



Tonga

**NATIONAL RESERVE BANK OF TONGA
(AMENDMENT) ACT 2014**

Act 23 of 2014



NATIONAL RESERVE BANK OF TONGA (AMENDMENT) ACT 2014

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NATIONAL RESERVE BANK OF TONGA (AMENDMENT) ACT 2014

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**AN ACT TO REFORM THE NATIONAL RESERVE BANK OF TONGA'S
GOVERNANCE FRAMEWORK TO ALIGN TO BEST INTERNATIONAL
PRACTICES AND TO STRENGTHEN THE NATIONAL RESERVE BANK
OF TONGA'S REGULATORY POWERS AND ENFORCE CAPACITY
AND RELATED MATTERS**

I assent,
TUPOU VI,
16th October 2014.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the
Legislature of the Kingdom as follows-

1 Short Title

- (1) This Act may be cited as the National Reserve Bank of Tonga (Amendment) Act 2014.
- (2) The National Reserve Bank of Tonga Act (Cap. 102), as amended, is in this Act referred to as the Principal Act.

2 Section 2 amended

Section 2 of the Principal Act is amended by –

- (a) inserting following new definitions in the appropriate places –

“**employee**” means any person appointed and employed under subsections 11(1); subsection 9A(1)(i) or section 17 of this Act;

“**financial activity**” means an activity listed in section 27 of the Financial Institution Act or approved by the Reserve Bank as prescribed under the same section;

“**financial institution**” means an institution -

- (a) carrying out banking business as prescribed by this Act or the Financial Institutions Act;
- (b) carrying out any financial activity listed in section 27 of the Financial Institutions Act;
- (c) prescribed by subsection 2(2) of this Act; or
- (d) approved by the Reserve Bank as prescribed by any Act or Regulation.

“**holding company**” means a company whose main business is to own the shares of other companies;

“**legal tender**” means currency which any creditor is obliged to accept in payment for a debt for the amount established in Section 24(1) of this Act;

“**non-bank financial institution**” means a financial institution other than a bank, established under any applicable Act or Regulation, and included in the list established under section 2(2) of this Act;

“**monetary liability**” means currency in circulation, financial claims against the Bank, and deposits by non-government resident entities, existing in the balance sheet of the Bank;

“**subsidiary**” is as defined under the Financial Institutions Act;”

- (b) renumbering the current section as subsection (1);
- (c) inserting in the definition “**Bank**” the words “**or Reserve Bank**”;
- (d) deleting the definition “**bank**” and replacing with “**bank**” means any financial institution engaged in banking business and other financial activities, as determined in the licence granted by the Bank;
- (e) deleting the definition “**banking business**” and replacing with “**banking business**” means -
 - (i) the business of receiving funds from the public through the acceptance of deposits of money payable upon demand or after a fixed period or after notice, or any operation through the frequent sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or in part for loans or investments for the account and at the risk of the person doing such business; and
 - (ii) any other activity recognised by the Bank as customary banking practice which a bank engaging in the activities described in (i) may additionally be authorised to do by the Bank;

- (f) deleting the definition “**credit institutions**”;
- (g) deleting the definition “**currency**” and replacing with “**currency**” means note or coin as established in Section 24(1);
- (h) deleting the definition of “**Deputy Governor**” and replacing with “**Deputy Governor**” means the Deputy Governor of the Bank appointed under section 9A(1)(i);
- (i) deleting the definition “**licensed financial institution**” and replacing it with “**licensed financial institution**” means a financial institution carrying out any banking business, as determined in a license granted by the Bank-

Provided that, for the purposes of this Act, unless otherwise specified, all offices and branches of a licensed financial institution in Tonga shall be deemed to be one entity and regarded by the Reserve Bank as a single licensed financial institution”

- (j) by deleting the “**Ministry**” and replacing it with “**Ministry**” means the Ministry responsible for Finance”; and
- (k) inserting a new subsection (2) as follows –

“(2) The following entities are considered **non-bank financial institutions**- Retirement Funds; Insurance Companies; Credit Unions; Cooperative Societies; Credit Institutions; Money Lenders; Microfinance Institutions; Foreign Exchange Dealers; other Investment companies and other entities as established by the Bank through regulation.”.

3 Section 3A inserted

The Principal Act is amended by inserting a new subsection 3A as follows –

“3A Independence

- (1) In the pursuit of its objectives and the performance of its functions, the Bank shall be independent and accountable as provided for in this Act.
- (2) The Bank, and the members of its decision-making bodies and employees, in the exercise of their functions, shall not take instructions from any person or entity, including government and its entities. The independence of the Bank shall be respected at all times and no person or entity shall seek to influence the members of the Bank’s decision-making bodies and employees in the exercise of their functions or to interfere in the activities of the Bank.”.

