



[L.S.]

I Assent,

Dr. RA. Walwyn, OBE,
Governor-General's Deputy.

28th October, 1998.

ANTIGUA AND BARBUDA

No. 17 of 1998

**AN ACT to amend the International Business Corporations
Act, Cap. 222.**

[*12th November, 1998*]

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. This Act may be cited as the International Business Corporations (Amendment) (No. 2) Act, 1998. Short title.

2. **Section 2** of the International Business Corporations Act (in this Act referred to as the "principal Act") is amended as follows: Amendment of section 2 of Cap. 222.

- (a) in subsection (1)
 - (i) by inserting **after (a)** the following paragraph:

"(aa) "Authority" means the International Financial Sector Authority;"
 - (ii) by repealing **(f)** and substituting the following paragraph:

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“(f) "Director" means the Executive Director or the Deputy Director of the Authority"; and

(b) by repealing subsection (3) and substituting the following subsection:

“(3) The expressions "appropriate official", "Board", "Chairman", "licensee", "Superintendent", and "Supervisor", are defined in Part III.”

Amendment of
section 5 of Cap.
222.

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

(a) in subsection (1) by

(i) inserting after "incorporation" the following:
"and the prescribed fees";

(ii) repealing "Director of International Business Corporations" and substituting "Director"; and

(b) by inserting after subsection (2) the following subsection:

“(2a) In the case of a corporation proposing to do business in banking, trust, or insurance business, the articles of incorporation and the prescribed fees must be accompanied by an application for a licence in accordance with Part III.”

Amendment of
section 6 of Cap.
222.

4. Section 6 of the principal Act is amended by inserting after subsection (1) the following subsection:

“(1a) In respect of a proposed corporation not intending to carry on international banking, trust or insurance business, the articles of incorporation must state that the corporation will not carry on international banking, trust or insurance business.”

Amendment of
section 9 of Cap. 222.

5. Section 9 of the principal Act is repealed and the following section is substituted:

"9. (1) In the case of a corporation not proposing to do international banking, trust or insurance business on receipt of

- (a) the articles of incorporation; and
- (b) the prescribed fees,

the Director must issue a certificate of incorporation in accordance with section 327.

(2) In the case of a corporation proposing to do international banking, trust, or insurance business, on receipt of

- (a) the articles of incorporation;
- (b) the prescribed fees; and
- (c) the approval of the licence under section 317 from the Board,

the Director must issue a certificate of incorporation in accordance with section 327.

(3) The certificate issued under subsections (1) and (2) is conclusive proof of the incorporation of the corporation named in the certificate."

6. Section 61 of the principal Act is repealed and the following section is substituted: **Amendment of section 61 of Cap. 222.**

"61. A corporation must have at least one director, and in the case of banking, trust or insurance corporations, all directors must be natural persons, and at least one director must be a citizen and resident of **Antigua** and Barbuda."

7. Section 182 of the principal Act is amended by inserting after subsection (3) the following subsection: **Amendment of section 182 of Cap. 222.**

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"(4) In the case of a body corporate proposing to do business in banking, trust, or insurance, articles of continuance must be accompanied by an application for a licence for such business pursuant to ~~Part III~~."

Amendment of
section 183 of Cap.
222

8. Section 183 of the principal Act is amended by inserting after "section 182," the following:

"and in the case of a body corporate proposing to do business in banking, trust, or insurance, upon the issuance of a licence for such business under section 229,".

Amendment of
section 226 of Cap.
222.

9. Section 226 of the principal Act is amended by inserting after paragraph (b) the following paragraphs:

"(ba) "Board" means the Board of Directors of the Authority; and

"(bb) "Chairman" means the Chairman of the Board and includes the Deputy Chairman acting as the Chairman:".

Amendment of
section 227 of Cap.
222.

10. Section 227 of the principal Act is repealed and the following section is substituted:

"227. (1) No licence shall be required under this ~~Part~~ with respect to any international trade or business other than international banking, trust or insurance business.

