank may prescribe.

Borrowing in foreign currency. **34.** The aggregate borrowing of a bank (both local and foreign) shall not exceed the percentage of that bank's capital base as may be determined by the Central Bank from time to time.

Credit risk exposures. **35.** (1) No bank shall, directly or indirectly, undertake one or more credit exposures to, or in respect of, any one person or group of connected persons, which in the aggregate-

- (a) in the case of an unsecured credit exposure, constitutes more than ten percent of the capital base of the bank; or
- (b) in the case of a secured credit exposure, constitutes more than twenty-five percent of the capital base of the bank.

(2) In the application of the limitation in subsection (1) if the Central Bank determines that the interests of a borrower and one or more other persons are so interrelated that they should be considered as a single credit risk, the group so identified shall be deemed to be connected persons and the total indebtedness of that group shall be combined.

(3) For purposes of paragraph (b) of subsection (1), a secured credit exposure means an exposure that is fully secured in accordance with the standards prescribed for that purpose.

(4) The total of a bank's exposures extended under subsections (1) and (2) shall not exceed its capital base by the percentage prescribed by the Central Bank.

**36.** (1) A bank shall not undertake or permit to be undertaken an exposure to or in respect of, a bank-related party, unless-

Transactions with bank-related parties.

- (a) the credit exposure is on terms that are no less favourable to the bank than if the counterparty were not related to the bank;
- (b) in the case of a credit exposure to or in respect of a director, the exposure is appropriately secured in accordance with regulations;
- (c) the decision to enter into the transaction is approved by the board of directors at a duly constituted meeting, where-
  - (i) not less than three-quarters of all directors of the bank are present;
  - (ii) at least three-quarters of those present (excluding any interested director) consent to the decision; and
  - (iii) the approval is accordingly recorded in the minutes of that meeting; and
- (d) the decision to enter into the transaction is reported to the Central Bank.

(2) Notwithstanding subsection (1), no bank shall have credit exposures to, or with respect to, bank-related parties the aggregate outstanding amount of which would exceed an amount in relation to the bank's capital base as prescribed by the Central Bank.

(3) If a credit exposure has been provided by a bank to a bank-related party in violation of this section, the exposure shall be immediately repaid; and the members of the board of directors or executive officers involved with, or responsible for, approval of the transaction shall be subject to sanctions under section 46.

(4) The Central Bank may deduct the amount of a credit exposure to a bank-related party from the capital base of a bank for purposes of calculating regulatory capital ratios pursuant to section 20.

Other credit risk exposure.

**37.** A bank shall not—

- (a) grant an advance or credit facility against the security of its own shares; or
- (b) grant or permit to be outstanding to an executive officer or employee unsecured credit exposures which in the aggregate for any one executive officer or employee exceed two years basic salary of the executive officer or employee.

Opening, closure, or relocation of bank branches and offices.

**38.** (1) Subject to prior written application to and approval of the Bank, a bank may—

- (a) open a place of business in Sierra Leone;
- (b) close or change the location of an existing place of business in Sierra Leone; or
- (c) establish a place of business outside of Sierra Leone;

(2) Before the closure or change of location of a place of business of a bank in Sierra Leone, the Central Bank shall ensure that the bank provides opportunity to depositors who do not want their accounts transferred to another place of business, to withdraw their funds.

Merger, consolidation or sale of bank assets.

**39.** Subject to prior written application to, and approval of, the Central Bank—

- (a) a bank may, other than in the ordinary course of its business, sell the whole or part of its assets to another bank; and

- (b) one or more banks may merge or consolidate with each other, as the case may be.

(2) Upon receipt of a written application for approval of one of the matters enumerated in subsection (1), the Central Bank shall cause an investigation to be made to determine whether or not the resultant institution or institutions would continue to satisfy the licensing criteria as set out in section 11.

(3) On the basis of the investigation, the Central Bank shall notify the applicant of its decision within ninety days after receipt of a complete application.

(4) An approval may be subject to the terms and conditions that the Central Bank may think fit; and if the application is refused, the Central Bank shall issue a written statement of the reasons for its decision.

(5) The Central Bank may, for good reason, revoke or vary the terms and conditions of an approval relating to a matter enumerated in subsection (1) and the action shall be communicated by the Central Bank to the bank affected.

