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BANKING (AMENDMENT)

A

BILL

to amend the Banking Act, No. 30 of 1988

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STATEMENT OF LEGAL EFFECT

Clause 2 : This clause amends section 2 of the Banking Act, No. 30 of 1988 (hereinafter referred to as the “principal enactment”) and the legal effect of the section as amended is to exclude a shell bank from the definition of “company” for the purposes of that section.

Clause 3 : This clause inserts new section 2A to the principal enactment and the legal effect of the new section is to provide for minimum licensing requirements to be possessed by a company to apply for a licence.

Clause 4 : This clause amends section 3 of the principal enactment and the legal effect of the section as amended is to require a company to submit an application fee and the audited financial statements for the purpose of that section.

Clause 5 : This clause amends section 4 of the principal enactment and the legal effect of the section as amended is to assign the functions carried out by the Monetary Board to the Central Bank relating to the commencement of banking business of companies, and body corporates incorporated outside Sri Lanka, within Sri Lanka.

Clause 6 : This clause amends section 5 of the principal enactment and the legal effect of the section as amended is to remove the reference to domestic banking business and offshore banking business considering the elimination of the demarcation between domestic banking business and the offshore banking business.

Clause 7 : This clause amends section 8 of the principal enactment and the legal effect of the section as amended is to provide for the Director of Bank Supervision to inform the annual licence fee payable by the licensed commercial banks

Clause 8 : This clause amends section 9 of the principal enactment and the legal effect of the section as amended is to provide for cancellation of licence of a licensed commercial bank, if it becomes insolvent and winding up proceedings have been instituted against such bank.

Clause 9 : This clause amends section 11 of the principal enactment and the legal effect of the section as amended is to provide for the applicability of the provisions of the Banking (Special Provisions) Act, No.17 of 2023 as such Act has included the provisions relating to the compulsory liquidation of a licensed commercial bank.

Clause 10 : This clause amends section 12 of the principal enactment and the legal effect of the section as amended is –

- (a) to take away the requirement to obtain the concurrence of the Minister to carry out transactions specified in that section;
- (b) to require to consult the Minister to open, close or relocate a branch or representative office of any licensed commercial bank in any place outside Sri Lanka;

- (c) to introduce the ability for a licensed commercial bank to acquire a licensed finance company or a part of a business of a licensed finance company or to sell all or part of the bank's business;
- (d) to provide for an application fee as determined by the Central Bank to be paid by foreign banks which intend to open representative offices in Sri Lanka;
- (e) to permit a licensed commercial bank or a branch thereof to merge or consolidate with a licensed finance company;
- (f) to introduce a new paragraph (f) to subsection (1) of that section by enabling a licensed commercial bank or licensed specialized bank to acquire the business or part of the business of another financial institution which is subject to the regulation or supervision of the Central Bank;
- (g) to enable the Central Bank to direct the licensed commercial bank or an individual, a partnership or a body corporate, as the case may be, who has contravened the provisions of subsection (1c) of that section, to dispose of or sell such shares acquired in excess of material interest in the respective licensed commercial bank; and
- (h) to provide for actions that can be taken by the Central Bank in cases of breaches of acquisitions of material interest.

Clause 11 : This clause amends section 13 of the principal enactment and the legal effect of the section as amended is to take away the requirement to obtain the approval of the Minister in cases of withdrawal of approvals granted under section 12 of the principal enactment.

Clause 12 : This clause amends section 17 of the principal enactment and the legal effect of the section as amended is to require licensed commercial banks to divest ownership in non-financial subsidiaries that do not provide services to the licensed commercial bank, or its banking group and grant a transitional period of five years for the disposal of bank's shareholding in such non-financial subsidiaries.

Clause 13 : This clause amends section 19 of the principal enactment and the legal effect of the section as amended is –

- (a) to alter the period required by any licensed commercial bank to augment its equity capital to twelve months or such other period as determined by the Central Bank, and to alter the period required by every licensed commercial bank to augment its equity capital due to a variation of the capital adequacy ratio by the Central Bank to twelve months or such other period as determined by the Central Bank; and
- (b) to require any licensed commercial bank to maintain additional capital as appropriate considering the specific risks emanating from the business of such licensed commercial bank.

Clause 14 : This clause amends section 21 of the principal enactment and the legal effect of the section as amended is –

- (a) to provide for the requirement of maintaining liquid assets by licensed commercial banks to meet their liabilities as may be determined by the Central Bank, from time to time, having regard to development in the regulatory requirement; and
- (b) to recognize the Central Bank's ability to determine additional liquid assets required to be maintained by licensed commercial bank to meet its liabilities and require licensed commercial banks to maintain such assets as determined by the Central Bank.

Clause 15 : This clause amends section 22 of the principal enactment and the legal effect of the section as amended is to enable the Central Bank to issue directions on declaration of dividends by licensed commercial banks.

Clause 16 : This Clause inserts new section 22A in the principal enactment and the legal effect of the new section is to enable the Central Bank to designate foreign currencies for the purpose of carrying on offshore banking business.

Clause 17 : This clause repeals Part IV of the principal enactment and is consequential to the amendment made to section 5 of the principal enactment by Clause 6.

Clause 18 : This clause amends section 35 of the principal enactment and the legal effect of the section as amended is to require any licensed commercial bank to prepare financial statements on both solo and consolidated basis.

Clause 19 : This Clause repeals section 36 of the principal enactment and is consequential to the amendment made to section 35 of the principal enactment by Clause 18.

Clause 20 : This Clause repeals section 37 of the principal enactment and is consequential to the amendment made to section 35 of the principal enactment by Clause 18.

Clause 21 : This clause amends section 38 of the principal enactment and the legal effect of the section as amended is to require any licensed commercial bank incorporated within Sri Lanka to transmit its audited financial statements in solo and consolidated basis, and to require any licensed commercial bank incorporated outside Sri Lanka to transmit its audited financial statements in respect of its business within Sri Lanka, within three months of the closure of its financial year to the Director of Bank Supervision and to publish such financial statements in the official website of the respective bank.

Clause 22 : This clause amends section 39 of the principal enactment and the legal effect of the section as amended is to amend certain provisions relating to auditors, additional audits, audit reports and to require the licensed commercial banks to pay the cost of additional audit conducted on such banks instead of the Central Bank.

Clause 23 : This clause amends section 41 of the principal enactment and the legal effect of that section as amended is to enable the Central Bank to cause an examination of any licensed commercial bank on a solo or consolidated basis without limiting to its subsidiaries.

Clause 24 : This clause amends section 42 of the principal enactment and the legal effect of that section as amended is to provide for a licensed commercial bank not to appoint, elect, or nominate as a director of a licensed commercial bank, a person whose appointment, election or nomination has not been approved under subsections (5) and (6) of that section and to expand the responsibilities of the Board of directors of a licensed commercial bank.

Clause 25 : This clause amends section 44A of the principal enactment and the legal effect of that section as amended is to require the chief executive officer and officers performing executive functions of a licensed commercial bank to be fit and proper persons for the respective positions as may be determined by the Central Bank in accordance with criteria set out in section 42(2) of the principal enactment.