(2) Any international banking, trust or insurance business shall be required to obtain a licence under this ~~Part~~ in order to carry on such business.

(3) A certificate of incorporation may not be issued to a corporation whose articles of incorporation do not provide that the corporation is restricted from carrying on any international banking, trust or insurance business unless the Board has granted approval for a licence under section 229.

(4) A corporation shall not carry on, within Antigua and Barbuda, any business activity that is not necessary or incidental to the international trade or business for which it is licenced under this Part.

(5) In this section "business activity" means any trade business, venture or concern for profit or gain.

(6) Nothing in this or any other Act shall prevent a corporation licensed to carry on an international banking, trust or insurance business from lending to the Government of Antigua and Barbuda."

11. Section 228 of the principal Act is repealed and the following section is substituted:

Amendment of section 228 of Cap. 222.

"228. A person who intends to incorporate or continue a corporation under this Act to carry on an international banking, trust or insurance business shall, **on behalf** of the intended corporation, submit **to the** Authority an application in the prescribed form, along with the articles of incorporation or articles of continuance, as the circumstances require, and the annual licence fee prescribed in the **regulations**, which fee shall be non-refundable."

12. Section 229 of the principal Act is repealed and the following section is substituted:

Amendment of section 229 of Cap. 222.

"229. The appropriate official upon the filing of an application for a licence with the Director in accordance with section 228, and after such investigation and inquiry as is required pursuant to **this Part and upon** approval of the Board, must issue such licence if he has no reason to believe that it would be contrary to the public interest to do so."

13. Section 230 of the principal Act is repealed and the following section substituted:

Amendment of section 230 of Cap. 222.

"Appeals.

230. If the Authority refuses to issue a licence to a corporation, that decision may be appealed within thirty days of the refusal to the Minister of Finance, whose decision thereon shall be final."

Amendment of
section 231 of Cap.
222.

14. Section 231 of the principal Act is amended as follows:

- (a) in subsection (1) by repealing '(1)'; and
- (b) by repealing subsection (2).

Amendment of
section 235 of Cap.
222.

15. Section 235 of the principal Act is amended as follows:

- (a) by repealing subsection (2) and substituting the following subsection:

"(2) It is also a condition of a licence issued under this ~~Part~~ that the licensee will not establish any subsidiary within or outside of Antigua and Barbuda without approval of the Authority."; and

- (5) by inserting **after** subsection (2) the following subsections:

"(3) It is also a **condition** of a licence issued under this ~~Part~~ that the licensee will not establish any branch outside of Antigua and Barbuda without approval of the Authority.

(4) It is also a condition of a licence issued under this ~~Part~~ that the licensee will not offer or provide any services on the Internet without approval of the Authority."

Amendment of
section 236 of Cap.
222.

16. Section 236 of the principal Act is amended in subsection (1) by repealing paragraph (c) and substituting the following paragraph:

- "(c) is convicted of an offence under this Act, or an offence under the Money Laundering (Prevention) Act or a prescribed offence listed in the Second

Schedule to the Money Laundering (Prevention) Act."

17. Section 238 of the principal Act is repealed and the following section is substituted: Amendment of section **238** of Cap. **222**.

"238. A **banking** corporation, that is to say, a corporation that is licensed to carry on an international banking business solely or together with any other international trade or business, shall, as a condition of that licence, comply with the minimal capitalization requirements and such other requirements as are prescribed in the regulations made under this Act."

18. Section 240 of the principal Act is amended by inserting after "corporation" the following: Amendment of section **240** of Cap. **222**.

"must operate in a lawful and prudent manner, and"

19. Section 242 of the principal Act is amended in subsection (1) as follows: Amendment of section **242** of Cap. **222**.

