

## FINANCIAL INSTITUTIONS (AMENDMENT) ACT, 1980

No. 43



of 1980

### ARRANGEMENT OF SECTIONS

#### SECTION

1. Short title
2. Amendment of section 8 of Cap. 46:04
3. Amendment of section 10 of principal Act
4. Amendment of section 11 of principal Act
5. Amendment of section 15 of principal Act
6. Amendment of section 17 of principal Act
7. Amendment of sections 18 and 19 of principal Act
8. Amendment of section 22 of principal Act
9. Amendment of section 24 of principal Act
10. Amendment of section 27 of principal Act
11. Substitution of section 28 of principal Act
12. Amendment of section 38 of principal Act

#### **An Act to amend the Financial Institutions Act (Cap. 46:04)**

*Date of Assent: 11.12.80.*

*Date of Commencement: 19.12.80.*

**ENACTED** by the Parliament of Botswana

1. This Act may be cited as the Financial Institutions (Amendment) Act, 1980. Short title
2. Section 8 of the Financial Institutions Act (hereinafter referred to as "the principal Act") is hereby amended by substituting for the word "transaction", where it first appears therein, the word "translation". Amendment of section 8 of Cap. 46:04
3. Section 10 (4) of the principal Act is hereby amended — Amendment of section 10 of principal Act
  - (a) by substituting for the full stop, which appears at the end of the subsection, a colon; and

(b) by adding thereto the following proviso –

“ Provided that a financial institution shall not be required to keep an additional register if the Bank is satisfied that the register kept by such financial institution under section 88 of the Companies Act shows clearly the current beneficial owners of all shares endowed with such voting rights and a record of any change in the beneficial owners thereof.”

Amendment  
of section  
11 of principal  
Act

4. Section 11 of the principal Act is hereby amended by renumbering as “(5)” the subsection immediately following subsection (4).

Amendment  
of section  
15 of principal  
Act

5. Section 15 (1) (b) of the principal Act is hereby amended by substituting for the words “section 37 (a)”, which appear therein, the words “section 34 (a)”.

Amendment  
of section 17  
of principal  
Act

6. Section 17 of the principal Act is hereby amended –

(a) by substituting for subsection (1) thereof the following new subsections –

“ (1) A financial institution shall at all times maintain an unimpaired capital reserve fund equal to not less than such minimum amount as the Bank may, subject to the conditions specified in subsections (3) and (4), from time to time determine in respect thereof.

(2) The required capital reserve fund referred to in subsection (1) shall be maintained in the following form –

(a) at least 50% of it shall be paid-up capital; and

(b) the balance shall be in a capital reserve account, the amount of which shall not be reduced without the prior approval of the Bank.

(3) The minimum amount of the unimpaired capital reserve fund required to be maintained under subsection (1) shall in no case be –

(a) less than the greater of P500 000 or 5% of the average during its previous financial year of the institution’s deposits and similar liabilities to the public in Botswana in terms of the report submitted twice a month to the Bank; or

(b) more than the greater of P1 000 000 or 20% of such deposits and similar liabilities.

(4) An institution required to augment its capital, as a result of a change in the minimum amount determined by the Bank under subsection (1), shall be permitted a reasonable period of time, not being less than 12 months, within which to comply.”; and

(b) (i) by renumbering subsection (2) as subsection (5); and  
(ii) by inserting, immediately before the words “Reserve Account”, which appear therein, the word “Statutory”.

7. Sections 18 and 19 of the principal Act are hereby amended by inserting, immediately before the words "Reserve Account", wherever they appear therein, the word "Statutory".

Amendment  
of sections  
18 and 19 of  
principal  
Act

8. Section 22 (1) (b) of the principal Act is hereby amended by substituting for the words "Reserve Account", which appear therein, the words "Statutory Reserve Account and Capital Reserve Account".

Amendment  
of section  
22 of principal  
Act

9. Section 24 of the principal Act is hereby amended –  
(a) in subsection (1) (a) thereof –

Amendment  
of section  
24 of principal  
Act

(i) by substituting for the words "the unimpaired paid up share capital or assigned capital and unimpaired balance in the Reserve Account of such financial institution", which appear therein, the words "all capital funds and reserves together with undistributed profits of such financial institution";

(ii) in paragraph (ii) of the proviso thereto, by substituting for the words "having an ascertained market value, or otherwise having a value as security accepted in good faith by an officer of such financial institution," which appear therein, the words "the value of such security having been ascertained in a manner acceptable to the Bank,"; and

(iii) by adding at the end thereof the following new paragraph –

" (b) Notwithstanding the provisions of the preceding subparagraphs, the Minister may, after consultation with the Bank, by regulations made under section 52, modify any of the provisions of those subparagraphs.";

(b) by renumbering subsection (1) (b) as paragraph (c); and

(c) by inserting, immediately after subsection (8) thereof, the following new subsection –

" (9) No financial institution shall, except with the prior approval in writing of the Bank, grant any loan, advance or credit facility of an amount in excess of such amount as may be prescribed to any person against security of which one-third or more of the total value consists of an immovable property."

10. Section 27 (2) (b) of the principal Act is hereby amended by inserting, immediately after the words "balance sheet", which appear therein, the words "and a brief statement of income and expenditure for its most recent financial year".

Amendment  
of section  
27 of principal  
Act

11. The principal Act is hereby amended by substituting for section 28 thereof the following new section –

Substitution  
of section 28  
of principal  
Act

"Returns            28. Every financial institution shall, not later than 21 days after the last day of each month, send to the Bank, in duplicate and in such form and on such dates as the Bank may determine, a statement of its assets and liabilities together with such other information as the Bank may require in respect of its places of business in Botswana."

Amendment  
of section  
38 of principal  
Act

12. Section 38 of the principal Act is hereby amended –

(a) by inserting, immediately after subsection (2) thereof, the following new subsection –

“ (3) Every financial institution shall have posted in a conspicuous place in each office where it transacts business, other than a mobile office, the hours the office is open for the transaction of business and the rates of interest paid on deposits.”; and

(b) (i) by renumbering subsection (3) as subsection (4); and

(ii) by adding at the end thereof the following proviso –  
“Provided that nothing in this subsection shall oblige a financial institution, when open on a Saturday, to deal in any foreign exchange transaction.”.

PASSED by the National Assembly this 4th day of December, 1980.

I.P. GONTSE,  
*Clerk of the National Assembly.*