ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER E5

EASTERN CARIBBEAN CENTRAL BANK AGREEMENT ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—

L.S.I. 1/2013, in force 19 September 2013
Act 8/2013, in force 31 October 2013
R.A. 14/2016, in force 22 April, 2016
R.A. 31/2021, in force 16 April, 2021
Act 14/2021, in force 27 May, 2021

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EASTERN CARIBBEAN CENTRAL BANK AGREEMENT ACT

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SCHEDULE: Agreement Establishing the Eastern Caribbean Central Bank

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EASTERN CARIBBEAN CENTRAL BANK AGREEMENT ACT

Definitions

1. In this Act—

"Agreement" means the Agreement establishing the Eastern Caribbean Central Bank made on the 5th day of July, 1983, the text of which is set out in the Schedule to this Act;

"Article" means an Article in the Agreement;

"Bank" means the Eastern Caribbean Central Bank established under Article 3 of the Agreement;

"Minister" means the Minister responsible for the subject of finance.

Agreement to have the force of law

2. The Agreement has the force of law in Anguilla from 7 February, 1992.

Payments to be charge on Consolidated Fund

3. Payments required to be made to the Bank under the Agreement shall be a charge on the Consolidated Fund.

Implementation of amendments to the Agreement

4. Where an amendment to the Agreement under Article 55 of the Agreement becomes effective, the Governor shall, by order, amend the Schedule of this Act for the purpose of including the amendment.

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Inconsistency with other legislation

5. In the event of any inconsistency between the provisions of this Act and the operation of any other enactment, the provisions of this Act shall prevail to the extent of the inconsistency.

(Act 14/2021, s. 2)

(2) Where the Schedule is so amended, any reference in this Act or in any other enactment or in any instrument having effect under any such enactment shall, unless the context otherwise requires, be construed as a reference to the Agreement as so amended.

Penalties

6. (1) Any person who contravenes—

(a) Article 15(3); or

(b) Article 16(2);

is guilty of an offence and is liable on summary conviction to a fine of $1,000 or to imprisonment for 6 months or to both.

(2) Any person who contravenes Article 18(1) is guilty of an offence and is liable on summary conviction to a fine of $10,000 or to imprisonment for 2 years or to both.

(3) Any person who without lawful authority or excuse, mutilates currency issued by the Bank whether by cutting, tearing, defacing, perforating, writing, printing, drawing or stamping thereon or by attaching or affixing thereto anything in the nature of an advertisement or other notice, is guilty of an offence and liable on summary conviction to a fine of $2,000 or to imprisonment for 6 months or to both.

(4) Any person—

(a) who is or has been made subject to Article 34(1) and who contravenes or fails to comply with any prescription made by the Bank under that Article; or

(b) who knowingly supplies information that is false in any material particular or fails to publish within 14 days after a request by the Bank under Article 34;

is guilty of an offence and liable on summary conviction to a fine of $1,000 and, if the offence of which he is convicted is continued after conviction, he is guilty of a further offence and liable in respect thereof to a fine of $200 for each day on which the offence is so continued.

(5) Any person to whom Article 5D(3) applies who—

(a) fails to assist or to facilitate the Bank in any function conferred by Article 5B;

(b) obstructs the Bank in the performance of any function under Part IIA of the Schedule; or

(c) in the performance of his obligations under Article 5D(3), provides any false or misleading information;

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is guilty of an offence and liable on summary conviction to a fine of $100,000 or 5 years imprisonment or to both.

(6) While the Bank is in control of the business of the financial institution, any person who, without the approval or authority of the Bank or in a manner contrary to the directions of the Bank, receives, disposes of or otherwise deals with any assets of the financial institution, or who tampers, whether by making entries in or otherwise, with any books, records or documents of the financial institution is guilty of an offence and liable on summary conviction to a fine of $100,000 or to imprisonment for 5 years or to both or on conviction on indictment to a fine of $500,000 or 10 years imprisonment or to both.

(7) Any person to whom Article 5D(3) applies who fails to comply with a requirement or demand by the Bank to do or refrain from doing any act or to assist or to facilitate the Bank in any function vested in it by Article 5B is guilty of an offence and liable on summary conviction to a fine of $100,000 or 5 years imprisonment or to both.

(8) A person commits an offence under Article 35 if—

(a) he supplies any statement, return, information or data proving it to be false in a mate rial particular; or

(b) he fails to furnish the Bank with the specified statement, return, information or data within the time required;

and is liable on summary conviction to a fine of $500.

(9) Where an offence is committed by any company or other body corporate or by any society, association or body of persons, every person charged with, concerned or acting in, the control or management of the affairs or the activities of the company, body corporate, society, association or body of persons is guilty of that offence and liable to be punished accordingly, unless the person proves that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed or that he took all reasonable steps to prevent its commission.

Application of Article 5C

7. Where, prior to 19 September 2013[1]—

(a) a notification under Article 5C(1) was published in relation to a financial institution; and

(b) a notification under Article 5E(1) has not been published in relation to that financial institution since the publication of the notification referred to in paragraph (a), the provisions of Article 5C(5) shall apply in relation to that financial institution with effect from 19 September 2013.

(Act 8/2013, s. 2)

Citation

8. This Act may be cited as the Eastern Caribbean Central Bank Agreement Act, Revised Statues of Anguilla, Chapter E5.

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[1] L.S.I. 1/2013

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SCHEDULE

(Section 1)

AGREEMENT ESTABLISHING THE EASTERN CARIBBEAN CENTRAL BANK

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[2] 1. Heading for Article 5G inserted in Table of Articles by LR 31/12/2022.

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AGREEMENT ESTABLISHING THE EASTERN CARIBBEAN CENTRAL BANK

Preamble

AN AGREEMENT made on the 5th day of July 1983 between the Governments of Antigua and Barbuda, The Commonwealth of Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia and Saint Vincent and the Grenadines (hereinafter referred to as "the Participating Governments").

WHEREAS it is desired to maintain a common currency and to establish a Common Central Bank with powers to issue and manage that currency, to safeguard its international value, to promote monetary stability and a sound financial structure and to further the economic development of the territories of the Participating Governments.

It is hereby agreed as follows:

PART I

PRELIMINARY

1. This Agreement may be cited as the Eastern Caribbean Central Bank Agreement, 1983.

2. In this Agreement, unless the context otherwise requires—

"appointed Directors" means the Directors other than the Governor and Deputy Governor;

"Authority" means the Eastern Caribbean Currency Authority established under the East Caribbean Currency Agreement 1965;

"Bank" means the Eastern Caribbean Central Bank established under Article 3 of this Agreement;

"bank" means any financial institution whose operations include the acceptance of deposits subject to transfer by the depositor by cheque or other means of payment transfer;

"banking business" means—

(i) the business of receiving funds through the acceptance of money deposits payable on demand or after a fixed period or after notice or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or in part for loans or investment for the account and the risk of the person doing such business; and

(ii) any other activity recognized by the Bank as customary banking practice with a financial institution engaging in the activities described in (i) hereof may additionally be authorized to do;

"Board" means the Board of Directors of the Bank;

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"Council" means the Monetary Council established under Article 7 of this Agreement;

"currency" includes—

(a) currency notes and coins;

(b) commemorative coins; and

(c) digital currency;

(R.A. 31/2021, s. 1)

"digital currency" means fiat currency in an electronic form;

(R.A. 31/2021, s. 1)

"financial institution" means any person doing banking business:

Provided that for the purpose of this Agreement unless the context otherwise requires, all offices and branches of a financial institution in the territories of the Participating Governments shall be deemed to be one financial institution;

"person" includes any corporation, either aggregate or sole, and any undertaking, club, society, association or other body of one or more persons.

PART II

ESTABLISHMENT OF BANK

3. (1) There shall be established a body to be known as the Eastern Caribbean Central Bank to do business in accordance with the provisions of this Agreement. The establishment of the Bank shall take effect in accordance with the provisions of Article 54 paragraph (2) of this Agreement and on the date thereof all the assets and liabilities of the Authority, together with all its rights and obligations that are not inconsistent with the provisions of this Agreement, shall be deemed to have been transferred to and to vest in the Bank.

(2) The Bank shall be a body corporate having perpetual succession and a common seal and shall have power to—

(a) enter into contracts and incur obligations;

(b) sue and, subject to Article 50 paragraph 2 of this Agreement, be sued in its own name;

(c) acquire, hold, mortgage and dispose of property whether movable or immovable;

(d) borrow funds in territories of the Participating Governments or elsewhere, issuing such evidences of indebtedness as may be appropriate;

(e) regulate banking business on behalf of and in collaboration with Participating Governments;

(f) regulate and have general oversight of payment and settlement systems, purchased payment facilities and netting contracts or arrangements;

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(g) exercise all powers specifically granted by the provisions of this Agreement to the Bank, and do all such things as shall be necessary to carry out the powers so granted;

(h) generally, undertake the duties and responsibilities assigned to it by any other law.

(R.A. 14/2016, s. 2)

4. The purposes of the Bank are—

(1) to regulate the availability of money and credit;

(2) to promote and maintain monetary stability;

(3) to promote credit and exchange conditions and a sound financial structure conducive to the balanced growth and development of the economies of the territories of the Participating Governments;

(4) to actively promote through means consistent[3] with its other objectives the economic development of the territories of the Participating Governments.

5. The Bank shall have its principal office in one of the territories of the Participating Governments as the Council may determine and may establish such branch offices and may appoint such agents and correspondents as may be required.