**40.** (1) No bank shall, directly or indirectly, become a significant shareholder in a financial company or materially increase its shareholdings in a financial company beyond the previously approved amount without the prior approval of the Central Bank.

Investments in financial and non-financial companies.

(2) In making a determination on an application by a bank to invest or increase its equity interests in a financial company, the Central Bank shall consider whether -

- (a) the investment would expose the bank or its depositors to undue risk;
- (b) the investment would hinder effective supervision of the bank on a consolidated basis; and
- (c) the bank has adequate financial and managerial resources and internal controls to monitor and control any risk arising from the investment.

(3) No bank shall, directly or indirectly, acquire an interest in a non-financial company that—

- (a) represents more than five percent of the core capital of the bank;
- (b) represents more than five percent of the capital or voting stock of the company;
- (c) when aggregated with all shareholdings by the bank in non-financial companies, exceeds ten percent of the core capital of the bank.

(4) The limitations contained in subsection (3) shall not apply to—

- (a) capital stock that has been acquired by a bank in foreclosure on or in lieu of repayment of a loan granted by the bank, in which case the bank shall dispose of the equity interests within one year from the date they are acquired or within such longer period as the Central Bank may permit; or
- (b) capital stock held by a bank as an agent or trustee.

#### PART VI—DUTIES OF BANKS

Publication of financial statements.

**41.** (1) Not later than three months after the expiry of each calendar year, every bank shall, in respect of all business transacted by it, prepare a balance sheet, profit and loss account and cash flow statement as of the last working day of that year in a form consistent with international accounting standards.

(2) The Central Bank may make regulations, directions or guidelines to be followed by banks in respect of accounting standards, practices, presentation of annual accounts and disclosure of information in the annual accounts.

(3) The financial statements required under subsection (1) shall be under the joint signatures of three members of the Board of Directors, including the chief executive officer and the chairman of the Board.

(4) Not later than three months after the expiry of each calendar year, every bank shall submit to the Central Bank a copy of its audited balance sheet, profit and loss account and cash flow statement together with the auditor's report and the long form audit report.

(5) Every bank shall-

- (a) exhibit conspicuously throughout the year, in its principal place of business in Sierra Leone, a copy of its latest audited balance sheet, profit and loss account, and cash flow statement as prescribed in subsection (1) together with the full and correct names of all persons who are directors of the bank, as soon as it is available;
- (b) publish a copy of the balance sheet, profit and loss account, in a newspaper of general circulation within three months after submission to the Central Bank;
- (c) exhibit conspicuously at its principal place of business and in all branches in Sierra Leone, its prevailing interest and foreign exchange rates.

(6) No bank shall issue misleading statements or advertisements to the public whether about itself or a competitor.

(7) A bank which fails to comply with the requirements of this section shall be liable to pay a penalty to be determined by the Central Bank.

Banks to submit returns.

**42.** (1) The Central Bank shall for the purposes of supervision, require a bank to submit to it information or data relating to the assets, liabilities, income or expenditure of that bank or any of that bank's affairs, in a form, at an interval and within the timeframes that the Central Bank may stipulate and that bank shall comply with the requirement.

(2) Banks are required to submit to the Central Bank on a half yearly basis details of abandoned property as referred to in subsection (2) of section 56.

(3) The Central Bank may impose sanctions on a bank under section 43–

- (a) non-submission;
- (b) incomplete submission;
- (c) delayed submission; or
- (d) inaccurate submission,

of the required information, data, statement or returns.

Production of books of accounts.

**43.** (1) A person duly authorized by the Central Bank shall, for the purpose of examining the bank have access to the accounting records, credit files, minutes books and any other record or document, including individual account information, and the cash and securities of the bank, its affiliates or subsidiaries, and shall be entitled to request from any director, auditor, officer or other employee of the bank an explanation or information as he may consider necessary for the proper performance of his duties under this Act.

(2) If minutes, books, accounts, cash, securities, other records or documents are not produced or explanation or information is not supplied in accordance with subsection (1), the defaulting bank or its subsidiary or affiliate, as the case may be, shall be subject to sanctions under section 46.

(3) If information supplied or item produced under subsection (1) is false or misleading in any material way, the bank or its subsidiary or affiliate, as the case may be the bank shall be liable to a penalty as may be determined by the Central Bank from time to time.

