

SAINT VINCENT AND THE GRENADINES

ACT NO. 2002

BILL FOR

AN ACT to amend the International Banks Act, 1996.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines, and by the authority of the same, as follows:

Short title 1. This Act may be cited as the International Banks (Amendment) Act, 2002.

Amendment of section 2 of the Principal Act No 19 of 1996 2. Subsection 2 of the International Banks Act, in this Act referred to as the "principal Act" is amended in subsection (1)

(a) By inserting in the appropriate alphabetical order the following:

"“affiliate” includes an affiliated corporation and for the purposes of this Act

(a) one body corporate is affiliated with another body corporate if one of them is the subsidiary of the other, or both subsidiaries of the same body corporate, or each of them is controlled by the same person; and

(b) if the two bodies corporate are affiliated with the same body corporate at the same time, they are affiliated with each other;”;

“Central Bank” means the Eastern Caribbean Central Bank established under Article 54(1) of the Agreement establishing the Eastern Caribbean Central Bank which came into effect in accordance with section 3 of the Eastern Caribbean Central Bank Agreement Act;”;
and

- (b) in the definition of “eligible company”
 - (i) in paragraph (b) by repealing the words after “1994” and inserting the following:
 - “; or”; and
 - (ii) after paragraph (b) by inserting the following new paragraph:
 - (ba) which is incorporated, subsisting or continued under the International Business Companies Act, 1996 that does not issue bearer and all the shares are registered shares and the names of all the shareholders and the beneficial owners are lodged with the Offshore Finance Authority;”;
- (c) in the definition of “offshore banking business”
 - (i) in paragraph (a) by repealing “or Saint Vincent Trust Authority Act Cap 114”; and
 - (ii) in paragraph (b)(i) by repealing all the words after “to” in the second place it occurs and substituting the following:
 - “an international trust;”.

Amendment of section 3

3. Section 3 of the principal Act is amended in subsection (2) by (i) deleting the words “ten thousand” and substituting the words “one hundred thousand”;
 (ii) repealing “one year” and substituting the following: “two years”;
 and
 (iii) repealing “one thousand” and substituting “ten thousand”.

Amendment of section 4

4. Subsection (2) of section 4 of the principal Act is deleted and the following is substituted:

“(2) An application under subsection (1) shall be filed with the Offshore Finance Inspector and shall contain the particulars set out in the Schedule hereto and shall be accompanied by the fee prescribed in the regulations hereunder.

(3) The Offshore Finance Inspector shall review the application to ensure that it contains the required

information and is accompanied by the proper application fee as well as the cost for conducting any necessary checks and shall thereafter forward completed applications to the Authority after

- (i) submitting any application that may be considered suitable to the Central Bank for its review;
- (ii) conducting such inquiries as may be considered necessary;
- (iii) communicating with such persons, bodies or authorities as required notwithstanding the provisions in this or any other legislation.

(4) Pursuant to subsection (1) the Schedule may be amended by an Order made by the Authority”.

Amendment of section 6

5. Section 6 of the principal Act is amended as follows:

- (a) by inserting immediately after the word “licence” the following:

“or in the records filed with the Authority”; and

- (b) by inserting immediately after the word “thereafter” the following:

“and in any event not later than seven days”.

Amendment of section 7

6. Section 7 of the principal Act is amended by re-numbering subsection (4) as subsection (5) and inserting as subsection (4) the following:

“(4) where the Authority revokes its approval of a registered agent or where a registered agent resigns, the licensee shall ensure that a new registered agent is appointed within fifteen days”.

Amendment of section 10

7. (1) Subsection (1) of section 10 of the principal Act is amended as follows:

- (a) in paragraph (a) by deleting the words “five hundred thousand” and substituting the words “one million”;
- (b) in paragraph (b) by
 - (i) deleting the words “one hundred thousand dollars” and substituting the words “five hundred thousand”; and
 - (ii) removing the full stop after the word “prescribe” and substituting thereafter a semi colon followed by the word “and”
- (c) by inserting immediately after part (b) the following:

“(c) maintains such ratios and deposits as the Authority may from time to time prescribe in consultation with the Central Bank”.

(2) Subsection (2) of section 10 of the principal Act is amended as follows:

- (a) in paragraph (a) by deleting the word “one” and substituting the word “five”;

Amendment of section 11

8. Subsection (1) of section 11 of the principal Act is amended by deleting the full stop after the word “license” where it appears third in the section and inserting immediately thereafter the following:

“and publish a notice of the surrender in the official *Gazette* or any other publication deemed necessary”.

Amendment of section 12

9. Section 12 of the principal Act is deleted and the following is substituted:

“Shares not to be issued or transferred without approval

12. No shares or other interest, whether legal or equitable, in a licensee shall be issued, transferred or otherwise disposed of without the prior

written approval of the Authority and any such application shall be treated in the same manner as a first time application for a license under section 4 of this Act.

Amendment of section 13

10. (1) Subsection (2) of section 13 of the principal Act is amended as follows:

- (a) in paragraph (b) by inserting immediately after the word “State” the following:

“or of another state”

- (b) in paragraph (c) by inserting immediately after the word “accounts” where it appears second in the sentence the following:

“and quarterly returns”

(2) Subsection (3) of section 13 of the principal Act is amended as follows:

- (a) by deleting subsection (3) and substituting the following:

“(3) In the performance of his functions under this Act and subject to the confidentiality provisions in this Act and elsewhere under the laws of the State, the Offshore Finance Inspector may at all reasonable times and all reasonable requests and directions of the Authority:

- (i) have access to the books, records, vouchers, documents, cash and securities of any licensee;
- (ii) request any information, matter or thing from any person who it has reasonable grounds to believe is carrying on an

offshore banking business
being conducted by a company
for which it serves as a registered
agent,

for the purpose of enabling the Authority and the
Minister to perform its functions under the Act.”

