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THE FINANCIAL SERVICES DEVELOPMENT ACT 2001

(Act No. of 2001)

15 May 2001

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An Act

To provide for the establishment and management of a Financial Services Commission to regulate the non-bank financial services, the establishment of a Financial Services Consultative Council which will serve as a forum for discussions of the innovative developments and international trends in the field of financial services and of a distinct and separate Financial Services Promotion Agency for the promotion of the development of the financial services industry in Mauritius; and to provide for matters connected therewith and incidental thereto.

ENACTED by the Parliament of Mauritius, as follows -

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Financial Services Development Act 2001.

2. Interpretation

In this Act -

“bank” has the same meaning as in the Banking Act 1988;

"Board" means the Board referred to in section 4;

“Category 1 Global Business Licence” means a licence issued under section 20(5);

“Category 2 Global Business Licence” means a licence issued under section 20(5);

“Chairperson” means the Chairperson of the Board;

“Chief Executive” means the Chief Executive of the Commission appointed under section 9;

"Commission" means the Financial Services Commission established under section 3;

"confidential information" includes any document, books of account, balance sheet, profit and loss account or any matter which is to be treated as confidential under section 33;

"corporation" –

- (a) means a body corporate or incorporate, formed in Mauritius or elsewhere; and
- (b) includes any trust, *société* or partnership or any other body of persons;

"Council" means the Financial Services Consultative Council established under section 11;

"Court" means the Supreme Court;

"document" -

- (a) means a document in any form; and
- (b) includes –
 - (i) any writing on any material;
 - (ii) a book, graph or drawing;
 - (iii) information recorded or stored by any electronic or other technological means and capable with or without the aid of any equipment of being reproduced;

"employee" means an employee of the Commission appointed under section 28;

"financial services"–

- (a) means any financial services or financial business activities governed by the relevant Acts; and
- (b) includes the financial services or financial business activities specified in Part II of the First Schedule;

"licence" –

- (a) means any licence issued under any relevant Act; and
- (b) includes –
 - (i) a global business licence; or

(ii) a management licence;

“management company” means a company holding a management licence;

"management licence" means a management licence issued under section 24(2);

“member” means a member of the Board and includes the Chairperson and the Vice-Chairperson;

"Minister" means the Minister to whom responsibility for the subject of financial services is assigned;

"public sector agency" includes any Ministry or Government Department, local authority or statutory body;

"qualified global business " has the meaning assigned to it by section 19(2);

“registered agent” has the meaning assigned to it by section 23;

“Registrar” has the same meaning as in the Companies Act 2001;

“relevant Acts” –

(a) means the Acts specified in Part I of the First Schedule; and

(b) includes this Act;

"technical committee" means a technical committee set up under section 16;

“trust” has the same meaning as in the Trusts Act 2001;

“Vice-Chairperson” means the Vice-Chairperson of the Board appointed under section 4.

PART II – THE FINANCIAL SERVICES COMMISSION

3. Establishment of the Commission

(1) There is established for the purposes of this Act a Financial Services Commission.

(2) The Commission shall be a body corporate.

4. The Board

(1) The Commission shall be administered and managed by a Board.

(2) The Board shall consist of -

- (a) the Managing Director of the Bank of Mauritius, who shall be the Chairperson; and
- (b) a Vice-Chairperson and not more than 5 other members, suitably qualified and experienced in the field of business, finance or law, appointed by the Minister.

(3) Every member other than the Chairperson shall hold office for a period of 3 years on such terms and conditions as the Minister may determine and shall be eligible for re-appointment.

(4) Every member shall be paid by the Commission such fees as the Board may, with the approval of the Minister, determine.

5. Objects of the Commission

(1) The objects of the Commission shall be -

- (a) to work out objectives, policies and priorities for the development of the financial services sector and to make recommendations to the Minister;
- (b) to study new avenues for development in the financial services sector, to respond to new challenges and to take full advantage of new opportunities for achieving economic sustainability and job creation;
- (c) to ensure, in collaboration with the Bank of Mauritius, the soundness and stability of the financial system in Mauritius;
- (d) to ensure the sound conduct of business in the financial services sector;
- (e) to ensure the orderly administration of the financial services activities; and
- (f) to elaborate policies which are directed to ensuring the fairness, efficiency and transparency of financial and capital markets in Mauritius.

(2) Notwithstanding the Bank of Mauritius Act, the Bank of Mauritius may make available to the Commission such infrastructure, know-how and other facilities of the Bank as the Commission may need to enable it to attain its objects under the Act.

6. Functions of the Commission

The Commission shall have such functions as are necessary to further most effectively its objects, and in particular, shall -

- (a) be responsible for the administration of the relevant Acts;
- (b) license, regulate, monitor and supervise the conduct of business activities in the financial services sector;
- (c) carry out investigations and take measures to suppress illegal, dishonourable and improper practices, market abuse and financial fraud in relation to any activity in the financial services sector;
- (d) set rules and guidance governing the conduct of business in the financial services sector;
- (e) prepare, develop and implement a plan for the better integration of the financial services industry ;
- (f) carry out research, commission studies and disseminate information in the field of financial services;
- (g) promote public understanding of the financial system including awareness of the benefits and risks associated with different kinds of investment;
- (h) ensure co-ordination and co-operation between public sector agencies and private corporations engaged in the financial services sector;
- (i) establish norms and standards in order to preserve and maintain the good repute of Mauritius in the financial services sector;
- (j) establish and maintain such links and liaison with international agencies in the field of financial services as may be necessary for the furtherance of its objects;
- (k) take measures for the better protection of consumers of financial services;
- (l) identify and take measures to prevent and eliminate investment business abuse;
- (m) advise the Minister generally on any matter relating to the financial services sector; and
- (n) do such acts or things as are incidental or conducive to the attainment of its objects.

7. Powers of the Commission

(1) The Commission shall have such powers as are necessary to enable it to effectively discharge its functions and may, in particular -

- (a) issue guidelines and codes of practice for the proper conduct of business in the financial services sector;
- (b) set up such technical committees as it deems fit to assist it in the discharge of its functions under the relevant Acts;
- (c) in relation to any case or class of cases, for good cause, grant exemption or partial exemption from compliance with any guidelines or codes of practice issued under paragraph (a) subject to such conditions as it may impose;
- (d) give directions to a licensee to observe any guideline or code of practice;
- (e) revoke any licence issued under any relevant Act where the Commission is satisfied that the licensee is carrying on his business in a manner which threatens the integrity of the financial system of Mauritius or is contrary or detrimental to the interest of the public.

(2) Any person to whom a direction has been given under subsection (1)(d) shall comply with the direction.

(3) Subject to subsections (4) and (5), the Commission may, after consultation with the Stock Exchange Company or any other securities exchange, order that the Stock Exchange or any other securities exchange be closed for the transaction of dealings in securities for a period of not more than 3 trading days.

(4) The Commission may make an order under subsection (3) on the ground that, in the opinion of the Commission, the orderly transaction of business on the Stock Exchange or any other securities exchange is being or is likely to be adversely affected due to the occurrence of -

- (a) an emergency or natural disaster in Mauritius; or
- (b) an economic or financial crisis or any other cause, whether in Mauritius or elsewhere.

(5) An order made under subsection (3) may be renewed for a further period of not more than 5 trading days.

(6) Any dealer, stockbroker or dealer's representative who deals in securities listed on the Stock Exchange or any other securities exchange while an order made under subsection (3) or (5) is in force, being an order which has been notified to the Stock Exchange Company or to the securities exchange, shall commit an offence and shall, on conviction, be liable to a fine of 500,000 rupees.

(7) Where the Commission issues an order under subsection (3) or (5), notice of the order shall be published in the *Gazette* and in 2 daily newspapers in wide circulation in Mauritius.

8. Meetings of the Board

(1) The Board shall meet as often as is necessary but not less than once every month and at such time and place as the Chairperson thinks fit.

(2) In the absence of the Chairperson or the Vice-Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(3) Everything authorised or required to be done by the Board shall be decided by a simple majority of the members present and voting.

(4) At any meeting of the Board, 4 members shall constitute a quorum.

(5) The Board may co-opt such other person as may be of assistance in relation to any matter before the Board.

(6) Any person co-opted under subsection (5) shall have no right to vote on any matter before the Board.

(7) Subject to the other provisions of this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

9. The Chief Executive

(1) There shall be a chief executive officer of the Commission who shall -

(a) be known as the Chief Executive; and

(b) be appointed by the Board with the approval of the Minister, on such terms and conditions as it thinks fit.

(2) The Chief Executive shall be responsible for the execution of the policy of the Board and for the control and management of the day-to-day business of the Commission.

(3) In the exercise of his functions, the Chief Executive shall act in accordance with such directions as he may receive from the Board.

(4) The Chief Executive may, with the approval of the Board, delegate his functions or any power delegated to him under section 10 to an employee.

(5) The Chief Executive shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations but shall not be entitled to vote on any matter before the Board.

10. Delegation of powers

(1) Subject to subsection (2) and to such instructions and rules of a general nature as it may give or make, the Board may delegate to the Chairperson, the Vice-Chairperson, the Chief Executive or to a technical committee such of its powers and functions under the relevant Acts as may be necessary to assist in the effective management of the Commission other than the power -

- (a) to borrow money;
 - (b) to raise loans;
 - (c) to enter into any transaction in respect of capital expenditure which exceeds one million rupees;
 - (d) to issue guidelines and codes of practice under section 7(1)(a);
 - (e) to grant exemption under section 7(1)(c) from compliance with any guidelines or codes of practice.
- (2) (a) Subject to paragraph (b), no document shall be executed or signed by or on behalf of the Commission unless it is signed by the Chairperson and the Chief Executive, or, in the absence of the Chairperson, by the Vice-Chairperson or any other member appointed by the Board for that purpose.
- (b) In the absence of the Chief Executive, his powers under paragraph (a) shall be exercised by such employee as may be appointed by the Board for that purpose.