Clause 26 : This clause inserts new sections 44B and 44C in the principal enactment and the legal effect of the new section is to provide to make a person as not fit and proper even after the cessation of office of director, chief executive officer or an officer performing executive functions of a licensed commercial bank or any other financial institution, if such persons have committed or have been connected with the commission of any act involving fraud, deceit, dishonesty or other similar criminal activity or any other improper conduct, during the period in which he served in such office, which may disqualify such person to be a fit and proper person to be appointed, elected, or nominated as a director, chief executive officer or an officer performing executive functions of a licensed commercial bank or any other financial institution, subject an opportunity of being heard. Further, it provides that, the person so determined as not fit and proper under this section shall not be eligible to be appointed, elected, nominated or continued as a director, chief executive officer or an officer performing executive functions of a licensed commercial bank or any other financial institution regulated and supervised by the Central Bank. It also provides that the provisions of Part VI shall be prevailed over any other written law for the time being in force in the event of any conflict.

Clause 27 : This clause amends section 46 of the principal enactment and the legal effect of that section as amended is to require the Central Bank to consider the asset size, scale, diversity, and complexity of operations of licensed commercial banks when issuing directions to such banks under that section, and broaden the limit on large exposures that can be granted by licensed commercial banks, to include control relationship and economic interdependence and grant a transitional period of three years or such other period to be determined by the Central Bank for such banks, to comply with the requirements specified in paragraph (c) of that section.

Clause 28 : This clause repeals section 47(1) of the principal enactment and the legal effect of the section as amended is to limit the applicability of that section only to domestic banking business of licensed commercial banks and require any licensed commercial bank to deduct the amount of any accommodation granted by such bank in excess of the limits specified in subsection (4) of that section.

Clause 29 : This clause repeals Part VIIA of the principal enactment and the legal effect is to provide for the applicability of the provisions of the Banking (Special Provisions) Act, No. 17 of 2023 as such Act has included provisions relating to vesting of banking business of a licensed commercial bank.

Clause 30 : This clause repeals section 50 of the principal enactment and the legal effect of the section as amended is to repeal the provisions relating to the appointment of a liquidator as such provisions have been provided for in the Banking (Special Provisions) Act, No. 17 of 2023.

Clause 31 : This clause amends section 55 of the principal enactment and the legal effect of the section as amended is to provide for the transfer of unclaimed monies and articles held in a safe deposit box of a licensed commercial bank subject to voluntary winding up, to a special account at the Central Bank or for the disposal of such monies and articles as directed by the Central Bank under the guidelines prepared to that effect.

Clause 32 : This clause amends section 56 of the principal enactment and the legal effect of the section as amended is to provide for the procedure to be adopted regarding the cancellation of the licence of a licensed commercial bank subject to voluntary liquidation.

Clause 33 : This clause repeals sections 57 to 69 of the principal enactment and the legal effect of the sections as amended is to provide for the applicability of the provisions of the Banking (Special Provisions) Act, No. 17 of 2023, as such Act has included the provisions relating to compulsory liquidation of licensed commercial banks.

Clauses 34 and 35 : These clauses amend sections 70 and 72 of the principal enactment and is consequential to the amendments made to sections 63 and 68 of the principal enactment by Clause 33.

Clause 36 : This clause repeals section 76D of the principal enactment and is consequential to the amendment made to Part IV of the principal enactment by Clause 17.

Clause 37 : This clause amends section 76G of the principal enactment and the legal effect of the section as amended is to remove the requirement for obtaining the concurrence of the Minister for the minimum equity capital requirement to be maintained by licensed specialized banks.

Clause 38 : This clause amends section 76H of the principal enactment and the legal effect of the section as amended is to provide for the applicability of section 21 of the principal enactment to licensed specialized banks as well.

Clause 39 : This clause amends section 76I of the principal enactment and the legal effect of the section as amended is to expand the ability of the Central Bank to consider asset size, scale, diversity, and complexity of operations of licensed specialized banks when issuing directions to such licensed specialized banks under that section.

Clause 40 : This clause amends section 76K of the principal enactment and the legal effect of the section as amended is to include the applicability of sections 47,48A, 49 and 49A of the principal enactment to licensed specialized banks as well.

Clause 41 : This clause amends section 76M of the principal enactment and the legal effect of the section as amended is to provide for the applicability of provisions of the Banking (Special Provisions) Act, No. 17 of 2023 as such Act has included provisions relating to the compulsory liquidation of the licensed specialized banks.

Clause 42 : This clause amends section 79 of the principal enactment and is consequential to the amendment made to Part IV of the principal enactment by Clause 17.

Clause 43 : This clause inserts a new section 79B in the principal enactment and the legal effect of the new section is to enable the Central Bank to impose administrative fines for contraventions of the certain provisions of the principal enactment, and the Central Bank to determine the procedure for imposing administrative fines on a person and the amount of such fine, in proportion to the contravention so committed.

Clause 44 : This clause amends section 83A of the principal enactment and the legal effect of the section as amended is to extend the non-applicability of provisions in the Pawn Brokers Ordinance (Chapter 99) to licensed specialized banks as well.

Clause 45 : This clause inserts new sections 83D and 83E in the principal enactment and the legal effect of the new sections is to provide for –

- (a) the Central Bank to delegate any of its powers, duties, and functions to certain officers holding specified designations in the Central Bank or any committee consisting of such officers; and
- (b) the Central Bank to inform any person to furnish any information that the Central Bank may consider necessary to discharge its powers, duties and functions under the principal enactment.

Clause 46 : This clause amends section 86 the principal enactment and the legal effect of the section as amended is to include the definitions of the Auditor General, beneficial ownership, Board of Directors of a branch of a licensed commercial bank incorporated outside Sri Lanka, control relationship, Director of Bank Supervision, economic interdependence, engagement partner, exposures, international standards, Minister, non-financial subsidiary, offshore banking business, physical presence, shareholder, shell bank and unlawful activities.

Clause 47 : This clause amends Schedule II of the principal enactment and the legal effect is to include offshore banking business as a permissible activity for licensed commercial banks.

Clause 48 : This clause introduces a savings provision to the principal enactment to capture the Scheme formulated by the Monetary Board under section 76M of the principal enactment to continue to be in force until the liabilities of depositors and creditors of the defaulting bank referred to in subsection (3C) of that section are fully settled, in accordance with the terms and conditions of such Scheme.

Banking (Amendment)

L.D.-O. 42/2023

AN ACT TO AMEND THE BANKING ACT, NO. 30 OF 1988

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows: -

1. (1) This Act may be cited as the Banking (Amendment) Act, No. of 2024. Short title and date of operation

5 (2) The provisions of this Act shall come into operation on such date as the Minister may appoint by Order published in the *Gazette* (in this Act referred to as the “appointed date”).