4 Section 4 amended

Section 4 of the Principal Act is repealed and replacing it with the following –

“4 Objectives of the Bank

- (1) The principal objectives of the Bank shall be to maintain internal and external monetary stability.
- (2) Without prejudice to its principal objective, the Bank shall-
 - (a) promote financial stability; and
 - (b) promote a sound and efficient financial system.
- (3) Subject to subsections (1) and (2), the Bank shall conduct its activities in a manner that supports macroeconomic stability and economic growth.”.

5 Section 4A amended

Section 4A of the Principal Act is repealed and replacing it with the following –

“4A Functions of the Bank

The principal functions of the Bank shall be, to —

- (a) issue currency;
- (b) formulate and implement monetary policy;
- (c) prescribe the regime for the determination of the external value of the Tongan currency in consultation with the Minister;
- (d) determine the foreign exchange rate and implement foreign exchange policy;
- (e) determine and implement financial stability policy, and oversee the maintenance of the stability of the financial system as a whole;
- (f) regulate as required the supply, availability and international exchange of money;
- (g) exclusively hold and manage the external reserves of the Kingdom;
- (h) provide advisory services to the Minister on banking and monetary matters;
- (i) be the principal banker, fiscal agent and depository of the Government;
- (j) undertake banking business, in Tonga or elsewhere, subject to the provisions of this Act;
- (k) regulate and supervise financial institutions, including non-bank financial institutions;
- (l) oversee and promote the efficient, sound and safe functioning of the payment system;
- (m) collect and produce statistics;
- (n) cooperate with and participate in international councils and organisations, including public international financial institutions, and cooperate with domestic and foreign public entities, concerning matters related to its objectives and functions;

- (o) regulate and supervise capital markets in Tonga; and
- (p) carry out any other function or any ancillary activities incidental to the exercise of its functions under this Act or any other Act.”.

6 Section 6 amended

Section 6 of the Principal Act is amended -

- (a) in subsection (1) by inserting the words “No reduction of the authorised capital shall be permitted at any time.” after the word “Minister.” ;
- (b) by deleting subsection (2) and replacing it with the following –
“(2) Additional amounts of authorised capital shall be paid up by the Minister in cash.”;
- (c) by deleting subsection (4) and replacing it with the following –
“(4) Notwithstanding any other provision of this Act, where the Board informs the Minister that the assets of the Bank are less than the sum of its liabilities and paid up capital, the Minister shall cause to be transferred to the Bank cash or negotiable, market interest bearing securities issued by the Government for such amount as is necessary to preserve the paid up capital.”.

7 Section 7 amended

Section 7 of the Principal Act is deleted and replacing it with –

“7 General Reserve

The Bank shall establish a General Reserve to which shall be allocated at the end of each financial year of the Bank such sums as shall be specified pursuant to section 8. The General Reserve account may not be used except for the purposes of covering losses sustained by the Reserve Bank.”.

8 Section 8 amended

Section 8 of the Principal Act is amended by deleting subsection (1) and replacing with the following -

- “(1) The net profits of the Bank for any financial year, after meeting all current expenditure for that year and after making provision for bad and doubtful debts, depreciation in assets and any other purposes deemed necessary by the Board shall be allocated as follows -
 - (a) where the General Reserve does not exceed 50% of the authorised capital of the Bank, 100 % to be transferred to the General Reserve; and

- (b) where the General Reserve exceeds 50% of the authorised capital of the Bank, 30 % to be transferred to the General Reserve until the sum of the General Reserve and the authorised capital of the Bank equal 10% of the total monetary liabilities of the Bank.

Provided that upon agreement between the Minister and the Bank the General Reserve may be increased.”.

9 Section 9 amended

Section 9 of the Principal Act is amended by deleting the section heading and replacing it with the following –

“9 Board, its general powers and responsibilities”.

10 Section 9A inserted

The Principal Act is amended by inserting a new section 9A as follows –

“9A Specific powers and functions of the Board

- (1) The Board shall have the following powers and functions-
- (a) define and adopt the monetary policy;
 - (b) determine the regime for the determination of the external value of the Tongan currency in consultation with the Minister;
 - (c) define and adopt the financial stability policy, foreign exchange policy and other policies of the Bank regarding the execution of its functions, and issue, as appropriate, internal rules for their implementation;
 - (d) propose the increase of the capital of the Bank;
 - (e) supervise the implementation of the policies and the exercise of the functions of the Bank;
 - (f) adopt directives and prudential statements issued by the Bank;
 - (g) determine the general policies and to adopt the internal rules applicable to the administration and operations of the Bank;
 - (h) decide on the establishment and location of branches, representative offices, and operations facilities;
 - (i) appoint and terminate the employment of the Deputy Governor and Chief Internal Auditor on the recommendation of the Governor;
 - (j) determine the Reserve Bank’s general terms and conditions of employment, including the remuneration policy;
 - (k) approve the annual budget of the Bank;
 - (l) approve the annual report and other formal reports and financial statements of the Bank;

