

An Extract from
Act No. 2 of 1986
CENTRAL BANK ACT

An Act to amend the Central Bank Act, Chap. 79:02 and the Financial Institutions
(Non-Banking) Act, 1979.

Assented to 8th February, 1986

PART VB
Deposit Insurance

44J. In this Part—

“Board of Management” means the Board of Directors of the Corporation;

“Chairman” means the Chairman of the Board of Management;

“deposit” means—

(a) the unpaid balance of money or its equivalent received or held by an institution from or on behalf of a person in the usual course of business and for which the institution has given or is obliged to give credit to that person’s checking, savings, demand or time account, or for which the institution has issued a certificate, receipt, cheque, money order, draft or other instrument in respect of which it is primarily liable; but shall not include letters of credit, standby letters of credit or instruments of a similar nature, interbank deposits and deposits from affiliated companies; and

(b) such other deposits as may be prescribed by the Minister on the recommendation of the Bank.

44K. There is established for the protection of depositors a Deposit Insurance Fund (hereinafter referred to as “the Fund”).

***44L.** Membership in the Fund is compulsory for—

(a) every bank licensed under the repealed Banking Act;

(b) every institution licensed under the repealed Financial Institutions (Non-Banking) Act.

44M. (1) A compulsory initial contribution shall be paid to the Fund at a time to be designated by the Minister, by every bank or other institution; such contribution shall be based on a percentage rate of deposits to be prescribed by the Minister by Order after consultation with the Bank.

(2) Every member of the Fund shall pay an annual premium to the Fund, such premium shall be based on a percentage rate of deposits to be prescribed by the Minister by Order after consultation with the Bank.

(3) The first annual contribution shall be levied within one year of the establishment of the Fund.

(4) The Bank shall contribute to the Fund sums equal in amount to the initial contribution made by members of the Fund.

(5) Where in the opinion of the Corporation the Fund has made or is likely to make payment to depositors which have exhausted or are likely to exhaust the Fund, the Corporation shall furnish the Minister with an estimate of the amount necessary to meet the obligations of the Fund in the year next succeeding and the Minister after consultation with the member institutions may by Order, require that special contributions be levied on them.

(6) The Bank shall pay into the Fund an amount equal to the special contributions paid by member institutions.

(7) Where the Corporation determines that the Fund has reached a satisfactory level it may refund any excess moneys to the institutions *pro rata*, so however, that all amounts so refunded shall be treated as income in the hands of the institution and chargeable to tax.

44N. (1) The Corporation shall insure each deposit in a member institution which is payable in Trinidad and Tobago in Trinidad and Tobago currency.

(2) Deposit Insurance coverage is limited to fifty thousand dollars or such other amount as the Minister may prescribe by Order save that where a depositor maintains deposits in more than one institution or in different capacities and rights, the limit shall apply to the total amount maintained on deposit in each institution in each capacity and right.

(3) A depositor is protected by deposit insurance only when the member institution in which he has a deposit is closed by or with the approval of the Bank as a result of financial difficulties.

(4) Payment to the person *prima facie* entitled under this section by the Corporation in respect of any deposit insured discharges the Corporation from liability in respect of that deposit.

(5) When payment is made by the Corporation under this section in respect of a deposit with a member institution the Corporation is subrogated up to the insured limit to all the rights and interests of the depositor as against that member institution and may maintain an action in respect of such rights and interests in the name of the depositor or in the name of the Corporation.

(6) Subject to subsection (7) the benefit of insurance cover shall not be extended to any depositor who is shown to have been a party to or profited from the circumstances giving rise to the member institution's failure.

(7) Subsection (6) does not apply to depositors who are professional advisors of the member institution and whose *bona fides* are not in question.

(8) Payments to depositors of closed institutions shall commence not later than three months after the closure of the member institution.

(9) The insurance coverage shall only benefit deposits which have been held with an institution for a minimum period of one year after the date this Act comes into operation, save where an institution is or has been closed by or with the approval of the Bank.

(10) The Corporation shall in respect of rights to which it is subrogated have priority over other unsecured creditors of a closed institution.

44O. Contributions, levies and premia to the Fund by member institutions are allowable deductions to such institutions in computing their chargeability to tax.

44P. The Fund shall be managed by a Board of Management which is established a body corporate called the Deposit Insurance Corporation and which shall have a common seal.

44Q. (1) The Board of Management shall be appointed by the Minister and shall consist of—

(a) two members representing the Bank;

(b) one member representing the Minister;

(c) two members who have knowledge and experience in banking, commerce, finance, accounting, insurance or law,

save that no person may be appointed a member who is a director of a member institution.

(2) There shall be appointed with each member an alternate who shall be qualified for appointment in the same manner as the member to whom he is alternate.

(3) In the absence of a member his alternate shall have and exercise the same powers and enjoy the same privileges as the member to whom he is alternate.