**44.** (1) No person who has acquired knowledge in his capacity as a director, manager, officer, employee or agent of a bank, shall disclose to any other person the identity, assets, liabilities, transactions or other information in respect of a customer except-

- (a) with written authorisation of the customer or the heirs or other beneficiary or legal representative of the person;
- (b) for the purpose of the performance of his duties within his scope of employment in conformity with this Act;
- (c) when lawfully required to make the disclosure by a court; or
- (d) under the provisions of any enactment.

(2) Nothing in subsection (1) shall prevent a bank from providing to a person upon a legitimate business request a general credit rating, a copy of which shall be provided to the subject of the rating upon request.

(3) Except in the performance of his duties under this Act or otherwise permitted under subsection (1), every director, manager, officer, employee or agent of a bank shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of the institution and of any of its customers that may come to his knowledge in the performance of his duties.

#### PART VII – POWERS OF CENTRAL BANK

**45.** (1) The Central Bank shall cause an examination to be made of each bank without notice or at very short notice, including a place of business outside Sierra Leone, periodically or whenever in its judgment the examination is necessary or expedient, in order to determine whether the bank is in a sound financial condition and that the requirements of this Act have been complied with in the administration of the bank's affairs.

Maintenance of secrecy.

Examination of banks.

(2) For the purpose of determining the financial condition of a bank and its compliance with this Act, the Central Bank may at any time cause an examination to be made of a subsidiary or affiliate of the bank to the same extent that an examination may be made of the bank.

(3) The Central Bank shall cause an investigation into an individual's account as and when the need arises for supervisory purposes.

(4) Without prejudice to the remedies of the Companies Act the Central bank may deem any investigation of a bank made under that Act as an examination made under this section for the purposes of section 43.

Enforcement  
action.

**46.** (1) If, in the judgment of the Central Bank, a director, executive officer or significant shareholder of a bank, has violated a provision of this Act, of a licence issued under this Act, or of any regulation, direction or guideline of the Central Bank, or has engaged in unsafe or unsound banking practices, the Central Bank may take any of the following enforcement measures against the person: -

- (a) issue written warnings;
- (b) impose fines for each day that the infraction continues, but the fines shall be of similar amount for the same type of infraction;
- (c) dismiss or suspend the person from the person's position in the bank;
- (d) prohibit the person from serving or engaging in banking or financial business for a stated period or for life;
- (e) require the person to reimburse the bank for losses caused by the violations;
- (f) suspend the exercise of voting rights with respect to shares in the bank; or

- (g) require the person to dispose of all or a part of the person's direct or indirect ownership interest in the bank or cease to hold a significant shareholding in it.

(2) If, in the judgment of the Central Bank, a bank, has violated a provision of this Act, of a licence issued under this Act or of any regulation or direction of the Central Bank or has engaged in unsafe or unsound banking practices, the Central Bank may take any of the following enforcement measures against the bank:-

- (a) issue written warnings;
- (b) issue legally binding orders to cease and desist from the infractions and to undertake remedial action;
- (c) conclude a written agreement with the board of directors providing for a program of remedial action;
- (d) impose fines for each day that the infraction continues; but the fines shall be of similar amount for entities with comparable total assets for the same type of infraction;
- (e) appoint a conservator in accordance with section 52; or
- (f) revoke the licence of the bank under section 15.

**47.** The Central Bank may order a bank whose capital adequacy has fallen below thresholds established by the Central Bank to develop a capital restoration plan, in consultation with the Central Bank, which specifies the actions to be taken by the bank in order to return its capital levels to those required by this Act. Remedial measures.

**48.** The Central Bank shall make regulations, issue directions or guidelines and take actions as may be required from time to time for giving effect to this Act. Regulations etc.

Disclosure of information.

**49.** (1) The Central Bank, its staff and agents, including any auditor, inspector, conservator or receiver appointed by the Central Bank, may not disclose secret information obtained in the performance of their duties, except in accordance with the Bank of Sierra Leone Act.

(2) Notwithstanding subsection (1), the Central Bank may—

- (a) publish information obtained by it from the banks in a consolidated form as it considers fit and in the public interest, and
- (b) share supervisory information on a confidential basis, with other official agencies, both domestic and foreign, responsible for the safety and soundness of the financial system, if the information is used only for purposes related to the effective supervision of the institution concerned and the Central Bank is satisfied that the recipient of the information will apply standards of secrecy similar to its own.