- (m) recommend the appointment of the external auditors of the Bank to the Minister in accordance with section 53;
 - (n) decide whether the Bank should take on debt in material amounts, and if so, the terms and conditions of such debt;
 - (o) determine the categories of assets that shall constitute the official external reserves in accordance with section 30;
 - (p) determine the categories of assets that shall be suitable for investment of the Bank's financial resources;
 - (q) advise on the determination of the denominations and design of banknotes and coins under section 25, and arrange for the minting of coins and the printing of currency notes and for all related matters as prescribed by the same section;
 - (r) establish one or more advisory bodies, prescribe their terms and conditions of appointment of their members, and determine the terms of reference of such bodies;
 - (s) establish one or more committees consisting of members of the Board and/or other persons, including on monetary policy, audit, finance, currency and human resources, and to define their responsibilities;
 - (t) adopt the rules of procedure for the Board; and
 - (u) such other powers and functions as explicitly granted by this Act.
- (2) The powers and functions listed in the previous subsection may not be delegated.”.

11 Section 10 amended

Section 10 of the Principal Act is amended -

- (a) by repealing subsection (4) and replacing it with the following -

“(4) Each director shall be appointed for a term of 5 years and may be reappointed.”
- (b) in subsection (5) by deleting paragraph (a) and replacing it with the following –

“5 (a) give regard to a person’s recognised integrity, knowledge, skills, experiences and recognised standing in agriculture, commercial, financial, industrial or professional and academic matters, including in economics, banking, finance, accounting, auditing, or the law; and”
- (c) by inserting new subsections (7) and (8) as follows –

“(7) Directors at the time of the enactment of the present amendments shall continue being members of the Board until the term stipulated under their respective contracts expires.

- (8) The Governor at the time of the enactment of the present amendments shall continue being a member of the Board until the term stipulated under his respective contract expires.

Provided that any subsequent appointment of a person as a Governor and member of the Board shall be made for a term of not less than 5 years.”.

12 Section 11 amended

Section 11 of the Principal Act is amended in subsection (3) by inserting the words “or has failed to perform his or her duties for a consecutive period of more than two months without approval of the Board,” after the words “the duties of his office,”.

13 Section 12 amended

Section 12 of the Principal Act is amended by inserting the words “on the recommendation by the Governor.” after the word “Minister”.

14 Section 13 amended

Section 13 of the Principal Act is amended -

- (a) in subsection (1) by inserting the sentence “The Governor may resign his office on giving not less than three months’ notice to the Minister.” at the end of the subsection;
- (b) by deleting subsection 2(e) and replacing it with the following -
- “(e) who is a director, officer or employee or who directly or indirectly holds or exercises power over any voting stock of, a licensed financial institution;”.

15 Section 14A inserted

The Principal Act is amended by inserting a new section 14A as follows –

“14 A Restrictions on subsequent functions

Former members of the Board shall not serve in any capacity in or for a bank or other financial institution for a period of two years immediately following the termination of their active service for the Reserve Bank, without obtaining the prior approval of the Board.”.

16 Section 15 amended

Section 15 of the Principal Act is amended -

- (a) in subsection (1)(b) by deleting the full stop at the end and inserting the words “provided that no person may delegate a power or duty that has been received by delegation from the Governor.”;
- (b) by inserting in subsection (1) new paragraphs (c) – (g) as follows –
 - “(c) propose and implement the monetary and exchange rate policies, and the other policies of the Reserve Bank;
 - (d) take enforcement measures, including instructing any bank or financial institution, or any regulated payment system, to take remedial actions; or by appointing a receiver for such entities; or by imposing administrative penalties, as provided by this Act, or by any other Act;
 - (e) report, not less than ten times each year, to the Board on the conduct of the Reserve Bank’s policies and operations, on the soundness and stability of the financial system, and on the state of the money, capital and foreign exchange markets, including all events and conditions that have or are expected to have a significant effect on the conduct of the policies of the Reserve Bank and on its administration or operations, on the financial system, or on the above-mentioned markets;
 - (f) appoint the officers, heads of departments and employees of the Reserve Bank, other than those that must be appointed by the Board;
 - (g) have such other powers and functions as explicitly granted by this Act, as well as all powers under this Act that are not specifically reserved for the Board.”.

17 Section 16 amended

Section 16 of the Principal Act is amended -

- (a) in subsection (1) by deleting the words “once every 2 months” and replacing it with the words “ten times per calendar year.”
- (b) by inserting new subsection (7) – (9) as follows –
 - “(7) In unusual and exigent circumstances, the Governor may convene an extraordinary meeting at which decisions may be taken without regard to the existence of a quorum; such decisions must be ratified at the next regular meeting of the Board to remain in effect.
 - (8) The rules of procedure of the Board may permit meetings and voting by teleconferencing or, in exceptional circumstances, by written or electronic means of communication.
 - (9) Subject to the quorum requirement, no act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies on the Board.”.