(a) in paragraph (a),

(i) by inserting after "return" the following:

"calculated in United States dollars"; and

(ii) by repealing "and" at the end of the paragraph; and

(b) by inserting after paragraph (a) the following paragraphs:

"(aa) **an annual audited return in the English language** and calculated in United States dollars, prepared by an auditor approved by the Board, and providing an analysis of customers' liabilities to the corporation in respect to loans, advances and other assets of the corporation, a profit and loss statement, a

balance sheet and the statement of assets and liabilities, which return shall be submitted not later than ninety days after the end of the year to which it relates;

- (ab) an annual certification attesting to the ownership, directors and officers of the institution; and.

**Amendment of
section 244 of Cap.
222.**

20. Section 244 of the principal Act is amended as follows:

- (a) in subsection (1) by repealing "in the performance or exercise of those duties or functions or pursuant to an order of a court of competent jurisdiction in Antigua and Barbuda" and substituting the following:

- "(a) in the performance or exercise of those duties or functions;
- (5) pursuant to a request by an examiner or inspector under this Act;
- (c) pursuant to a request by the Supervisory Authority under the Money Laundering (Prevention) Act; and
- (d) pursuant to an order of a court of competent jurisdiction in Antigua and Barbuda.";

- (5) by inserting after subsection (1) the following subsection:

"(1 a) It shall be unlawful for a person to disclose any information relating to the business affairs of a corporation or a customer of a corporation that he has acquired in the performance of his duties

- (a) as an employee of Government; or
- (5) as a Director, agent, employee of the Authority or person designated by the Authority to perform functions under this Act,

except in the performance or exercise of those functions in compliance with a requirement of this Act or any other statute, or pursuant to an order of a court of competent jurisdiction in Antigua and Barbuda.”;

- (c) in subsection (4) by repealing "Nothing in this Act impairs" and substituting the following:

"subject to the provisions of this Act it is"; and

- (d) in subsection (5) by inserting after "Act" the following:

"Money Laundering (Prevention) Act,".

21. Section 245 of the principal Act is repealed and the following section is substituted: Amendment of section 245 of Cap. 222.

"245. The annual audited returns provided under section 242 shall remain confidential, except that the balance sheets and profit and loss statements required in such returns shall be published in the *Gazette*, at the cost of the banking corporation."

22. Section 246 of the principal Act is repealed and the following section is substituted: Amendment of section 246 of Cap. 222.

"246. A trust corporation, that is to say, a corporation that is licensed to carry on an international trust business solely or together with any other international trade or business, shall, as a condition of that licence, comply with the minimal capitalization requirements and such other requirements as prescribed in the regulations issued under this Act."

23. Section 259 of the principal Act is repealed and the following section is substituted: Amendment of section 259 of Cap. 222.

"259. (1) The appropriate official or an examiner appointed by the Board shall examine the affairs of even bank, trust or insurance corporation at least once a year.

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(2) When the Board has reasonable grounds for believing that a bank, trust or insurance corporation is not in a sound financial condition, or is not operating in a reasonable and prudent manner, or is otherwise not operating in compliance with this Act, it shall immediately appoint one or more examiners from **within** or outside the Authority to examine the **affairs** of the corporation, and notify the corporation in writing of the examination, the purpose of the examination, the reasonable grounds for the examination and the names of the examiners appointed."

Amendment of
section 260 of Cap.
222.

24. Section **260** of the principal Act is repealed and the following section is **substituted**:

"**260. (1)** A corporation shall, at such time as the examiner fixes, produce for the examiner all books, minutes, cash, securities, vouchers, customer **identification**, customer account and transaction records, and all other documentation and records relating to its assets, liabilities, and business generally or to any bank, trust or insurance activity, and shall give the examiner such information concerning its affairs business and activities as the Examiner requests of it.

(2) An examiner may not copy or otherwise record information relative to the name or the account of any depositor or the name of any settler or beneficiary of a trust if the deposit agreement or instrument establishing account or trust, as the case may be, directs that it be kept secret.