Minimum uniform business hours and bank holiday.

**50.** (1) The Central Bank may, after consultation with banks, at any time by notice published in at least one newspaper of general circulation in the affected community, fix minimum uniform hours of business for the branches and offices of banks in any specified area.

(2) The Central Bank may, at any time by a notice published in at least one newspaper of general circulation in the affected community or communities, declare any day to be a bank holiday and no bank shall transact any business with the public on a bank holiday.

(3) A bank holiday shall not necessarily be a public holiday.

#### PART VIII—BANKING EMERGENCIES AND LIQUIDATION

Voluntary liquidation.

**51.** (1) The Companies Act, and any other relevant enactment shall apply to the voluntary liquidation or winding up of a bank.

(2) Notwithstanding any provision in the Companies Act, or any other enactment—

- (a) no bank may voluntarily liquidate its operations in Sierra Leone without first presenting to the Central Bank a plan to satisfy its liabilities in Sierra Leone and obtaining the prior approval of the Central Bank for execution of the plan;
- (b) the Central Bank shall grant approval of a voluntary liquidation on the terms and conditions as it may determine where it appears that the bank is solvent and has sufficient liquid assets to repay its depositors and creditors in full and without delay;
- (c) notwithstanding the approval granted under paragraph (c), if the Central Bank determines prior to, or during the course of, any voluntary liquidation, that the bank has insufficient assets to repay its liabilities or has not complied with this Act or with any instructions issued by the Central Bank in connection with the voluntary liquidation, the Central Bank may order the compulsory liquidation of the bank under section 53;
- (d) a bank receiving approval from the Central Bank in accordance with paragraph (b) of subsection (2) shall —
  - (i) immediately cease all activities, except those which are incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations;
  - (ii) immediately surrender its licence to the Central Bank for revocation;
  - (iii) repay in full its depositors and creditors; and
  - (iv) wind up its operations;

- (e) within fourteen days after receiving approval of the Central Bank for voluntary liquidation, a bank shall provide notice of its intention to liquidate in such form as the Central Bank may require to—
  - (i) every depositor and other creditor of the bank; and
  - (ii) any person otherwise entitled to any funds or property held by the bank as a trustee, fiduciary, lessor of a safe-keeping facility or bailee;
- (f) a bank undergoing voluntary liquidation shall be subject to supervision by the Central Bank in the manner the Central Bank shall determine.

Conservator-  
ship.

**52.** (1) The Central Bank may appoint a conservator to a bank if—

- (a) the Central Bank determines that the bank has violated a provision of this Act or a direction issued by the Central Bank, or has engaged in any unsafe and unsound practices, in such a manner as to weaken the bank's condition, seriously jeopardize depositors' interests, or dissipate the bank's assets;
- (b) the Central Bank has reasonable cause to believe that the bank or its executive officers have engaged or are engaging in criminal activities punishable by imprisonment of one year or more, in a manner to jeopardize depositors' interests;
- (c) the Central Bank determines that the bank is in an unsafe or unsound condition to transact business, and unable to promptly improve that condition;
- (d) the bank fails, in any manner, to cooperate with the Central Bank or its examiners and to enable the Central Bank to perform its supervisory responsibilities, including

through concealment or failure to submit for inspection any of the bank's books, papers or records;

- (e) the bank, by resolution of its directors or shareholders, requests the appointment of a conservator;
- (f) the bank's regulatory capital level falls below twenty-five percent of the minimum required pursuant to section 20; or
- (g) the operations of the bank pose a risk to the financial system.

(2) A decision by the Central Bank to appoint a conservator shall be promptly notified to the subject bank in writing and shall specify the grounds upon which the conservator is appointed and the effective time of the decision.

(3) A conservator appointed by the Central Bank—

- (a) shall be an agent of the Central Bank, subject to its instruction, and at all times remain accountable to the Central Bank in the performance of its duties;
- (b) shall be subject to this Act and any regulations or directions issued by the Central Bank to the same extent as an executive officer of a bank;
- (c) shall at all times, satisfy the fit and proper criteria applicable to executive officers of the bank under section 17;
- (d) shall be compensated by the subject bank on terms and conditions established by the Central Bank; and
- (e) may be removed or replaced by the Central Bank.

(4) As of the effective time of the appointment of the conservator—

- (a) all powers, functions and responsibilities of the bank's shareholders, directors and executive officers shall vest in the conservator; and

- (b) any actions or decisions taken by or on behalf of the bank subject to conservatorship shall be null and void, unless they are taken by or under the authority of, the conservator or are irrevocable money or securities transfers made by the bank into a payment or securities settlement system.
- may– (5) During the term of conservatorship, the Central Bank
- (a) extend for a period of not more than six months any term, whether statutory, contractual or otherwise, on the expiration of which a claim or right of the relevant bank would expire or be extinguished; and
- (b) impose a stay on any proceeding that may be commenced by any creditors of the bank, relating to impending or actual insolvency of the bank or under any other enactment regarding insolvency or bankruptcy.
- shall– (6) During the term of conservatorship, the conservator
- (a) take any actions that are necessary or appropriate to carry on the business of the bank and preserve and safeguard its assets;
- (b) within the time frame specified by the Central Bank, prepare and deliver to the Central Bank–
- (i) a report on the financial condition of the bank; and
- (ii) a proposed plan of action which, as appropriate, shall recommend returning the bank to compliance with the law by carrying out a plan of corrective actions; or, if the bank cannot be rehabilitated, any other course of action designed to minimize disruption to depositors and preserve the stability of the banking sector;

- (c) take any actions that are necessary or appropriate to implement a plan of action with respect to the bank that has been approved by the Central Bank, including –
- (i) recapitalizing the bank;
- (ii) merging the bank with another bank or financial institution;
- (iii) transferring or selling any assets or liabilities of the bank to another institution; and
- (iv) reorganizing the bank.
- (7) Any deposit liability transferred or sold under paragraph (c) (iii) of subsection (6) shall not require the consent of the depositor for the transaction.
- (8) The conservatorship shall terminate–
- (a) six months from the effective date of the decision appointing the conservator or on an earlier date specified in the decision and may be extended, by direction of the Central Bank; but the total period of conservatorship for a bank shall not exceed one year;
- (b) at any time prior to the expiry of the term or an extension by direction of the Central Bank, if the Central Bank –
- (i) determines that conservatorship is no longer necessary because the grounds for appointment of the conservator have been remedied;
- (ii) determines that the bank has insufficient assets to cover its liabilities, in which case the Central Bank shall revoke the licence of the bank under section 15.



(9) Within ten business days of the termination of the appointment, the conservator shall prepare and submit to the Central Bank a final report and accounting of the conservatorship.

Compulsory liquidation.

**53.** (1) The Companies Act, 2009 and any other relevant enactment shall apply to the liquidation or winding up of a bank.

(2) Notwithstanding any provision in the Companies Act, 2009 or any other relevant law—

- (a) no liquidator, receiver, or statutory manager may be appointed to a bank, without the prior written consent of the Central Bank;
- (b) no liquidation, winding up or other insolvency proceeding may be commenced against a bank, without the prior written consent of the Central Bank;
- (c) no deposit liability of a bank may be transferred or sold without the prior written consent of the Central Bank; and
- (d) any amounts realized from any liquidation or winding up of a bank shall be used to pay claims other than secured claims to the extent of the security, in the following order of priority:-
  - (i) administrative expenses;
  - (ii) a deposit liability of the bank;
  - (iii) any other general liability of the bank or financial institution;
  - (iv) an obligation subordinated to depositors or general creditors;
  - (v) an obligation of shareholders; and
- (e) secured claims shall take priority over any other claims referred to in paragraph (d).

#### PART IX—MISCELLANEOUS

**54.** A person who contravenes or fails to comply with a requirement of this Act for which no offence is specifically created, commits an offence, and is liable on conviction to a fine not less than one hundred million leones or to imprisonment for a term not less than five years.

General offences and penalties.

**55.** Final orders and decisions of the Central Bank or its agents, including a conservator or receiver appointed by the Central Bank, under this Act shall be subject to review in a court.

Right of appeal.

**56.** (1) A property held by a bank shall be presumed to be abandoned if the owner has, within a period of seven years immediately after the date of deposit or payment of funds towards the purchase of shares or other interests or the issuing of instruments or the date upon which funds held in a fiduciary capacity became payable or capable of being distributed or the expiration of the period for which the safe deposit box was rented, as the case may be—

Abandoned property.