PART III – THE FINANCIAL SERVICES CONSULTATIVE COUNCIL

11. Establishment of the Council

(1) There is established for the purposes of this Act a Financial Services Consultative Council, which shall not be a body corporate.

- (2) The Council shall consist of –
- (a) the Minister to whom responsibility for the subject of finance is assigned, who shall be the Chairperson;
 - (b) the Minister to whom responsibility for the subject of financial services is assigned, who shall be the Vice-Chairperson;
 - (c) the Governor of the Bank of Mauritius;
 - (d) the Chairperson of the Commission;
 - (e) the Chief Executive; and

- (f) not more than 6 other members designated by the Minister from amongst persons of high calibre and of international repute in their relevant fields.
- (3) The Council shall meet at such time and place as the Chairperson thinks fit.
- (4) The Council shall regulate its own proceedings.

12. Objects of the Council

The objects of the Council shall be to act as a think-tank and to serve as a platform for discussions of the latest concepts and international trends in the field of financial services and to formulate suggestions and ideas for the development of the financial services sector.

PART IV – ADMINISTRATION OF THE RELEVANT ACTS BY THE COMMISSION

13. Administration of relevant Acts by the Commission

(1) The Commission shall administer the relevant Acts with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them in conformity with the provisions of this Act.

(2) On the recommendation of the Commission, the Minister may, by regulations, provide for the regulation, operation and supervision of any other financial business activity by the Commission.

14. Persons conducting financial services to be licensed and records to be kept

(1) Notwithstanding any other enactment, no person shall conduct any business activity in the financial services sector without a licence issued by the Commission.

(2) Where the Commission is satisfied that the requirements for the registration of any person or the granting of a certificate, licence or other authorisation to any person are fulfilled under the relevant Acts and that the person is a fit and proper person, it may, subject to the provisions of this Act, issue a licence pursuant to subsection (1).

(3) Every person required to be licensed under subsection (1) shall, for the purpose of this Act and any regulations made thereunder, keep in relation to his business activities in the financial services sector, a full and true written record, whether electronic or otherwise, in the English or French language of every transaction he makes.

(4) Every record under subsection (3) shall be kept for a period of at least 7 years after the completion of the transaction to which it relates.

15. Directions, rules and guidelines

- (1) The Commission may -
 - (a) give such directions as are necessary for the processing of applications, for the keeping of registers and for other administrative matters relating to the conduct of business in the financial services sector;
 - (b) issue guidelines and codes for the proper guidance of the public and of service providers in the financial services sector.

(2) Any person to whom a direction has been given or guidelines or codes have been issued shall comply with the direction, guidelines or codes, as the case may be.

16. Technical committees

(1) The Board may set up such technical committees as may be necessary to examine and report on any matter in relation to the administration of any relevant Act referred to them by the Board or the Chief Executive.

(2) Every technical committee shall consist of not less than 3 but not more than 7 members including a chairperson, who shall be appointed by the Board on such terms and conditions as the Board thinks fit.

(3) A technical committee may co-opt, with the approval of the Board, any person and may set up such sub-committees as it considers necessary.

(4) The Board may, at any time, terminate the appointment of any member of a technical committee for misconduct, default or breach of trust in the discharge of his duties as member or for any other good or sufficient cause.

- (5) A technical committee shall -
 - (a) meet as often as is necessary and at such time and place as the chairperson of the Committee thinks fit;
 - (b) meet when required to do so by the Board; and
 - (c) subject to the other provisions of this section, regulate its meetings and procedures as it thinks fit.

17. Complaints by consumers of financial services

(1) Any consumer of financial services who is aggrieved by any act or omission of a service provider in the financial services sector may make a complaint in writing to the Chief Executive.

(2) The Chief Executive shall investigate any matter relating to the financial services sector and in respect of which -

- (a) a complaint under subsection (1) is made; or
- (b) he has reasonable ground to suspect that a business abuse has been made by a provider of financial services.

(3) In his discharge of his duties under subsection (2), the Chief Executive shall have power to call for books, records or documents and to require any person to attend before him to give such information as may be required.

(4) The Chief Executive shall, in respect of every investigation he carries out under this section, make a written report to the Commission together with such observations, comments and recommendations as he thinks fit.

(5) The Chief Executive shall not investigate into a complaint where it is made 12 months after the date of the act or omission, unless otherwise authorised by the Board.

18. Compensation Fund

(1) There shall be established and maintained, in such manner as may be prescribed, one or more compensation funds for the purposes of compensating investors and other persons who suffer or have suffered financial losses as a result of the inability or eventual inability by a corporation licensed under the relevant Acts to satisfy claims arising from any civil liability incurred by it in connection with services provided, or as a result of fraud or defalcation by the corporation or any of its employees or officers, or as a result of the insolvency of such corporation.

(2) Without prejudice to the generality of the foregoing, regulations made under subsection (1) may -

- (a) provide that any compensation fund that is established shall be managed by such committee as may be set up by the Commission;
- (b) provide for the levying of contributions from corporations licensed under the relevant Acts or for such other means for financing the fund, and for power to subscribe to insurance policies;
- (c) provide for the mode of determining the right to compensation payable under the fund, the power to settle claims, the quantum of the compensation, and for the right of subrogation to the fund in order to recover from any corporation or person whose liability is extinguished or reduced by the payment of the compensation; and
- (d) specify the terms and conditions on which compensation is to be payable.

PART V – CONDUCT OF QUALIFIED GLOBAL BUSINESS

19. Qualified global business

(1) This Part shall apply to qualified global business until such time as may be prescribed.

(2) Subject to the other provisions of this section, a qualified global business is any business or other activity –

- (a) specified in the Second Schedule and which is carried on from within Mauritius with persons all of whom are resident outside Mauritius and which is conducted in a currency other than the Mauritius currency; or
- (b) which is carried on by a private company –
 - (i) incorporated or registered under the Companies Act 2001;
 - (ii) which does not conduct business with persons resident in Mauritius nor conduct any dealings in Mauritius currency; and
 - (iii) which holds a Category 2 Global Business Licence.

(3) The Minister may, by regulations –

- (a) amend the Second Schedule to provide for any other business or activity to be a qualified global business; and
- (b) provide for the regulation, operation and supervision of any qualified global business by the Commission.

(4) Regulations made under subsection (3) may provide for -

- (a) the classification of the insurance business;
- (b) its regulation, operation and supervision;
- (c) the insolvency and winding-up of an insurance company;
- (d) re-insurance, insurance agents and brokers; and
- (e) any other matter relating to the insurance business.

(5) The Insurance Act 1987 shall not apply to a company conducting insurance business as a qualified global business.

20. Application for a Category 1 Global Business Licence or a Category 2 Global Business Licence

- (1)
 - (a) No person shall conduct any qualified global business referred to in section 19(2)(a) unless the person is a corporation and holds a Category 1 Global Business Licence.
 - (b) A private company which wishes to conduct any qualified global business referred to in section 19(2)(b) may apply for a Category 2 Global Business Licence in accordance with subsection (2).
- (2) An application for a Category 1 Global Business Licence or a Category 2 Global Business Licence shall -
 - (a) be made in such form and in such manner as may be approved by the Commission;
 - (b) be of no effect unless certified by a law practitioner qualified under the Law Practitioners' Act 1984 that it complies with the laws of Mauritius.
- (3) On receipt of an application under subsection (2), the Chief Executive may -
 - (a) require the applicant to give such further information as may be necessary to determine the application;
 - (b) seek the opinion of any public sector agency that is likely to be concerned with the application;
 - (c) refer the application to the Commission with recommendations, observations and comments.
- (4) The Commission may, within 15 days of an application -
 - (a) reject the application without giving any reasons;
 - (b) refer the application back to the Chief Executive for further enquiry;
 - (c) approve the application pursuant to section 14(2) on such terms and conditions as it thinks fit.
- (5) Where an application for a Category 1 Global Business Licence or a Category 2 Global Business Licence, as the case may be, is approved by the Commission, the Chief Executive shall, after payment by the applicant of such fee as may be prescribed issue the Category 1 Global Business Licence or Category 2 Global Business Licence on behalf of the Commission subject to such terms and conditions as the Board may impose.

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- (6) Where a proposal or a project -
 - (a) for the formation of a corporation which intends to carry on a qualified global business under a Category 1 Global Business Licence;
 - (b) for the formation of a company which intends to carry on a qualified global business under a Category 2 Global Business Licence,

is submitted to the Commission, the Board may direct the Chief Executive to issue a letter of intent stating the terms and conditions under which a Category 1 Global Business Licence or a Category 2 Global Business Licence, as appropriate, may be issued.

- (7) A letter of intent issued under subsection (6) -
 - (a) may be revoked at any time without any reason being given;
 - (b) shall not imply or be construed in any way as a promise or an undertaking by the Board or the Commission, nor import any obligation on the part of the Board or the Commission, to grant a Category 1 Global Business Licence or a Category 2 Global Business Licence or otherwise determine an application.