18 Section 16A, 16B and 16C inserted

The Principal Act is amended by inserting new section 16A, 16B and 16C as follows –

“16A Proceedings

- (1) The proceedings of the meetings of the Board shall be confidential. The Board may decide to make public the outcome of its deliberations on any matter.
- (2) The minutes of each Board meeting shall be signed by the person chairing that meeting and the Secretary of the Board.
- (3) The Secretary of the Board shall be the Deputy Governor or any person who is acting in that capacity and who shall be a non-voting member of the Board.

16B Employees

- (1) With the exception of the Governor, employees shall devote the whole of their professional services to the Reserve Bank, and shall not hold other offices or employment, whether remunerated or not, except as nominee of the Reserve Bank or for educational and civic endeavors provided that these do not conflict with the ability to serve the Reserve Bank. The Governor may decide to limit the participation of employees under this section in such external activities.
- (2) The Board may adopt policies and rules deviating from the previous subsection.
- (3) Subject to section 11(1), the Governor shall appoint and terminate the employment of employees, agents and technical experts of the Reserve Bank, within the limits of his powers, and in accordance with, the general terms and conditions of employment adopted by the Board.
- (4) No remuneration shall be based on the Reserve Bank’s profits or any type of revenue.”

16C Benefits for the Employees

- (1) The Bank may establish and regulate insurance plans, pension plans or provident funds or schemes for the benefit of the Governor, the Deputy Governor-, and employees, and may make contributions to any such plan, fund or scheme, as approved by the Board.
- (2) The Bank may grant loans and advances, for housing and other purposes, to the Governor, the Deputy Governor, and its employees, on the mortgage of, or otherwise on the security of, immovable or other property, as approved by the Board and in accordance with this Act.
- (3) The Bank shall promote and sponsor the training of technical personnel on the subjects relating to the functions and duties of the Reserve Bank.”

19 Section 17 amended

Section 17 is amended by -

- (a) deleting the words "Deputy Governor," in the title of the section;
- (b) by repealing the current section and replacing it with the following -
 - “ 17 The Governor may appoint and employ, at such remuneration and on such terms and conditions as the Board may determine, officers and employees as the Governor considers necessary for the efficient functioning of the Bank.”.

20 Section 18 amended

Section 18 of the Principal Act is amended -

- (a) in subsection (2) by repealing and replacing it with –
 - “(2) All directors shall fully disclose to the Board before 31 January each year, in accordance with the rules approved by the Board, any agricultural, commercial, financial, industrial, professional or other interests with which they or any person with whom they have personal, family, business or financial relations may at any time be directly or indirectly connected and shall refrain from voting on any matter related thereto which becomes the subject of Board action.

Provided that such an interest, if so disclosed, shall not disqualify the interested party for the purpose of constituting a quorum.”;
- (b) by inserting new subsections (4) – (5) as follows —
 - “(4) Whenever any matter related to —
 - (a) an interest declared under subsection (2); or
 - (b) a new interest not already declared,is before the Board, the member concerned shall disclose his interest at the beginning of the discussion and shall not participate in the discussion and decision on such matter.

Provided that the presence of the Board member abstaining from discussion and decision-making shall be counted for the purpose of constituting a quorum.
 - (5) A breach of this section by a member of the Board or of the employees, as the case may be, shall constitute a serious misconduct.”.

21 Section 19 amended

Section 19 of the Principal Act is amended -

- (a) by deleting subsection (1) and replacing it as follows -
 - “Except for the purpose of -

- (a) the performance of his duties;
 - (b) the exercise of his functions;
 - (c) when lawfully required to do so by any court or under the provisions of any written law;
 - (d) when made in accordance with the express consent of the natural or legal person about whom the information relates;
 - (e) giving to the external auditors of the Bank;
 - (f) giving to domestic regulatory or monetary authorities, in the exercise of their official duties; or
 - (g) is required by the interests of the Bank in legal proceedings,
- no director, officer or employee of the Bank, or auditor appointed under section 53, shall disclose to any person any information relating to the affairs of the Bank or of any financial institution or other person which he has acquired in the performance of his duties under this Act.";
- (b) by renumbering subsections (2) and (3) as subsections (3) and (4) respectively;
 - (c) by inserting a new subsection (2) as follows -
 - “(2) Notwithstanding subsection (1), information may be provided to foreign regulatory, supervisory or monetary authorities or to public international financial institutions, provided that prior to the provision of such information, the Reserve Bank will –
 - (a) inform licensed financial institutions of the names and functions of foreign regulatory, supervisory or monetary authorities and public international financial institutions and the general nature of the information to be provided (if appropriate);
 - (b) within 14 days receive feedback from licensed financial institution on proposed third parties and provision of information; and
 - (c) take into consideration the views of licensed financial institutions when determining third parties to whom information will be provided under this subsection.”;
 - (d) by inserting a new subsection (5) as follows –
 - “(5) The Governor shall determine the classification and accessibility of documents held by or drawn up by the Reserve Bank.”.

