

ACT

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THE BANKING ACT, 2019

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Passed in Parliament this 31st *day of May*, in the year of our Lord two thousand and Nineteen.

PARAN UMAR TARAWALLY
Clerk of Parliament.

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

PARAN UMAR TARAWALLY
Clerk of Parliament.

SIGNED this *17th day of June, 2019.*

HIS EXCELLENCY JULIUS MAADA BIO,
President.



No. 6



2019

Sierra Leone

The Banking Act, 2019

Short title.

Being an Act to provide for the licensing of persons carrying on banking business, the regulation and supervision of banking activities, financial holding companies and subsidiaries, the protection of depositors and to provide for other related matters

[] Date of commencement.

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

PART I – PRELIMINARY

Interpretation. 1. In this Act, unless the context otherwise requires -

"administrative penalty" includes -

- (a) fines, including interest, payable to the Central Bank under this Act,
- (b) the removal from office of any director, officer or employee by the Central Bank;
- (c) withdrawal of any privilege normally accorded to banks or financial holding companies by the Central Bank;
- (d) withdrawal of a "fit and proper" person's status previously accorded by the Central Bank; or
- (e) such other sanctions as the Central Bank may by regulations, directives or guidelines prescribe;

"advisor" means a person appointed by a written order from the Central Bank to advise the chief executive of a bank or financial holding company;

"affiliate" means-

- (a) a body corporate of which the bank or financial holding company is a subsidiary;
- (b) a subsidiary of the bank or financial holding company; or
- (c) a body corporate which is controlled by the same entity which controls a bank or a financial holding company.

"agent" means a person that is engaged by a bank or a financial holding company to provide specific financial services on its behalf or a person that is engaged by the Central Bank to provide specific services;

"applicant" means a body corporate;

"associate" means a body corporate over which a bank or financial holding company has the power to participate in its financial or operating decisions but which does not control or jointly control its governance policy;

"bail-in" means write-down of the liabilities of a bank or conversion into equity with-out the consent of shareholders or creditors and specifically excludes insured and secured claims;

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

"banking business" or the business of banking includes-

- (a) accepting deposits from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order, or by any other means;
- (b) the financing whether in whole or in part or by way of short, medium or long term loans or advances; or
- (c) any other financial activities prescribed by the Central Bank;

"beneficial owner" means a person or body corporate that enjoys the benefit of ownership even though the title of the property owned is in another name;

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

"bridge bank" means temporary national bank established to take ownership of part or all of an institution to bridge the lapse between failure and final resolution;

"bridge institution" is an institution established by the government or the Central Bank for a temporary period for the purpose of resolving a bank in official administration, or to an asset management vehicle established by the government for the purpose of acquiring, managing, and disposing of problem assets of a bank as part of the resolution of the bank;

"capital base" means the sum of tier 1 capital and eligible amount of tier 2 capital, prescribed by the Central Bank;

"capital adequacy ratio" means the ratio expressed as a percentage of the adjusted capital base to the risk weighted financial exposure;

"capitalised expenditure" includes preliminary expenses, share selling commission, brokerage losses incurred by the bank and any other item of expenditure not represented by tangible assets;

"Central Bank" means the Bank of Sierra Leone;

"chief executive" means a person who is responsible, subject to the authority of the Board of directors of a body corporate, for the conduct and management of the day to day business of that body corporate;

"close relative" means spouse, son, daughter, step son, step daughter, brother, sister, father, mother, cousin, nephew, niece, aunt, uncle, step sister, step brother, grandparent or grandchild;

"control" "controlling shares" or "shareholding" mean a relationship wherein a person or a group of persons acting in concert, directly or indirectly-

- (a) owns 50% or more of the voting shares of a body corporate;
- (b) has power to appoint or remove the majority of the Board of directors of a body corporate;
- (c) has the ability to exert a significant influence on the management or policies of the body corporate; or
- (d) has the ability to direct the activities of the body corporate as to affect the financial returns on any investment made with such body corporate;

"Court" means a Court of competent jurisdiction;

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