21. Limitations of property and transactions

(1) Subject to subsection (2), a corporation holding a Category 1 Global Business Licence or a Category 2 Global Business Licence shall not hold -

- (a) immovable property in Mauritius;
- (b) any share, debenture, security or any interest in any company incorporated or registered under the Companies Act 2001 or in any société or partnership under the Code Civil Mauricien or the Code de Commerce, or in any body corporate or association formed or registered under any enactment in force in Mauritius, other than in a corporation holding a Category 1 Global Business Licence;
- (c) any account in a bank in Mauritius currency.

(2) A corporation holding a Category 1 Global Business Licence may -

- (a) open and maintain with a bank holding a Class A Banking Licence an account in Mauritius currency for the purpose of its day to day transactions arising from its ordinary operations in Mauritius;
- (b) open and maintain with a bank an account in foreign currencies;
- (c) where authorised by the terms of its Category 1 Global Business Licence, or otherwise permitted under any other enactment, lease, hold, acquire or dispose of an immovable property or any interest in immovable property situated in Mauritius;

- (d) invest in any securities listed on the Stock Exchange established under the Stock Exchange Act 1988.
- (3) (a) Notwithstanding any other provisions of this section and any other enactment, the Commission may authorise a holder of a Category 1 Global Business Licence to deal or transact with residents in Mauritius on such terms and conditions as it thinks fit.
- (b) For the purposes of paragraph (a), “resident in Mauritius” means -
 - (i) in relation to an individual, a person who has his domicile in Mauritius;
 - (ii) in relation to a corporation, a body incorporated or registered under the laws of Mauritius.

22. Validity of Category 1 Global Business Licence or Category 2 Global Business Licence and effect of its revocation

(1) A Category 1 Global Business Licence or a Category 2 Global Business Licence shall be valid for such period as may be specified in the licence.

(2) Where the annual fee in respect of a Category 1 Global Business Licence or a Category 2 Global Business Licence is not paid within one month after the date when payment becomes due, the Commission may, in writing, notify the holder of the licence that the licence has lapsed.

- (3) The Commission may at any time revoke a Category 1 Global Business Licence or a Category 2 Global Business Licence where it -
 - (a) has reason to believe that the holder of the licence is acting or has acted -
 - (i) in contravention with this Act or the Economic Crime and Anti-Money Laundering Act 2000 or any regulations made under those Acts;
 - (ii) in breach of any conditions of the licence;
 - (b) is of opinion that the revocation is necessary to protect the good repute of Mauritius as a centre for financial services.
- (4) Before revoking a licence under subsection (3), the Commission -
 - (a) may suspend the licence;
 - (b) shall afford the holder of the licence an opportunity to submit any representations in writing.

(5) When a licence has lapsed under subsection (2) or is suspended under subsection (4), the corporation shall not, except with the approval of the Commission, transact any business.

(6) Where a Category 1 Global Business Licence or a Category 2 Global Business Licence is revoked under subsection (3) –

- (a) the Chief Executive shall forthwith cause notice of the revocation to be published in the *Gazette*;
- (b) the corporation shall, within 3 months of the date of the revocation -
 - (i) start winding up or dissolution procedures under the Companies Act 1984 and, where applicable, under any other enactment; and
 - (ii) take any measures and make any arrangements as it deems appropriate in respect of the disposal of its assets and liabilities.

23. Registered agent

(1) A company holding a Category 2 Global Business Licence shall at all times have a registered agent in Mauritius who shall be a management company or such other person as may be approved by the Commission.

(2) A registered agent shall be responsible for providing such services as the company may require in Mauritius including -

- (a) the filing of any return or document required under this Act and the Companies Act 2001; and
- (b) the receiving and forwarding of any communication from and to the Commission or the Registrar.

(3) A registered agent shall be subject to such obligations in relation to appointment, change of registered address or registered agent and such other matters for the purposes of subsection (2) as may be prescribed.

24. Management licence

(1) A company whose main activity is to –

- (a) set up, manage and provide nominee and other services to –
 - (i) a corporation which carries on or intends to carry on any qualified global business; and
 - (ii) such class of corporations as may be prescribed; or

(b) act as corporate trustee or qualified trustee under the Trusts Act 2001,
shall apply to the Commission for a management licence.

- (2) The Commission may -
 - (a) on application under subsection (1) and on payment of such annual fee as may be prescribed, issue a management licence on such terms and conditions as it thinks fit;
 - (b) alter a management licence.
- (3)
 - (a) A management licence shall be valid for such period as may be specified in the licence;
 - (b) Where the annual fee in respect of a management licence is not paid within one month after the date when payment becomes due, the Commission may, in writing, notify the holder of the licence that the licence has lapsed.
- (4)
 - (a) A company holding a management licence shall file with the Commission its audited accounts within 6 months after the close of its financial year.
 - (b) The financial year of a company holding a management licence shall be -
 - (i) in respect of its first financial year, for any period of 6 to 15 months from the date of its incorporation and in respect of every subsequent financial year, for a period not exceeding 12 months; or
 - (ii) where there is a change in its financial year, for a period not exceeding 18 months.
- (5) The Commission may at any time revoke a management licence where it -
 - (a) has reason to believe that the holder of the management licence, or a corporation holding a Category 1 Global Business Licence or Category 2 Global Business Licence and managed by the holder of the management licence, is acting or has acted -
 - (i) in contravention with this Act or any regulations made thereunder;
 - (ii) in breach of any term or conditions of its licence;
 - (iii) in breach of any direction issued by the Commission, or of the guidelines and codes issued under this Act;

- (b) is of opinion that the cancellation or revocation is necessary to protect the good repute of Mauritius as a centre for qualified global business.

(6) Before revoking a management licence under subsection (5), the Commission shall afford the holder an opportunity to submit any representations in writing.

25. Nominee company

(1) Any company holding a management licence may, for the purposes of performing the functions of a nominee company and subject to the approval of the Commission, form a nominee company.

(2) The nominee company shall –

- (a) be a private company registered under the Companies Act 2001;
- (b) expressly limit its objects to acting as a nominee company with respect to corporations and to matters ancillary or incidental thereto.

PART VI – INSPECTION OF RECORDS BY THE COMMISSION

26. Obligation to furnish information

(1) Subject to the other provisions of this section, every person who carries on an activity in the financial services sector shall, when so required by the Commission, furnish all such information and produce such records or documents as may be demanded of him by the Commission in order to ensure and monitor compliance with the relevant Acts or with any regulations made under those Acts.

(2) A corporation which carries on activities in the financial services sector other than a company holding a Category 2 Global Business Licence shall file with the Commission every year an audited financial statements prepared in accordance with International Accounting Standards.

- (3) (a) A corporation shall file with the Commission the audited financial statements specified in subsection (2) within 6 months after the close of its financial year.
- (b) For the purposes of paragraph (a), “financial year” means -
 - (i) in respect of its first financial year, for any period of 6 to 15 months from the date of its incorporation and in respect of every subsequent financial year, for a period not exceeding 12 months; or
 - (ii) where there is a change in its financial year, for a period not exceeding 18 months.

27. Power of inquiry and inspection

(1) Subject to the other provisions of this section and section 46 of the Registration Duty Act, the Chief Executive may make such inquiries in relation to the conduct of business in the financial services sector.

(2) The Chief Executive may require –

- (a) the person referred to in section 26(1) or any of his agents or employees to attend the inquiry referred to in subsection (1) and to produce any record or other relevant document for the purpose of the inquiry or to give evidence and may examine any such record or documents and take copies or extracts thereof;
- (b) a holder of a licence to furnish such information as he may reasonably require for the exercise of his functions under those Acts;
- (c) any holder of a licence granted under the Stock Exchange Act 1988 to produce for inspection, either at the business premises of the holder of the licence or at the Commission, all such books, records, accounts and documents, as may be necessary;
- (d) the Registrar, notwithstanding section 14(7) of the Companies Act 2001, to make available to him any entry, record or document registered in the register of companies for inspection.

(3) The Chief Executive may retain, for such period as he considers necessary, any books, records, accounts and documents produced to him for inspection under subsection (2) and may take copies or extracts thereof.

(4) The powers provided under this section may be exercised in relation to a person -

- (a) whose licence has expired or has been cancelled, revoked, suspended or surrendered;
- (b) who is, on reasonable grounds, suspected by the Chief Executive of carrying on, or to have carried on, any regulated activities contrary to the relevant Acts.

(5) The Commission may cause to be carried, on the business premises of a management company or registered agent, an inspection and audit of its books and records as and when the Commission deems it necessary in order to ensure compliance with the directions, rules and guidelines referred to in section 15.

(6) Subject to section 124 of the Income Tax Act 1995, any investigation, inspection or filing of documents or request for information which any public sector agency in Mauritius may be empowered to carry out, to require or to do under any other enactment shall, in respect of a corporation holding a global business licence or of an applicant for a

global business licence, be carried out, required, or done by the Commission or any person or body designated by the Commission.

(7) The Chief Executive may inspect, at the business premises of a person suspected of conducting any financial activity in the financial services sector without licence, the books, records or other documents of the person.

(8) Any person who intentionally obstructs the Commission or the Chief Executive, as the case may be, when acting in the execution of his powers under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(9) In this section, any reference to the Chief Executive shall include any person authorised in writing by the Chief Executive for the purposes of this section.

PART VII - ADMINISTRATION

28. Staff of the Commission

(1) The Commission may employ, on such terms and conditions as it thinks fit, such persons as may be necessary for the proper discharge of its functions.

(2) Every employee shall be under the administrative control of the Chief Executive.

(3) An employee of the Commission may, with the concurrence of the Bank of Mauritius, be posted to the Bank of Mauritius for such period as may be determined by the Board and on such terms and conditions as the Board thinks fit.