PART IIA

SPECIAL EMERGENCY POWERS OF BANK

5A.[4] (1) In this Part, the expression—

"affiliated institution", in relation to a financial institution, means a company which is or has at any relevant time been—

(a) a holding company or a subsidiary of the financial institution;

(b) a subsidiary of a holding company of the financial institution;

(c) a holding company of a subsidiary of the financial institution; or

(d) a holding company of a holding company or a subsidiary of a subsidiary of the financial institution;

"agent" in relation to a financial institution, includes its bankers and any persons, whether officers of the financial institution or not, who are employed as its auditors, but does not include its legal advisers;

"claim" means any claim whatsoever without limitation, including claims which are secured or unsecured, present or future, actual, prospective or contingent, or arising out of contract, tort, bailment, restitution, breach of trust or any other cause of action, and whether or not made by a creditor, shareholder, depositor or any other person;

(L.S.I. 1/2013, s. 2)

[3] The original reads "consident"
[4] L.S.I. 1/2013

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"creditor" means a person having a claim against or in respect of a financial institution or its property or assets;
(L.S.I. 1/2013, s. 2)

"directors" include any category of persons performing the functions of directors or analogous functions;

"financial institution" means a financial institution within the meaning of the Banking Ordinance 1991 (No. 7 of 1991)[5];

"holding company" and "subsidiary" have the meanings assigned to them in the Companies Act, Cap. 335[6][7];

"officer" in relation to a financial institution, includes any category of manager as well as any person in the employment of the financial institution.

"secured creditor" means a creditor who—

(a) has a mortgage in respect of any property of a financial institution;

(b) has a fixed or floating charge, a lien or any other security interest whatsoever without limitation in or over or in respect of any property or assets of a financial institution; or

(c) is a party to an agreement designed to create the economic equivalent of a security interest;
(L.S.I. 1/2013, s. 2)

"security agreement" means any agreement creating a security interest or making a creditor a secured creditor;
(L.S.I. 1/2013, s. 2)

"security interest" means any interest in or charge upon any property of a financial institution by way of mortgage, assignment, bond, lien, pledge or other means, that is created or is taken to secure the payment of a debt or the performance of any other obligation of the financial institution.
(L.S.I. 1/2013, s. 2)

(2) In this Part a reference to a director, officer or agent of a financial institution includes a reference to a person who has been but is no longer a director, officer or agent thereof.

5B. (1) Where the Bank is of the opinion—

(a) that the interests of depositors or creditors of a financial institution are threatened;

(b) that a financial institution is likely to become unable to meet its obligations or is about to suspend or has suspended payment to its creditors or depositors; or

(c) that a financial institution is not maintaining high standards of financial probity or sound business practices,

the Bank shall, in addition to any other powers conferred on it by any other law and notwithstanding the provisions of any other law to the contrary, have power—

(i) to, such extent as it thinks fit, assume control of and carry on the affairs of the financial institution and, if necessary, to take over the property and undertaking of the financial

[5] Now the Banking Act
[6] Now the Companies Act
[7] Business Companies Act, 2022 (Act 2/2022) *repealed* the Companies Act, R.S.A. c. C65.

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institution and in so doing apply the provisions under Part 9 and sections 185, 186 and 187 of the Banking Act[8];

(ii) to take all steps it considers necessary to protect the interests, and to preserve the rights of depositors of the financial institution;

(iii) to restructure the business or undertaking of the financial institution or to reconstruct its capital base;

(iv) to provide such financial assistance to the financial institution as it considers necessary to prevent the collapse of the financial institution;

(v) to acquire or sell or otherwise deal with the property, assets and undertaking of or any shareholding in the financial institution, at a price to be determined by an independent valuer;

(vi) to appoint such persons and to establish such companies or corporations as it considers necessary to assist in the performance of the functions conferred by sub-paragraphs (i) to (v) and the provisions of Article 50 shall apply to such persons, companies or corporations.

(R.A. 14/2016, s. 3)

(2) The powers of the Bank under paragraph (1) shall not be exercised unless the Bank is also of the opinion that the financial system of any of the territories of Participating Governments is in danger of disruption, substantial damage, injury or impairment as a result of the circumstances giving rise to the exercise of such powers.

(3) Pursuant but without prejudice to its powers under subsection (1), and notwithstanding the provisions of any other law, the Bank may appoint any person or persons to act as Receiver or Manager and such appointment shall take effect as though made by the depositors and other creditors of the Company pursuant to a charge over all the fixed and floating assets of the institution and without prejudice to any other powers vested in such Receiver or Manager, the Receiver or Manager shall have power—

(a) to take possession of, collect and get in any property of the institution and for that purpose to take any proceedings in the name of the institution or otherwise as may seem expedient;

(b) to carry on, manage or concur in carrying on and managing the business of the institution or any part thereof and for any of these purposes to raise or borrow any money that may be required on the security of the whole or any part of the property of the institution;

(c) forthwith to sell or concur in selling (but where necessary with the leave of the Court) and to let or concur in letting and to accept surrenders of leases or tenancies of all or any of the property of the institution and to carry any such sale, letting or surrender into effect by conveying, leasing, letting or accepting surrenders in the name and on behalf of the institution; and any such sale may be for cash, debentures, other obligations, shares, stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as the Bank shall think fit and plant machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the institution being obtained thereto;

(d) to make any arrangement or compromise which he shall think expedient;

[8] Banking Act, 2015 (Act 6/2015) *repealed* the Banking Act, R.S.A. c. B11.

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(e) to make and effect repairs, renewals and any improvements of the institution's equipment and effects and to maintain or renew all insurances;

(f) to appoint managers, agents, officers, servants and workmen for any of the aforesaid purposes at such salaries and for such periods as he may determine;

(g) to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he or they lawfully may or can do as agent for the financial institution.

5C.[9] (1) Where the Bank proposes to exercise powers under subparagraph (ii) of Article 5B(1) it shall publish in the Gazette and in such newspapers as it thinks appropriate, in the territory where it proposes to exercise such powers, a notification to that effect.

(2) The notification must state—

(a) the property and undertaking the Bank proposes to take over,

(b) the powers of control the bank proposes to exercise,

and shall give such particulars as the Bank considers necessary for the information of persons having business dealings with the financial institution.

(3) Upon the publication of the notification the property and the powers of control stated therein shall vest in the Bank.

(4) A notification under this Article may be amended or supplemented from time to time by subsequent notification in the Gazette and the notification shall have effect as so amended or supplemented.

(5) On and after the publication of a notification under paragraph (1)—

(a) no creditor, shareholder, depositor or any other person shall have any remedy against the financial institution in respect of any claim, and without prejudice to the generality of the foregoing, no creditor, shareholder, depositor or any other person shall commence or continue any action, execution or other proceedings or seek to enforce in any way any judgment or order obtained against the financial institution or its successor or the transferee of the whole or any part of any property, assets or undertaking of the financial institution for the recovery of any claim or in respect of any other liability, until the publication of a notification under Article 5E(1) in relation to the financial institution or without the prior leave of the court unless the court directs otherwise;

(b) where the Bank has not yet published a notification under Article 5E(1) in relation to a financial institution, the Bank may, where it is of the opinion that it is no longer necessary to impose a stay, publish in the Gazette and in such newspapers as it thinks appropriate in the territory where it has assumed control of the financial institution, a notification to lift the stay under sub-paragraphs (a), (d) or (e), except that no person shall take any steps to institute winding up, receivership, administration or any other related proceedings in relation to that financial institution without the prior leave of the court unless the court directs otherwise;;

(c) no creditor, shareholder, depositor or any other person shall commence or continue any claim, action, execution or other proceedings or seek to enforce in any way any judgment or order obtained against the Bank, its directors, officers, employees or any person acting on behalf of the Bank or appointed by the Bank under Article 5B in respect of any act, commission, claim,

[9] L.S.I. 1/2013

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fact or matter connected with or arising out of the acts or omissions of the Bank in respect of the financial institution, until the publication of a notification under Article 5E(1) in relation to the financial institution or without the prior leave of the court unless the court directs otherwise;

(d) no provision of a security agreement, lease or licence between the financial institution and a secured or other creditor that provides, in substance, that on—

(i) the winding up of the financial institution or any related entity or any insolvency restructuring or reorganization proceedings being commenced, continued or ordered in respect of the financial institution or any related entity; or

(ii) the default by the financial institution of an obligation under the security agreement, lease or licence,

the financial institution ceases to have such rights to use or deal with assets secured or dealt with under the agreement, lease or licence as the financial institution would otherwise have, or is given lesser rights or priorities in respect of any assets or property as the financial institution would otherwise have, has any force or effect, until the publication of a notification under sub-paragraph (b) or Article 5E(1) in relation to the financial institution or without the prior leave of the court unless the court directs otherwise; and

(e) no provision in any contract or agreement or any other document which gives any party a right to acquire any property or assets of the financial institution on the grounds of any change of control or on any analogous ground or on the grounds of insolvency shall have any effect, until the publication of a notification under sub-paragraph (b) or Article 5E (1) in relation to the financial institution or without the prior leave of the court unless the court directs otherwise.

(L.S.I. 1/2013, s. 3)

(6) For the purposes of paragraph (5)—

(a) the rights, property and assets referred to in this Article are taken to be the rights, property and assets wheresoever located; and

(b) the agreement, lease or licence referred to in this Article are taken to be an agreement, lease or licence governed by any law.

