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The Bank Companies Act, 1991

Act NO. 14 of 1991

An Act made to make provisions for banking companies

Whereas it is expedient to make provisions for banking companies therefore the following Act is hereby passed:

Chapter I Preliminary

1. Short title.- (1) This Act may be called the Banking Companies Act, 1991.
(2) It shall be deemed to have come into force on 14th February 1991.

2. Application of other Acts.- The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Companies Act, 1913 (VII of 1913), and any other Act for the time being in force.

3. Limited application of this Act to co-operative banks and other financial institutions. Nothing in this Act shall apply to a co-operative bank or any other financial institution registered under the Co-operative Societies Ordinance, 1985 (I of 1985) or any other Act for the time being in force relating to co-operative banks:

Provided that the Bangladesh Bank may carry out inspections of and issue directions to co-operative banks as prescribed for banking companies under section 44 and 45 of this Act.

4. Power to suspend operation of this Act.- (1) The Government if, on a representation made by the Bangladesh Bank in this behalf it is satisfied that it is expedient so to do, may by notification in the official Gazette suspend for at most 60 days the operation of all or any of the provisions of this Act in relation to any specified banking company.
(2) The Government may, by notification in the official Gazette, extend from time to time, the



ST RELIANCE ASSOCIATES “STRA”

Corporate office:

H & S Building (5th Floor), 91 Bir Uttam C.R. Datta Road

(Old: Sonargaon Road), Kathalbagan, Dhaka.

Mobile : 01717-859464; 01818-901402;

Telephone: 9632492

E- Mail : saidul.stra@gmail.com

info@stra-global.com

Website: stra-global.com

facebook.com/straglobal

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period of any suspension under sub-section (1) for such period or periods, not exceeding 60 days at one time, as it thinks fit, so however that the total period does not exceed one year.



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(3) Notifications issued under this section shall be submitted to the national parliament as follows:

- a) if it is in session, within 10 days of the issue of the notification, and
- b) if it is not in session, within 10 days of the beginning of the session following the issue of the notification.

5. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

- a) "approved securities" means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of Section 20 of the Trust Act, 1881 (II of 1882) and for the purpose of section 13 (3) includes such securities as the Government may, by notification in the official Gazette, declare to be approved securities for the purpose of this section.
- b) "company" means any company which may be wound up under the Companies Act;
- c) "Companies Act" means Companies Act; 1913 (VII of 1913);
- d) "demand liabilities" means liabilities which must be met on demand;
- e) "secured loan or advance" means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance, and "unsecured loan or advance" means a loan or advance not so secured, or that part of it which is not so secured;
- f) "scheduled bank" has the same meaning as in the Bangladesh Bank Order (P.O. NO. 127 of 1972) Article 2 (j);
- g) "debtor" means-
 - 1) any person, company or organization accepting deposits of money on the basis of shared win and loss, or
 - 2) any person, company or organisation taking advantage of financial opportunities on the basis of shared win and loss, purchase or lease on rent, or in any other way;
- h) "new bank" means any bank denominated in the Bangladesh Banks (Nationalization) Order, 1972 (P.O. No. 26 of 1972);
- i) "creditor" means-
 - 1) any person, company or organization accepting deposits of money on the basis of shared win and loss, or
 - 2) any company or financial organization granting financial opportunities on the basis of shared win and loss, purchase or lease on rent, or in any other way;
- j) "private company" has the same meaning as in the Companies Act;
- k) "Bangladesh Bank" means Bangladesh Bank established under the Bangladesh Bank Order, 1972 (P.O. No. 127 of 1972);
- l) "rule" means a rule made under this Act;
- m) "special bank" means any bank established or formed by or under any Act in force for the time being and includes such banks as the Government may, by notification in the official Gazette, declare special banks for the purpose of this Act;
- n) "managing director" means-

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- 1) in relation to a new bank, a managing director as defined in the Bangladesh Bank (Nationalisation) Order, 1972 (P.O. No. of 1972);
 - 2) in relation to a special bank, a managing director as defined in the Act or the documents having the force of an Act, under which the said bank has been established or formed;
 - 3) in relation to any other banking company, a director who, by virtue of an agreement with the banking company or of a resolution passed by the banking company in general meeting or by its Board of Directors or by virtue of its memorandum or articles of association, is entrusted with the management of the banking company, and includes a director occupying the position of a managing director, by whatever name called;
- o) "banking company" means any company transacting the business of banking in Bangladesh, and includes all new banks and special banks;

Explanation.- Any company which is mainly engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause.

- p) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;
- qu) "temporary liability" means any liability other than demand liability;
- r) "gold" means gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;
- s) "register" shall have the same meaning as in the Companies Act.

6. Act to override articles, memorandum, etc. . - Save as otherwise expressly provided in this Act,-

- a) except new banks and special banks, the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of Directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of this Act, and
- b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, be void.