(4) An employee of the Bank of Mauritius may, with the concurrence of the Board, be posted to the Commission for such period as may be determined by the Bank of Mauritius and on such terms and conditions as the Bank of Mauritius thinks fit.

29. Conditions of service of employees

The Commission may make provisions to govern the conditions of service of employees and, in particular, to deal with -

- (a) the appointment, discipline, dismissal, pay and leave of, and the security to be given by, employees;
- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to those schemes and the benefits derived therefrom.

30. General Fund

- (1) The Commission shall establish a General Fund -
 - (a) into which all money received by the Commission shall be paid; and
 - (b) out of which –
 - (i) all payments required to be made by the Commission and all charges on the Commission shall be effected;
 - (ii) shall be paid into the Capital Fund established under the Finance and Audit Act, such surplus money not required for the purposes of subparagraph (i) as the Board may determine.
- (2) The Commission shall derive its funds from -
 - (a) fees or other charges levied under the relevant Acts; and
 - (b) any other source as may be approved by the Minister.

(3) The Commission shall, not later than 3 months before the commencement of each financial year, submit to the Minister an estimate of its income and expenditure for that financial year.

31. Transfer of assets and liabilities

- (1) Subject to subsection (2), all the assets, rights and liabilities of -
 - (a) Government in respect of the Insurance Division;
 - (b) MOBAA; and
 - (c) SEC,

shall, on the day of the coming into force of this Act, vest in the Commission.

(2) The Commission may, without compliance with any other formality other than an instrument in writing and the concurrence of the Agency, transfer such assets, rights and liabilities to the Agency as may be specified in the instrument.

32. Provisions relating to staff

(1) Every member of the staff of the MOBAA and of the SEC, the person holding the office of Controller of Insurance and the public officers employed for the purposes of administering the Insurance Act 1987 immediately before the day of the coming into force of this Act shall, as from that day, be entitled to be transferred either to the Commission or Agency, as the Commission may determine, on terms and conditions which are not less favourable than those obtained by him before that day.

(2) The period of service with the MOBAA or the SEC or in the public service, as the case may be, of every person exercising his right to be transferred to the Commission or Agency under subsection (1) shall be deemed to be an unbroken period of service with the Commission.

(3) No person on the staff of the MOBAA or the SEC and no public officer shall, on account of his transfer, be entitled to claim that his contract of service or employment has been terminated in breach of any enactment.

(4) Any pension or similar scheme operated by or on behalf of the MOBAA or the SEC or subject to the provisions of any enactment relating to pensions payable to public officers in the public service, as the case may be, for the benefit of its staff immediately before the day of the coming into force of this Act shall, from that day, be operated by or on behalf of the Commission or Agency, as the case may be.

(5) Any disciplinary inquiry or proceedings pending or in process against any person on the staff of the MOBAA, the SEC or against the person holding the office of Controller, or against any public officer employed for the purposes of the Insurance Act 1987 may, as from the day of the coming into force of this Act or, in the case of a public officer, from the date of his transfer under subsection (1), be taken up, continued and completed by the Commission or Agency, and any resulting order or decision shall have the same force and effect as if made by the Commission or Agency, as the case may be.

(6) For the purposes of this section and section 31 –

“Agency” means the Financial Services Promotion Agency established under section 37;

“Insurance Division” means the Insurance Division of the Ministry responsible for the subject of financial services;

“MOBAA” means the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992;

“SEC” means the Stock Exchange Commission set up under the Stock Exchange Act 1988.

33. Confidentiality

(1) Every member of the Board, the technical committee, the Chief Executive, or every employee of the Commission shall -

- (a) before he begins to perform any duties under the relevant Acts, take an oath of confidentiality in the form set out in the Third Schedule; and
- (b) maintain during or after his relationship with the Commission, the confidentiality of any matter relating to the relevant Acts which comes to his knowledge.

(2) Subject to subsection (3) and except for the purposes of administering the relevant Acts or where he is authorised to do so by the Commission, no person referred to in subsection (1) shall communicate to any unauthorised person any matter relating to the relevant Acts.

- (3) (a) The Commission shall furnish, when so required by the Bank of Mauritius, such information as may be required for the purposes of assisting the Bank of Mauritius in the discharge of its functions.
- (b) Subject to paragraph (c), the Bank of Mauritius may publish, in whole or in part, any information furnished under paragraph (a).
- (c) No information shall be published by the Bank of Mauritius where such publication would entail the disclosure of the financial affairs of any individual or enterprise without the consent in writing of the individual or enterprise.

(4) Every person referred to in subsection (1) shall, in relation to a corporation holding a Category 1 Global Business Licence or a Category 2 Global Business Licence, deal with all the documents and other information in his possession or under his control concerning that corporation as secret and confidential.

(5) Except where ordered by the Court for a reason specified in subsection (6), no person referred to in subsection (1) shall, in relation to a corporation holding a Category 1 Global Business Licence or a Category 2 Global Business Licence be required to produce or divulge to any court, tribunal, committee of enquiry or other authority in Mauritius or elsewhere any document, information or other matter coming to his notice, or being in his possession or control for any reason.

(6) Notwithstanding any other enactment, the Court shall, in relation to a corporation holding a Category 1 Global Business Licence or a Category 2 Global Business Licence, not make an order for disclosure or production of any confidential information except on the application of the Director of Public Prosecutions, and on proof beyond reasonable doubt that the confidential information is *bona fide* required for the purpose of any enquiry or trial into or relating to the trafficking of narcotics and dangerous drugs, arms trafficking or money laundering under the Economic Crime and Anti-Money Laundering Act 2000.

(7) Subsections 5 and 6 shall be without prejudice to -

- (a) the obligations of Mauritius under any international treaty, convention or agreement, and to the obligations of any public sector agency under any international arrangement or concordat;
- (b) such disclosure as is necessary for the purpose of administering the relevant Acts, and of discharging a function under those Acts.

(8) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

34. Disclosure of interest

(1) Where any member of the Board, the technical committee or their spouse or next of kin has any direct or indirect interest in relation to any matter before the Board or technical committee, as the case may be, he shall -

- (a) disclose at or before the meeting convened to discuss that matter, the nature of his interest; and
- (b) not take part in any deliberation or any decision-making process in relation to that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the Board or committee, as the case may be.

35. Annual report

(1) The Commission shall, not later than 6 months after the close of every financial year, cause to be published a report on its functions, activities, affairs and financial position in respect of the previous financial year.

(2) The Commission shall forward a copy of every report referred to in subsection (1) to the Minister to be laid before the Assembly.

PART VIII – THE FINANCIAL SERVICES PROMOTION AGENCY

36. Application of Part VIII

(1) This Part shall apply to the Financial Services Promotion Agency established under section 37.

(2) Except as provided for in subsection (3), the other Parts of this Act shall not apply to this Part.

(3) The provisions of sections 1, 28(1) and (2), 29, 34 and 35 and Part IX shall apply in all respects to the Agency as they apply to the Commission with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them in conformity with the provisions of this Part.

(4) In this Part -

“Agency” means the Financial Services Promotion Agency established under section 37;

“Board” means the Board referred to in section 37(3);

“Chairperson” means the Chairperson of the Board appointed under section 37(3);

“Commission” means the Financial Services Commission established under section 3;

“corporation” –

- (c) means a body corporate or incorporate, formed in Mauritius or elsewhere; and
- (d) includes any trust, *société* or partnership or any other body of persons;

“Director” means the Director of Financial Services Promotion Agency appointed under section 39;

“employee” means an employee of the Agency appointed under this Part;

“financial services”–

- (a) means any financial services or financial business activities governed by the relevant Acts; and
- (b) includes the financial services or financial business activities specified in Part II of the First Schedule;

“relevant Acts” –

- (a) means the Acts specified in Part I of the First Schedule; and
- (b) includes this Act;

“member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of financial services is assigned;

“public sector agency” means any Ministry or Government Department, local authority or statutory body;

“relevant permit” includes any permit, licence or other authorisation required from a public sector agency under any enactment other than a relevant Act.

37. The Financial Services Promotion Agency

(1) There is established for the purposes of this Act a Financial Services Promotion Agency.

(2) The Agency shall be a body corporate and shall be administered and managed by a Board.

(3) The Board shall consist of a Chairperson and not more than 6 other members suitably qualified and experienced in the field of financial services, appointed by the Minister.

(4) Every member shall hold office for a period of 3 years on such terms and conditions as the Minister may determine and shall be eligible for re-appointment.

(5) Every member shall be paid such fees as the Board may, with the approval of the Minister, determine.

(6) The Board shall meet as often as is necessary but not less than once every month and at such time and place as the Chairperson thinks fit.

(7) In the absence of the Chairperson at a meeting of the Board, the members present shall elect a member to act as Chairperson for that meeting.

(8) At any meeting of the Board, 4 members shall constitute a quorum.

(9) The Board may co-opt such other person as may be of assistance in relation to any matter before the Board.

(10) Any person co-opted under subsection (9) shall have no right to vote on any matter before the Board.

(11) The Director shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations but shall not be entitled to vote on any matter before the Board.

(12) Subject to the other provisions of this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

(13) (a) The Agency shall derive from the Commission its funds, which shall be paid into a General Fund established for the purposes of this Part.

(b) There shall be paid out of the General Fund all payments required to be made by the Agency and all charges on the Agency.

(c) The Agency shall, not later than 3 months before the commencement of each financial year, submit to the Minister an estimate of its income and expenditure for that financial year.