(L.S.I. 1/2013, s. 3 and R.A. 14/2016, s. 4)

(7) A notification published pursuant to paragraph (1) shall only operate as a temporary stay of a claim against the financial institution and shall not have or be taken to have the effect of extinguishing such a claim.

(L.S.I. 1/2013, s. 3)

(8) Where a claim is stayed pursuant to paragraph (5), for the purposes of the computation of time limits under any applicable law on limitation of actions, the period of time commencing with the date of the publication of the notification under paragraph (1) and ending with the date of the publication of the notification under paragraph (5)(b) or Article 5E(1) shall be excluded.

(L.S.I. 1/2013, s. 3)

5D. (1) Where the Bank has under Article 5B assumed control of a financial institution, it may terminate or retain the services of any or all of the directors, officers and employees of the institution and the directors so retained shall manage the affairs of the institution subject however to any directions of the Bank.

(2) No acts done or resolutions, rules, by-laws or decisions made or conveyances, transfers, assignments or instruments executed during such period relating to the financial institution shall have effect unless they are approved by or are in conformity with the directions of the Bank.

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(3) Where the Bank is exercising powers under Article 5B in relation to any financial institution, that financial institution, its affiliated institutions and its directors, officers and agents other than its auditors shall give every assistance to the Bank for the purpose of facilitating the performance of functions under Article 5B including the supply of information or explanation in such form as may be required, the production of books, documents, minutes, cash, securities and vouchers, and generally the provision of all necessary facilities required for the performance of any function under Article 5B save that in the case of its auditors they shall only be required to supply any information which is in their possession or knowledge other than their internally generated working papers.

(4) Any person appointed under Article 5B shall have all the powers of a commissioner under the Commissions of Inquiry Act to summon and examine persons required under sub-article (3) to assist the Bank in the performance of its functions, and the provisions of section 12[3] of the Commissions of Inquiry Act, including the provisions imposing penalties, shall apply in all respects to persons summoned under this sub-article.

(5) In the performance of its functions and in the exercise of its powers under Article 5B the Bank shall comply with any general or special directions of the Council and shall act only after due consultation with the Council.

5E. (1) Where the Bank has under Article 5B assumed control of a financial institution, the Bank shall, subject to sub-article (2), remain in control of, and may continue to carry on the business of that financial institution until such time as the Bank publishes in the Gazette and in such newspapers as it thinks appropriate in the territory where it has assumed such control a notification that it has ceased to be in control of the financial institution.

(2) The Bank shall relinquish control and shall not continue to carry on the business of a financial institution where—

(a) the circumstances on the basis of which the Bank assumed control of the institution under Article 5B have ceased to exist;

(b) the Bank is of the opinion that it is no longer necessary for it to remain in control of the business of the financial institution; or

(c) the Bank has sold or otherwise disposed of the property, assets and undertakings of the financial institution.

(3) Upon publication of a notification under sub-article (1) and subject to such conditions as may be specified therein, all property not sold or otherwise disposed of by the Bank and all powers of control over the affairs of the financial institution vested in the Bank by or in consequence of the previous notification published under Article 5B shall vest in the financial institution if it still subsists as a corporate entity and be deemed to have been transferred from the Bank to the financial institution.

(4) Where the Bank has, in pursuance of Article 5B, assumed control of a financial institution, the High Court may, upon the application of the directors of the financial institution acting independently of the Bank, if it is satisfied that it is no longer necessary for the protection of the depositors or creditors of the financial institution that the Bank should remain in control of the business of that financial institution, order that the Bank cease to control the business of that financial institution as from a date specified in the Order.

5F. The Council, the Minister or the Bank, its directors and officers and any persons appointed by the Bank under Article 5B are not subject to any action, claim or demand by, or any liability to, any person in respect of anything done or omitted to be done in good faith and without negligence in the performance, or in connection with the performance of functions conferred on the Bank under this Part.

[3] Now section 11

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5G. (1) In any court proceedings under this Agreement, the Court shall take into consideration the public interest.

(2) In considering the public interest, the Court shall have regard to—

(a) the critical importance of financial stability to the public interest;

(b) the importance of permitting the Central Bank to discharge its functions in an expeditious and efficient manner in the interest of maintaining financial stability.

(3) Any action under this Agreement by the Central Bank, official administrator or receiver that is the subject of any court proceedings shall be allowed to continue unrestricted notwithstanding the challenge or review before the Court.

(4) Subject to paragraph (4) of Article 5E, where the Court is satisfied in any proceedings under this Agreement that—

(a) a remedy in damages is available to the person who seeks relief; and

(b) it would be just in all the circumstances, having regard to the public interest, to limit relief to an award of damages,

the Court shall limit relief in such proceedings to an award of damages.

(R.A. 14/2016, s. 5)

PART III

GENERAL RESERVE AND PROFITS

6. (1) The Bank shall establish and maintain a General Reserve to which shall be allocated any amount that may become available through the operation of paragraph (3) of this Article.

(1A) The Bank may from time to time establish and maintain such special reserve funds as are approved by the Council.

(2) The Bank shall determine its net profits for each financial year after meeting all current expenditure for that year and after making such provisions as it thinks fit including but not limited to bad and doubtful debts, depreciation of assets, contributions to staff and superannuation funds, and with the approval of Council for all other contingencies and such other purposes as the Board considers necessary:

Provided that unrealised appreciation of assets shall not be taken into account in the determination of net profits.

(3) If and so long as the General Reserve is less than five percent of the Bank's demand liabilities at the end of a financial year in which net profits were earned, the Bank shall allocate to the General Reserve such amount of net profits as will make that reserve equal to five percent of those liabilities:

Provided however that in the event that net profits are depleted and there remains a deficiency in the General Reserve the Participating Governments shall make such further allocation as may be necessary to make the reserve equal to five percent of those liabilities.

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With the written agreement of each of the Participating Governments further allocations may be made to increase the General Reserve beyond five percent but not more than ten percent of the Bank's demand liabilities.

(4) After allocations have been made to the General Reserve in accordance with paragraph (3) of this Article and after any allocations have been made by or with the approval of the Council in accordance with Article 24 (5), 29 and 42 (4) of this Agreement, any net profits or losses remaining referred to in Annex I to this Agreement as the distributable profits or losses of the Bank—

(a) in the case of profits, shall be paid to the Participating Governments;

(b) in the case of losses, shall be apportioned to the Participating Governments,

in accordance with the formula for profit and loss sharing provided for in Annex I to this Agreement.

(5) Where in any financial year losses have been apportioned to the Participating Governments under paragraph (4), each Participating Government shall provide the funds to the Bank to cover the losses within nine months of the end of that financial year.

(6) Any change in the formula for profit and loss distribution under paragraph (4) of this Article shall apply only after each Participating Government gives its approval in writing to the Bank.

(R.A. 14/2016, s. 6)

PART IV

ADMINISTRATION AND MANAGEMENT

7. (1) There shall be established a Monetary Council which shall consist of a Minister for Finance appointed by each Participating Government in such manner as it may determine. Each such Minister shall designate an Alternate, who shall be a Minister, to serve on the Council in his absence.

(R.A. 14/2016, s. 7)

(2) The Council shall meet not less than twice each year to receive from the Governor the Bank's report on monetary and credit conditions and to provide directives and guidelines on matters of monetary and credit policy to the Bank and for such other purposes as are prescribed under this Agreement.

(3) The Council shall establish its own procedures and shall elect one of the Ministers to serve as Chairman. The term of the Chairman shall be one year. In addition to his power to vote, he shall have a casting vote in the event of a tie.

(4) In addition to its regular meetings, the Council may hold such additional meetings as it may decide or when requested by at least two of its members.

(5) A quorum of the Council shall consist of five members and decisions shall be taken by a simple majority of votes of the members present except as otherwise prescribed under this Agreement.

(6) Decisions of the Council on matters of monetary and credit policy under paragraph (2) shall be communicated in writing to the Bank and such decisions shall be binding on the Bank while they remain in effect.

(7) Whenever, in the judgement of the Board, there arises a situation where any action contemplated by the Bank requiring the approval of the Council should not be postponed until the next meeting of the Council

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and cannot await the calling of a special meeting of the Council, the Board shall request the Council members to vote without meeting. The Board shall present to each Council member by rapid means of communication a motion embodying the proposed action. At the expiration of the period prescribed for voting, the Board shall record the results, and the Governor shall notify all members. Decisions by this method shall be arrived at by a simple majority of all members of the Council.

8. (1) The power of the Bank shall be vested in a Board of Directors, which subject to Article 7, shall be responsible for the policy and general administration of the Bank.

(2) The Board shall have power to make, alter or revoke regulations, notices and orders for the purpose of giving effect to the provisions of this Agreement.

(3) The Board shall consist of the Governor, the Deputy Governor and one Director appointed by each Participating Government.

(4) (a) The seal of the Bank shall be kept in the custody of the Governor or the Deputy Governor and shall be authenticated by the Governor or Deputy Governor and one other Director authorized by the Board to act in that behalf;

(b) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Governor or the Deputy Governor.

9. (1) The appointed Directors shall be persons of recognised standing and experience in one or more of the following areas—

(a) Fiscal and Monetary Policy,

(b) Finance and Accounting,

(c) Banking,

(d) Economics,

(e) Law, or

(f) Other related fields,

appointed by the Council on the recommendation of each of its members in a manner so that each of the Participating Governments shall be represented among those Directors on the Board. In exercising his powers each appointed Director shall consider the interests of all the territories subject to the jurisdiction of this Agreement.