2. Section 2 of the Banking Act, No.30 of 1988 (hereinafter referred to as the “principal enactment”) is hereby amended in subsection (6) thereof by the substitution for the words “shall not include the Central Bank or a private company” of the words “shall not include the Central Bank, a shell bank or a private company”. Amendment of section 2 of Act, No. 30 of 1988

3. The following section is hereby inserted immediately after section 2 of the principal enactment and shall have effect as section 2A of that enactment:- Insertion of section 2A in the principal enactment

“Eligibility criteria to apply for a licence” 2A. The following matters shall be taken into consideration by the Central Bank in determining whether a company is eligible to apply for a licence under this Act:-

(a) compliance with the initial capital requirements as may be determined by the Central Bank, from time to time;

(b) the nature and adequacy of the financial resources as a means of continuing financial support for the licensed commercial bank to be established in Sri Lanka;

- (c) the capital and other funding sources shall not derive from unlawful activities;
- 5 (d) suitability of material shareholders in terms of subsection (1B) of section 12;
- 10 (e) fitness and propriety of directors, chief executive officer and officers performing executive functions or any other person proposed to be appointed to any of the above positions, as the case may be, in terms of the criteria set out in subsection (2) of section 42;
- 15 (f) track record for operating in a manner consistent with the standards of good governance and integrity;
- (g) transparency in ownership structure and the beneficial ownership;
- 20 (h) establishment of a licensed commercial bank in Sri Lanka will be in the interest of the viability and stability of the banking system and the interest of the national economy; and
- 25 (i) compliance with any other requirements under this Act or any other written law in Sri Lanka or outside Sri Lanka.”.

4. Section 3 of the principal enactment is hereby amended as follows:-

Amendment
of section 3
of the
principal
enactment

- 30 (1) in subsection (1) thereof, by the substitution for the words “in such manner” of the words “in such manner along with the application fee”; and
- (2) in subsection (2) thereof, by the repeal of subparagraph (iii) of paragraph (b) and the substitution therefor of the following:-

“(iii) a copy of the audited financial statements of the company for the preceding three years;”.

5. Section 4 of the principal enactment is hereby amended as follows:-

Amendment
of section 4
of the
principal
enactment

5 (1) by the repeal of subsection (1) thereof and the substitution therefor of the following:-

10 “(1) The Central Bank may require any company or body corporate incorporated outside Sri Lanka, which has applied for a licence under section 3, to carry out banking business through a branch thereof, to undertake to remit to Sri Lanka, prior to the commencement of its business in Sri Lanka, a sum of money determined in United States Dollars, or its equivalent in any designated foreign currency.
15 The amount so remitted may form part of the assigned capital of such company or body corporate and shall be kept as a deposit with the Central Bank or in such other manner as may be determined, from time to time, by the Central Bank.”;

20 (2) by the insertion immediately after subsection (3) thereof, of the following: -

25 “(4) Without prejudice to the provisions of subsection (1), the Central Bank may, having regard to the soundness of the financial position, risk management, governance structure, capital adequacy and availability of liquidity, require any company or body corporate specified in subsection (1) to establish within Sri Lanka as a subsidiary of its parent company or principal body corporate to be issued with a licence to carry on banking
30 business in Sri Lanka.

(5) where a commercial bank incorporated outside Sri Lanka is operating as a branch in Sri Lanka immediately preceding the appointed date, the Central Bank may direct such bank to establish a subsidiary of a parent company or principal body corporate of such commercial bank to carry on banking business in Sri Lanka, having regard to the soundness of the financial position, risk management, governance structure, capital adequacy and availability of liquidity subject to such terms and conditions as may be specified in such direction.”.

6. Section 5 of the principal enactment is hereby amended by the repeal of paragraph (a) of subsection (2) thereof and the substitution therefor of the following:-

Amendment of section 5 of the principal enactment

“(a) whether such company is authorized to carry on banking business;”.

7. Section 8 of the principal enactment is hereby amended in subsection (2) thereof by the substitution for the words and figure “(2) The Monetary Board” of the words and figure “(2) The Director of Bank Supervision”.

Amendment of section 8 of the principal enactment

8. Section 9 of the principal enactment is hereby amended in subsection (1) thereof by the repeal of paragraph (c) thereof and the substitution therefor of the following: -

Amendment of section 9 of the principal enactment

“(c) become insolvent and winding up proceedings have been instituted under any other written law for the time being in force, whether in or outside Sri Lanka and a liquidator or receiver has been appointed for such bank in the interest of its depositors and creditors; or”.

9. Section 11 of the principal enactment is hereby amended as follows: -

Amendment
of section 11
of the
principal
enactment

- 5 (1) in subsection (2) thereof, by the substitution for the words “shall commence in accordance with the provisions of Part VIII of this Act.” of the words “shall commence in accordance with the provisions of any other written law for the time being in force which specifically provides for the winding up of any licenced commercial bank in Sri Lanka.”;
- 10 (2) in subsection (3) thereof, by the substitution for the words “close down the business of such bank in and with respect to Sri Lanka, in accordance with the provisions of Part VIII of this Act.” of the words “close down the business of such bank in accordance with the provisions of any other written law for the time being in force which specifically provides for the winding up of any licensed commercial bank in Sri Lanka.”;
- 15
- (3) in subsection (4) thereof-
- 20 (a) by the substitution, in paragraph (g), for the words “such measures;” of the words “such measures; and”;
- (b) by the substitution in paragraph (h), for the words “such amalgamation; and” of the words “such amalgamation:”; and
- 25 (c) by the repeal of all the words commencing from “(i) vesting the business of the licensed commercial bank” and ending with the words “an acquiring bank:”.

10. Section 12 of the principal enactment is hereby amended as follows:-

Amendment
of section 12
of the
principal
enactment

(1) in subsection (1) thereof-

- 5 (a) by the substitution for the words “written approval of the Monetary Board given with the concurrence of the Minister,” of the words “written approval of the Central Bank,”;
- 10 (b) in paragraph (b) thereof, by the substitution for the words “(b) for a licensed commercial bank” of the words “(b) in consultation with the Minister, for a licensed commercial bank”;
- 15 (c) by the repeal of paragraph (c) thereof, and the substitution therefor of the following: -
- 20 “(c) for a licensed commercial bank to acquire the business or part of the business of another licensed commercial bank, licensed specialised bank or a licensed finance company, or a branch of such licensed commercial bank, licensed specialised bank or licensed finance company, as the case may be, or to sell all or part of its business;”;
- 25 (d) in paragraph (d) thereof, by the substitution for the words “within Sri Lanka:” of the words “within Sri Lanka subject to an application fee as may be determined by the Central Bank, from time time;”;

5 (e) in paragraph (e) thereof, by the substitution for the words “licensed commercial bank or a licensed specialised bank.” of the words “licensed commercial bank, a licensed specialised bank or a licensed finance company.”;

(f) by the addition, immediately after paragraph (e) thereof of the following:-

10 “(f) for a licensed commercial bank or a licensed specialised bank to acquire the business or part of the business of another financial institution which is subject to the regulation or supervision of the Central Bank.”;

15 (2) by the repeal of subsection (1B) thereof, and the substitution therefor of the following:-

20 “(1B) An approval under paragraphs (c), (e) or (f) of subsection (1) or subsection (1c) shall not be granted, unless the Central Bank is satisfied that such acquisition or merger or consolidation is in the interest of promotion of a safe, sound and stable banking system, and the fair competition prevailing in the banking industry. When granting approval for an acquisition under subsection (1c), to an individual or a body corporate, the Central Bank shall, in determining whether such individual or the directors of such body corporate, as the case may be, are fit and proper persons, have regard to the criteria set out in subsection (2) of section 42 in addition to the following matters:-