(14) Subject to subsection (15) and to such instructions and rules of a general nature as it may give or make, the Board may delegate to the Chairperson or the Director such of its powers and functions under this Part as may be necessary to assist in the effective management of the Agency other than the power -

(a) to borrow money;

(b) to raise loans;

- (c) to enter into any transaction in respect of capital expenditure which exceeds one million rupees.

(15) No document shall be executed or signed by or on behalf of the Agency unless it is signed by the Chairperson and the Director, or, in the absence of the Chairperson, by any other member appointed by the Board for that purpose.

38. Objects, functions and powers of the Agency

The objects, functions and powers of the Agency shall be -

- (a) to promote, in collaboration with the Board of Investment established under the Investment Promotion Act 2000, the development of the financial services industry and of an international financial centre in Mauritius;
- (b) to prepare and implement a plan for human resource development and training in the field of financial services;
- (c) to act as a one-stop service with a view to ensuring that any relevant permit is obtained expeditiously;
- (d) to give such directions as may be necessary to a public sector agency for the expeditious and timely processing of an application for any relevant permit; and
- (e) to advise the Minister on matters relating to the development of financial services industry in Mauritius.

39. The Director of Financial Services Promotion Agency

- (1) There shall be a chief executive officer of the Agency who shall –
 - (a) be known as the Director; and
 - (b) be appointed by the Board with the approval of the Minister, on such terms and conditions as it thinks fit.
- (2) The Director shall be responsible for the execution of the policy of the Board and for the control and management of the day-to-day business of the Agency.
- (3) In the exercise of his functions and powers, the Director shall act in accordance with such directions as he may receive from the Board.
- (4) In the discharge of his duties under this Part, the Director shall be assisted by such employees as may be necessary.
- (5) The employees shall be under the administrative control of the Director.
- (6) The Director may, with the approval of the Board, delegate his functions or any power delegated to him under section 37(14) to an employee.

40. One-stop service

(1) Notwithstanding any other enactment, the Agency may, for the purposes of ensuring that relevant permits are obtained expeditiously, act as the centre and the channel through which -

- (a) all public sector agencies may exercise their powers in relation to the granting of any relevant permit;
- (b) a corporation may apply for the obtention of any relevant permit and for that purpose may communicate with any of the public sector agencies in Mauritius.

(2) Subject to any other enactment, the Director may seek any approval or permission required from any public sector agency in Mauritius in respect of -

- (a) the entry, stay and employment in Mauritius of any non-resident officers or employees as may be necessary for conducting the business of an applicant;
- (b) the holding on lease or otherwise of any immovable property for the purpose of accommodation of such officers or employees, or for the purpose of the office accommodation of an applicant.

(3) For the purposes of subsection (2), "applicant" -

- (a) means an applicant for a Category 1 Global Business Licence or a Category 2 Global Business Licence; and
- (b) includes a person who, in his own name or on behalf of any other person, submits a project or a proposal for the formation of a corporation which intends to carry on a qualified global business.

PART IX - MISCELLANEOUS

41. Immunity

No action shall lie against the Commission, the Board or any member of the Board, any member of a technical committee, the Chief Executive or any employee, in respect of any act done or omitted to be done by the Commission, the Board or any member of the Board, any member of a technical committee, the Chief Executive or any employee, in the execution, in good faith, of its or his functions under the relevant Acts.

42. Exemption

(1) Notwithstanding any other enactment, the Commission shall be exempt from the payment of any duty, levy, charge, fee, rate or tax.

(2) A corporation holding a Category 1 Global Business Licence, a holder of a debenture issued by that corporation or a shareholder of a company holding a Category 1 Global Business Licence shall be exempt from payment of any duty, levy, charge, fee or tax imposed by the enactments specified in the Fourth Schedule in respect of -

- (a) in the case of a corporation holding a Category 1 Global Business Licence, its qualified global business;
- (b) in the case of a shareholder of a company holding a global business licence or a holder of a debenture issued by that company, any security, charge, pledge or other encumbrance created over the shares or debentures issued by that company to the shareholder or debenture holder, as the case may be;
- (c) in the case of a corporation holding a global business licence, its dealings with residents with the approval of the Commission;
- (d) any authorised dealing in property situated in Mauritius;
- (e) any fee or charge required for the incorporation or registration of a company under the Companies Act 2001.

(3) A holder of a Class B Banking Licence under the Banking Act 1988 shall be exempt from payment of any duty, levy, charge, fee or tax imposed by the enactments specified in the Fourth Schedule to the Act in respect of -

- (a) its class B banking transactions;
- (b) its dealings with residents with the approval of the Bank of Mauritius;
- (c) any authorised dealing in property situated in Mauritius;
- (d) any fee or charge required for the incorporation or registration of a company under the Companies Act 2001.

(4) A company holding a Category 2 Global Business Licence shall be exempt from payment of any duty, levy, charge, fee or tax, and from the requirement of any filing, imposed by the enactments specified in the Fourth Schedule in respect of -

- (a) any transfer of property to or by the company;
- (b) shares, debt obligations or other securities of the company;
- (c) the assets or activities of the company.

43. Offences and penalties

Any person who contravenes this Act or any regulations made under this Act shall commit an offence and shall, where no specific penalty is provided, on conviction be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

44. Jurisdiction

Notwithstanding -

- (a) section 114(2) of the Courts Act; and
- (b) section 72(5) of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try an offence under this Act or any regulations made thereunder and may impose any penalty provided under this Act.

45. Regulations

- (1) The Minister may -
 - (a) make such regulations as he thinks fit for the purposes of this Act;
 - (b) by regulations amend the Schedules.
- (2) Any regulations made under this Act may -
 - (a) provide for the taking of fees and levying of charges;
 - (b) provide that any person who contravenes them shall commit an offence, and shall on conviction be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

46. Consequential amendments

- (1) The Banking Act 1988 is amended -
 - (a) in section 2 –
 - (i) by deleting the definitions of “Authority”, “domestic bank”, “domestic banking”, “Domestic Banking Licence”, “offshore bank”, “offshore banking”, “Offshore Banking Licence”, “offshore banking transactions” and “offshore company”;
 - (ii) by deleting the definition of “bank” and replacing it by the following definition -

“bank” means a company incorporated under the laws of Mauritius, or a branch of a company incorporated abroad, which is licensed under this Act to conduct banking business –

 - (i) under a Class A Banking Licence in Mauritius and, in the case of a foreign branch of a local bank, abroad; or

- (ii) under a Class B Banking Licence, from within Mauritius,

as the case may be;

- (iii) by inserting in their appropriate alphabetical order, the following new definitions –

“class A banking” means banking business other than class B banking;

“class B banking” means banking business or investment banking business conducted in currencies other than the Mauritius currency except to the extent permitted by the central bank for trading on the foreign exchange market of Mauritius and investment in money market instruments;

“Class A Banking Licence” means a licence authorising the holder thereof to transact class A banking;

“Class B Banking Licence” means a licence authorising the holder thereof to transact class B banking;

“class B banking transactions” means transactions effected by a bank holding a Class B Banking Licence;

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

- (b) in section 3 –

- (i) by deleting its heading and replacing it by the following heading –

Authority to transact banking

- (ii) in subsection (1), by deleting the words “Domestic Banking Licence” and “an Offshore Banking Licence” and replacing them by the words “Class A Banking Licence” and “a Class B Banking Licence” respectively;
- (iii) in subsection (2), by deleting the words “domestic banking” and “offshore banking” and replacing them by the words “class A banking” and “class B banking” respectively;
- (iv) in subsection (3), by deleting the words “Domestic Banking Licence” and “an Offshore Banking Licence” and replacing them by the words “Class A Banking Licence” and “a Class B Banking Licence” respectively;

- (v) in subsection (6) –
 - (A) in paragraph (b), by deleting the words “domestic bank” and replacing them by the words “bank holding a Class A Banking Licence”;
 - (B) in paragraph (c), by deleting the words “an offshore bank” and “offshore banking” and replacing them by the words “a bank holding a Class B Banking Licence” and “class B banking” respectively;
- (vi) by deleting subsection (7) and replacing it by the following subsection –

(7) The holder of a Class A Banking Licence shall pay such annual licence fee as the central bank may notify in the *Gazette*.
- (vii) in subsection (8), by deleting the words “an Offshore Banking Licence” and replacing them by the words “a Class B Banking Licence”;
- (viii) in subsection (9), by deleting the words “an Offshore Banking Licence” and replacing them by the words “a Class B Banking Licence”;
- (ix) in subsection (11), by deleting the words “An offshore bank” and the words “domestic bank” and replacing them by the words “A bank holding a Class B Banking Licence” and the words “bank holding a Class A Banking Licence” respectively;
- (c) in section 4, in subsection (1), by deleting the words “domestic or offshore banking” and replacing them by the words “class A banking or class B banking”;
- (d) in section 12, in subsection (1), by deleting the words “domestic banking or offshore banking” and replacing them by the words “class A banking or class B banking”;
- (e) in section 13, in subsection (1), by deleting the words “domestic banking or offshore banking” and replacing them by the words “class A banking or class B banking”;
- (f) in section 14 –
 - (i) in subsection (1), by deleting the words “Domestic Banking Licence” and replacing them by the words “Class A Banking Licence”;