(3) Notwithstanding subsection (2), if the examiner has reasonable suspicion that accounts or transactions could constitute or be related to money laundering, he shall immediately file a written report of the suspicious activity with the Supervisory Authority through the Director, **identifying** the account by name and number and reporting the basis of this suspicion.

(4) A **suspicious** activity report filed in accordance with subsection (3) shall be treated in the same manner and have the same legal effect as a suspicious activity report

filed by a financial institution under the Money Laundering (Prevention) Act, 1996.

(5) Where an examiner is not being granted access to all records, **documentation** and information he requires, the appropriate official or the Director may apply to the court for an order to produce the information necessary for a successful examination, and the court if satisfied that it is required in the public interest by the examiner for the proper **performance** of his duties under this Part shall grant the order.

(6) Failure of the corporation to comply with the order of the court shall be grounds for immediate revocation of its licence by the Board."

25. Section 261 of the principal Act is amended

**Amendment of
section 261 of Cap.
222.**

(a) in subsection (1), by repealing paragraph (b) and substituting the following:

"(b) the appropriate official may, in order to advise the corporation on the action to be taken by it to remedy the situation, appoint for that purpose a person, who, in the opinion of the appropriate official, has had training and experience in the same business that the corporation carries on.

(b) by inserting **after** subsection (1) the following subsections:

"(1a) If the corporation is **dissatisfied** with the report, recommendations, remedial measures or other results of any examination, it may appeal in writing to the Board within ten days of receiving written **notification** of such finding or action.

(1b) Upon receipt of an appeal filed in accordance with subsection (1a), all action relative to findings of the examination shall be suspended, and the Board shall render a decision on the appeal in writing within thirty days.

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(1c) If the corporation is dissatisfied with a decision rendered in accordance with subsection (1b), it may appeal in writing to the **Minister** of Finance within ten days of receiving written notification of that decision and the Minister shall render a decision on the appeal in writing within thirty days, and such decision shall be final." ; and

(c) in subsection (2), by repealing "appropriate official" and substituting

"**Authority**".

Amendment of
section 262 of Cap.
222.

26. Section 262 of the principal Act is repealed and the following section is substituted:

"262. **An** insurance corporation that is to say, a corporation that is licensed to carry on an international insurance business solely or together with any other international trade or business, shall, as a condition of that licence, comply with the minimal capitalization requirements and such other requirements as prescribed in the Regulations issued under this Act."

Amendment of
Division H of Cap.
222.

27. Division H of the principal Act is amended in the heading by repealing the following:

"**Annual**".

Amendment of
section 282 of Cap.
222.

28. Section 282 of the principal Act is repealed and the following section is substituted:

"Fees

282. The Minister of Finance shall make regulations prescribing the fees payable under this Act."

Amendment of
section 283 of Cap.
222.

29. Section 283 of the principal Act is repealed and the following section is substituted:

"Payment of fees.

283. All fees prescribed under this Act shall be paid at the times and in the manner prescribed by **this** Act and the Regulations."

30. Section 287 of the principal Act is amended in subsection (1) as follows: **Amendment of section 287 of Cap. 222.**

(a) by repealing paragraph (b) and substituting the following paragraph:

“(b) its business is not being conducted in accordance with the provisions of this Act, the Money Laundering (Prevention) Act 1996, any other statute, or the regulations made thereunder, or, in the case of an international banking, trust or insurance corporation, its business is being conducted in an imprudent manner.”,

(b) by repealing paragraph (c) and substituting the following paragraph:

“(c) the corporation refuses to submit to an examination or investigation of its records or operations as required by this Act, the Money Laundering (Prevention) Act 1996 any other statute or the regulations made thereunder;”: and

(c) in paragraph (d), by repealing “under this Act”.