(2) The Directors shall be appointed for terms of three years and shall be eligible for re-appointment.
(R.A. 14/2016, s. 8)

(3) The Governor and the Deputy Governor shall be appointed by the Council for a period of five years and shall be eligible for re-appointment. They shall be persons of recognized standing and experience in one or more of the areas listed in paragraph (1).
(R.A. 14/2016, s. 8)

(4) The Governor shall—

(a) preside as chairman at the meetings of the Board;

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(b) serve as chief executive officer of the Bank to be in charge of and responsible to the Board for the implementation of the policy and the day to day management of the Bank;

(c) attend all meetings of the Council.

(5) The Governor shall have power to act, contract and sign instruments and documents on behalf of the Bank. He may pursuant to resolutions of and to the extent deemed appropriate by the Board, delegate such powers to other officers.

(6) The composition of the first Board of the Bank shall, for the purpose of ensuring continuity, include all persons serving as directors of the Authority on the day immediately prior to the date on which the Bank is deemed to have been established in accordance with Article 54 paragraph (2) of the Agreement as well as the person then serving as the Deputy Managing Director of the Authority:

Provided that—

(a) the persons then serving as Managing Director and Deputy Managing Director of the Authority shall serve respectively as Governor and Deputy Governor of the Bank;

(b) (i) the term of each member of the first Board of the Bank except the Governor and Deputy Governor, shall expire six months after the establishment of the Bank, and

(ii) the term of the Governor and Deputy Governor shall expire one year after the establishment of the Bank.

(c) all members of the first Board of the Bank shall be eligible for re-appointment.

10. (1) During the absence or disability of the Governor or during any vacancy in the office of the Governor, the Deputy Governor shall exercise the powers and duties of that office. The Board shall make provisions for the simultaneous absence or disability of the Governor and the Deputy Governor.

(2) The Governor and the Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding office shall not without the prior approval of the Board engage in any business, profession or employment, whether remunerated or not, but they may—

(a) act as members of any board or commission appointed by the Council;

(b) become governors, alternate governors, directors or members of any organ, by whatever name called, of any international financial institution, established under any agreement or convention to which one or more of the Participating Governments shall have adhered or given support or approval;

(c) become members of the board of any corporation organised by one or more of the Participating Governments for the purpose of insuring deposits in financial institutions.

(3) The Governor and the Deputy Governor shall not receive any salary or contribution to, or supplementation thereof from any source other than the Bank without the approval of the Council.

(4) The Directors shall be paid such remuneration as shall be determined by the Board with the approval of the Council. The Board shall have power to determine allowances to be paid to Directors.

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11. (1) No person shall be appointed or shall remain Governor, Deputy Governor or appointed Director of the Bank who is or becomes—

(a) director, officer or employee of any financial institution within or without the territories of Participating Governments: Provided that Directors of wholly-owned Government Institutions may serve as Directors;

(b) member of the legislature (by whatsoever name called) of a Participating Government.

(2) The Governor, the Deputy Governor or any appointed Director may resign his office by giving notice in writing to the Council.

(3) The Governor, the Deputy Governor or any appointed Director shall be removed from his office by the Council upon—

(a) a finding by two-thirds of all of the members of the Board of permanent incapacity or serious neglect of, or misconduct in, office; or

(b) on conviction for an offence involving dishonesty or fraud or that is punishable with imprisonment for twelve months or more or a conviction for an offence contrary to Article 15 or 16 of this Agreement; or

(c) his becoming bankrupt or compounding with or suspending payment to his creditors.

(R.A. 14/2016, s. 9)

12. (1) If the Governor or any appointed Director dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, as soon thereafter as may be practicable the Council shall appoint another to serve for the unexpired period in the manner specified in Article 9 of this Agreement.

(2) Notwithstanding the provisions of Article 11 paragraph (3) of this Agreement the Council, on the finding of the Board of the continuing absence or incapacity of an appointed Director, may on the recommendation of the Participating Government whose recommendation had led to his appointment, or its own initiative in the event that the finding is in respect of the Governor or Deputy Governor, appoint another person to serve until the expiry of the term or a finding by the Board that such a state has ceased.

13. (1) The Board shall meet as often as the business of the Bank may require but not less than once every three calendar months. The Board may provide for regular meetings for which two weeks' notice shall be necessary; special meetings shall be convened at the written request of the Governor or of any three appointed Directors for which reasonable notice shall be required.

(2) For the purpose of voting at a Board meeting, each member of the Board, except the Governor and Deputy Governor, shall have one vote. The Governor and Deputy Governor, shall not vote. In the event of an equal division, the Chairman shall have a casting vote.

(3) A quorum at any meeting of the Board shall consist of five appointed Directors and decisions shall be taken by a simple majority of votes except as herein otherwise provided.

(4) Where a matter relating to a Participating Government is to be determined by the Board, the Government concerned shall have the right, if it so desires, to send a representative to that meeting of the Board with a view to assisting the Board in making an informed judgement on the matter. The representative shall not, however, have the right to vote, and shall be present only for the specific item for which, in the opinion of the Board, his presence was required.

14. (1) All appointments of officers and employees of the Bank shall be on such terms and conditions as shall be prescribed by the Board.

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(2) The Governor and Deputy Governor shall be paid such salary and allowances as may be approved by the Council.

15. (1) The Governor, the Deputy Governor and each appointed Director shall not act as a representative of any commercial, financial, agricultural, industrial or other (private) interest; and neither they nor any other officer or employee of the Bank shall receive or accept directions from any such interest in respect of duties to be performed under this Agreement.

(2) Every Director shall fully disclose to the Board any (private) interest, industrial or other, which he may directly or indirectly hold or be connected with and which becomes the subject of Board action, and shall refrain from voting on any matter related thereto:

Provided that such an interest, if so disclosed shall not disqualify the interested party for the purpose of constituting a quorum.

(3) No Director, officer or employee of the Bank in his official capacity shall accept any gift or advantage for himself or for any person with whom he may have family, business or financial connections.

16. (1) The Governor, the Deputy Governor, every appointed Director, and every officer and employee of the Bank shall take an oath of secrecy in the form prescribed by the Board.

(2) Except for the purpose of the performance of his duties or the exercise of his functions, no director, officer or employee of the Bank shall disclose to any person any material information relating to the affairs of the Bank or any financial institution or other person, firm, company or organisation which information he has acquired in the performance of his duties or his functions.

(3) The validity of any act or proceeding of the Bank shall not be affected by any vacancy amongst the Directors or by defect in the appointment of a Director.

PART V

CURRENCY

17. (1) The monetary unit of the Participating Governments shall be the Eastern Caribbean Dollar divided into one hundred cents, with such external value as may from time to time be declared in accordance with paragraph (2) of this Article.

(2) The Bank shall on the recommendation of the Board approved by a decision of the Council, both such recommendation and decision having been adopted unanimously by all members declare the external value for the Eastern Caribbean Dollar, having due regard to the obligations that any Participating Government has assumed in accordance with the provisions of the Articles of Agreement of the International Monetary Fund: Provided that any declaration made by the East Caribbean Currency Authority fixing the external value of the East Caribbean Dollar shall remain in full force and effect until altered by the Bank under this paragraph.

(3) Provision shall be made by the Council to arrange for reasonable compensation to a Participating Government adversely affected by a change in external value of the Eastern Caribbean Dollar, in accordance with Annex II to the Agreement. Notice of any change in external value of the Eastern Caribbean Dollar shall be published in the Official Gazette of each of the Participating Governments and communicated to the Public in such other manner as the Bank shall decide.

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18. (1) The Bank shall have the sole right to issue currency in the territories of the Participating Governments and no other person or authority shall issue currency or any document or token payable to the bearer on demand having the appearance of, or purporting to be, currency.

(R.A. 31/2021, s. 2)

(2) Currency issued or deemed by the Bank to have been issued by it shall in accordance with the provisions of paragraph (3) of this Article, be legal tender in the territories of the Participating Governments for the discharge of all public and private obligations and shall include on the date that this Agreement takes effect, all currency issued by or deemed to have been issued by the Authority.

Currency issued or deemed by the Bank to have been issued by it shall include—

(i) Currency issued by the East Caribbean Currency Authority as well as currency bearing its inscription that may be put into circulation by the Bank,

(ii) Currency issued by the Bank, and

(iii) such other Currencies as the Board may by resolution indicate hereafter.

(3) Currency notes, digital currency and commemorative coins issued or deemed to have been issued by the Bank shall be legal tender for the payment of any amount and other coins issued or deemed to have been issued by the Bank shall be legal tender at their face value up to an amount not exceeding twenty dollars in the case of coins of a denomination not less than fifty cents and not exceeding five dollars in the case of coins of a lower denomination.

(R.A. 31/2021, s. 2)

(4) Notwithstanding paragraph (3) of this Article, a note or coin issued or deemed to have been issued by the Bank shall not be legal tender—

(a) if, in the case of a note, it has been altered in any material way;

(b) if, in the case of a coin, it has been tampered with.

(5) (a) A note shall be deemed to have been materially altered, if it has been mutilated or has been defaced.

(b) A coin shall be deemed to have been tampered with if it has been impaired, diminished, or lightened otherwise than by fair wear and tear or has been defaced.

19. (1) The Bank shall arrange for the printing of currency notes and the minting of coins and for all matters relating thereto, and for the security and safe keeping of unissued currency and for the custody and destruction, as necessary, of plates, dies and retired currency.

(2) Currency issued by the Bank shall be in such denominations and of such composition, form and design as shall be approved by the Council on the recommendation of the Board.