Chapter II

Business of Banking Companies

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7. Business of Banking Companies.- (1) In addition to the business of banking, a banking company may engage in all or any of the following forms of business, namely:-

- a) the borrowing, raising or taking up of money;
- b) the lending or advancing of money either upon or without security;
- c) the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hoondees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, participation term certificates, term finance certificates, musharika certificates, modareka certificates, such other instruments as may be approved by the Bangladesh Bank, and such other instruments and securities whether transferable or negotiable or not;
- d) the granting and issuing of letters of credit, traveller's checks, and circular notes;
- e) the buying, selling and dealing in gold and silver coins and coins of other metals;
- f) the buying and selling of foreign exchange including foreign bank notes;
- g) the acquiring, holding, issuing on commission, underwriting and dealing in stocks, funds, shares, debenture stock, obligations, participation term certificates, term finance certificates, musharika certificates, modareka certificates and such other instruments and investments of any kind as may be approved by the Bangladesh Bank;
- h) the purchasing and selling of bonds, scrips or other forms of securities, participation term certificates, term finance certificates, musharika certificates, modareka certificates and, on behalf of the constituents of the Bangladesh Bank or others, such other instruments as may be approved by the Bangladesh Bank;
- i) the negotiating of loans and advances;
- j) the receiving of all kinds of bonds or other valuables on deposit or for safe custody or otherwise;
- k) providing vaults for the safety of the deposits;
- l) the collecting and transmitting of money against securities;
- m) acting as agents for the Government, local authorities or any other person;
- n) the carrying on of agency business of any description including the clearing and forwarding of goods and acting as a law agent on behalf of customers, but excluding the business of a managing agent or treasurer of a company;
- o) contracting for public and private loans and negotiating and issuing the same;
- p) the effecting, insuring and underwriting of shares, stocks, debentures, debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

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- qu) the carrying on and transacting of every kind of guarantee and indemnity business;
- r) the buying and acquiring of any kind of property including merchandise, patents, designs, trademarks and copyrights, in addition to, at the normal business period of a bank, such or similar transactions as-
- 1) repurchase by the seller, or
 - 2) selling in the way called purchase on rent, or
 - 3) repayment of outstanding rates, or
 - 4) leases, or
 - 5) sharing out of revenues, or
 - 6) financing in any other way;
- s) bringing into possession any property which may satisfy or partly satisfy any of the claims of the banking company and the managing and borrowing of such property;
- t) acquiring, holding and managing of any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;
- u) undertaking and executing trusts;
- v) undertaking the administration of movable and immovable property as executor, trustee or otherwise;
- w) for the benefit of employees or ex-employees of the banking company or the dependants and connections of such persons-
- 1) establishing and supporting, or aiding in the establishment and support of associations, institutions, funds, trusts or any other establishment;
 - 2) granting pensions and allowances;
 - 3) making payments toward insurance;
 - 4) subscribing to any exhibition or any object generally useful;
 - 5) guaranteeing money for all these purposes.
- x) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purpose of the banking company;
- y) selling, improving, managing, exchanging, leasing, mortgaging or otherwise transferring or turning into account or otherwise disposing of all or any part of the property or rights of the banking company;
- z) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this subsection;
- aa) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;
- ab) any other form of business which the Government may, by notification in the official Gazette, specify as a form of business in which it is lawful for a banking company to engage.
- (2) No banking company shall engage in any form of business other than those referred to in subsection (1).

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8. Use of the Word "Bank" or any of its derivatives.- Every company carrying on the business of banking in Bangladesh shall use the word "bank" or any of its derivatives as part of its name and no company other than a banking company shall use in its name any word calculated to indicate that it is a banking company:

Provided that nothing in this section shall apply to -

- a) any subsidiary company of a banking company formed for one or more of the purposes mentioned in subsection (1) of section 26;
- b) any association of banks formed for the protection of their mutual interest and registered under section 26 of the Company Act.

Provided further that the Government may, by notification in the official Gazette, and subject to the conditions determined therein, grant the right to use the word "bank" or any of its derivatives as part of its name to any company completely or partly owned or controlled by the Bangladesh Bank, including non-banking companies.

9. Prohibition of certain forms of trading.- No banking company shall directly or indirectly deal in the buying, selling or bartering of goods, except in connection with the realisation of security given to or held by it, or or engage in any trade or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is approved under section 7.

Explanation.- For the purpose of this section, "goods" means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and species, and all instruments referred to in clause (c), (d), (g), (h) of subsection (1) of section 7.

10. Disposal of non-banking assets.- (1) Notwithstanding anything contained in section 7, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding 7 years from the acquisition thereof or from the commencement of this Act, whichever is later.

(2) Notwithstanding anything contained in subsection (1), the Bangladesh Bank may extend the period mentioned in subsection (1) by a period not exceeding 5 years where it is satisfied that such extension would be in the interest of the depositors of the banking company.

(3) For the purpose of this section, property a substantial portion of which is used by a banking company for its own genuine requirements shall be deemed to be property for its own use.

11. Prohibition of employment of managing agents and restrictions on certain forms of employment.- (1) No banking company-

- a) shall employ or be managed by a managing agent; or
- b) shall employ or continue the employment of any person-
 - i) who is, or at any time has been, adjudicated insolvent, or has suspended payment, or has compounded with his creditors, or who has been convicted by a criminal court of an offence

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involving moral turpitude;

ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profit of the company:

Provided that nothing contained in subclause (ii) shall apply to the following commissions and bonuses given by a banking company, namely-

a) any bonus given in pursuance of a settlement or award arrived at