31. The heading in PART V of the principal Act is repealed and the following heading is substituted: **Amendment of Part V of Cap. 222.**

"ADMINISTRATION AND GENERAL

DIVISION A: DUTIES AND POWERS OF THE AUTHORITY AND THE EXECUTIVE DIRECTOR"

32. Section 316 of the principal Act is repealed and the following section is substituted: **Amendment of section 316 of Cap. 222.**

"Establishment of the Authority. 316. (1) There is hereby established for the purposes of this Act the International Financial Sector Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal having the capacity to sue and be sued in its own name and the capacity to do **anything** and enter into any transaction which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

(3) The Authority shall be responsible for the administration of this Act, including but not limited to, issuing certificates of incorporation to international business corporations, regulating international business corporations, licensing and regulating international financial institutions, and fostering the development of Antigua and Barbuda's international business corporations sector

(4) The Authority shall, in performing any of its functions under this Act take such action as may be necessary and practicable to ensure the integrity and growth of the international business corporations sector.

(5) The Authority may enter into contracts with third parties at such remuneration and on such terms and conditions as it thinks fit, and such parties will be empowered to act with the authority vested in them through and in accordance with the terms of such contract.

(6) The Authority shall be managed by a Board of Directors, which shall consist of the following persons

- (a) a Chairman with at least ten years banking, trust insurance **and/or** related experience, appointed for a term of five years in the first instance under an engagement agreement by the Minister of Finance with the approval of the

Cabinet with compensation to be determined by the Minister of Finance, who shall be responsible for the administration of the Authority, including calling and presiding over meetings of the Board, and may only be removed by the Minister of Finance with the approval of the Cabinet in accordance with the terms of his engagement agreement;

- (b) a Deputy Chairman, with at least ten years banking, trust, insurance and/or related experience appointed for a term of five years in the first instance under an engagement agreement by the Minister of Finance with the approval of the Cabinet with compensation to be determined by the Minister of Finance, who shall act as chairman in the chairmans absence, whose compensation shall be determined by the Minister of Finance, and who may only be removed by the Minister of Finance with the approval of the Cabinet, in accordance with the terms of his engagement agreement; and
- (c) four other persons, each with at least seven years banking, trust, insurance and/or related experience, appointed for a term of five years each in the first instance under engagement agreements by the Minister of Finance with the approval of the Cabinet whose compensation shall be determined by the Minister of Finance, and who may only be removed by the Minister

of Finance with the approval of the Cabinet. in accordance with the terms of their engagement agreements.

(7) An Executive Director and Deputy Executive Director. each with at least seven years banking, trust, insurance and/or related experience, shall be appointed for a term of five years each in the first instance under engagement agreements by the Board with the approval of the Minister of Finance with compensations to be determined by the Board, and may be removed by the Board in accordance with the terms of their engagement agreements.

(8) The Board shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit, any such other officers, servants, and agents as it thinks necessary for the proper performance of its functions.

(9) In the absence or inability to act of any member of the Board other than the Chairman, the Minister of Finance may appoint any person to act temporarily in the place of that member.

(10) In the absence or inability to act of the Executive Director, the Deputy Executive Director will act in his place.

(11) The Chairman may at any time resign his office by instrument in writing addressed to the Minister of Finance, and such resignation shall take effect as from the date of receipt of such instrument by the Minister of Finance.

(12) Any member of the Board, other than the Chairman, may at any time resign his

office by instrument in writing addressed to the Minister of Finance and transmitted through the Chairman, which resignations shall become effective either forty-eight hours **after** receipt by the Chairman or immediately upon receipt by the Minister of Finance, whichever occurs first.

(13) All powers of the Authority, vested under this Act, either generally in the Authority, or specifically in the Executive Director or in an appropriate official, are also vested in the Board, which may exercise those powers directly through the Chairman in matters of urgency when deemed necessary by the Board for the proper administration of the Authority's functions.

(14) The proceedings of the meetings of the board shall be recorded in minutes maintained by a Secretary appointed by the Board.

(15) The procedures and meetings of the Board shall be conducted in accordance with the rules set out in the Schedule, which may be amended by regulation by the Minister of Finance with the approval of the Cabinet.

(16) Service on the Authority of any legal process and notices shall be effected by delivery at the principal office of the Executive Director.