(3) The characteristics of currency to be issued by the Bank shall be published in the Official Gazette of each of the Participating Governments.

20. The Bank shall have the power to call in, for the purpose of withdrawing from circulation, any currency issued or deemed by the Bank to have been issued by it on payment of the face value thereof. Any currency so recalled shall, in accordance with the terms of a notice which shall be published in the Official Gazette of each of the Participating Governments and communicated to the public in such other manner as the Bank shall decide cease to be legal tender:

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Provided that the holders of such currency shall be entitled, at any time within a period of not less than five years as may be specified in the notice and thereafter at the sole discretion of the Bank, to claim payment from the Bank in accordance with such regulation as it may issue.

21. The Bank shall issue, reissue and exchange on demand currency issued or deemed by the Bank to have been issued by it:

Provided that in the event of the temporary unavailability of a requested issue or denomination, the Bank may deliver currency of available issue and denomination, that most nearly approximate those requested.

22. (1) No person shall be entitled to recover from the Bank the value of any lost or stolen currency, except as may be provided under the terms of a waiver expressly executed in respect of the assumption by the Bank of risks incident to shipments of currency.

(2) The conditions under which mutilated or otherwise damaged currency may be exchanged or refunded at partial or face value shall be determined by regulations issued by the Bank.

23. The Bank shall assist in the enforcement of any law related to the counterfeiting of currency in the territories of the Participating Governments and certification by a duly authorised officer of the Bank that an item in question is or is not genuine shall be prima facie evidence of the fact in any legal proceeding in those territories.

PART VI

EXTERNAL RESERVE

24. (1) The Bank shall maintain an External Reserve consisting of all or any of the following on such terms and conditions as the Board may prescribe—

(a) gold;

(b) foreign exchange in the form of currency or bank balances held abroad;

(c) any internationally recognized reserve assets;

(d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside the territories of the Participating Governments;

(e) treasury bills issued by foreign governments;

(f) securities issued or guaranteed by foreign governments or international institutions.

(2) Subject to paragraph (3) of this Article the Bank shall at all times maintain the External Reserve in an amount not less than sixty per cent of the value of the currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities but excluding coin issued for commemorative purposes.

(3) The percentage referred to in paragraph (2) of this Article may be changed by the Bank on the unanimous agreement of all of the members of the Council.

(4) If the External Reserve has declined or in the judgement of the Board appears likely to decline in such a way as to jeopardise the adequacy of such reserve the Bank shall submit to the Council a report on the

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reserve position and the causes that have led or may lead to such decline together with recommendations concerning the measures that may be deemed necessary to forestall or otherwise remedy the situation. The Bank shall make further reports and recommendations at intervals not exceeding six months until such time as, in its judgement, the situation has been rectified.

(5) If at any time the assets held under this Article together with such other assets as the Bank is permitted to hold under Article 31 and 40 of this Agreement are less than the aggregate amount of the currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities, such deficiency shall be a liability of the Participating Governments in the proportions prescribed in Article 6 paragraph (4) of this Agreement.

(6) The Bank may establish such other external reserve funds including national reserve funds, as the Council may from time to time approve.

PART VII

FOREIGN EXCHANGE OPERATIONS

25. (1) The Bank shall be the depository of the external assets of the Participating Governments provided that the Bank may designate such agents and corresponds as it may select to hold these assets.

(2) The Bank may serve as the depository of the external assets of boards, agencies, the social security fund and other statutory bodies of such Participating Governments.

26. The Bank may—

(a) buy, sell or deal in gold coins or bullion or other precious metals;

(b) buy, sell, or deal in foreign exchange, using for those purposes any of the instruments commonly used by bankers;

(c) open and maintain accounts abroad;

(d) open and maintain accounts and act as agent or correspondent for foreign central banks, foreign financial institutions, foreign governments, foreign government agencies and institutions and international financial institutions.

27. The Bank shall deal in connection with the operations enumerated in Article 26 hereof only with the Participating Governments, their boards and agencies, their social security funds and other statutory bodies, local governments bodies, foreign central banks, local and foreign financial institutions, foreign governments, foreign government agencies and institutions and international financial institutions.

28. (1) The Bank shall from time to time determine the rates at which it will buy, sell or deal in gold and foreign currencies.

(2) The Bank may determine and make public the rates at which gold and foreign currencies may be bought, sold or dealt in by banks and other persons authorised to do so in the territories of the Participating Governments.

(3) The Bank may close the foreign exchange markets for the Eastern Caribbean Dollar in the territories of the Participating Governments during a period of not more than two working days if it deems such

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action to be necessary to prevent disorderly conditions in the foreign exchange market and considers it to be in the interest of the Participating Governments:

Provided that the Bank may request the Council that a reasonable extension of the period of closure be granted, during which the Bank shall proceed to remove the causes of the disorder.

29. (1) The gains arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in gold, special drawing rights or foreign currencies as a result of alteration of the external value of the Eastern Caribbean Dollar, or of any change in the value of such assets or liabilities relative to the Eastern Caribbean Dollar, shall be credited to a special account entitled "Revaluation Reserve Account" and neither the gains nor the losses arising from any such change shall be included in the computation of the annual profits and losses of the Bank.

(2) Any gain arising from changes described in paragraph (1) of this Article during any financial year of the Bank shall be used—

(a) First, to redeem any securities held by the Bank as a result of previous losses in accordance with paragraph (4) of this Article.

(b) Second, to create or increase the credit balance in the Revaluation Reserve Account.

(3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Bank shall be held in reserve, and shall be used only for the purpose described in paragraph (4).

(4) The losses arising from changes described in paragraph (1) of this Article shall be set off against any credit in the Revaluation Reserve Account and, notwithstanding any other provisions of this Agreement, if such balance is insufficient to cover such losses, the Participating Governments shall issue and cause to be transferred to the ownership of the Bank non-interest bearing, non-negotiable securities to the extent of the deficiency in the proportions according to which profits may be distributed to each Participating Government pursuant to Article 6 paragraph (4) of this Agreement.

(5) No credits or debits shall be made to the Revaluation Reserve Account except in accordance with the provisions of this Article.

PART VIII

RELATIONS WITH FINANCIAL INSTITUTIONS

30. The Bank may open accounts for, and accept deposits from financial institutions doing business in the territories of the Participating Governments under such terms and conditions, including the payment of interest and the establishment of charges thereon, as the Board may from time to time determine.

31. The Bank may—

(1) Purchase from, sell to, discount and rediscount for financial institutions bills of exchange and promissory notes drawn or made for bona fide commercial, industrial or agricultural purposes, bearing two or more good signatures at least one of which shall be that of a bank and maturing within ninety-one days from the date of their acquisition by the Bank:

Provided that bills of exchange and promissory notes drawn or made for the purposes of financing seasonal agricultural operations or marketing of crops shall mature within one hundred and eighty-two days from the date of their acquisition.

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(2) Grant to financial institutions advances, whether by loans or overdrafts, for periods not exceeding ninety-one days secured by—

(a) instruments specified in paragraph (1) of this Article;

(b) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured: Provided that the Bank shall determine from time to time the maximum percentage of advances in relation to the current value of such commodities or goods;

(c) holding of any such assets that the Bank is permitted to buy, sell or deal in under paragraph (a) and (b) of Article 26 of this Agreement;

(d) treasury bills and securities issued or guaranteed by any of the Participating Governments or its agencies, subject as provided in Article 40 of this Agreement:

Provided that in the case of advances granted under paragraph (2) for the specific purposes of promotion of those sectors which are deemed by the Bank to be priority sectors in the economies of the territories of the Participating Governments, the Board may authorise the extension of such advances to a period up to 12 months.

32. The Bank shall fix from time to time its rates for discounts and rediscounts. It may establish differential rates and ceilings for various classes of transactions or maturities.

33. (1) With the approval of the Council the Bank may, from time to time, prescribe either—

(a) by written notice to the main office of each financial institution in the territories of the Participating Governments; or

(b) by publishing in newspapers of general circulation in the territories of the Participating Governments or in the Official Gazette of each territory,

the maintenance of required reserves, including marginal required reserves, against deposit and other similar liabilities specified for this purpose. Such reserves shall be maintained either by way of cash holdings with each financial institution or by way of deposits with the Bank.

(2) With the approval of the Council the Bank may require financial institutions of a given class or classes to hold such securities (including securities that may be issued by a Participating Government as provided in Article 40, paragraph (2) sub-paragraph (b) of this Agreement in substitution for its liabilities to financial institutions in respect of special deposits), issued or guaranteed by one or more of the Participating Governments, as the Board may designate for purposes of this Article in amounts not to exceed ten per cent of such institutions' deposits and similar liabilities.

(3) The Bank may prescribe different reserve ratios for different classes of deposit and other similar liabilities and may prescribe the method of their computation:

Provided that—

(i) the total amount of reserves that the financial institutions are required to hold shall be such percentage of the total deposit and other similar liabilities to which reserves ratios have been made applicable, as the Council may determine from time to time.

(ii) the reserve ratios shall be uniform for all banks and for all credit institutions although the ratios may differ between the two classes;

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Provided that in the case of banks or credit institutions incorporated in any of the countries of the Participating Governments, and in respect of which at least seventy-five per cent of the shares are locally owned, the Bank may allow such banks or institutions a period not exceeding three years to attain the Bank's reserve requirements.