30 (a) track record of the individual or the directors of the body corporate;

- (b) soundness and feasibility of the business plans of the individual or body corporate;
- (c) the nature and sufficiency of the financial resources of the individual or body corporate as a source of continuing financial support to the licensed commercial bank and the legitimacy of such sources of funding;
- (d) the business record and experience of the body corporate for the preceding three years; and
- (e) transparency in ownership structure and the beneficial ownership.”;
- (3) by the repeal of subsection (1c) thereof, and the substitution therefor of the following:-
- “(1c) (a) An individual, partnership or body corporate shall not, either directly or indirectly or through a nominee or acting in concert with any other individual, partnership or body corporate, acquire a material interest in a licensed commercial bank incorporated or established within Sri Lanka by or under any written law without the prior written approval of the Central Bank.
- (b) Without prejudice to the generality of subsection (2), approval under paragraph (a) of this subsection may be granted subject to terms and conditions as the Central Bank may deem fit.
- (c) Without prejudice to the provisions of subsection (3), the secretary of a licensed

commercial bank shall not enter in the share register,
the index of shareholders or in any other register
maintained to keep records of shareholders of such
licensed commercial bank, the name of an
5 individual, an entity (whether corporate or
unincorporate) or a nominee of such individual or
entity who has acquired the material interest in
contravention of paragraph (a) and such person shall
not be recognized as a shareholder or a person to be
10 deemed as a shareholder of such licensed
commercial bank.

(d) Without prejudice to the provisions of
subsection (3), where the contravention of
subsection (1c) has been committed by an existing
15 shareholder of the licensed commercial bank, it shall
be lawful for the Central Bank to direct such licensed
commercial bank to remove the name of such
shareholder from the share register, index of
shareholders or any other register maintained to
20 keep records of shareholders of such licensed
commercial bank, as the case may be, within the
period of time as may be specified in such directions.
It shall be the duty of such licensed commercial
bank to comply with such direction with effect from
25 the date of such direction for removal, and the said
shareholder shall not be considered or deemed as a
shareholder of such licensed commercial bank until
such shareholder complies with the provisions of
subsection (1c).

30 (e) For the purposes of this subsection,-

“acting in concert” means acting pursuant to an understanding (whether formal or informal) to actively co-operate in acquiring a material interest in a licensed commercial bank so as to obtain or consolidate the control of that licensed commercial bank;

“material interest” means the holding of over ten *per centum* of the issued capital of a licensed commercial bank carrying voting rights or, if the Central Bank determines that there exists a significant influence over the licensed commercial bank to nominate, appoint or remove a director, chief executive officer or an officer performing executive functions of the licensed commercial bank or to exercise control over the policies of such bank pursuant to a contract or otherwise.”;

(4) in subsection (2) thereof, by the substitution for the words “by the Monetary Board with the concurrence of the Minister.” of the words “by the Central Bank.”; and

(5) by the addition, immediately after subsection (2) thereof of the following:-

“(3) Notwithstanding anything to the contrary in the provisions in this Act or any other written law, where the Central Bank is satisfied based on the information submitted by the licensed commercial bank or on its own findings that any individual, partnership or body corporate

5 specified in subsection (1c) has acquired the material interest of such bank in contravention of subsection (1c) or any terms or conditions of the approval granted thereunder, it shall be lawful for the Central Bank to direct such licensed commercial bank or such individual, partnership or body corporate, as the case may be, to dispose of such material interest subject to such terms and conditions as the Central Bank may consider necessary and after giving such bank or individual, partnership or body corporate an opportunity of being heard.

15 (4) Until the disposal is effected under subsection (3), the Central Bank may direct the licensed commercial bank whose material interest has been acquired or the individual, partnership or body corporate who has contravened the provisions of this section, or both such bank and the individual, partnership and the body corporate, as the case may be, to give effect to, one or more of the following:-

- 20 (a) suspend the exercise of voting rights entitled to such shareholding or part thereof;
- 25 (b) notwithstanding to the contrary in any other written law, prohibit such licensed commercial bank accruing any distribution rights pertaining to such shareholding or part thereof;
- 30 (c) prohibit the licensed commercial bank issuing further shares to or pursue any offer made by the individual, partnership or body corporate who has contravened the provisions of subsection (1c);
- (d) except in a liquidation, prohibit the licensed commercial bank paying any sums due,

including any form of distribution, to such individual, partnership or body corporate who has contravened the provisions of subsection (1c);

- 5 (e) provide further details of such shareholding acquired in contravention of subsection (1c) to the Central Bank, in such manner as the Central Bank may determine; or
- 10 (f) request a licensed stock exchange or Central Depository System to impose a restriction on trading of shares held in excess of material interest, by any shareholder as a locked balance of his share account, until further instructions to that effect is issued by the
- 15 Central Bank.”.

11. Section 13 of the principal enactment is hereby amended as follows:-

Amendment
of section 13
of the
principal
enactment

- 20 (1) in subsection (1) thereof, by the substitution for the words and figure “(1) The Monetary Board may, with the approval of the Minister,” of the words and figure “(1) The Central Bank may,”; and
- 25 (2) in subsection (3) thereof, by the substitution for the words “before the Board under subsection (2), the Monetary Board shall, with the approval of the Minister -” of the words “before the Central Bank under subsection (2), the Central Bank shall, -”.

12. Section 17 of the principal enactment is hereby amended by the insertion of the following immediately after subsection (4) thereof:-

Amendment
of section 17
of the
principal
enactment

- 30 “(4A) Any licensed commercial bank having a non-financial subsidiary that does not provide services to such licensed commercial bank or its banking group as

5 at the appointed date, shall divest its ownership in the equity share capital of such subsidiary within a period of five years from the appointed date, after notifying the Central Bank of such decision and the manner in which such bank will discontinue the business carried out by such subsidiary.”.

13. Section 19 of the principal enactment is hereby amended as follows:-

Amendment of section 19 of the principal enactment

10 (1) in paragraph (b) of subsection (1) thereof, by the substitution for the words “and with the concurrence of the Minister, determine, from time to time.” of the words “determine, from time to time.”;

15 (2) by the repeal of paragraph (d) of subsection (3) thereof, and the substitution therefor of the following:-

20 “(d) Where any licensed commercial bank is required by such variation to augment its equity capital, it shall upon application to the Central Bank, be afforded a period of twelve months, or such other period as may be granted by the Central Bank, in which to comply with that requirement.”;

25 (3) by the repeal of paragraph (b) of subsection (7) thereof, and the substitution therefor of the following:-

30 “(b) Any variation in the capital adequacy ratio referred to in paragraph (a) shall be communicated to every licensed commercial bank by the Central Bank in writing, provided that every licensed commercial bank which is required by such variation to augment its capital, shall be afforded a period of twelve months or such other period as may be granted by the Central Bank, in which to comply with such requirement.”;

(4) by the addition, immediately after subsection (9) thereof of the following:-

5 “(10) The Central Bank may require a licensed commercial bank to maintain additional capital as the Central Bank may consider appropriate having regard to the specific risks emanating from the business of such licensed commercial bank.”.