(17) The Authority shall have a common seal which shall be affixed to all deeds documents and other instruments requiring the seal.

(18) Any document requiring the seal of the Authority shall be made in the presence of the Executive Director, who shall sign every

such document to **which** the seal is affixed and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Authority.

(19) The Minister of Finance may, after consultation with the Chairman, give to the Authority directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest.

(20) The Authority shall maintain accounts of its transactions to the satisfaction of the Minister of Finance and such accounts shall be audited annually by the Director of Audit or some other suitable person appointed by the Minister of Finance.

(21) The members, officers, employees and servants of the Authority shall grant to the person appointed under this section to audit its accounts, access to all books, documents, cash and securities of the Authority and shall give to such person upon request all such information as may be within their knowledge in relation to the operation of the Authority.

(22) The Authority shall present to the **Minister of Finance** **within** three months after the expiration of each calendar year a report

- (a) dealing generally with the activities of the Authority during its last financial year;
- (b) containing such information relating to the proceedings and policy of the authority as in its

opinion can be made public without detriment to the public interest; and

- (c) including a statement of its account audited in accordance with **this** section.

(23) A person who is a member of the Board shall cease to hold office on:

- (a) notification by the Board of a finding by two-thirds of its **members** or his permanent incapacity or serious neglect of, or misconduct in, office if approved by the Minister of Finance; or
- (b) his being declared bankrupt or compounding with, or suspending payment to, his creditors; or
- (c) his conviction in a court of competent jurisdiction of any offence involving fraud or dishonesty; or
- (d) his being sentenced for an offence involving a term of **imprisonment** of or exceeding six months."

33. Section 317 of the principal Act is repealed and the following section is substituted:

**Amendment of
section 317 of Cap.
222.**

**"Approval of the
Board.**

317. (1) Notwithstanding any other provision of this Act, no licence may be issued or revoked without the approval of the Board.

(2) The fees prescribed under the regulations shall **only** be increased effective

1st January of any year and notice of the increase must be published in the *Gazette* on or before 30th June of the preceding year.

(3) Where any fee remains unpaid **after** ten working days following the date due, the licensee shall be assessed interest on a day to day basis on all amounts in arrears at the rate of two percent above the Eastern Caribbean Central Bank lending rate.

(4) Any licensee who defaults in the payment of any fee imposed by the Authority, shall be deemed to be in breach of a condition of his licence and the Board may revoke such licence.

(5) Any licence revoked under **this** section shall not be restored by the Board until all arrears of fees and interest are settled in full.

(6) All revenues of the Authority including the proceeds of the Money Laundering (Prevention) Act Forfeiture Fund attributable to activities of, in, or by international financial institutions **shall be** allocated in the following manner:

- (a) twenty-five percent of the gross revenues being deposited in the Consolidated Fund;
- (b) upon satisfaction of paragraph (a), for payment of expenses of the Authority in performing its duties under this Act the Money Laundering (Prevention) Act, 1996 and any other statute;
- (c) upon satisfaction of paragraph (b), for the establishment and maintenance of an operational

reserve fund equivalent to one year's total operating expenses of the Authority, such fund to be created over a four year period with an amount equal to **twenty-five** percent of the total operating expenses of the Authority being deposited in the fund each year

- (d) upon satisfaction of paragraph (c), for the establishment and maintenance of any other reserve fund for such purposes and in such amounts as the Minister of Finance may approve; and
- (e) upon satisfaction of paragraph (d), the payment of the balance into the Consolidated Fund."

30. Section 335 of the principal Act is amended as follows: **Amendment of section 335 of Cap. 222.**

- (a) by repealing subsection (5) and substituting the following subsection:

"(5) When a corporation is struck off the **register**, all licences issued to that corporation to engage in international banking, trust or insurance business are simultaneously rendered null and void."; and

- (b) by inserting after subsection (5) the following subsection:

"(6) When a corporation is struck off the register and the cause of such striking has been cured. the Board may, upon receipt of an application in the prescribed form and upon payment of any fees and penalties due, restore it to the register and reinstate any licences previously issued to the corporation to engage in international banking, trust or insurance business, under such conditions as it determines appropriate."