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- (ii) in subsection (2), by deleting the words “Domestic Banking Licence” and replacing them by the words “Class A Banking Licence”;
 - (iii) in subsection (4), by deleting the words “an Offshore Banking Licence” and replacing them by the words “a Class B Banking Licence”;
 - (iv) in subsection (5), by deleting the words “an Offshore Banking Licence”, “Mauritian offshore banking business” and “Mauritian Rupee” and replacing them by the words “a Class B Banking Licence”, “Mauritian class B banking business” and “Mauritius currency” respectively;
 - (v) in subsection (6), by deleting the words “an Offshore Banking Licence” and replacing them by the words “a Class B Banking Licence”;
 - (g) in section 15, in subsection (1), by deleting the words “Domestic Banking Licence” and replacing them by the words “Class A Banking Licence”;
 - (h) in section 16, by deleting the words “**domestic banks**” and the words “Domestic Banking Licence” and replacing them by the words “**banks holding a Class A Banking Licence**” and the words “Class A Banking Licence” respectively;
 - (i) in section 17 –
 - (i) in its heading, by deleting the words “**domestic and offshore**”;
 - (ii) in subsection (1), by deleting the words “Domestic Banking Licence” and replacing them by the words “Class A Banking Licence”;
 - (iii) in subsection (5), by deleting the words “an Offshore Banking Licence” and replacing them by the words “a Class B Banking Licence”;
 - (iv) in subsection (9) -
 - (A) in paragraph (a), by deleting the words “Domestic Banking Licences” and replacing them by the words “Class A Banking Licences”;
 - (B) in paragraph (b), by deleting the words “Offshore Banking Licences” and replacing them by the words “Class B Banking Licences”;

- (j) in section 21, by deleting the words “Domestic Banking Licence” wherever they appear and replacing them by the words “Class A Banking Licence”;
- (k) in section 22, in subsection (3), by deleting the words “an offshore bank” and replacing them by the words “a bank holding a Class B Banking Licence”;
- (l) in section 27, in subsection (2), by deleting the words “offshore banks” and the words “offshore banking transactions” and replacing them by the words “banks holding a Class B Banking Licence” and the words “class B banking transactions” respectively;
- (m) in section 38, in subsection (4), by deleting the words “an offshore bank” and replacing them by the words “a bank holding a Class B Banking Licence”;
- (n) in section 39A –
- (i) in its heading, by deleting the words “**offshore banks**” and replacing them by the words “**banks holding a Class B Banking Licence**”;
 - (ii) in subsection (1), by deleting the words “offshore banks” and replacing them by the words “banks holding a Class B Banking Licence”;
- (o) in section 44, by deleting the words “**offshore banks**”, “An offshore bank”, “a domestic bank” and “Mauritian rupees” and replacing them by the words “**banks holding a Class B Banking Licence**”, “A bank holding a Class B Banking Licence”, “a bank holding a Class A Banking Licence” and “Mauritius currency” respectively;
- (p) in section 47 –
- (i) in subsection (1), by deleting the words “domestic bank”, “an offshore bank”, “domestic banks” and “offshore bank”, wherever they appear and replacing them by the words “bank holding a Class A Banking Licence”, “a bank holding a Class B Banking Licence”, “banks holding a Class A Banking Licence” and “bank holding a Class B Banking Licence” respectively;

- (ii) by deleting subsection (3) and replacing it by the following subsection -

(3) Where there is a winding up and the bank holds both a Class A Banking Licence and a Class B Banking Licence, the assets of the bank pertaining to the Class A Banking Licence shall not be used to meet any deficiency which occurs in the assets of the bank pertaining to the Class B Banking Licence.

- (q) in section 48, in subsection (2)(c), by deleting the words “offshore banks” and replacing them by the words “banks holding a Class B Banking Licence”;

- (r) in section 50, by inserting immediately after subsection (1), the following new subsection -

(2) Any licence issued to a bank and in force on the day immediately before the coming into operation of section 46(1) of the Financial Services Development Act 2001 shall remain valid for the period specified in the licence.

- (2) The Central Tender Board Act 2000 is amended in the First Schedule -

- (a) in Part III, by deleting the item "Stock Exchange Commission" and by inserting in its appropriate alphabetical order the following new item -

Financial Services Commission

- (b) in Part IV, by deleting the item "Mauritius Offshore Business Activities Authority".

- (3) The Economic Crime and Anti-Money Laundering Act 2000 is amended –

- (a) in section 2 -

- (i) in paragraph (b)(i) of the definition “bank”, by deleting the words “an offshore bank” and replacing them by the words “a bank holding a Class B Banking Licence under the Banking Act 1988”;

- (ii) by deleting the definition of “offshore bank”;

- (b) in the Second Schedule, in Part I -
 - (i) by deleting the following items -
 - 2. The International Companies Act 1994
 - 3. The Mauritius Offshore Business Activities Act 1992
 - 4. The Offshore Trusts Act 1992
 - (ii) by inserting the following new items -
 - 2. The Financial Services Development Act 2001
 - 3. The Trusts Act 2001
- (4) The Income Tax Act 1995 is amended -
 - (a) in section 6, by deleting subsection (4) and replacing it by the following subsection -
 - (4) Notwithstanding the other provisions of this section, the net income of a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988 shall be converted into Mauritius currency at the official exchange rate in force at the date of the annual balance of the accounts of the corporation or bank, as the case may be.
 - (b) in section 47 -
 - (i) in subsection (5), by deleting the words “which is certified to be engaged in international business activity by the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992” and replacing them by the words “holding a Category 1 Global Business Licence under the Financial Services Development Act 2001”;
 - (ii) in subsection (6), by deleting the words “the Mauritius Offshore Business Activities Authority” and replacing them by the words “the Commission established under the Financial Services Development Act 2001”;

(c) in section 124, in subsection (1), by deleting the words “section 5 of the Mauritius Offshore Business Activities Act 1992” and replacing them by the words “section 27(6) of the Financial Services Development Act 2001”;

(d) in section 161A –

(i) by deleting the words “*Taxation of offshore corporations*” and replacing them by the words “*Taxation of qualified corporations*”;

(ii) in subsection (1) -

(A) by deleting paragraph (a) and replacing it by the following paragraph –

(a) subject to paragraph (c), a qualified corporation may, at any time, by irrevocable notice in writing given simultaneously to the Commissioner and to the Commission, elect to be governed by this Act.

(AA) in paragraph (b), by deleting the words “an offshore corporation” and replacing them by the words “a qualified corporation other than a trust under the Offshore Trusts Act 1992”;

(AB) in paragraphs (c) and (d), by deleting the words “an offshore corporation” and the word “Authority” wherever they appear and replacing them by the words “qualified corporation” and the word “Commission” respectively;

(B) in paragraph (f), by deleting the words “An offshore management company shall -” and replacing them by the words “A company holding a management licence shall -”;

(C) by deleting paragraph (g) and replacing it by the following paragraph –

“Commission” means the Commission established under the Financial Services Development Act 2001;

“company holding a management licence” means a company holding a management licence under the Financial Services Development Act 2001;

“qualified corporation” means a corporation holding a Category I Global Business Licence under the Financial Services Development Act 2001 or a trust under the Offshore Trusts Act 1992 or a bank holding a Class B Banking Licence under the Banking Act 1988, and having been in operation before 1 July 1998;

- (D) in paragraph (h), by deleting the words “Where an offshore corporation” and the words “the offshore corporation” and replacing them by the words “Where a qualified corporation other than a trust under the Offshore Trusts Act 1992” and the words “the qualified corporation other than a trust under the Offshore Trusts Act 1992” respectively;
- (e) in the First Schedule, in Part IV –
 - (i) by deleting item 16 and replacing it by the following item-
 - 16. (a) A corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001.
 - (b) A bank holding a Class B Banking Licence under the Banking Act 1988.
 - (ii) by deleting item 40 and replacing it by the following item –
 - 40. A company holding a management licence under the Financial Services Development Act 2001
- (f) in the Second Schedule -
 - (i) in Part II, in item 14, by deleting the words “of such other kind of corporation as may be approved by the Minister” and replacing them by the words “holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988”;
 - (ii) in Part III, in item 3, by deleting paragraph (f) and replacing it by the following paragraph -
 - (f) call and deposit accounts held with any bank under the Banking Act 1988 by a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001;

- (iii) by deleting item 6 and replacing it by the following item -
 - 6. Royalty payable to a non-resident by a corporation holding a Category 1 Business Licence under the Financial Services Development Act 2001 or by a bank holding a Class B Banking Licence under the Banking Act 1988 or a trust, as the case may be.
- (5) The Insurance Act 1987 is amended -
- (a) in section 2 -
 - (i) by deleting the definitions of “committee” and “Controller”; and
 - (ii) by inserting in their appropriate alphabetical order the following new definitions -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;
 - (b) by deleting the words “Companies Act 1984” and “Controller” wherever they appear and replacing them by the words “Companies Act 2001” and “Commission” respectively;
 - (c) by repealing sections 6, 9, 10 and 11;
 - (d) in section 23, in subsection (2), by deleting the words “The Minister” and “if he is satisfied” and replacing them by the words “The Commission” and “if it is satisfied” respectively;
 - (e) in section 30, in subsection (1), by deleting the words “the Minister through the Controller” and replacing them by the words “the Commission”;
 - (f) in section 31 –
 - (i) in subsection (1), by deleting the word “Minister” wherever it appears and replacing it by the word “Commission”;
 - (ii) in subsection (2), by deleting the words “Minister through the Controller” and replacing them by the word “Commission”;
 - (g) in section 32, by deleting the word “Minister” and replacing it by the word “Commission”;

- (h) in section 33 -
 - (i) in subsection (1) -
 - (A) by deleting the word “Minister” and replacing it by the word “Commission”;
 - (B) in paragraph (a), by deleting the words “deposited with him” and replacing them by the words “deposited with it”;
 - (C) in paragraph (c), by deleting the words “and of the Insurance Advisory Committee”;
 - (ii) in subsection (2), by deleting the word “Minister” and replacing it by the word “Commission”;
- (i) in section 41 -
 - (i) in subsection (1), by deleting the words “he may serve” and “he should not” and replacing them by the words “it may serve” and “it should not” respectively;
 - (ii) in subsection (3), by deleting the word “Minister” and replacing it by the word “Commission”;
 - (iii) in subsection (4), by deleting the words “with the approval of the Minister”;
- (j) by deleting section 43;
- (k) in section 44 –
 - (i) in subsection (1)(a), by deleting the words “the Controller or, as the case may be,”;
 - (ii) by deleting the word “Minister” wherever it appears and replacing it by the word “Commission”;
- (l) in section 45 -
 - (i) in subsection (1), by deleting the words “Consolidated Fund” and replacing them by the words “General Fund of the Commission”;
 - (ii) in subsection (2) –
 - (A) by deleting the word “Minister” and replacing it by the word “Commission”;

(B) by deleting the words “in the same manner as a State debt” and replacing them by the words “by the Commission”;

(m) in section 47, in subsection (1), by deleting the words “with the approval of the Minister”;

(6) The Moneylenders Act is amended in item 5 of the Fifth Schedule, by deleting the words “Mauritius Offshore Business Activities Act 1992” and replacing them by the words “Financial Services Development Act 2001”.