14. Section 21 of the principal enactment is hereby repealed and the following is substituted therefor: -

Replacement of section 21 of the principal enactment

10 “Liquid Assets

21. (1) Every licensed commercial bank shall, at all times maintain liquid assets that are required to meet its liabilities as may, from time to time, be determined by the Central Bank and comply with the requirements on liquidity having regard to the developments in the regulatory requirements, and the Central Bank shall, as far as practicable, adopt international standards applicable on liquidity requirements of such licensed commercial bank.

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(2) Without prejudice to the provisions of subsection (1), the Central Bank may, from time to time, determine additional liquid assets required to be maintained by any licensed commercial bank to meet liabilities and it shall be the duty of every licensed commercial bank to maintain such assets in such ratios as may be directed by the Central Bank.”.

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15. Section 22 of the principal enactment is hereby repealed and the following is substituted therefor: -

Replacement of section 22 of the principal enactment

- “Payment of dividends”
- 5
22. The Central Bank may, from time to time, having considered the capital or liquidity levels of a licensed commercial bank, issue directions to such licensed commercial bank imposing conditions to be met by such bank prior to declaring or paying dividends, whether scrip or otherwise, or transfer of profits earned in Sri Lanka, outside Sri Lanka.”.
- 10
- 16.** The following section is hereby inserted immediately after section 22 of the principal enactment and shall have effect as section 22A of that enactment:-
- Insertion of section 22A in the principal enactment
- “Central Bank to designate foreign currency to be used in offshore banking business”
- 22A. The Central Bank may, by Order designate any foreign currency for the purpose of carrying on offshore banking business.”.
- 15
- 17.** Part IV of the principal enactment is hereby repealed.
- Repeal of Part IV of the principal enactment
- 18.** Section 35 of the principal enactment is hereby repealed and the following is substituted therefor:-
- Replacement of section 35 of the principal enactment
- “Preparation of financial statements by licensed commercial banks”
- 20
- 25
35. Every licensed commercial bank shall maintain accounts and records and prepare financial statements in accordance with applicable accounting standards. The financial statements of a licensed commercial bank shall represent a true and accurate assessment of the bank’s affairs and reflect its operations and financial condition both on a solo and consolidated basis.”.

19. Section 36 of the principal enactment is hereby repealed. Repeal of section 36 of the principal enactment

20. Section 37 of the principal enactment is hereby repealed. Repeal of section 37 of the principal enactment

5 **21.** Section 38 of the principal enactment is hereby repealed and the following is substituted therefor:- Replacement of section 38 of the principal enactment

“Publication of financial statements by licensed commercial banks 38. (1) Every licensed commercial bank incorporated or established within Sri Lanka shall-

10 (a) transmit within three months after the closure of its financial year, to the Director of Bank Supervision, its audited financial statements in solo and consolidated basis for such financial year in respect of its business in and outside Sri Lanka;

15 (b) exhibit such statements in a conspicuous place at each of its places of business until the solo and consolidated financial statements for the succeeding financial year are prepared and exhibited; and

20 (c) publish such statements at least once within the period specified in paragraph (a) in at least one

Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, and in the official website of the respective bank.

5 (2) Every licensed commercial bank incorporated outside Sri Lanka shall-

10 (a) transmit within three months after the closure of its financial year, to the Director of Bank Supervision, its audited financial statements for such financial year in respect of its business in Sri Lanka;

15 (b) exhibit such statements in a conspicuous place at each of its places of business until the financial statements for the succeeding financial year are prepared and exhibited; and

20 (c) publish such statements at least once within the period specified in paragraph (a) in at least one Sinhala, Tamil and English daily newspaper circulating in Sri Lanka, and in the official website of the respective bank.

30 (3) The Central Bank may specify the form of the financial statements referred to in subsections (1) and (2) including any disclosure requirements to be made and where such form is specified, the financial statements of every licensed commercial bank shall be prepared in such form.

(4) Where the Central Bank determines that a disclosure made under subsection (3) does not contain information which is required to contain or is otherwise false or misleading, the Central Bank may, by notice in writing, require such bank –

5

(a) to publish a disclosure statement including the information that was previously omitted;

10

(b) to publish a disclosure statement without including false or misleading information; or

(c) to take such other corrective action as may be specified in the notice.”.

15 **22.** Section 39 of the principal enactment is hereby amended as follows:-

Amendment
of section 39
of the
principal
enactment

(1) in subsection (1) thereof -

(a) by the substitution in paragraph (a), for the words “the accounts balance sheet and profit and loss account” of the words “financial statements”;

20

(b) by the substitution in paragraph (b), for the words “the accounts, balance sheet and the profit and loss account” of the words “financial statements”;

25

(2) by the insertion, immediately after subsection (1) thereof of the following:-

“(1A) Where there are findings which to the knowledge of the auditor in the performance of his duties under this Act, that-

- 5 (a) losses have been incurred or likely to incur which may materially reduce the capital of any licensed commercial bank;
- 10 (b) irregularities have been occurred in such bank, including the engagement of such bank in unsound or unsafe practices in carrying on of its business which is likely to jeopardize the interests of its depositors and creditors; or
- 15 (c) the obligations to the depositors and creditors of such bank are not sufficiently covered by the assets of such bank,

the auditor shall immediately report such findings or any other matter that can materially affect the safety and soundness of the licensed commercial bank to the Director of Bank Supervision.”;

- 20 (3) by the repeal of subsection (2) thereof, and the substitution therefor of the following:-

25 “(2) Every report specified in subsection (1) which shall be completed within two months of the end of the financial year, shall contain a statement by the auditor as to whether in his opinion the financial statements contain a true and fair view of the bank’s financial position including the compliance with the provisions relating to issuing of financial statements and making disclosures by
30 a licensed commercial bank and where the auditor

has called for an explanation or any information from any officer or agent of such licensed commercial bank whether such explanation or information is satisfactory.”;

5 (4) in subsection (3A) thereof, by the substitution for the words “shall be met by the Central Bank.” of the words “shall be met by the respective licensed commercial bank.”;

10 (5) by the insertion, immediately after subsection (3A) thereof, of the following: -

15 “(3B) Where the Central Bank is of the view that an additional audit is required to be conducted in respect of one or more aspects of the business and affairs of a licensed commercial bank, the Director of Bank Supervision may require such bank to conduct an additional audit on such aspects and the cost of such additional audit shall be met by the respective licensed commercial bank.

20 (3C) The provisions of sections 38A and 39 in respect of the appointment, duties and powers, and remuneration of auditors shall *mutatis mutandis* apply in respect of any auditor employed to conduct an additional audit under
25 this section.”;

(6) by the insertion, immediately after subsection (7) thereof of the following:-

30 “(7A) The engagement partner of the auditor of a licensed commercial bank shall be a member of the Institute of Chartered Accountants of Sri Lanka

and shall not be subject to any disqualification under any written law in Sri Lanka or abroad from being appointed as an auditor.

5 (7B) Every licensed commercial bank shall change the auditor of such bank once in every six years and shall change the engagement partner once in every three years.

