

Board under subsection (1), the bank shall dispose of such excess shares within two years or such longer period as may be determined by the Monetary Board, of the date of such acquisition;

- (d) Any acquisition or holding of shares in any company which in the opinion of the Monetary Board is established for the advancement and promotion of human resources development and technological development in the banking and financial sectors;
- (e) Investments authorized by the Monetary Board.

(3) For the purpose of this section “listed public company” means any public company which has its securities listed or quoted in a stock exchange licensed under the Securities and Exchange Commission Act, No. 37 of 1987.

PART III

CAPITAL REQUIREMENTS, RESERVE FUNDS AND MAINTENANCE OF LIQUID ASSETS

Compliance With provisions of this Part essential.

18. Notwithstanding anything contained in any other written law, no licensed commercial bank shall on or after the appointed date, commence or carry on business in Sri Lanka unless it complies with all the requirements specified in this Part.

19. (1) Subject to the provisions of subsection (3), every licensed commercial bank—

- (a) which has been issued with a license prior to the date of commencement of this section, shall at all times maintain an equity capital in an amount not less than twenty-five million rupees;
- (b) which has been issued with a license after the date of commencement of this subsection, shall at all times maintain an equity capital in an amount not less than one hundred million rupees or such other amount as the Monetary Board may, having regard to the viability and stability of the banking system and the interest of the national economy and with the concurrence of the Minister, determine from time to time.

(2) “equity capital” shall mean—

- (a) paid up capital if it is a licensed commercial bank incorporated or established in Sri Lanka by or under any written law .
- (b) the amount assigned to such bank by the head office, if it is a licensed commercial bank incorporated or established outside Sri Lanka.

(3) (a) The Monetary Board may, vary from time to time the amounts specified as the minimum amounts required to be maintained by a licensed commercial bank as equity capital under subsection (1) of this section, having regard to –

(i) the deposit liabilities or to the total liabilities including contingent liabilities or to the total assets or to any specified category of assets, of a licensed commercial bank; or

(ii) the viability and stability of the banking system and the interest of the national economy.

(b) For the purpose of computing the minimum required equity capital, when such amount is prescribed in reference to liabilities or assets, both capital and liabilities or assets shall be of such kind and computed in such manner as the Monetary Board may from time to time determine having regard to the interest of national economy.

(c) The Monetary Board shall, in writing communicate to all licensed commercial banks any variation made by it in respect of the equity capital required to be maintained by a licensed commercial bank.

(d) Where any licensed commercial bank is required by such variation to augment its equity capital, it shall upon application to the Monetary Board, be afforded a period of twelve months, or such longer period as may be granted by the Monetary Board, in which to comply with that requirement.

(4) In the case of a licensed commercial bank incorporated or established in Sri Lanka by or under any written law, the limit of foreign participation in the capital of such bank, shall at no time exceed the limit, established from time to time, by the Monetary Board.

(5) A licensed commercial bank shall not reduce its equity capital without the prior written approval of the Monetary Board

(6) A licensed commercial bank shall not create any charge upon any unpaid capital of such bank and any such charge created in contravention of these provisions shall be null and void.

(7) (a) Every licensed commercial bank shall at all times maintain a capital adequacy ratio as may be determined by the Monetary Board, which shall in determining such ratio to be maintained, as far as practicable adopt the guidelines for capital adequacy set out by the Bank for international settlements in Basle.

(b) Any variation in the capital adequacy ratio referred to in paragraph (a) shall be communicated to every licensed commercial bank by the Monetary Board in writing, provided that every licensed

commercial bank which is required by such variation to augment its capital, shall be afforded a period of twelve months or such longer period as may be granted by the Monetary Board, in which to comply with such requirement.

[§ 4 and 5, 33 of 1995]

(8) Where the equity capital or capital funds of a licensed commercial bank have become deficient in terms of the provisions of the preceding subsections, the Monetary Board may, grant a reasonable period of time for the rectification of such deficiency.

Reserve Fund

20. (1) Every licensed commercial bank shall maintain a reserve fund and shall, out of the net profits after the payment of tax of each year, before any dividend is declared or any profits are transferred to the head office or elsewhere, transfer to such reserve fund—

- (a) a sum equivalent to not less than five *per centum* of such profits until the amount of the said reserve fund is equal to fifty *per centum* of the paid up or assigned capital or of such bank, as the case may be; and
- (b) a further sum equivalent to not less than two *per centum* of such profits until the amount of the said reserve fund is equal to the paid up or assigned capital of such bank as the case may be:

Provided, however, that an amount not less than twenty-five *per centum* of the net profits shall be utilized for setting off such intangible assets as may be determined by the Monetary Board, before such profits are transferred to the reserve fund.

(2) The reserve fund of any licensed commercial bank shall not be reduced nor impaired:

Provided, however, that the Monetary Board may, specify circumstances in which the reserve fund may be reduced, and shall permit a reduction when a transfer is made for the purpose of increasing the paid up or assigned capital, as the case may be. The Monetary Board shall permit an impairment of the reserve fund when it is the only means of preventing an impairment of paid-up or assigned capital, as the case may be, subject to the condition that within a given period of time, the deficiency shall be rectified.

Liquid assets
[§11,2 of 2005]

21. (1) Every licensed commercial bank shall maintain liquid assets in such percentage as may from time to time be determined by the Monetary Board having regard to the nature of the business carried on by such bank, which shall not in a daily average each months, be less than such percentage of the total of its liabilities, less its liabilities to the Central Bank and to the share holders, to the holders of non-redeemable debt instruments and its liabilities on repurchase agreements in relation to treasury bills or securities issued or guaranteed by the Government of Sri Lanka or on such other assets as determined by the Monetary Board.

Provided, however, the percentage determined by the Monetary Board shall not be less than twenty *per centum* and not more than forty *per centum* of the total of its liabilities, less its liabilities to the Central Bank and to the shareholders

(2) The Director of Bank Supervision may, by notice in writing, require every licensed commercial bank to furnish to him such return or returns as he may deem necessary for the purposes of satisfying himself that the provisions of subsection (1) have been complied with, and every licensed commercial bank so noticed, shall furnish such return or returns as may be required.

(3) Any licensed commercial bank which fails to comply with the provisions of subsection (1) shall, within such time as may be determined by the Monetary Board, pay to the Central Bank a charge on the amount of the deficiency calculated at such rate as may be determined by the Monetary Board.

(4) Any licensed commercial bank which fails to comply with the provisions of subsection (3) shall be guilty of an offence under this Act.

Payment of dividends **22.** No licensed commercial bank incorporated or established within Sri Lanka by or under any written law shall pay any dividend on its shares and no licensed commercial bank incorporated outside Sri Lanka shall transfer abroad any profits earned in Sri Lanka until all its capitalized expenses, including its preliminary expenses in other items of expenditure not represented by tangible assets, have been completely written off.

PART IV OFF-SHORE BANKING BUSINESS

License to engage in off shore banking business
[§ 12, 2 of 2005.] **23.** Unless authorized under section 76D, no off-shore banking business shall be carried on except by a commercial bank licensed to carry on off-shore banking and such bank shall carry on its business in accordance with such off-shore banking scheme formulated by the Monetary Board:

Provided that the banks specified in Schedule I, which on the appointed date are carrying on off-shore banking business under the “Foreign Currency Banking Scheme” established by the Monetary Board shall be issued a licence in terms of section 5 enabling such banks to carry on off-shore banking business under this Part.

Parts III, V and VI not to apply to off-shore banking in certain circumstances.
[§ 15, 33 of 1995.] **24.** (1) All off-shore operation of a licensed commercial bank under this Part, shall be carried on by its off-shore unit, and subject to the provisions of subsection (2), Parts III, V and VI of this Act, shall not apply in respect of such off-shore banking business.

(2) The Monetary Board may by notice published in the Gazette declare, that all or any of the provisions contained in Parts III, V and VI of this Act shall apply in respect of all off-shore banking business of a licensed commercial bank in general or in respect of its off-shore banking business with residents only.