(7) The Non-Citizens (Property Restriction) Act is amended –

(a) in section 2 –

(i) by deleting the definitions of "Authority", “offshore bank”, “offshore certificate” and “offshore company”;

(ii) by inserting in their appropriate alphabetical order, the following new definitions -

“business certificate” means a global business licence under the Financial Services Development Act 2001 or a Class B Banking Licence issued under the Banking Act 1988;

"Commission" means the Financial Services Commission established under the Financial Services Development Act 2001;

“qualified corporation” means a corporation holding a global business licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988, as the case may be.

(b) in section 3, in subsection 3(d), by deleting the words “offshore company” and replacing them by the words “qualified corporation”;

(c) by deleting section 6 and replacing it by the following section –

6. Qualified corporation

(1) Subject to subsection (2), a qualified corporation or an applicant for a business certificate who wishes to hold or purchase or otherwise acquire a property shall apply to the Commission, or in the case of a bank holding a Class B Banking Licence, to the Bank of Mauritius.

(2) The Minister may -

- (a) make regulations to provide for the manner in which applications submitted to the Commission or the Bank of Mauritius, as the case may be, shall be processed;
- (b) delegate to the Commission or the Bank of Mauritius, subject to such directions as he thinks fit, his powers to issue a certificate under this Act to a qualified corporation.

(3) Any certificate issued by the Commission or the Bank of Mauritius, as the case may be, under powers delegated by the Minister, shall be deemed to be a certificate issued under section 3(2) of this Act.

(8) The Protected Cell Companies Act 1999 is amended -

- (a) in its long title, by deleting the words “an offshore business activity” and replacing them by the words “a qualified global business”;
- (b) in section 2 –
 - (i) in subsection (1) –
 - (A) by deleting the definitions of “Authority”, “MOBA Act” and “offshore business activity”;
 - (B) by inserting in their appropriate alphabetical order, the following new definitions -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

“qualified global business” has the same meaning as in the Financial Services Development Act 2001;
 - (ii) in subsection (2), by deleting the words “the Mauritius Offshore Business Activities Act 1992” and replacing them by the words “the Financial Services Development Act 2001”;

- (c) by deleting section 3 and replacing it by the following section -

3. Legal regime applicable to protected cell companies

Subject to this Act -

- (a) the Financial Services Development Act 2001 in so far as it relates to Part V; and
- (b) the Companies Act 2001 in so far as it relates to such class or classes of company as may be prescribed,

shall apply to protected cell companies.

- (d) in section 4, in subsection (1), by deleting the words “an offshore business activity” and replacing them by the words “a qualified global business”;
- (e) in sections 18, 19(1)(e) and (3)(b), 24(1)(f) and (3)(c), by deleting the words “the Authority” and replacing them by the words “the Commission”;
- (f) by deleting the Schedule and replacing it by the following Schedule -

SCHEDULE

(section 2)

Qualified global business

Insurance

Investment funds

- (9) The Registration Duty Act is amended –
 - (a) in section 3 -
 - (i) in subsection (4), by deleting the words “an offshore company” and “an offshore bank” and replacing them by the words “a company holding a global business licence under the Financial Services Development Act 2001” and “a bank holding a Class B Banking Licence under the Banking Act 1988” respectively;
 - (ii) by deleting subsection (6) and replacing it by the following subsection -
 - (6) For the purposes of subsection (4), “non-citizen” has the same meaning as in the Non-Citizens (Property Restriction) Act.

- (b) in the First Schedule, in Part III, in item 7, by deleting the words “Stock Exchange Commission” and replacing them by the words “Commission established under the Financial Services Development Act 2001”.

(10) The Securities (Central Depository, Clearing and Settlement) Act 1996 is amended in section 2, by deleting the definition of “Commission” and replacing it by the following definition -

“Commission” means the Financial Services Commission” established under the Financial Services Development Act 2001;

(11) The Statutory Bodies (Accounts and Audit) Act is amended in Part II of the Schedule -

- (a) by deleting the item “Mauritius Offshore Business Activities Authority”;

- (b) by inserting in its appropriate alphabetical order the following new items -

Financial Services Commission established under the Financial Services Development Act 2001

Financial Services Promotion Agency established under Part VIII of the Financial Services Development Act 2001

(12) The Statutory Bodies Pensions Funds Act is amended in the Schedule -

- (a) by deleting the following items -

Mauritius Offshore Business Activities Authority

Stock Exchange Commission

- (b) by inserting in its appropriate alphabetical order, the following new items -

Financial Services Commission established under the Financial Services Development Act 2001

Financial Services Promotion Agency established under Part VIII of the Financial Services Development Act 2001

(13) The Stock Exchange Act 1988 is amended -

- (a) in section 2 -

- (i) by deleting the definitions of “Controller” and “securities”;

- (ii) by inserting in their appropriate alphabetical order, the following new definitions -

“Board” means the Board referred to in the Financial Services Development Act 2001;

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

“debenture” has the same meaning as in the Companies Act 2001;

“investment contract” means any contract, scheme or arrangement that, in substance and irrespective of its form, involves the investment of money in or under such circumstances that the investor acquires or may acquire any right or interest in respect of property, whether in Mauritius or elsewhere, that under or in accordance with the terms of the investment will, or may at the option of the investor, be used or employed in common with any other right or interest in respect of property, whether in Mauritius or elsewhere, acquired in or under like circumstances;

“Listing Committee” means the Committee referred to in section 28A;

“offer” has the same meaning as in the Companies Act 2001;

“participatory interest” -

(a) means any right to participate or any interest -

(i) in any profits, assets, earnings, royalties or realisation of any financial or business undertaking or scheme whether in Mauritius or elsewhere;

(ii) in any common enterprise, whether in Mauritius or elsewhere, in relation to which the holder of the right or interest is led to expect profits, rent or interest from the efforts of the promoter of the enterprise or a third party; or

(iii) in any investment contract,

whether or not the right or interest is enforceable, whether the right or interest is actual, prospective or contingent, whether or not the right or interest is evidenced by a formal document and whether or not the right or interest relates to a physical asset; but

- (b) does not include -
 - (i) a contract of insurance other than an insurance policy traded on the secondary market;
 - (ii) an interest arising out of a partnership agreement unless the agreement or proposed agreement relates to an undertaking, scheme, enterprise or investment contract promoted by, or on behalf of, a person whose ordinary business includes the promotion of similar undertakings, schemes, enterprises or investment contracts, whether or not that person is, or is to become, a party to the agreement or proposed agreement;
 - (iii) a cheque, order for the payment of money, bill of exchange or promissory note;
 - (iv) a document issued or executed by a bank or deposit-taking non-bank financial institution licensed or authorised under the Banking Act 1988 in the ordinary course of its banking or deposit-taking business, being a document that acknowledges indebtedness of the bank or deposit-taking non-bank financial institution arising in the ordinary course of that business;
 - (v) a foreign exchange contract under the Foreign Exchange Dealers Act 1995; or
 - (vi) any interest in land for which a separate title can be issued under any enactment;

“securities” means -

- (a) shares in, or debentures of, a company or other body corporate or of an unincorporated body;
- (b) debentures, stocks, bonds or treasury bills issued or proposed to be issued by any Government;
- (c) any right or option in respect of any securities referred to in paragraphs (a) and (b);

- (d) any futures contract other than a foreign exchange contract under the Foreign Exchange Dealers Act 1995;
 - (e) rights or interests, whether described as units or otherwise, under any unit trust scheme under the Unit Trust Act 1989;
 - (f) participatory interests; or
 - (g) any other instruments which the Minister may prescribe in regulations made under this Act to be securities for the purposes of this Act;
- (b) by repealing Part I;
 - (c) in section 23, in subsection (1), by deleting the words “the Minister on the recommendation of”;
 - (d) in section 24, in paragraph (a), by deleting the words “the Minister, on the recommendation of”;
 - (e) by deleting section 26 and replacing it by the following section -

26. Licensing conditions

The Commission may grant or renew a licence under sections 23 and 24 subject to such terms and conditions as it thinks fit.