10 (7C) A licensed commercial bank which has already appointed an auditor shall comply with the provisions of this section within a period of two years from the appointed date.”; and

(7) by the repeal of subsection (8) thereof.

15 **23.** Section 41 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words “or any of its subsidiaries,” of the words “on solo and consolidated basis”. Amendment of section 41 of the principal enactment

24. Section 42 of the principal enactment is hereby amended as follows: - Amendment of section 42 of the principal enactment

(1) in subsection (2) thereof -

20 (a) by the repeal of paragraph (a) and the substitution therefor of the following: -

25 “(a) that such person possesses academic or professional qualifications and effective experience in banking, finance, economics, accounting, business administration, information technology, risk management, law or any other relevant discipline as may be determined by the Central Bank;”;

(b) by the repeal of paragraph (c) and the substitution therefor of the following: -

5 “(c) that such person is not subject to any proceedings, inquiry or investigation consequent upon being served with notice of a charge involving fraud, deceit, dishonesty or other similar criminal activity, by any court, tribunal, regulatory authority, supervisory authority, professional association, Commission of Inquiry, or any other body established by law, in Sri Lanka or outside Sri Lanka.”;

10

(2) by the repeal of subsection (4) thereof, and the substitution therefor of the following: -

15

“ (4) Every licensed commercial bank shall notify the Director of Bank Supervision in such form as may be determined by the Director of Bank Supervision, the name, address and occupation and if he considers necessary, any further information of -

20

(a) each person proposed to be appointed, elected or nominated as a director of such licensed commercial bank, before such appointment, election or nomination, as the case may be;

25

(b) any director of such licensed commercial bank, if such bank is aware that such person is not a fit and proper person or where such director becomes otherwise ineligible to hold office as such director, within fifteen days of such bank becoming aware of such facts.”;

30

(3) by the insertion, immediately after subsection (4) thereof of the following: -

5 “(4A) The Director of Bank Supervision may, upon receipt of notice under subsection (4), if he considers necessary, cause further investigation to satisfy himself in relation to any of the matters referred to in subsection (1) or (2).”;

- (4) by the repeal of subsection (7) thereof, and the substitution therefor of the following:-

10 “(7) A licensed commercial bank shall not appoint, elect or nominate as a director of the licensed commercial bank, a person whose appointment, election or nomination, as the case may be, has not been approved under subsection (5) or subsection (6) and no such director shall be permitted to carry out any duty or function of such
15 licensed commercial bank in any capacity.”;

- (5) by the repeal of subsection (12) thereof, and the substitution therefor of the following:-

20 “(12) The Board of Directors of a licensed commercial bank shall have the duty to oversee the management of the affairs of the licensed commercial bank including its governance framework and be ultimately responsible for ensuring that the business of such bank is carried out in compliance with all applicable laws and
25 consistent with safe and sound banking practices.”; and

- (6) by the addition immediately after subsection (12) thereof of the following:-

5 “(13) Notwithstanding anything to the contrary in any other written law, the Central Bank shall, from time to time, determine the number of members of the Board of Directors of a licensed commercial bank which number shall not be less than seven in any case.”.

25. Section 44A of the principal enactment is hereby amended by the repeal of subsection (1) thereof and the substitution therefor of the following:-

Amendment of section 44A of the principal enactment

10 “(1) The Chief Executive Officer and such other officers of a licensed commercial bank performing executive functions as may be determined by the Central Bank shall be fit and proper persons to hold such respective positions, and the provisions of
15 subsection (2) of section 42 shall, *mutatis mutandis*, apply in determining whether such persons are fit and proper persons.”.

20 26. The following sections are hereby inserted immediately after section 44A of the principal enactment and shall have effect as sections 44B and 44C of that enactment: -

Insertion of sections 44B and 44C in the principal enactment

25 ‘Disqualification of a director, the chief executive officer or an officer performing executive functions of a licensed commercial bank who previously held such positions in such bank

30 44B. (1) (a) Where the Central Bank, in pursuance to findings of any examination or investigation conducted on affairs of a licensed commercial bank, is satisfied at any time that a person who previously held office as a director, the chief executive officer or an officer performing executive functions of such bank has committed or has been connected with the commission of any act involving fraud, deceit, dishonesty or other similar criminal activity or any other improper conduct during the period in which he served in such office which may disqualify
35 such person to be a fit and proper person to

5 be appointed, elected, or nominated as a
director, the chief executive officer or officer
performing executive functions of a licensed
commercial bank, or any other financial
institution regulated and supervised by the
Central Bank, it shall be lawful for the
Central Bank to determine that such person
is not fit and proper notwithstanding the fact
that whether such person no longer holds such
10 office at the time of making such
determination.

15 (b) The Central Bank shall, prior to
making such determination ensure that such
person has been offered an opportunity of
being heard.

20 (2) The person so determined as not fit
and proper under subsection (1) shall not be
eligible to be appointed, elected, nominated
or continued as a director, chief executive
officer or other officer performing executive
functions of a licensed commercial bank or
any other financial institution regulated and
supervised by the Central Bank.

25 This Part of 44c. In the event of any conflict or
this Act to inconsistency between the provisions of this
prevail in Part of this Act and the provisions of any other
case of written law for the time being in force, the
inconsistency provisions of this Part shall prevail.”

30 27. Section 46 of the principal enactment is hereby
amended in subsection (1) thereof as follows:-

Amendment
of section 46
of the
principal
enactment

(1) by the substitution for the words “directions to
licensed commercial banks” of the words

“directions to licensed commercial banks considering the asset size, scale, diversity and complexity of operations of such banks”;

5 (2) by the repeal of paragraph (c) thereof and the substitution therefor of the following:-

10 “(c) the limit on large exposures which, having regard to the equity capital, reserves and deposits of such licensed commercial bank and other relevant considerations including, as far as practicable, the adoption of international standards applicable on large exposures, as may be made by such bank-

15 (i) to any single company, public corporation, firm, association of persons or an individual; or

(ii) in the aggregate to-

20 (A) an individual, his close relations or to a company or firm in which he or his close relations have a substantial interest; or

25 (B) a group of connected borrowers if at least one of the following criteria is satisfied:-

30 (a) control relationship, a company and one or more of the following having a control relationship with each other:-

(i) its subsidiaries;

- (ii) its holding company;
- (iii) its associate company;
- (iv) a subsidiary of its holding company;
- 5 (v) a company in which a company referred to in item (a) of this sub paragraph or its subsidiary, or its holding company, or a subsidiary of its holding company, has a substantial interest;
- 10
- 15 (vi) an individual having a substantial interest in such company and the close relations of such individual; or
- 20 (vii) any other company having direct or indirect control over such company as may be determined by the Central Bank;
- 25 (b) economic interdependence between connected borrowers as may be determined by the Central Bank based on
- 30 predetermined criteria:

35 Provided that, it shall be lawful for a licensed commercial bank to comply with the provisions of this paragraph within a period of three years from the appointed date or such other period as may be determined by the Central Bank.”.