44R. Members of the Board shall be appointed for a term of not less than three years and shall be eligible for re-appointment.

44S. (1) The members shall elect a Chairman from among their number.

(2) The Chairman shall in the event of an equality in the voting, in addition to his original vote, have a casting vote.

44T. The Corporation shall determine its own procedure save that the quorum for meetings shall be four members.

44U. No vacancy in the membership of the Corporation or irregularity in the appointment of its members or their alternates shall invalidate its proceedings.

44V. (1) The authorised capital of the Corporation is one million dollars which may be increased by the Board of Management with the approval of the Minister.

(2) Upon the establishment of the Corporation, there shall be paid-up by the Bank in respect of the capital a sum of five hundred thousand dollars.

(3) The paid-up portion of the authorised capital may be increased by such amount as the Minister on the recommendation of the Bank may approve.

(4) Any increase in the authorised or paid-up capital shall be notified by publication in the *Gazette*.

44W. For the proper management and administration of the Fund, the Corporation shall have power—

(a) to appoint and employ such number of managers, employees and officers and other employers as it considers necessary or desirable for the efficient performance of its functions and upon such terms and conditions as agreed after consultation with the Bank;

(b) to enter into agreement with the Bank for the secondment of staff and the provision of services;

(c) to establish committees;

(d) to levy authorised contributions and premia from member institutions;

(e) to recommend to the Bank the suspension of business or closure of any member where that member is in financial difficulty;

(f) in the event of a member becoming insolvent to act as receiver or liquidator of that member;

(g) to arrange after consultation with and on the advice of the Bank for the restructuring of a failed member whether by merger with a financially sound member or otherwise;

(h) to pay off depositors up to the insured limit;

(i) to accumulate, manage and to invest funds collected, to borrow, lend, give guarantees and acquire the undertaking of any institution which is in financial difficulty;

(j) subject to prior claims being paid, to deduct from moneys from the Fund due to a depositor, any loans due, call called-in guarantees and overdrafts and to set-off deposits pledged as collateral;

(k) to require from any director, manager, agent or employee of a member institution or from such person in its holding or parent company or any of its subsidiary companies any information in relation to its business or the production of any document or record under his custody or control.

44X. (1) Where the Bank advises the Corporation that a member institution has failed, the Corporation shall notify each depositor in writing that the institution is closed and make public notification of the closure in such newspapers as may be considered appropriate, indicating the dates, times and places at which payment shall be made.

(2) No payment may be made unless a depositor produces satisfactory evidence of his deposit to the Corporation and that evidence shall be surrendered to the Corporation on receipt of payment.

(3) Persons who have deposits in excess of the insured limit shall be paid the insured portion of their deposits and shall be issued with a certificate for the amount in excess of the limit.

(4) Depositors may submit claims for Deposit Insurance up to one year after closure of the institution with which the deposit was made.

(5) Claims made after the time specified in subsection (4) shall be made against the assets of the institution and shall be paid *pro rata* as the assets of the institution are collected and sold.

(6) Claims shall be supported by evidence of deposit ownership and may be made by depositors in person or in writing supported by affidavit.

44Y. (1) Persons who have borrowed money from institutions that have been closed by the Bank shall make payments to the Corporation on the same terms and conditions attaching to their loan contracts with the institutions.

(2) Subject to subsection (3) demand loans become due as soon as an institution is closed by the Bank.

(3) The Corporation may on the application of a borrower agree to enter into new arrangements for the repayment of a demand loan.

44Z. Where the Bank closes an institution—

(a) all accounts of the institution are frozen
forthwith;

(b) interest on deposits immediately ceases to accrue whether or not the date of maturity of the deposit was beyond the date of the closure.

44AA. (1) Where a member institution of the Fund, or any director, agent, servant or employee (including a former director, agent, servant or employee) of that institution fails to comply with any request by the Corporation for information relating to the affairs of the institution or to co-operate in the inspection or investigation of the institution, that institution or that director, agent, servant or employee is guilty of an offence and liable on summary conviction to a fine of fifty thousand dollars or imprisonment for two years or both.

(2) Where a director, agent, servant, employee (including a former director, agent, servant or employee) of a member institution deliberately conceals from the Corporation any material information regarding the financial affairs of the member institution or provides false or misleading information to the Corporation or falsifies or tampers with the books, records, accounts, papers or documents of the institution, so as to mislead the Corporation, that director, agent, servant or employee is guilty of an offence and liable on conviction on indictment to a fine of one hundred thousand dollars or imprisonment for five years or both.

(3) Where a depositor falsifies any passbook, certificate of deposit, bank statement or any document claiming title to a deposit with a failed member institution or where a person fraudulently claims to be a depositor either for payment or for the purpose

of claiming an insured deposit, that depositor or person is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars or two years imprisonment or both.