- (f) by repealing Part VI;
- (g) in section 46, in subsection (16), by deleting the words “The Controller of Securities” and replacing them by the words “The Commission”;
- (h) in section 50A, by deleting the words “The Minister may, on the recommendation of the Commission,” and replacing them by the words “The Commission may”;
- (i) in section 51 –
 - (i) in subsection (3), by deleting the words “or the Controller of Securities” wherever they appear;
 - (ii) in subsection (6), by deleting the words “The Minister may, on the recommendation of the Commission,” and replacing them by the words “The Commission may”;
- (j) in section 52A, in subsection (1) by deleting the words “Chief Executive Officer” and replacing them by the words “Chief Executive”;

- (k) in section 54, in subsection (1), by deleting the words “by the Commission”;
 - (l) in section 56, in paragraph (e), by deleting the words “to attain any of its objects” and replacing them by the words “to discharge any of its functions”;
 - (m) in the Schedule -
 - (i) by deleting the reference to sections “4(5), 5(5), 7(2)”;
 - (ii) by deleting the words “Stock Exchange Commission”;
 - (iii) by deleting the words “objects of the Commission” and replacing them by the words “objects of the Stock Exchange Company/Listing Committee”.
- (14) The Unit Trust Act 1989 is amended -
- (a) in section 2, by deleting the definition of “Commission” and replacing it by the following definition -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;
 - (b) in section 5, by deleting subsection (5);
 - (c) in section 6, by deleting the words “The Commission may recommend the approval of ” and replacing them by the words “The Commission may approve”;
 - (d) in section 14 –
 - (i) in subsection (1), by deleting the words “The Minister may, on the recommendation of the Commission,” and replacing them by the words “The Commission may”;
 - (ii) in subsection (2), by deleting the words “The Commission may make recommendations” and replacing them by the words “The Commission may revoke the approval of a unit trust scheme or parts thereof”;
 - (iii) in subsection (4), by deleting the word “Minister” and replacing it by the word “Commission”;
 - (e) in section 15, by deleting the words “The Minister may appoint” and replacing them by the words “The Commission may appoint”;
 - (f) in sections 16, 17, 18, 19 and 20, by deleting the word “Minister” wherever it appears and replacing it by the word “Commission”.

- (15) The Value Added Tax Act 1998 is amended –
- (a) in the First Schedule, in item 50(a), by deleting the words “(other than offshore banking services supplied to persons not resident in Mauritius)” and replacing them by the words “(other than services supplied by holders of a Class B Banking Licence to persons not resident in Mauritius)”;
 - (b) in the Fifth Schedule, in item 6, by deleting paragraph (b) and replacing it by the following paragraph –
 - (b) The supply of services by companies holding a management licence under the Financial Services Development Act 2001.

- (16) The Income Tax (Foreign Tax Credit) Regulations 1996 are amended –

- (a) in regulation 2 –
 - (i) by deleting the definitions of “offshore bank”, “offshore company”, “offshore société” and “offshore trust”;
 - (ii) by inserting in its appropriate alphabetical order, the following new definition -

“qualified corporation” means a corporation holding a Category 1 Global Business Licence under the Financial Services Development Act 2001 or a bank holding a Class B Banking Licence under the Banking Act 1988, as the case may be.
- (b) in regulation 8(3), by deleting the words “an offshore company, offshore bank, offshore trust or offshore société” and replacing them by the words “a qualified corporation”.

- (17) The Insurance Regulations 1988 are amended by deleting the word “Controller” wherever it appears and replacing it by the word “Commission”.

- (18) The Stock Exchange (Brokerage) Regulations 1989 are amended -

- (a) in regulation 2 -
 - (i) in the definition of “Act”, by deleting the full stop appearing at the end and replacing it by a semi-colon;
 - (ii) by deleting the definition of “SEC”;

- (iii) by inserting in its appropriate alphabetical order the following new definition -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

- (b) in regulation 3(3)(b), by deleting the word “SEC” and replacing it by the word “Commission”;
- (c) in the Schedule, by deleting the word “SEC” and replacing it by the word “Commission”.

(19) The Stock Exchange (Dealer’s Representatives’ Examinations) Regulations 1992 are amended in regulation 5, by deleting the words “The Stock Exchange Commission” and replacing them by the words “The Commission”.

(20) The Stock Exchange (Licensing) Regulations 1989 are amended in regulation 2, by deleting the definition of “Commission” and replacing it by the following definition -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001.

(21) The Stock Exchange (Listing Committee) Regulations 1993 are amended by deleting the words “The Stock Exchange Commission” wherever they appear and replacing them by the words “The Commission”.

(22) The Stock Exchange (Over the Counter Market) Regulations 1990 are amended in regulation 2, by deleting the definition of “Commission” and replacing it by the following definition -

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

(23) The Stock Exchange (Brokerage Fee for Debentures) Regulations 1999 are amended –

- (a) in regulation 2 –
- (i) by deleting the definition of “SEC”;
- (ii) by inserting in its appropriate alphabetical order the following new definition –

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

- (b) by deleting the word “SEC” wherever it appears and replacing it by the word “Commission”.

(24) The Stock Exchange (Approved Investment Institution) Rules 1992 are amended by deleting the words “Stock Exchange Commission” wherever they appear and replacing them by the word “Commission”.

(25) The Stock Exchange (Investment Clubs) Rules 1994 are amended in rule 6(3)(a), by deleting the words “The Stock Exchange Commission” wherever they appear and replacing them by the words “The Commission”.

(26) The Stock Exchange (Investment by Foreign Investors) Rules 1994 are amended –

- (a) in regulation 2 –

- (i) by deleting the definition of “SEC”;
- (ii) by inserting in its appropriate alphabetical order the following new definition –

“Commission” means the Financial Services Commission established under the Financial Services Development Act 2001;

- (b) by deleting the word “SEC” wherever it appears and replacing it by the word “Commission”.

47. Transitional provisions

(1) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Commission.

(2) Section 7(1) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the Commission.

(3) All proceedings, judicial or otherwise, commenced before and pending immediately before the day of the coming into force of this Act, by or against the Controller under the Insurance Act 1987, MOBAA or the SEC shall be deemed to have been commenced, and may be continued, by or against the Commission and any contract entered into by -

- (a) the Government in relation to the functions of the Controller under the Insurance Act 1987; or
- (b) the MOBAA and the SEC,

shall have effect as if it had been entered into on the same terms and conditions by the Commission.

(4) Any licence issued under the Insurance Act 1987 and the Stock Exchange Act 1988 and in force on the day immediately before the coming into operation of this Act shall be deemed to have been issued under this Act and shall remain valid for the period specified in the licence.

(5) Any act or thing done, or document executed, by the Controller under the Insurance Act 1987, the MOBAA and the SEC shall be deemed to have been done or executed by the Commission.

(6) For the purposes of this section -

“MOBAA” means the Mauritius Offshore Business Activities Authority established under the Mauritius Offshore Business Activities Act 1992;

“SEC” means the Stock Exchange Commission set up under the Stock Exchange Act 1988.

48. Repeal and savings

(1) The following enactments are hereby repealed –

- (a) The Mauritius Offshore Business Activities Act 1992;
- (b) The Mauritius Offshore Business Activities (Fees) Regulations 1992;
- (c) The Offshore Insurance Regulations 1992;
- (d) The Mauritius Offshore Business Activities (Companies) Regulations 1995;

(2) Notwithstanding the repeal of the enactment specified in subsection (1)(a) –

- (a) a certificate or a management licence issued and in force on the day immediately before the coming into operation of this Act shall be deemed to have been issued under Part V of this Act and shall remain valid for the period specified in the certificate or management licence, as the case may be;
- (b) any act or thing done under that enactment shall be deemed to have been done under Part V of this Act.

49. Commencement

(1) Subject to subsection (2), this Act shall come into force on a day to be fixed by Proclamation.

(2) Different days may be fixed for the coming into force of the different sections of the Act.

Passed by the National Assembly on the fifteenth day of May two thousand and one.

ANDRÉ POMPON
Clerk of the National Assembly

FIRST SCHEDULE

(sections 2 and 36(4))

PART I

Relevant Acts

The Insurance Act 1987

The Protected Cell Companies Act 1999

The Securities (Central Depository, Clearing and Settlement) Act 1996

The Stock Exchange Act 1988

The Trusts Act 2001

The Unit Trust Act 1989

PART II

Financial services or financial business activities

Asset management

Collective investment schemes

Custodial services

Factoring business

Financial service providers and intermediaries

Investment advisory services

Leasing business

Mortgage finance

Retirement benefits schemes

Services provided by a qualified trustee under the Trusts Act 2001

SECOND SCHEDULE

(section 19)

Qualified global business

Aircraft financing and leasing
Assets management
Consultancy services
Employment services
Financial services
Funds management
Information and communication technology services
Insurance
Licensing and franchising
Logistics and or marketing
Operational headquarters
Pension funds
Shipping and ship management
Trading

THIRD SCHEDULE

(section 33)

Oath of confidentiality

IN THE SUPREME COURT OF MAURITIUS.

I being appointed
..... do hereby swear/solemnly affirm that I will, to the best of
my judgement, act for the furtherance of the objects of the Commission and shall not, on any
account and at any time, disclose, otherwise than with the authorisation of the Commission or
where it is strictly necessary for the performance of my duties, any confidential information
obtained by me during or after my relationship with the Commission.

Taken before me,

The Master and Registrar of the Supreme Court on(date)

FOURTH SCHEDULE

(section 42)

Enactments

Land (Duties and Taxes) Act 1984

Local Government Act 1989

Registration Duty Act

Stamps Duty Act 1990

Transcription and Mortgage Act