28. Section 47 of the principal enactment is hereby amended as follows:-

Amendment
of section 47
of the
principal
enactment

(1) by the repeal of subsection (1) thereof;

5 (2) by the insertion, immediately after subsection (11A) thereof of the following:-

“(11B) The provisions of subsections (3), (4), (5), (6), (7), (11) and (11A) shall apply to the following persons, and such persons shall comply with such provisions:-

10 (a) a chief executive officer or an officer performing executive functions of a licensed commercial bank in respect of any accommodation granted other than an accommodation granted to such officer under
15 a scheme applicable to the employees of such bank;

(b) a shareholder of a licensed commercial bank having material interest, whether individual or a concern;

20 (c) a subsidiary or an associate company of the licensed commercial bank;

(d) a holding company of the licensed commercial bank including its subsidiaries, excluding the parent bank and subsidiaries
25 of a bank incorporated outside Sri Lanka;

(e) a director of a subsidiary or an associate company of the licensed commercial bank and a director of a holding company and its subsidiaries;

(f) a close relation of a person specified in paragraphs (a) and (b);

(g) a concern, whose director or partner is a director of such bank; and

5 (h) a concern in which a material shareholder of a licensed commercial bank or any of his close relations has substantial interest.

(11C) Any person referred to in subsection (11B) who contravenes the provisions of subsection (3),
10 (4), (5), (6), (7), (11) or (11A) commits an offence under this Act.”;

(3) by the insertion, immediately after subsection (13) of the following:-

15 “(14) (a) The Central Bank may require a licensed commercial bank to deduct the amount of any accommodation granted by such bank in excess of the limits specified in subsection (4), to any related party for the purposes of calculating the regulatory capital ratios under subsection (7) of section 19 or
20 require such excess to be secured by such security as directed by the Central Bank.

(b) The minimum period of time that the Central Bank may afford to a licensed commercial bank to comply with the provisions of paragraph (a) shall
25 be a period of twelve months or such other period as may be determined by the Central Bank, which in any case shall not exceed a period of three years.”.

29. Part VIIA of the principal enactment is hereby repealed. Repeal of Part VIIA of the principal enactment

30. Section 50 of the principal enactment is hereby repealed. Repeal of section 50 of the principal enactment

5 31. Section 55 of the principal enactment is hereby amended as follows:- Amendment of section 55 of the principal enactment

10 (1) by the substitution for the words and figure “in section 54 the name of such bank shall be removed from the list of licensed commercial banks and” of the words and figure “in section 54”;

(2) in paragraph (c) thereof, by the substitution for the words and figure “in accordance with section 72.” of the words and figure “in accordance with section 72; and”;

15 (3) by the addition immediately after paragraph (c) thereof of the following:-

20 “(d) all monies or other articles held in a safe deposit box which have not been paid or returned to the rightful owners under section 54, have been transferred to a special account of the Central Bank or are disposed in accordance with the directions issued by the Central Bank for such purpose, as the case may be.”;

25 (4) by the repeal of the marginal note to that section, and the substitution therefor of the following:-

“Distribution of the outstanding assets among the owners of the licensed commercial bank”.

- 5 **32.** Section 56 of the principal enactment is hereby repealed and the following is substituted therefor:-
- 10 “Cancellation of the licence issued to a licensed commercial bank and to remove the name from the list
- 15 56. Once all outstanding assets have been distributed in accordance with the provisions of section 55, the Director of Bank Supervision shall direct such licensed commercial bank subject to voluntary winding up to submit the audited financial statements of such bank to the Central Bank for its approval. Once the audited financial statements are approved by the Central Bank, the Central Bank shall cancel the licence issued to such licensed commercial bank and the name of such bank shall be removed from the list of licensed commercial banks.”.
- 20 **33.** Sections 57 to 69 (both inclusive) of the principal enactment are hereby repealed.
- 25 **34.** Section 70 of the principal enactment is hereby amended in subsection (4), by the substitution for the words and figures “with the undertaking. The provisions of sections 63 and 68 shall apply to the winding up of the affairs under this section.” of the words “with the undertaking.”.
- 30 **35.** Section 72 of the principal enactment is hereby amended in subsection (1) thereof, by the substitution for the words and figures “(1) In addition to the articles referred to in sections 63 and 68 the articles” of the words and figure “(1) The articles”.
- 36.** Section 76D of the principal enactment is hereby amended by the repeal of subsection (3) thereof.
- Replacement of section 56 of the principal enactment
- Repeal of sections 57 to 69 of the principal enactment
- Amendment of section 70 of the principal enactment
- Amendment of section 72 of the principal enactment
- Amendment of section 76D of the principal enactment

37. Section 76G of the principal enactment is hereby amended in subsection (1), by the substitution for the words “the Monetary Board may with the concurrence of the Minister,” of the words “the Central Bank may,”.

Amendment
of section
76G of the
principal
enactment

5 38. Section 76H of the principal enactment is hereby amended by the substitution for the words and figure “provisions of Part V” of the words and figures “provisions of section 21, Part V”.

Amendment
of section
76H of the
principal
enactment

10 39. Section 76J of the principal enactment is hereby amended in subsection (1) as follows:-

Amendment
of section 76J
of the
principal
enactment

(1) by the substitution for the words “regarding the manner in which any aspect of the business of such banks is to be conducted and in particular-” of the following:-

15

“considering the asset size, scale, diversity and complexity of operations of such banks or for reasons to be stated in writing to any one or more of them, regarding the manner in which any aspect of the business of such banks is to be conducted and in particular -”;
and

20

(2) by the repeal of paragraph (k) thereof.

25 40. Section 76K of the principal enactment is hereby amended by the substitution for the words and figure “provisions of section 45 shall,” of the words and figures “provisions of sections 45, 47, 48A, 49 and 49A shall,”.

Amendment
of section
76K of the
principal
enactment

41. Section 76M of the principal enactment is hereby amended as follows:-

Amendment
of section
76M of the
principal
enactment

(1) in paragraph (b) of subsection (3) thereof, -

5 (a) by the repeal of subparagraph (i), and the substitution therefor of the following:-

10 “(i) where the bank is incorporated or established within Sri Lanka by or under any written law, proceedings for the winding up of the bank shall commence under the provisions of any written law for the time being in force, which specifically provides for the winding up of the licensed commercial banks and licensed specialised banks in Sri Lanka.”;

15 (b) by the repeal of subparagraph (ii) thereof, and the substitution therefor of the following:-

20 “(ii) where the bank is incorporated outside Sri Lanka, the business of such bank authorized under the licence issued under section 76A shall be closed down and its affairs shall be wound up under the provisions of any written law for the time being in force, which specifically provides for the winding up of the licensed commercial banks and licensed specialised banks in Sri Lanka.”; and

25 (2) by the repeal of subsections (3A), (3B), (3C), (3D), (3E), (3F) and (3G) thereof.

30

42. Section 79 of the principal enactment is hereby amended in subsection (1), by the substitution for the words and figures “subsection (3) of section 33, subsection (3) of section 41” of the words and figures “subsection (3) of section 41”.