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Amendment of
section 347 of Cap.
222.

35. Section 347 of the principal Act is amended by inserting after "any" in the first place it occurs the following:

"criminal".

Amendment of
section 351 of Cap.
222.

36. Section 351 of the principal Act is repealed and the following section is substituted:

"351. (1) The Authority shall recommend to the Minister of Finance such regulations as are required for the better administration of this Act.

(2) Without limiting the generality of the foregoing, in response to or independent of any recommendation of the Authority, the Minister of Finance may make regulations

- (a) prescribing any matter required or authorized by this Act to be prescribed;
- (b) requiring the payment of a fee in respect of the filing, examination or copying of documents or in respect of any action the Authority is required or authorized to take under this Act, and prescribing the amount thereof;
- (c) prescribing the format and contents of returns, notices or other documents required by the Authority;
- (d) prescribing the contents, format and retention of records, documents and information relating to accounts and transactions of corporations governed by this Act;
- (e) prescribing the contents, **format** and retention of records, documents and information relating to the ownership, management and operation of corporations governed by this Act;

- (f) respecting examinations and investigations authorised by this Act;
- (g) prescribing the rules with respect to exemptions permitted by this Act;
- (h) respecting the names of corporations or classes thereof;
- (i) respecting the capitalization of corporations;
- (j) respecting the preferences, rights, conditions, restrictions, limitations or **prohibitions attaching** to shares or classes or series of share of corporations;
- (k) respecting the designation of classes of shares; and
- (l) respecting any other matter required for the efficient administration of **this** Act.

(3) The court may make such regulations and rules of court as it considers **necessary** for the better administration of Part IV.

(4) Where regulations are required to be made for prescribed fees and in respect of the minimum capitalization requirements of corporations pursuant to sections **238, 246** and **262**, they shall be subject to negative resolution of the House."

37. Section **354**, of the principal Act is amended as follows: Amendment of section 354 of Cap. 222.

(a) in subsection (1) by inserting after paragraph (d) the following paragraph:

"(da) who operates a bank, trust or insurance business without a licence **issued in** accordance with the Act, or ceases to immediately terminate such business in accordance with

the Act upon the revocation of such licence under the Act."; and

(b) in subsection (3)

(i) by repealing "244 or 254" and substituting the following:

"244, 254 or 260 (2)"; and

(ii) by repealing "of fifty thousand dollars or to imprisonment for a term of one year or to both." and substituting the following:

"of one hundred thousand dollars or to imprisonment for a term of three years or both.".

Amendment of section 360 of Cap. 222. **38.** Section 360 of the principal Act is repealed and the following section is substituted;

"360. (1) The Authority shall establish an **office** under the direction and control of the Director to be known as the **Supervisor** of International Banks and Trust Corporations, with such powers and duties as are conferred or imposed upon that **office** by this Act or any other statute, or delegated to it by the Authority.

(2) The Authority shall establish an office under the direction and control of the Director to be known as the Superintendent of International Insurance Corporations, with such powers and duties as are conferred or imposed upon that office by this Act or any other statute, or delegated to it by the Authority.

(3) Only a person determined by the Board to be knowledgeable in the international banking and trust business may be appointed to the office of Supervisor of International Banks and Trust Corporations; and only a person deemed by the Board to be knowledgeable in the international insurance business may be appointed to the

office of Superintendent of International Insurance Corporations.

(4) Appointments to the offices established by this section are to be made by the Board with the approval of the Minister of Finance and may be revoked by the Board.

(5) When no office within the Authority is designated the appropriate official, or the office of the appropriate official is vacant, or the appropriate official is absent or otherwise unable to perform his duties, the Director shall act as the appropriate **official**. or appoint some other person to act in that capacity."