(iii) any such prescriptions of, of increases in, the required reserve ratios shall be effective only after at least 15 days notice thereof has been communicated to the financial institutions;

(iv) reserves held as demand deposits with the Bank, may under such regulations and subject to such charges as may be prescribed by the Bank, be withdrawn temporarily by the financial institutions for the purpose of meeting their existing liabilities and may further serve as a basis for the clearance of cheques and the settlement of balances among financial institutions.

(4) The Bank may impose on any financial institution that fails to maintain required reserves in accordance with paragraphs (2) and (3) of this Article a charge at a rate of eleven point five percent on the amount of the deficiency for so long as the deficiency continues. Such charge shall be payable to the Bank on such date as may be prescribed by the Bank and may be recovered by deduction from any balance of the financial institution held by the Bank.

(R.A. 14/2016, s. 10)

34. (1) The Bank may, from time to time prescribe either—

(a) by written notice to the main office of each financial institution in the territories of the Participating Governments; or

(b) by publication in newspapers of general circulation in the territories of the Participating Governments or in the Official Gazette of each territory—

(i) the method of computation and minimum and maximum rates of interest payable in respect of deposit and other similar liabilities;

(ii) the permissable purposes, aggregate ceilings and[10] maximum amounts beyond which the Bank's approval is necessary, maximum maturities and maximum interest chargeable and minimum cash, margin or security required, in respect of—

(A) the making of advances whether by loans or overdrafts and investments;

(B) the discounting of bills and notes;

(C) the issuing of letters of credit;

(D) the granting of acceptances and other credit; and

(iii) the manner of the disclosure to the public and to—

(A) each depositor in a financial institution the effective annual interest rates payable in respect of deposits made therewith;

(B) each person to whom credit is extended the effective annual interest rates payable in respect thereof;

[10] The word "and" is not in the original

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Provided that prescriptions under clause (i) and (ii) shall require a decision of the Board, adopted by two-thirds of all the appointed Directors who in taking that decision, shall take cognisance of such general guidelines as the Council may indicate.

(2) In any prescription by the Bank under this Article the Bank may, for purposes of determination of the maximum interest chargeable under (b)(ii) or in order to arrive at the effective annual interest rate payable by any person under (iii)(B), require that the method of computation should include any service or other charges payable in respect of the credit extended by the financial institution.

(3) On the recommendation of the Board, adopted by two-thirds of all of the appointed members, and the approval of Council adopted by two-thirds of all its members, the provisions of paragraph (1) of this Article may be applicable in the manner therein indicated to every person, having as a principal object the extension of credit to the public generally or to particular members thereof, who in the ordinary course of business, during any calendar year extends as a minimum such amount of credit as is specified in the decision. The Bank may examine the accounts, books and papers of any person that it has reason to suspect is extending or has extended credit in violation of this paragraph and the refusal to submit such accounts, books and papers shall be prima facie evidence of such violation.

(4) Notices issued under this Article shall come into effect on such date specified not earlier than thirty days after the issue date. The Bank in its notices may differentiate, according to the nature of their business, between banks and other financial institutions as well as other creditors or classes thereof in respect of items set out in paragraph (1) of this Article.

(5) The Council may authorise or require the Bank to apply different prescriptions under clauses (i) and (ii) of paragraph (1) (b) of this Article in respect of the territories of the Participating Governments according to their different economic circumstances: Provided that any prescriptions purporting to relate to the different economic circumstances of the territory of any Participating Government should have the support of the Participating Government concerned.

35. (1) Every financial institution shall furnish to the Bank at such time and in such manner as the Bank may prescribe, such information and data as the Bank may require for the proper discharge of its functions and responsibilities and in order to verify compliance with directions issued under Article 33 and 34 of this Agreement the Bank may require any person who is or has been made subject thereto to open his books for inspection.

(2) Without limiting the generality of paragraph (1) of this Article every financial institution shall, at the request of the Bank, in relation to that financial institution's operations in the territory of a Participating Government, submit to the Bank in such form as the Bank may from time to time approve—

(a) not later than fourteen days after the last day of the month to which it relates, a monthly statement of assets and liabilities at the end of each month;

(b) not later than fourteen days after the end of the quarter to which it relates, a quarterly return providing an analysis of customers' liabilities to the financial institution in respect of loans, advances and other financial institution at the end of each quarter;

(c) within such period as the Bank may determine such other returns as the Bank may require:

Provided that the Bank may in writing extend the period for the furnishing of such statement and returns.

(3) The Bank may require a financial institution to submit such further information and data relating to the statements and returns described in paragraph (2) of this Article and such further information and data shall be submitted within such period and in such manner as the Bank may require.

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(4) All statements and returns submitted by a financial institution under sub-paragraph (b) or (c) of paragraph (2) hereof and any data or information submitted by a financial institution under those provisions, or under paragraph (1), shall be regarded by the Bank as secret provided that—

(a) the Bank may—

(i) provide international financial institutions, foreign banking supervisors and any other local or foreign authorities responsible for the supervision or regulation of a licensed financial institution, or for maintaining the integrity of the financial system with such statements, returns, data and information, and

(ii) provide access, to any officer of a foreign authority responsible for the supervision or regulation of licensed financial institutions in order to assess the safety and soundness of a foreign financial institution,

on a reciprocal basis and subject to an agreement for confidentiality and a Memorandum of Understanding;

(b) the Bank may publish statements on the assets and liabilities of each financial institution furnished under sub-paragraph (a) of paragraph (2) but no information in respect of the affairs of a particular customer of a financial institution shall be so published.

(R.A. 14/2016, s. 11)

(5) All statements and returns submitted by a financial institution under paragraph (2) hereof and any data or information submitted by a financial institution under paragraph (1) or (2) hereof, shall be regarded by the Bank as secret; but the Bank may prepare and publish consolidated statements relating to the territories of the Participating Governments individually or collectively, aggregating the figures in the monthly or quarterly returns furnished under sub-paragraph (a) and (b) of paragraph (2) of this Article.

(6) At the request of a Participating Government, the Bank shall arrange for that Government to be supplied with a copy of any statement or return furnished by a financial institution under paragraph (2) in relation to its operation in the territory of that Government and all statements and returns so supplied shall be regarded by the Government as secret.

36. The Bank may at a suitable time in conjunction with other banks organise clearing houses in such places as may be desirable.

PART IX

RELATIONS WITH THE PARTICIPATING GOVERNMENTS

37. (1) The Bank shall be the banker, fiscal agent of, and adviser to, the Participating Governments on monetary and financial matters and shall be the depository of funds of those Governments:

Provided that in such cases for such periods of time, and on such other terms and conditions as may be agreed between each Participating Government and the Bank—

(a) the Bank may act in such capacities to government boards and agencies, social security funds and other statutory bodies and local government bodies, and

(b) the Participating Government may maintain working balances with and generally use the services of other financial institutions.

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(2) The Council, as well as any Participating Government may request the Bank to render advice and to furnish reports on matters relating to the purposes of the Bank as set forth in Article 4 of this Agreement.

(3) It shall be the duty of the Bank to inform and advise the Council and any Participating Government concerning any matter that in the opinion of the Bank is likely to affect[11] the achievement of the Bank's purposes.

(4) The Bank may represent any Participating Government at any international conference at which its attendance is requested by such Participating Government.

38. The Bank shall, upon designation by any Participating Government, serve as the depository and fiscal agency of, and the institution through which dealings by the Participating Government shall be conducted with, international financial institutions of which the Participating Government is a member, and other agencies and countries.

39. Except in accordance with Article 31 paragraph (2) sub-paragraph (d) and Article 40, the Bank shall not, directly or indirectly—

(1) make advances to any Participating Government, its boards and agencies, social security funds and other statutory bodies and local government bodies; or

(2) acquire the notes, bills, securities or other evidence of debt of any Participating Government, its boards and agencies, social security funds and other statutory bodies and local government bodies; or

(3) acquire the notes, bills, securities or other evidence of debt guaranteed by any Participating Government, its boards and agencies, social security funds and other statutory bodies and local government bodies.

Provided that this Article shall not operate to prevent the acquisition by the Bank of securities transferred to it by a Participating Government to evidence a liability in accordance with Article 24 paragraph (5) or Article 29 paragraph (4).

40. (1) The Bank may subject to such terms and conditions as the Board may prescribe—

(a) make temporary advances to each Participating Government to meet its seasonal needs in an amount not to exceed during a given financial year of that Participating Government five per cent of its average annual recurrent revenue of that Government as determined by the Bank, over the three preceding financial years;

(b) purchase, sell, discount and rediscount treasury bills, issued by any of the Participating Governments, payable in Eastern Caribbean Dollars, forming part of a public issue, and maturing within ninety-one days of the date of their acquisition by the Bank; but the holding of treasury bills of any one Government at any one time, shall not exceed ten percent of the average actual recurrent revenue of that Government as determined by the Bank over the three preceding financial years;

(R.A. 14/2016, s. 12)

(c) purchase and sell publicly issued securities (other than treasury bills) of or guaranteed by any of the Participating Governments payable in Eastern Caribbean Dollars and maturing in not more than fifteen years from the date of their acquisition by the Bank, but the holding of such securities at any one time other than securities held under sub-paragraph (d) and (e), shall not exceed fifteen per cent of currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities:

[11] The original reads "effect"

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Provided that the percentages mentioned in sub-paragraphs (a), (b) and (c) shall be reviewed by the Council annually and approved or varied either generally or specifically in respect of any Participating Government;

(d) invest in securities of the Participating Governments to any amount and to mature at any time on behalf of staff and superannuation funds and other similar funds of the Bank;

(e) purchase and sell bonds of any Corporation established under the authority of any Participating Government or Governments for the express purpose of financing development within the territory or territories thereof: Provided that—

(i) the bond by their terms shall mature in not more than ten years from the date of their acquisition by the Bank;

(ii) repayment of their interest and principal shall be guaranteed by the Participating Government or Governments under whose authority the Corporation is established;

(iii) the Bank may, upon default of the issuer, whether in whole or in part, invoke the guaranty under (ii) solely by notification to the guarantor or guarantors, and satisfy itself to the full extent of the obligation outstanding, the amount thereof being deemed to have been accelerated for the purpose of the guarantee, by charging the profits of the Banks distributable to the guarantor or the guarantors pursuant to Article 6 paragraph (4) during the year of default and succeeding financial years of the Bank;

(iv) the amount of bonds held in respect of any territory by the Bank under Article 40 paragraph (1) sub-paragraph (e) of this Agreement shall not at any time exceed two and one-half per cent of that Government, as determined by the Bank, over the prior three financial years.