Amendment of section 79 of the principal enactment

43. The following new section is hereby inserted immediately after section 79^A of the principal enactment and shall have effect as section 79^B of that enactment:-

Insertion of new section 79^B in the principal enactment

“Central Bank to impose administrative fine”

79B. (1) Without prejudice to any of the provisions of this Act or any other written law for the time being in force, it shall be lawful for the Central Bank, after affording an opportunity of being heard, to impose an administrative fine on any person who contravenes the provisions of subsections (1c), (3) and (4) of section 12, section 19, section 21, subsection (1) of section 38 or paragraph (c) of subsection (1) of section 46 of this Act.

(2) The Central Bank shall, in determining to impose an administrative fine, take into consideration-

- (a) the gravity of such contravention;
- (b) whether there is any recurrence of such contravention;
- (c) whether any loss or damage is caused to the depositors or any other person consequent of such contravention;
- (d) whether the person against whom a fine is to be imposed is unduly benefitted from such contravention;
- (e) the financial resources of such person;

(f) any mitigating factors; and

(g) such other matters as it considers to be relevant.

5 (3) The Central Bank shall determine the procedure and manner for imposing an administrative fine on a person under subsection (1) and the amount of such fine, in proportion to the contravention so committed.”.

10 **44.** Section 83A of the principal enactment is hereby amended by the substitution for the words “and such bank” of the words “licensed specialised bank and such bank”. Amendment of section 83A of the principal enactment

15 **45.** The following new sections are hereby inserted immediately after section 83C of the principal enactment and shall have effect as sections 83D and 83E of that enactment:- Insertion of new sections 83D and 83E in the principal enactment

20 “Delegation of its powers, duties and functions by the Central Bank

25 83D. The Central Bank may, if it considers necessary, delegate any of its powers, duties and functions under this Act to the Governor, Deputy Governor, Assistant Governor, Director of Bank Supervision or any other officer of the Central Bank who shall not be below the rank of a Head of the Department, or any committee consisting of such officers of the Central Bank, as the case may be, to carry on any such powers, duties and functions under this Act.

Central
Bank to
inform any
person to
furnish any
5 information
& c.

83E. (1) The Central Bank may, by notice in writing, inform any person other than a licensed commercial bank, a licensed specialised bank, a director, Chief Executive Officer or an officer performing executive functions of such bank, to furnish, within such period as specified in the notice, any information or produce any document as specified in such notice and as the Central Bank may consider necessary for the exercise, performance and discharge of the powers, duties and functions under this Act.

10

15

(2) Notwithstanding anything to the contrary in any other written law, it shall be the duty of any person who receives a notice under subsection (1) to comply with the requirements of such notice within the period specified therein.”.

20

46. Section 86 of the principal enactment is hereby amended as follows:-

Amendment
of section 86
of the
principal
enactment

- (1) by the insertion immediately after the definition of the expression “accommodation”, of the following:-

25

““Auditor General” means the Auditor General appointed under Article 153 of the Constitution;”;

- (2) by the insertion immediately after the definition of the expression “banking business”, of the following:-

30

““beneficial owner” means a natural person who ultimately owns or controls ten *per centum* or more of a company, in whole or in part,

5 through direct or indirect ownership or control of shares or voting rights or other ownership interest in that company, and also includes a natural person who exercises effective control through other means, and beneficial ownership is to be construed accordingly;

10 “Board of Directors of a branch of a licensed commercial bank incorporated outside Sri Lanka” means the Head Office or Regional Office of such licensed commercial bank that supervises the respective branch or a management committee for which powers on overseeing the management have been
15 delegated by such Head Office or the Regional Office, as the case may be, to act as the Board of Directors of such branch;”;

(3) by the insertion immediately after the definition “concern” of the following:-

20 ““control relationship” means the ability of one borrower of a licensed commercial bank to influence over the activities of other borrowers of such bank;”;

25 (4) by the repeal of the definition of the expression “Director of Bank Supervision” and the substitution therefor of the following:-

30 ““Director of Bank Supervision” means an employee of the Central Bank who is the head of the department of the Central Bank which is entrusted with the regulation and supervision of the licensed commercial banks and licensed specialised banks in Sri Lanka;”;

- (5) by the repeal of the definition of the expression “domestic banking business”, and the substitution therefor of the following:-

5 ““economic interdependence” means the
dependence of one borrower of a licensed
commercial bank on a business of any
other borrower of such bank where it is
likely that the financial difficulties of the
latter may impair the repayment capacity
10 of the first mentioned borrower;

 “engagement partner” means the partner or other
person in the firm who is responsible for
the audit engagement and its performance,
and for the auditor’s report that is issued
15 on behalf of the firm, and who, where
required, has the appropriate authority
from a professional, legal or regulatory
body;

 “exposures” means accommodation and all
20 financial investments;”;

- (6) by the insertion immediately after the definition of the expression “head office of a commercial bank” of the following:-

25 ““international standards” means the standards
that comprise of principles, guidelines,
processes, or characteristics, that have been
developed through the consensus of
experts from many countries and published
by a globally recognized institution
30 including the Basel Committee on
Banking Supervision, the Financial
Stability Board and such other similar
standard setting institution;”;

- (7) by the insertion immediately after the definition of the expression “local authority” of the following:-

5 ““Minister” means the Minister assigned the subject of Finance in terms of Article 44 or 45 of the Constitution;”;

- (8) by the insertion immediately after the definition of the expression “Monetary Board” of the following:-

10 ““non-financial subsidiary” means a subsidiary of a licensed commercial bank or a licensed specialised bank which carries out the business other than the business of a ‘financial sector participant’ as defined in the Central Bank of Sri Lanka Act, No.16 of 2023;”;

- 15 (9) by the insertion immediately after the definition of the expression “non-resident” of the following:-

20 ““offshore banking business” means the provision of banking business by a licensed commercial bank in any designated foreign currency to non-residents, and to certain residents as may be determined by the Central Bank, from time to time;

25 “physical presence” means meaningful mind and management located within a country and does not include simple or mere existence of a local agent or low-level staff of such country; ”;

- 30 (10) by the insertion immediately after the definition “resident” of the following: -

““shareholder” shall have the same meaning as given in the Companies Act, No. 07 of 2007;

5 “shell bank” means a bank that has no physical presence in the country in which it is incorporated and licensed, and which is unaffiliated with a financial group that is subject to effective consolidated supervision;”;

10 (11) in the definition of the expression “substantial interest” by the substitution for the words “on behalf of such firm.” of the words “on behalf of such firm;”;

15 (12) by the addition immediately after the definition of the expression “substantial interest” of the following: -

““unlawful activity” shall have the same meaning as given in the Prevention of Money Laundering Act, No. 5 of 2006.”

20 **47.** Schedule II of the principal enactment is hereby amended as follows:-

Amendment
of Schedule
II of the
principal
enactment

(1) in item (z) thereof, by the substitution for the words “to the buyer.” of the words “to the buyer;”;

25 (2) by the addition immediately after item (z), the following:-

“(aa) conducting offshore banking business.”.

48. Notwithstanding the repeal of subsection (3c) of section 76M of the principal enactment by this Act, any Scheme formulated by the Monetary Board under subsection (3c) of that section shall continue to be in force until the liabilities of depositors and creditors of the defaulting bank referred to in that subsection are settled in full in accordance with the terms and conditions of such Scheme.

Special provision relating to the Schemes formulated by the Monetary Board under section 76M

49. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency

