

41. Section 76M of the principal enactment is hereby amended as follows:-

Amendment of
section 76M of
the principal
enactment

(1) in paragraph (b) of subsection (3) thereof, -

5 (a) by the repeal of subparagraph (i), and the substitution therefor of the following:-

“(i) where the bank is incorporated or established within Sri Lanka by or under any written law, proceedings for the winding up of the bank shall commence under the provisions of any written law for the time being in force, which specifically provides for the winding up of the licensed commercial banks and licensed specialised banks in Sri Lanka.”;

(b) by the repeal of subparagraph (ii) thereof, and the substitution therefor of the following:-

“(ii) where the bank is incorporated outside Sri Lanka, the business of such bank authorized under the licence issued under section 76A shall be closed down and its affairs shall be wound up under the provisions of any written law for the time being in force, which specifically provides for the winding up of the licensed commercial banks and licensed specialised banks in Sri Lanka.”; and

(2) by the repeal of subsections (3A), (3B), (3C), (3D), (3E), (3F) and (3G) thereof.

Amendment of
section 79 of the
principal
enactment

42. Section 79 of the principal enactment is hereby amended in subsection (1), by the substitution for the words and figures “subsection (3) of section 33, subsection (3) of section 41” of the words and figures “subsection (3) of section 41”.

Insertion of new
section 79B in
the principal
enactment

43. The following new section is hereby inserted immediately after section 79A of the principal enactment and shall have effect as section 79B of that enactment:-

“Central
Bank to
impose
administrative
fine

79B. (1) Without prejudice to any of the provisions of this Act or any other written law for the time being in force, it shall be lawful for the Central Bank, after affording an opportunity of being heard, to impose an administrative fine on any person who contravenes the provisions of subsections (1c), (3) and (4) of section 12, section 19, section 21, subsection (1) of section 38 or paragraph (c) of subsection (1) of section 46 of this Act.

(2) The Central Bank shall, in determining to impose an administrative fine, take into consideration-

- (a) the gravity of such contravention;
- (b) whether there is any recurrence of such contravention;
- (c) whether any loss or damage is caused to the depositors or any other person consequent of such contravention;
- (d) whether the person against whom a fine is to be imposed is unduly benefitted from such contravention;
- (e) the financial resources of such person;

(f) any mitigating factors; and

(g) such other matters as it considers to be relevant.

(3) The Central Bank shall determine the procedure and manner for imposing an administrative fine on a person under subsection (1) and the amount of such fine, in proportion to the contravention so committed.”.

44. Section 83A of the principal enactment is hereby amended by the substitution for the words “and such bank” of the words “licensed specialised bank and such bank”.

Amendment of section 83A of the principal enactment

45. The following new sections are hereby inserted immediately after section 83C of the principal enactment and shall have effect as sections 83D and 83E of that enactment:-

Insertion of new sections 83D and 83E in the principal enactment

“Delegation of its powers, duties and functions by the Central Bank

83D. The Central Bank may, if it considers necessary, delegate any of its powers, duties and functions under this Act to the Governor, Deputy Governor, Assistant Governor, Director of Bank Supervision or any other officer of the Central Bank who shall not be below the rank of a Head of the Department, or any committee consisting of such officers of the Central Bank, as the case may be, to carry on any such powers, duties and functions under this Act.

Central
Bank to
inform any
person to
furnish any
information
& c.

83E. (1) The Central Bank may, by notice in writing, inform any person other than a licensed commercial bank, a licensed specialised bank, a director, Chief Executive Officer or an officer performing executive functions of such bank, to furnish, within such period as specified in the notice, any information or produce any document as specified in such notice and as the Central Bank may consider necessary for the exercise, performance and discharge of the powers, duties and functions under this Act.

(2) Notwithstanding anything to the contrary in any other written law, it shall be the duty of any person who receives a notice under subsection (1) to comply with the requirements of such notice within the period specified therein.”.

Amendment of
section 86 of the
principal
enactment

46. Section 86 of the principal enactment is hereby amended as follows:-

- (1) by the insertion immediately after the definition of the expression “accommodation”, of the following:-

““Auditor General” means the Auditor General appointed under Article 153 of the Constitution;”;

- (2) by the insertion immediately after the definition of the expression “banking business”, of the following:-

““beneficial owner” means a natural person who ultimately owns or controls ten *per centum* or more of a company, in whole or in part,

through direct or indirect ownership or control of shares or voting rights or other ownership interest in that company, and also includes a natural person who exercises effective control through other means, and beneficial ownership is to be construed accordingly;

“Board of Directors of a branch of a licensed commercial bank incorporated outside Sri Lanka” means the Head Office or Regional Office of such licensed commercial bank that supervises the respective branch or a management committee for which powers on overseeing the management have been delegated by such Head Office or the Regional Office, as the case may be, to act as the Board of Directors of such branch;”;

- (3) by the insertion immediately after the definition “concern” of the following:-

““control relationship” means the ability of one borrower of a licensed commercial bank to influence over the activities of other borrowers of such bank;”;

- (4) by the repeal of the definition of the expression “Director of Bank Supervision” and the substitution therefor of the following:-

““Director of Bank Supervision” means an employee of the Central Bank who is the head of the department of the Central Bank which is entrusted with the regulation and supervision of the licensed commercial banks and licensed specialised banks in Sri Lanka;”;

- (5) by the repeal of the definition of the expression “domestic banking business”, and the substitution therefor of the following:-

““economic interdependence” means the dependence of one borrower of a licensed commercial bank on a business of any other borrower of such bank where it is likely that the financial difficulties of the latter may impair the repayment capacity of the first mentioned borrower;

“engagement partner” means the partner or other person in the audit firm who is responsible for the audit engagement and its performance, and for the auditor’s report that is issued on behalf of the audit firm, and who, where required, has the appropriate authority from a professional, legal or regulatory body;

“exposures” means accommodation and all financial investments;”;

- (6) by the insertion immediately after the definition of the expression “head office of a commercial bank” of the following:-

““international standards” means the standards that comprise of principles, guidelines, processes, or characteristics, that have been developed through the consensus of experts from many countries and published by a globally recognized institution including the Basel Committee on Banking Supervision, the Financial Stability Board and such other similar standard setting institution;”;