(2) Without limiting the generality of the provisions of paragraph (1), the Bank is expressly authorised to—

(a) make advances to any Participating Government on such terms and conditions as may be agreed, in respect of subscriptions and other payments resulting from or identical to, membership in any international financial institution established under governmental auspices its participation in any account thereof and any transactions and operations undertaken in connection therewith; and

(b) assume pursuant to agreement with each Participating Government, its liabilities due and outstanding to financial institutions in respect of special deposits required of them as of the date on which the Bank shall be deemed to have been established in accordance with Article 54 paragraph (2) of this Agreement: Provided that each such agreement shall specify the terms and conditions of repayments to the Bank by the Participating Government of the liabilities thus assumed, and that Participating Government shall obligate itself not to require further special deposits of any financial institutions operating within its territory.

41. (1) The Bank shall act as agent for the Participating Governments in the administration of any law or regulation relating to exchange control; and in accordance with such instructions as the Council may, from time to time, issue in the licensing of any offshore banking or offshore trust operation.

(2) The Bank shall monitor the operations of offshore financial institutions in accordance with the laws or regulations under which such financial institutions have been licensed to operate and shall take account of such guidelines as the Council may from time to time issue for this purpose.

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(3) Returns, statements, accounts or information required to be submitted to the Participating Governments under the provisions of any such law or regulation shall be simultaneously submitted to the Bank.

PART X

MISCELLANEOUS

42. (1) The Bank may, with the approval of the Council, administer or participate in corporations or schemes established for the purpose of—

(a) insuring bank deposits;

(b) providing export credit insurance and guarantee;

(c) providing guarantees for credit extended by financial institutions;

(d) promoting the development of money, capital or securities markets in the territories of Participating Governments;

(e) financing the economic development of the territories of Participating Governments;

(f) exercising its emergency powers under this Agreement.

(2) Subject to paragraph (3), the Bank may, with the approval of the Council, subscribe to, hold and sell shares of a corporation organised with the approval or under the authority of the Participating Government for any of the purposes specified in paragraph (1).

(3) The total value of the Bank's shareholdings in corporations to which paragraph (2) refers shall not exceed 50 per cent of the General Reserve of the Bank.

(4) Subject to paragraph (5) the Bank may, with the approval of the Council, establish special funds in order to facilitate the administration of the schemes or corporations specified in paragraph (1) and may make annual contributions thereto out of its profits.

(5) The Bank may, with the approval of the Council advance to any such special fund such sums as may be required during a financial year:

Provided that such advances do not exceed its annual contribution to the fund for that year.

(6) If the Bank ceases to administer any of the schemes or corporations specified in subsection (2), the special fund relating to the particular scheme or corporation which the Bank has ceased to administer, may be liquidated in such manner as the Bank, with the approval of the Council, determines.

43. The Bank shall not—

(1) engage in trade or participate directly or indirectly in the ownership of any financial, agricultural, commercial, industrial or other enterprises, except to the extent provided in Article 42 paragraph (2) and paragraph (4) sub-paragraph (a) hereof;

(2) purchase or retain ownership of real estate except insofar as is necessary for the conduct of its business and for the housing of its officers and employees;

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(3) make unsecured advances, whether by loans or overdrafts, except as provided in Article 39;

(4) make advances, whether by loans or overdrafts, secured otherwise than as laid down in this Agreement Provided that—

(a) should any debt due to the Bank be in jeopardy, the Bank may secure such debts on real or other property, and, if the security is enforced, acquire and hold such property but with a view to the sale thereof as soon as is practicable;

(b) subject to terms and conditions to be prescribed by the Board, the Bank may grant advances to any of its officers or employees—

(i) for the purchase, construction or repair of one residential house for his personal use against the security of the said house, and

(ii) for other purposes in an amount not to exceed during the time that they are outstanding the annual renumeration received by the borrower from the Bank;

(5) accept shares as collateral security, except as provided in paragraph (4) sub-paragraph (a) hereof.

44. In carrying out its functions the Bank shall be guided solely by technical criteria and considerations and shall not discriminate in any respect of its operations on political or other non-economic grounds.

45. (1) The Bank may make such regulations as may be required from time to time for giving effect to the provisions of this Agreement.

(2) Regulations made by the Bank shall have full force and effect when all steps have been taken as are necessary to give legal effect to them in each of the territories. All regulations made by the Bank shall promptly be published in the Official Gazette of each of the Participating Governments and notified to the public in such other manner as the Bank shall decide.

(3) In the event that any one of the Participating Governments shall, within 21 days of the date that a regulation becomes effective, lodge with the Council a request for review, the Council shall promptly review the regulation in consultation with the Bank and render its decision.

PART XI

ACCOUNTS AND STATEMENTS

46. The financial year of the Bank shall begin on the first day of April and end on the thirty-first day of March: Provided that the first financial year of the Bank may begin on a day after the first day of April and end on the thirty-first day of March next following.

47. The accounts of all transactions of the Bank shall be audited by an Auditor appointed by the Bank from a list approved by the Council.

48. (1) Within three months of the close of each financial year the Bank shall—

(a) transmit to each of the Participating Governments a copy of its annual accounts certified by the auditor and such annual accounts shall be published as soon as may be;

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(b) transmit to each of the Participating Governments and publish a report on its operations during the year:

Provided that the annual accounts and the report may be published within four months of the close of the first financial year of the Bank.

(2) The Bank shall, as soon as may be, make up and publish a return of its assets and liabilities as at the close of business on the last business day of each month and shall transmit a copy to each of the Participating Governments.

(3) The Bank shall include in the monthly return the proportion which the value of the reserve of external assets bears to its notes and coins in circulation and other demand liabilities.

49. The Council may at any time require an auditor or board of audit to examine and report on the accounts of the Bank, as a whole, or any aspect of the Bank's operations and the Bank shall provide the auditor or board of audit with all necessary and proper facilities for such an examination.

PART XII

IMMUNITIES, PRIVILEGES AND ARBITRATION OF DISPUTES

50. (1) To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territory of each Participating Government.

(2) The Bank, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

(3) Property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation or any other form of seizure.

(4) The archives of the Bank shall be inviolable.

(5) To the extent necessary to carry out the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

(6) The official communications of the Bank shall be accorded by Participating Governments the same treatment as the official communications of other Participating Governments.

(7) The Governor, the Deputy Governor, the appointed Directors, officers and employees of the Bank—

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

(ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by Participating Governments to the representatives, officials and employees of comparable rank of other Participating Governments;

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(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by Participating Governments to representatives, officials and employees of comparable rank of other Participating Governments.

(8) (a) The Bank, its assets, property, income and its business, shall be immune from all taxation and from all customs duties in respect of goods acquired by, or services rendered to it for its own use. The Bank shall also be immune from liability for the collection or payment of any tax or duty in respect thereof except when it resells a good acquired by it to a member of the public.

(b) No tax shall be levied on or in respect of salaries and emoluments, including pensions and gratuities, paid by the Bank of the Governor, the Deputy Governor and the appointed Directors, officers and employees of the Bank.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held—

(i) which discriminates against such obligations or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place in which it is issued, made payable or paid, or the location of any office or place of[12] business maintained by the Bank.

(9) The Bank shall indemnify and keep indemnified the Governor, the Deputy Governor, the appointed Directors, officers and employees of the Bank from and against any and all loss, damage or liability (whether criminal or civil) suffered including any legal fees and costs incurred, arising in connection with the performance of their duties or the exercise of their functions.

(R.A. 14/2016, s.13)

51. (1) Any dispute between the Participating Governments concerning this Agreement or between the Bank and a Participating Government shall be submitted to arbitration by a tribunal of arbitrators appointed pursuant to paragraph (2) of this Article.

(2) (a) If the dispute is between only two parties, each party shall be entitled to appoint one arbitrator, who shall be the Chairman of the tribunal.

(b) If the dispute is between three or more parties, each party shall be entitled to appoint one arbitrator and all the parties shall together appoint an additional arbitrator, who shall be the Chairman of the tribunal.

(3) If, within thirty days of receipt of the request for arbitration, any party has not appointed an arbitrator or if within thirty days of the appointment of the arbitrators the parties have not appointed the third arbitrator or, as the case may be, the additional arbitrator, any party to the dispute may request the Chief Justice of the Eastern Caribbean States Supreme Court, or in the event of his non-acceptance for any reason, such other judicial authority as may be prescribed by the Council, to make the required appointment.