22 Section 20 amended

Section 20 of the Principal Act is amended by deleting the current section and replacing it with the following -

- “(1) No director, officer or employee of the Bank or any person including a person previously holding such positions, acting under direction of the

Bank shall be personally liable for an act or default of the Bank done or omitted to be done in good faith and without gross negligence in the course of the operations of the Bank.

- (2) The Bank shall indemnify any person indicated in the previous subsection against costs incurred in the defence of a legal action brought against such person in connection with the discharge or purported discharge of official functions within the scope of his employment or engagement under this Act, provided that no such indemnification shall apply if such person has been convicted of a crime arising out of the activities that are covered by such legal action.”.

23 Section 22 amended

Section 22 of the Principal Act is amended by renumbering the current section as subsection (1) and inserting the following new subsection (2) —

- “(2) The Bank shall issue notes and coins that are commemorative of any person, place or event of special relevance for the Kingdom. Commemorative notes or coins may be sold at a price higher than the denomination specified in such note or coin as may be determined by the Bank.”.

24 Section 25 amended

Section 25 of the Principal Act is amended in subsection (3) by deleting the words "the Prime Minister of Tonga and the Minister" and replacing it with the words “the Prime Minister of Tonga, the Minister, and the Governor of the Bank,”.

25 Section 29 amended

Section 29 of the Principal Act is amended -

- (a) by renumbering the current section as subsection (5) and inserting the following new subsections (1) – (4) –
- “(1) Any person that counterfeits or alters any banknote or coin that is legal tender in the Kingdom or abroad, or any cheque, security or payment card, whether denominated in the legal tender of the Kingdom or in another currency; or possesses, transports or issues any such note, coin, cheque, security or payment card with the knowledge that it was counterfeited or altered; or possesses or transports any plate, stone, paper, die or other object or substance with the knowledge that it was destined to be used to counterfeit or alter any such note, coin, cheque, security or payment card, commits an offence and shall be liable upon conviction to imprisonment for a period not exceeding 5 years.
- (2) Notes and coins presented to financial institutions or other entities authorised to carry out exchange operations denominated in legal tender

in the Kingdom or abroad, which are suspected of being counterfeited or altered, must be withdrawn from circulation and forthwith sent to the competent authorities in compliance with any other legislative provision.

- (3) The Bank shall seize all notes and coins presented to it which are suspected of being counterfeited or altered, and shall draw up a writ with the identification of the banknotes and coins, their bearer, and the Reserve Bank's grounds for suspicion. The writ shall be forwarded to the competent authorities for such investigation and further action as may be required.
- (4) The Bank may call upon the resources of any other authorities for assistance in carrying out the purposes of this section."

26 New section 29A and 29B inserted

The Principal Act is amended by inserting new section 29A and 29B as follows –

“29A Reproduction of currency

- (1) Any reproduction of banknotes and coins, whether legal tender in the Kingdom or abroad, and the creation of any objects that imitate any such banknote or coin, shall require the prior written authorisation of the Bank.
- (2) The Bank may issue directives authorising certain categories of reproductions of currency.
- (3) A person who breaches the provisions of this section commits an offence and upon conviction shall be liable for a fine of up to 100 times the amount involved in the infraction.

29B Destruction or misuse of coins or derived metals

- (1) Any person who, without the authorisation of the Bank, melts, breaks up, perforates, mutilates or uses otherwise than as legal tender, any coin which is legal tender in the Kingdom, commits an offence and upon conviction shall be liable for a fine of 100 times the amount involved in the infraction.
- (2) Any person who knowingly uses, possesses or deals with any metal or section which he knows or has reasonable cause to believe, is derived from any coin which has been dealt with in contravention of subsection (1), commits an offence and upon conviction and shall be liable for a fine of 100 times the amount involved in the infraction."

27 Section 30 amended

Section 30 of the Principal Act is amended –

- (a) in subsection (1) by inserting the words “exclusively hold and manage the official international reserves of the Kingdom. To this end, the Bank shall,” between the words “shall” and “maintain”;
- (b) in subsection (1)(b) by inserting the words “freely convertible” before the words “foreign exchange”;
- (c) in subsection (1)(d) by inserting the words “freely convertible” before the words “foreign currency”;
- (d) in subsection (1) by deleting paragraphs (e) – (g) and replacing it with the following –
 - “(e) readily marketable treasury bills denominated in freely convertible foreign currency issued by foreign governments specified from time to time by the Board;
 - (f) readily marketable debt securities denominated in freely convertible foreign currency issued or guaranteed by foreign governments, supranational organisations, foreign central banks, international financial institutions or any foreign public, municipal or local authority specified from time to time by the Board;
 - (g) such other readily marketable external assets denominated in freely convertible foreign currency as the Board shall specify.”;
- (e) by inserting a new subsection (3) as follows –
 - “(3) The Bank shall manage all official external reserves consistent with international best practices, and respecting safety, liquidity, and yield in that order of priority.”.

28 Section 32 amended

Section 32 of the Principal Act is amended by inserting the words “on such terms and conditions as the Board may determine—” after the words “elsewhere-”.