- (b) by inserting immediately after subsection
(3) the following new subsection:

“(3a) The Offshore Finance Inspector
or the Authority or any person or entity
acting under or with either of them may
remove, communicate, send or in any
manner transmit any such information,
documents or related material of State,
pursuant of another State in accordance
with the Mutual Assistance in Criminal
Matters Act, 1993”.

**Amendment of
section 14**

11. Subsection (2) of section 14 of the principal Act is
amended as follows:

- (a) by deleting the word “ten” where it
appears and substituting the word “one
hundred”;
- (b) by deleting the words “one year” where
they appear and substituting the words
“two years”;
- (c) by deleting the word “one” where it
appears and substituting the word “ten”.

**Amendment of
section 15**

12. Section 15 of the principal Act is amended as follows:

- (a) in subsection (2) by deleting the words
“forwarded to” where they appear and
substituting the words “filed with”;
- (b) by inserting immediately after subsection
(2) the following new subsections:

“(2a) Any licensee who fails to file annual accounts, as they become due shall pay a fine of five hundred dollars for each day the licensee shall be in default”.

(2b) Every licensee shall file quarterly returns with the Authority in the format provided by the Authority within fifteen days of the end of the quarter.

(2d) Copies of the audited accounts and the quarterly returns must be submitted to the Central Bank, through the Authority”.

(2x) Any licensee who fails to file the quarterly returns within the stipulated time shall pay a fine of two hundred and fifty dollars a day until the returns are filed.

Amendment of section 16

13. Section 16 of the principal Act is amended as follows:

- (a) by renumbering section 16 as section 16 (1);
- (b) by inserting after section 16 (1) as renumbered the following new subsection:

“(2) A licensee in breach of either (a) or (b) shall have its licence revoked forthwith”.

Amendment of section 18

14. Section 18 of the principal Act is amended as follows:

- (a) in subsection (3) by deleting the comma where it appears after the word “action” and adding immediately thereafter the following:

“except where the Authority determines that it is in the public interest that it shall not give the holder of the licence the opportunity to show cause”.

opportunity to show cause”.

- (b) in subsection (4) by repealing “or” after “d” and substituting a comma and inserting after “e” the following: “g”
- (b) by inserting after subsection (6) the following :

(7) Whenever a licence has been revoked, it is the duty of the former licence holder to ensure that the company is properly liquidated in keeping with the procedure outlined in the Companies Act.

(8) The Authority may use any funds deposited pursuant to section 10 to secure the liquidation of the company or any other similar expenses”.

(9) The Authority shall examine or cause to be examined the affairs of each licensee or previous licensee from time to time or whenever in its judgement an examination is necessary or expedient in order to determine that the licensee or previous licensee is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of its business.

(10) For the purposes of determining the condition of a licensee or a previous licensee and its compliance with this Act, the Authority may at any time examine or cause to be examined any of its affiliates in the state to the same extent that an examination be made of the licensee or previous licensee.”

No. 8 of 1994

Amendment of section 20

15. Subsection 6 of section 20 of the principal Act is amended by deleting the words “at no extra charge to the licensee” where they appear immediately before the word “may”.

Amendment of section 22

16. Section 22 of the principal Act is amended as follows

- (a) in subsection (2) by deleting the words “Confidential Relationships Preservation (International Finance) Act, 1996 and substituting the following:

“Exchange of Information Act, 2002”

- (b) in subsection (3) by deleting the words “Prosecution under this section shall not preclude prosecution under the Confidential Relationships Preservation (International Finance) Act, 1996” where they appear after the full stop.

**Amendment of
section 23**

17. Section 23 of the principal Act is amended as follows:

- (a) in subsection (1) by deleting the word “ten” and substituting the word “one hundred”;
- (b) in subsection (2) by
 - (i) deleting the word “three” and substituting the words “one hundred”; and
 - (ii) by deleting the words “six months” and substituting the words “two years”
- (c) in subsection (4) by
 - (i) deleting the word “five” and substituting the words “one hundred”; and
 - (ii) deleting the words “one year” and substituting the words “two years”.

Passed in the House of Assembly this

day of

2002

OBJECTS AND REASONS

This Bill to amend the International Banks Act is designed to strengthen the regulation and supervision of international banks. It incorporates the sharing of responsibility with the Eastern Caribbean Central Bank for the licensing and the ongoing supervision of international banks. It also requires greater disclosure by the offshore banks to the Offshore Finance Authority of financial information. It introduces administrative penalties for non-compliance and it also increases the penalties for breaches of the International Banks Act. This Bill also provides for a public interest exception to the granting of the opportunity to show cause to the licence holders under section 18.

Dr. Hon. Ralph Gonsalves
Minister of Finance, Planning,
Economic Development, Labour,
Information, Grenadines and Legal
Affairs

SAINT VINCENT AND THE GRENADINES
INTERNATIONAL BANKS (AMENDMENT) ACT, 2002

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of section 2 of 19 of 1996
3. Amendment of section 3
4. Amendment of section 4
5. Amendment of section 6
6. Amendment of section 7
7. Amendment of section 10

8. Amendment of section 11
9. Amendment of section 12
10. Amendment of section 13
11. Amendment of section 14
12. Amendment of section 15
13. Amendment of section 16
14. Amendment of section 18
15. Amendment of section 20
16. Amendment of section 22
17. Amendment of section 23