(4) The procedure of the tribunal shall be fixed by the arbitrators, but the Chairman of the tribunal shall have full power to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The Chairman of the tribunal shall be entitled to vote, and in the event of a tie, shall have a casting vote.

[12] The original reads "or"

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PART XIII

WITHDRAWAL AND TERMINATION

52. (1) A Participating Government may withdraw from the Bank by giving written notice of its intention to do so simultaneously to the Chairman of the Council and to the Bank. The Chairman shall promptly notify the other Participating Governments. The withdrawal shall take effect twelve months after the notice is received by the Bank: Provided that at any time before the withdrawal becomes finally effective, the Participating Government may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

(2) After withdrawal, a Participating Government shall remain liable for all direct and contingent obligations to the Bank which it had incurred or to which it was subject up to the date of withdrawal from the Bank but shall not incur any liability for obligations resulting from operations of the Bank effected after that date and shall cease to participate in the profits or losses of the Bank thereafter.

(3) Within three months from the date of receipt by the Chairman of the Council of the notice of withdrawal, the Council shall determine the settlement of accounts between the Bank and the withdrawing Government. Such settlement shall take account of—

(a) notes and coins in circulation in the territory of the withdrawing Government and any amount owing by the said Government to the Bank;

(b) the withdrawing Government's share in the General Reserve of the Bank in accordance with the imputed equity interest formula contained in paragraph (4) of Annex I of this Agreement;

(c) such other considerations as the Council may consider.

53. (1) The Council may by resolution adopted by a two-thirds majority of all of its members terminate the operations of the Bank. After such termination, the Bank shall forthwith cease all activities; except those incident to the orderly realisation, conservation and preservation of its assets and settlement of its obligations.

(2) No distribution of the assets of the Bank shall be made to Participating Governments until all liabilities to creditors, including currency in circulation not of Government debt, have been discharged or provided for and until the Council by resolution adopted by a two-thirds majority of its members, shall have decided to make such a distribution.

(3) The net assets of the Bank remaining after the settlement under paragraph (2) above, shall be distributed to Participating Governments in accordance with the imputed equity interest formula contained in paragraph (4) of Annex I of this Agreement.

PART XIV

FINAL PROVISIONS

54. (1) This Agreement shall enter into effect—

(a) when it has been signed on behalf of all the Participating Governments; and

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(b) when each Participating Government deposits with the Authority an instrument of acceptance stating—

(i) that it has accepted this Agreement in accordance with its laws and has taken all steps necessary to enable the Bank to operate, in accordance with this Agreement, within its territory including the enactment of such laws as may be necessary to satisfy the provisions of this Agreement;

(ii) that the Participating Government agrees that, in respect of its territory, the Bank shall exercise exclusive powers in respect of those matters enumerated in Articles 18 paragraph (1), 19 paragraph (1), 20, 21, 33, and 34 of this Agreement.

(2) The Bank shall be deemed to have been established immediately upon the performance of the provisions of paragraph (1) hereof by all the Participating Governments.

(3) The Authority shall be deemed to cease to exist immediately upon the establishment of the Bank.

(4) The East Caribbean Currency Agreement 1965 and all amendments thereto shall cease and terminate on the establishment of the Bank.

(5) Each Participating Government shall take the necessary action to make effective the provisions of this Agreement and enact such legislation as may be necessary to give effect to the Agreement.

55. An amendment to this Agreement may be proposed to the Council by the Bank or by any Participating Government and shall be effective when it is agreed to by all the Participating Governments and each Participating Government deposits with the Bank an instrument stating that it has accepted the amendment in accordance with its law and has taken all steps necessary to make it effective in its territory.

56. After the entry into force of this Agreement, a territory other than one listed in the Preamble may in the discretion of the Council be permitted to become a member of the Bank by accession of this Agreement on such terms as the Council shall determine by a two-thirds majority vote of the total number of its members. Any such territory shall deposit, on or before a date appointed by the Council an instrument of Accession with the Bank which shall notify such deposit and the date thereof to the parties of this Agreement.

IN WITNESS WHEREOF the representatives of the Participating Governments being duly authorised in their behalf, have signed this Agreement.

[Signatures omitted]

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ANNEX I TO THE AGREEMENT ESTABLISHING THE EASTERN CARIBBEAN CENTRAL BANK

FORMULA FOR SHARING OF THE PROFITS OR LOSSES OF THE BANK

(1) The distributable profits or losses of the Bank shall be distributed among the Participating Governments according to the formula set forth below.

(2) The Bank in respect of each financial year shall determine the share of its distributable profits or losses attributable to returns or losses on investments of its external reserves used as backing for the currency as well as the distributable profits or losses attributable to revenue or loss on other earning activities of the Bank.

(3) The share of distributable profits or losses attributable to returns or losses on investment of its external assets shall be distributed between the Member States in proportion to the respective amount of currency in circulation in each Member State. In order to facilitate the determination from time to time of the currency in circulation in all Member States, the Bank in its preparation of any new issue of currency notes to be put into circulation at the date of commencement of this Agreement, shall order that such notes be coded in such a manner as to permit the issue of notes only of a particular code to a Member State, and any subsequent determination of the currency in circulation in that State shall take account of redemptions of notes of the particular code issued to a Member State, notwithstanding that such notes may have been redeemed from elsewhere.

(4) The share of distributable profits or losses attributable to revenue or loss on other earning activities of the Bank shall be distributable on the basis of the imputed equity interest of each Member State, which shall be the proportion of profits or losses provided for under the formula in operation in 1969 adjusted to take account of the ratios determined under paragraph (3) of this Annex, but so as to ensure that the aggregate of all proportions is one.

(R.A. 14/2016, s. 14)

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ANNEX II TO THE AGREEMENT ESTABLISHING
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COMPENSATION ARRANGEMENT TO COVER LOSSES DUE TO CHANGES IN THE EXTERNAL VALUE OF THE EC DOLLAR

(1) In the first instance, compensation would be considered in respect of net losses in the capital value of assets. On this basis, the following would apply—

(a) Compensation would be considered in the first instance to cover overall net losses in capital value of Assets only where these are being managed by the Bank as fiscal agent and depository of Participating Governments;

(b) Where not adverse movements in current payment commitments occur, the increment in these can be met by the Bank, in whole or in part, and for limited time period both the proportion and time period to be subject to the decision of the Council on the recommendation of the Bank after detailed objective study;

(c) Where the net losses of capital value have occurred as a result of a decision by the Council to vary the parity as far as possible the objective of the compensation should be to maintain the capital value of assets of those few states which have sustained net losses;

(d) Where an involuntary devaluation has occurred, that is where either the reserve currency has been altered in parity, or where the par value of some other major currency has been altered, every effort should be made to assist in maintaining the net capital value of the asset portfolio of each Participating Government;

(e) Prior to any action towards compensation in any of the situations enumerated above, the Bank is required to make a full and careful determination of all gains and losses both in respect of its own portfolio and in respect of the portfolios of Participating Governments, and to present this determination to the Monetary Council with a recommendation from the Board with respect to any compensation to be considered;

(f) The provisions of Article (29) of the Agreement should be extended to provide for assistance by the Bank in maintaining the capital value of the external asset portfolios of Participating Governments as well as that of the Bank itself, and this could be facilitated by an allocation by Council from the annual profits of the Bank to the "Revaluation Reserve Account".

(2) Additionally, compensation would be considered as compensatory financing for payment deficits attributable to a change in the exchange value of the EC dollar. In this case the following would apply—

(a) As in the case of the compensation for capital value losses, the basis for compensatory financing would be detailed study by ECCB, in collaboration with the Participating Governments, of the impact of the change in parity on the economy as a whole. The methodology of such study would be informed by appropriate internationally accepted guidelines for quantifying the impact of change in parity value of the currency.

(b) Power should be granted to the Central Bank to establish special funds for various purposes, and specifically to establish a special fund for compensatory financing of the sort contemplated here in cases of changes in the parity value of the currency, natural disasters or other situations producing drastic declines in export earnings.

(c) The special fund for compensatory financing should be based on the Bank's own resources as well as on resources mobilised from outside of the Bank. In some cases such outside funds

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may be made available in liquid resources in advance to the Bank, while in other cases the Bank may negotiate with other organisations for a line of credit or access to resources to be made available in case the expected event occurs.

(d) In the case of compensatory arrangements resulting from deliberate changes in parity, the IMF would no doubt be privy to the economic circumstances justifying the changes and should stand ready to assist any country deemed to be a net loser.

(e) The funding mechanism should aim at providing short-term credit for tiding over the initial period of adversity as well as funding to assist in longer term adjustment of the economy.

(f) The compensatory funding should be supplementary to any compensatory financing of export fluctuations provided by the IMF and should provide as far as possible for entitlement with minimum conditionality.

(g) The mechanism should provide for a combination of loans to Participating Governments, liquidity expansion through additional credit, and balance of payments assistance, the particular combination of facilities depending on the result of the impact study and the wishes of the Participating Government concerned.

(h) Where any Participating Government has suffered an adverse impact as a result of the factors mentioned, special consideration will be given to any request which it may make for temporary use of resources made available by the Bank, and allocated to Member States but for the time being not utilised.

(i) The OGCED should be asked to give priority attention to the provisions of resources for assistance under this head.

(j) Once the studies which the Bank is required to undertake indicate an adverse impact the compensatory procedures should be automatically activated to the extent possible e.g. through the provision of increased liquidity to the banking system and increased foreign exchange. Government borrowing of course, will have to be the subject of a formal application.

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