COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS No. 8 of 2014

ORDER

MADE by the Minister under section 6(1) of the Eastern Caribbean Central Bank Act, (Chapter 74:01).

(*Gazetted* 13th March, 2014.)

1. This Order may be cited as the – Short title.

EASTERN CARIBBEAN CENTRAL BANK AGREEMENT (AMENDMENT) ORDER, 2014.

2. In this Order, "Agreement" means the Agreement establishing the Eastern Caribbean Central Bank, done at Port of Spain, Trinidad on the 5th day of July, 1983, the text of which is set out in the schedule to the Eastern Caribbean Central Bank Act, Chapter 74:01. Interpretation. Chap.74:01.

3. Article 5A of the agreement is amended in paragraph (1) by inserting in the appropriate alphabetical order the following definitions: Amendment of Article 5A.

""claim" means any claim whatsoever without limitation, including claims which are secured or unsecured, present or future, actual, prospective or contingent, or arising out of contract, tort, bailment, restitution, breach of trust or any other cause of action, and whether or not made by a creditor, shareholder, depositor or any other person;

"creditor" means a person having a claim against or in respect of a financial institution or its property or assets;

"secured creditor" means a creditor who –

(a) has a mortgage in respect of any property of a financial institution;

(b) has a fixed or floating charge, a lien or any other security interest whatsoever without limitation in or over or in respect of any property or assets of a financial institution; or

(c) is a party to an agreement designed to create the economic equivalent of a security interest.

"security agreement" means any agreement creating a security interest or making a creditor a secured creditor;

"security interest" means any interest in or charge upon any property of a financial institution by way of mortgage, assignment, bond, lien, pledge or other means, that is created or is taken to secure the payment of a debt or the performance of any other obligation of the financial institution.".

Amendment of Article 5C.

4. Article 5C of the Agreement is amended by inserting immediately after paragraph (4) the following paragraphs –

"(5) On and after the publication of a notification under paragraph (1) –

(a) no creditor, shareholder, depositor or any other person shall have any remedy against the financial institution in respect of any claim, and without prejudice to the generality of the foregoing, no creditor, shareholder, depositor or any other person shall commence or continue any action, execution or other proceedings or seek to enforce in any way

any judgment or order obtained against the financial institution or its successor or the transferee of the whole or any part or any property, assets or undertaking of the financial institution for the recovery of any claim or in respect of any other liability, until the publication of a notification under Article 5E(1) in relation to the financial institution or without the prior leave of the court unless the court directs otherwise;

(b) where the Bank has not yet published a notification under Article 5E(1) in relation to a financial institution, the Bank may, where it is of the opinion that it is no longer necessary to impose a stay, publish in the *Gazette* and in such newspaper as it thinks appropriate in the territory where it has assumed control of the financial institution, a notification to lift the stay under sub-paragraphs *(a)*, *(d)* or *(e)*, except that no person shall take any steps to institute winding up, receivership, administration or any other related proceedings in relation to that financial institution without the prior leave of the court unless the court directs otherwise;

(c) no creditor, shareholder, depositor or any other person shall commence or continue any claim, action, execution or other proceedings or seek to enforce in any way any judgement or order obtained against the Bank, its directors, officers, employees or any person acting on behalf of the Bank or appointed by the Bank under Article 5B in respect of any act, commission, claim, fact or matter connected with or arising out of the acts or