29 Section 33 amended

Section 33 of the Principal Act is amended in subsection (2) by deleting the words "non-negotiable non-interest" and replacing with the words "non-negotiable market interest".

30 Section 34 amended

Section 34 of the Principal Act is amended by deleting the words “The external” and replacing it with the following words “Without prejudice of the principal objective of the Bank under section 4(1), the external”.

31 Section 38 amended

Section 38 of the Principal Act is amended –

- (a) by inserting in the section’s title the words “and open market operations” after the word “holders”;
- (b) by inserting the words “in order to achieve its objectives under section 4, as the case may be, under such terms and conditions as the Board may determine” after the word “may”;
- (c) by repealing paragraph (d) and inserting the following new paragraphs (d) and (e) –
 - “(d) make open market operations in the financial markets by buying and selling outright (spot or forward) or under repurchase agreement, and by lending or borrowing claims and marketable instruments, as well as precious metals;
 - (e) lend money to holders of accounts with it on such terms and conditions, and against the security of assets, including intraday credits to banks that are fully paid at the end of the day, as may be specified by the Board.”.

32 Section 39 amended

Section 39 of the Principal Act is amended by inserting a new subsection (6) as follows –

- “(6) Notwithstanding provisions under the previous subsections, when this is considered necessary to achieve monetary policy objectives, the Board may prescribe reserves in a percentage higher than 25%, which may be made effective in a period shorter than 30 days notice.”.

33 Section 39A inserted

The Principal Act is amended by inserting a new section 39A as follows –

“39A Supervisory functions

- (1) The Bank shall be exclusively responsible for the regulation, licensing, registration and supervision of banks and other financial institutions as further specified in the Financial Institutions Act, or any other relevant Act.
- (2) Such responsibility shall include the powers of the Bank to —
 - (a) issue directives, prudential statements, guidelines and other acts as necessary for the implementation of the Bank’s supervisory functions;
 - (b) visit the offices of financial institutions to examine such accounts, books, documents and other records and to obtain such information and records from them;

- (c) subject to section 19(2) disclose information and data obtained under the previous subsection in whole or in part in aggregate form for classes of financial institutions determined in accordance with the nature of their business;
- (d) impose administrative penalties and take remedial action or such other action in respect of any financial institution as the Bank may deem necessary or advisable in light of the circumstances;
- (e) define the ratios to be observed among balance sheet items or off-balance items and establish prudential limits on the operations that financial institutions are authorised to carry out, in both cases either individually or on a consolidated basis; and
- (f) participate in the process of resolution of troubled banks and financial institutions, through controllership or receivership in accordance with the Financial Institutions Act.”.

34 Section 43 amended

Section 43 of the Principal Act is amended by renumbering the current section as subsection (1) and inserting the following new subsection (2) –

“(2) The Bank may impose an administrative penalty to any financial institution, which fails to comply with a requirement established by the Bank under this section, not exceeding a fine of \$10,000 and a further fine not exceeding \$1,000 for each day of continued contravention.”.

35 Section 43A amended

Section 43A of the Principal Act is amended –

- (a) by inserting a new title "Payment System";
- (b) by renumbering the current section as subsection (1) and inserting the following new subsections (2) – (8) –
 - “(2) The Bank may provide facilities, including intra-day credit, to payment, clearing and securities settlement systems, and their participants, to ensure the safety, soundness and efficiency of such systems.
 - (3) The Bank may organise, own, participate in and operate systems referred to in the previous subsection.
 - (4) The Bank shall be exclusively responsible for the regulation, licensing, registration and oversight of payment, clearing and securities settlement systems as may be further specified in, or any other relevant Act or regulation. Such responsibility shall include the imposition of administrative penalties.
 - (5) Regulations may be made to-

- (a) require the registration or licensing of any payment, clearing and securities settlement system or the operator of such system;
 - (b) require any payment, clearing and securities settlement system or the operator of such system to observe such conditions and requirements as may be established by the Reserve Bank; and
 - (c) regulate and oversee the issuance and quality of payment instruments.
- (6) The employees of the Bank, and other qualified persons designated by the Bank, may visit the offices of payment, clearing and securities settlement systems, and their participants, to examine such accounts, books, documents and other records, to obtain such information and records from them, and to take such other action as the Reserve Bank shall deem necessary or advisable.
- (7) Payment, clearing and securities settlement systems, and their operators and participants, shall furnish the Reserve Bank with such information and records as the Reserve Bank may require.
- (8) The Bank may disclose information and data obtained under subsections 5 and 6 of this section in whole or in part in aggregate form, as it deems necessary to perform its functions under this Act or any other Act.”.

36 Section 44 amended

Subsection 44(4) in the Principal Act is amended by inserting the symbol “\$” before the number “50,000”.

37 Section 45 amended

Section 45 of the Principal Act is amended by inserting the words “on justifiable grounds the Bank” between the words “institution” and “may”.

38 Section 46 amended

Section 46 of the Principal Act is amended by inserting new subsections (5) – (7) as follows –

- “(5) The Bank may from time to time make recommendations to the Government, as to the measures and policies which should be adopted by the Government for the purposes of coordinating its policy with the policies of the Reserve Bank.
- (6) The Bank shall be entitled to receive from the Government departments and organisations, essential financial and economic statistics, information and documents, which shall be analysed by the Bank.

- (7) The Bank shall present its views to the Government at the request of the latter or at the discretion of the Bank, based on the analysis indicated in the previous subsection.”.

39 Section 48 amended

Section 48 of the Principal Act is amended by inserting a new subsection (4) as follows –

- “(4) The Minister and the Governor shall consult regularly on monetary policy, exchange policy, fiscal policy, financial stability policy, general economic policy, and other matters of common interest, in order to promote a constructive and harmonious relationship between the Government and the Bank, in the compliance of their respective objectives.”.

40 Section 48A inserted

The Principal Act is amended by inserting a new subsection 48A as follows –

“48A Government securities and credits to the Government

- (1) In the conduct of monetary policy, the Bank may buy, sell, repurchase or deal in securities issued or guaranteed by Government, which are being negotiated in the secondary financial market.
- (2) The Bank is also authorised to buy, sell or deal in the primary financial market, in securities issued or guaranteed by Government, provided that the sum of the value of these securities and the value of the securities held by the Bank in accordance with the previous subsection do not exceed, at any time, 30% of the average ordinary income of Government over the previous three years.
- (3) Except in accordance with this section, and sections 6(4) and 33(2), the Reserve Bank shall not, directly or indirectly, make advances to the Government or to any statutory corporation or acquire the notes, bills, securities or other evidence of indebtedness of, or guaranteed by, the Government or any statutory corporation or establish credits for the Government or any statutory corporation.”.

41 Section 50 amended

Section 50 of the Principal Act is amended —

- (a) in subsection (1) by deleting the words "and the Bank shall comply therewith." and replace with the words "and the Bank may consider to comply therewith.";
- (b) repealing and replacing subsection (6) with the following –

“(6) The Minister shall publish and submit to the Legislative Assembly, as soon as practicable but no later than 30 calendar days after the Bank has been notified of the decision indicated in the previous subsection.”.

42 PART XI amended

PART XI of the Principal Act is amended –

- (a) by repealing the word “AND” in the title; and
- (b) by inserting in its title after the word “STATEMENTS” the words “AND BUDGET”.

43 Section 52 amended

Section 52 of the Principal Act is repealed and replaced with the following is amended –

“52 Financial year and accounting standards

- (1) The financial year of the Bank shall begin on the first calendar day of July and end on the last calendar day of June.
- (2) The Bank shall prepare its annual financial statements in accordance with internationally accepted accounting standards as determined by the Board, to reflect its operations and financial conditions.”.

44 Section 54A amended

Section 54A of the Principal Act is repealed and replaced with the following –

“54A Performance Audit by External Auditors

The external audit stipulated under Sections 53(1) and 54B may include an assessment of the performance of the Bank of its functions and powers under this Act.”.

45 New section 54B – 54E inserted

The Principal Act is amended by inserting new sections 54B – 54E as follows –

“54B External audit

- (1) The external audit referred to under section 53(1) shall be performed in accordance with the International Standards on Auditing by independent external auditors who shall be of good repute and have recognised international experience in the auditing of major international financial institutions or central banks.

- (2) No external auditor shall be appointed consecutively for a cumulative period exceeding five years, after which the audit firm or the key audit partners shall be replaced.
- (3) The Minister may dismiss the Bank's external auditors for good cause after consultation with the Board.
- (4) The external auditor shall report to the Audit Committee on key matters arising from the audit and in particular on material weaknesses in internal controls relating to the financial reporting process.
- (5) The external auditors shall have full power to examine all books and accounts of the Reserve Bank and obtain all information about its transactions.
- (6) The report of the external auditors shall be published together with the Reserve Bank's annual financial statements.

54C Chief Internal Auditor

- (1) A Chief Internal Auditor of the Reserve Bank may be appointed by the Board on the recommendation of the Governor.
- (2) The Chief Internal Auditor shall be a person with extensive professional experience in the field of accounting or audit. The conditions and requirements for a person to be appointed as internal auditor as well as the terms of his employment shall be approved by the Board.
- (3) The Board shall determine the responsibilities and duties of the internal auditor as well as the scope, terms and conditions of the Internal Audit function.

54D Audit Committee

- (1) The Board shall appoint an Audit Committee, which shall be responsible for advising and assisting the Board and the Governor in the internal control of the administration and operations of the Reserve Bank, and shall have such other functions and duties incidental to such control as the Board may determine from time to time.
- (2) The Audit Committee shall have three members appointed by the Board, from among non-executive Board members.
- (3) The members of the Audit Committee shall serve on such terms and conditions, including salary and other emoluments, as shall be determined by the Board.
- (4) In carrying out its functions and duties, the Audit Committee shall have authority to —
 - (a) seek advice from experts; and
 - (b) to investigate any matter, including the power to require any member of the Board or employee of the Bank, to furnish it with such information concerning the financial transactions of the

Bank as the Audit Committee may request, and to review any related accounts, records and documents of the Bank.