39. Section **361** of the principal Act is amended as follows: **Amendment of section 361 of Cap. 222.**

- (a) in subsection **(1)**, by repealing "**Minister of Finance**" and substituting "**Board**";
- (b) in subsection **(2)**, by repealing "**Minister of Finance**" and substituting "**Board**"; and
- (c) in subsection **(3)**, by repealing "the functions of that office".

40. Section **371**, of the principal Act is amended in subsection (2) by inserting after paragraph (a) the following paragraph: **Amendment of section 371 of Cap. 222.**

"(aa) to prevent the international financial, trade and business centre from being utilized for money laundering or other **activities** illicit under the laws of Antigua and Barbuda:".

41. The principal Act is amended by inserting **after** section **372** the following sections: **Insertion of section 373 & 374 of Cap. 222.**

"Cooperation with regulatory authorities.

373. Nothing in this Act shall prevent the Authority from disclosing information concerning the ownership, management and

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operation of a licensed institution to enable or assist a foreign regulatory authority to exercise its regulatory functions, except that no customer information may be disclosed without an order from a court of competent jurisdiction.

Transfer of funds and appointment of Executive Director.

374. (1) All assets and liabilities of the International Business Corporation Department (in this section referred to as the "Department") shall become assets and liabilities of the Authority.

(2) The Director of the Department shall be appointed as the Executive Director of the Authority.

Amendment of Schedule II to Cap. 222.

42. Schedule II to the principal Act is repealed and the following Schedule is substituted:

"SCHEDULE II

[Section 316 (15)]

1. The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman may determine, but not less than twelve meetings of the Board shall be held in each calendar year.

2. **Minutes** in proper **form** of each meeting **of the** Board shall be kept and a copy shall be sent to the Minister of Finance within sixty days of the meeting.

3. The Chairman may at any time call a special meeting of the Board and shall cause a special meeting to be held within seven days from the receipt of a written request for that purpose addressed to him by any three members of the Board.

4. The Chairman, or in his absence the Deputy Chairman, shall preside at the meetings of the Board.

5. Members of the Board, including the Chairman and Deputy Chairman, may attend meetings of the Board by conference telephone call.

6. The quorum of the Board shall be four members of whom one shall be the Chairman or the Deputy Chairman.

7. The decisions of the Board shall be by a majority of votes, and in addition to an original vote, the Chairman, or Deputy Chairman **if the Chairman is absent**, shall have a casting vote if the voting is otherwise equal.

8. All decisions of the Board shall be signed by the Chairman, or in his absence the Deputy Chairman.

9. The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

10. The Board **may** by a vote of a majority of all the members thereof delegate to the Chairman or a committee appointed by the Board such of the functions of the Board so as to enable it effectively to transact such day to day business of the Board as it may decide; but **nothing** in this paragraph shall authorize the Board to delegate to any person functions to do any act involving an extraordinary expenditure

11. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith, in the course of the business of the Board.

12. Where any member of the Board is exempt from liability by reason only of the provisions of the preceding paragraph the Authority shall be liable to the extent that it would be if the member was a servant or agent of the Authority.

13. There shall be paid from the funds of the Authority to the Chairman and other members of the Board such remuneration whether by way of honorarium or fees and such allowances as the Minister of Finance **may** determine.

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14. The office of member of the Board shall not be a public office for the purposes of Chapter VII of the Constitution of Antigua and Barbuda.

15. Subject to the provisions of this Schedule, the Board may regulate its own proceedings."

Passed the House of Representatives this
5th day of October, 1998.

Passed the Senate this 15th day of
October, 1998.

B. Harris,
Speaker.

M. Percival,
President.

G. Nicholas,
*Deputy Clerk to the House of
Representatives.*

G. Nicholas,
Deputy Clerk to the Senate.

Printed at the Government Printing Office, Antigua and Barbuda,
by Donovan Southwell, Acting Government Printer,
— By Authority, 1998.