- (a) not increased or decreased the amount of the deposit or funds;
  - (b) not increased or decreased the principal or accepted payment of principal or income in respect of funds held in a fiduciary capacity;
  - (c) not had any correspondence with the bank concerned regarding the property;
  - (d) not otherwise indicated an interest in the property as evidenced by a memorandum concerning them by the bank.
- (2) The property referred to in subsection (1) include -
- (a) a general deposit (demand savings or matured time deposit) made in Sierra Leone with that bank together with an interest or dividend on it excluding any lawful charges;
  - (b) funds paid in Sierra Leone towards the purchase of shares or other interests in a bank together with interest or dividend excluding any lawful charges;

- (c) a sum payable on cheques or on written instruments on which a bank is directly liable;
- (d) a personal property and an income or interest on it held in a fiduciary capacity for the benefit of another person;
- (e) the contents of a safe deposit box upon which the rental period has expired and concerning which notice has been sent by registered post to the last known address of the owner and to which the owner has failed to respond within three years.

(3) A bank holding an abandoned property shall make a report to the Central Bank in the manner determined by the Central Bank stating the nature of the property held and in the case of money, the amount of money.

(4) Within six months after the expiry of seven years, the bank shall communicate to the customer by letter about the abandoned property and the letter shall be sent to the customer's last known address by registered post; and if the customer fails to respond within the six months, the property shall be deemed to have been abandoned and shall without further formality be transferred to the Central Bank to be dealt with as may be decided by the Central Bank.

(5) The Central Bank shall maintain records of deposits or monies which have been abandoned.

(6) Where a claim is made under this section by a person, that person shall submit the details of the claim to the bank where the deposits or monies were deposited upon which the bank shall refer the claim to the Central Bank to enable the Central Bank to ascertain the validity of the claim.

(7) No refund made pursuant to subsection (6) shall carry an interest.

Civil proceedings.

**57.** (1) A pecuniary penalty not specifically designated as a fine, incurred and imposed under this Act shall be deemed to be a debt owed to the Central Bank.

(2) A pecuniary penalty referred to in subsection (1) which has not been paid to the Central Bank may be sued for and recovered in a court by the Central Bank.

(3) In any suit under this section, production of a certificate signed by the Governor giving the name and address of the defendant and the amount of the pecuniary penalty due shall be sufficient evidence of the amount owed by the defendant.

**58.** (1) The Central Bank shall, not later than one hundred and twenty days after the end of its financial year, submit to the Minister a report on the trend and progress of the business of banking in the country. Submission of reports on trend and progress.

(2) The Central Bank shall include in the report recommendations that it considers necessary in the interest of the business of banking in Sierra Leone.

**59.** The Governor may, by statutory instrument make regulations, rules or orders as may be required for giving effect to this Act. Regulations.

**60.** (1) The Banking Act, 2000 is repealed Repeal of Banking Act.

(2) Notwithstanding subsection (1)–

(a) a licence granted under the repealed Act, which is in force at the coming into operation of this Act shall continue in force as if granted under this Act;

(b) all rules, orders, notices, directives and instruments prescribed or issued under the repealed Act and in force at the coming into operation of this Act shall, unless they are inconsistent with any provision of this Act or until they are expressly revoked, remain in force;

(c) a bank in existence before or at the commencement of this Act carrying on banking business that is incompatible of this Act shall

within a period of ninety days after the coming into operation of this Act regularize its activity to the satisfaction of the Central Bank to bring it in conformity with this Act.

Protection for actions taken under this Act.

**61.** No suit or other legal proceeding shall lie against the Central Bank or against any member of the Board or official or agent of the Central Bank for an act done in good faith or purported to be done in pursuance of this Act or against a director, officer or employee or agent of a bank for an act, done in good faith or purported to be done by him under this Act or under the direction of the Board.

Schedule of penalties.

**62.** Unless otherwise provided for, the Central Bank may prescribe a schedule of penalties for violations of this Act.

Passed in Parliament this *20th day of December*, in the year of our Lord two thousand and eleven.

IBRAHIM S. SASAY,  
*Clerk of Parliament.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

IBRAHIM S. SASAY,  
*Clerk of Parliament.*