- (5) Upon an invitation of the Audit Committee, the Governor, the Deputy Governor, or employees of the Reserve Bank, may attend the meetings of the committee without the right to vote.
- (6) The Audit Committee's responsibilities shall include-
 - (a) overseeing the internal audit function;
 - (b) supporting the Board in recommending the appointment of external auditors, and advising on the scope of external audits and other services;
 - (c) meeting with the auditors to discuss their findings; and
 - (d) reviewing with the external auditors the year-end financial statements.
- (7) The Audit Committee shall periodically report to the Board and the Governor.
- (8) The Board shall determine further responsibilities and duties of the Audit Committee.
- (9) The Audit Committee may determine its own procedures.

54E Budget

- (1) Prior to the commencement of each financial year, the Board shall approve the Reserve Bank's annual budget.
- (2) All revenue and income projected to be generated by the Bank or granted to the Bank from any source together with projected expenditures, including depreciation and provisions for losses, shall be included in the annual budget.
- (3) The approved annual budget shall be communicated to the Minister for information purposes.
- (4) The Board shall adopt internal rules for the implementation of the annual budget.”.

46 Section 55A inserted

The Principal Act is amended by inserting a new section 55A as follows –

“55A Fees and charges

The Bank may charge reasonable fees and charges for the services it provides and the functions it carries out. These fees and charges shall be notified to the interested parties.”.

47 Section 57 amended

Section 57 of the Principal Act is amended —

- (a) in subsection (1) deleting the words “without the approval of the Minister on the recommendation of the Board,”;
- (b) by inserting a new subsection (3) as follows —
 - “(3) Nothing in this section shall prevent the Bank to implement policies to benefit the employees or the officers of the Bank that are within current practices of central banks, as approved by the Board.”.

48 New section 59A and 59B inserted

The Principal Act is amended by inserting a new section 59A and 59B as follows –

“59A Credit information system

- (1) The Bank may regulate, license, register and supervise credit information systems to collect and disseminate credit information among financial institutions.
- (2) The information collected and maintained in credit information systems referred to in the previous subsection shall only be used for the purpose of improving the quality of bank credit and in the Bank’s supervision of financial institutions.

59B New areas of business of financial institutions and consumer protection

- (1) The Bank may regulate new areas of business of financial institutions, including on electronic and mobile banking, in fulfilling its objective of promoting a sound and efficient financial system.
- (2) The Bank shall establish a policy aimed at maintaining confidence in the financial system and protecting financial consumers. The Bank may issue all the necessary directives, prudential statements and guidelines for the proper and efficient implementation, administration and enforcement of the policy.”.

49 Section 61 amended

Section 61 of the Principal Act is amended by repealing the section and replacing it with the following -

“61 Regulations

- (1) The Minister, on the advice of the Board and with the consent of Cabinet, shall make regulations necessary for giving effect to and carrying out the purposes of this Act.
- (2) The Minister, on the advice of the Board and with the consent of Cabinet, shall prescribe by regulation the extent to which non-bank financial institutions shall be subject to licensing, supervision, and other

regulatory requirements established by or in accordance with this Act, any other Act or Regulation.”.

50 Section 61A inserted

The Principal Act is amended by inserting a new section 61A as follows –

“61A Administrative penalties

- (1) The Bank may impose administrative penalties upon all legal and natural persons operating in breach of this Act, or any other relevant Act or Regulation, directives, prudential statements, or guidelines.
- (2) Administrative penalties include administrative fines and other administrative measures, such as written warnings or orders, suspension and dismissal of administrators of financial institutions, revocation of licenses, or other measures, as specified in this Act, or in any other relevant act or regulation.
- (3) The Bank may impose an administrative fine under this section, not exceeding \$10,000 and a further fine not exceeding \$1,000 for each day of contravention.”
- (4) The Bank shall, unless urgent action is required, before imposing administrative penalties, provide a detailed statement to the person against whom the penalty is to be imposed describing the facts and the legal provisions supporting the existence of a violation, and shall give such person a full opportunity to contest the imposition of the penalty.
- (5) In determining whether to impose administrative penalties, and in determining the nature or form of such penalties, the Bank shall take into consideration- the severity of the breach; whether it was recurring; whether depositors or other persons were injured thereby; whether the person against whom the penalty is to be imposed profited from the conduct at issue; the financial resources of such person; any mitigating factors; and such other factors as, in its discretion, it believes to be relevant.
- (6) The Bank shall issue a prudential statement setting forth the procedures it will use in connection with its imposition of administrative penalties.”.

Passed by the Legislative Assembly this 26th day of August 2014.