

## ARRANGEMENT OF SECTIONS

### Section

#### **PART I PRELIMINARY**

1. Short title and commencement.
2. Interpretation.
3. Application of the Act.

#### **PART II LICENCES**

4. Requirement for licence.
5. Classes of licences.
6. Application for licence, formalities and consideration.
7. Alteration of facts disclosed in application.
8. Adequacy of capital.
9. Period of licence and licence fee.
10. Authorisation of location and approval of new business premises.
11. Display of licence certificate.
12. Restrictions of names likely to mislead.
13. Advertisement.
14. Actions of fundamental change requiring approval.
15. Change in directorship.

#### **PART III AUDIT, INFORMATION AND EXAMINATION**

16. Annual audit, report and publication of financial statements and results.
17. Notice of termination of auditor's appointment.
18. Accounting records and systems of business control.
19. Returns.
20. Extension of time for providing information.
21. Retention of records.
22. Examination by Authority.
23. Confidential information.
24. Exchange of information.

#### **PART IV SEGREGATED ACCOUNTS, BANKRUPTCY OR INSOLVENCY OF LICENSEE**

25. Segregated accounts.
26. Bankruptcy or insolvency of licensee.
27. Utilisation of deposits, etc.

(ii)

**PART V  
ABANDONED PROPERTY**

28. Abandoned property.
29. Report, publication and disposal of abandoned property.
30. Sale and handling of proceeds of sale of abandoned property.
31. Claims on abandoned property.
32. Penalties for failure to file abandoned property report.

**PART VI  
ENFORCEMENT**

33. Revocation and termination of licence.
34. Suspension of licence.
35. Persons carrying on money services business without a licence.
36. Appointment of receiver.
37. Authority may apply to court to preserve customers' interests.
38. Powers of the Authority in respect of licensees.
39. Transactions effected prior to suspension or revocation of licence.
40. Powers and duties of the Authority.
41. Criteria of prudent management.
42. Management's duty of compliance with the requirements of the law.
43. False or misleading information.
44. Removal and disqualification of officers.
45. Offences by officers of corporate bodies.
46. General penalty.

**PART VII  
IMMUNITIES, GUIDELINES AND REGULATIONS**

47. Immunity.
48. Prudential guidelines.
49. Regulations.

SCHEDULE 1  
SCHEDULE 2  
SCHEDULE 3  
SCHEDULE 4

I assent,



CUTHBERT M SEBASTIAN  
*Governor-General.*

21<sup>st</sup> August, 2008.

## SAINT CHRISTOPHER AND NEVIS

### No. 26 of 2008

**AN ACT** to require the licensing and regulation of money services businesses and to make provision for related matters.

*[Published 2<sup>nd</sup> August 2008, Extra-Ordinary Gazette No. 40 of 2008]*

**BE IT ENACTED** by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:-

#### **PART I PRELIMINARY**

1. This Act may be cited as the Money Services Business Act, 2008, and shall come into operation on such date as the Minister may, by Order, appoint.

Short title and  
commencement.

2. In this Act

Interpretation.

“affiliate” in relation to a licensee (“L”) means

- (a) a company which is or has at any relevant time been
  - (i) a holding company or subsidiary of L;
  - (ii) a subsidiary of a holding company of L; or
  - (iii) a holding company of a holding company or a subsidiary of a subsidiary of L; or
- (b) any company or firm over which L has control;
- (c) any company or firm over which L and any person associated with L has control;
- (d) any company or firm which has common ownership with L;
- (e) any company or firm which has the same beneficial owner and shares common management and interlinked businesses with L.

*Money Services Business Act, 2008 – 26.*

“applicant” means a person applying for a license under section 6;

“Authority” means Financial Services Commission created pursuant to the Financial Services Commission Act, 2000;

“Central Bank” means the Eastern Caribbean Central Bank established under Article 3 of the Eastern Caribbean Central Bank Agreement 1983;

“Court” means the High Court of Justice established by the Supreme Court Order 1967;

“designated licensee” means a licensee who has been designated as a funds transfer system under the Payment System Act, 2008;

“financial year” means, in relation to a licensee, a period of not more than twelve (12) months for which the audited financial statements of a licensee is prepared in accordance with this Act;

“licence” means a Money Services Business Licence granted under section 6 (4)(a)(i);

“licensee” means a person holding a licence under this Act;

“Minister” means the Minister responsible for Finance;

“money services business” means

- (a) the business of providing (as a primary business) any one or more of the following:
  - (i) transmission of money or monetary value in any form;
  - (ii) cheque cashing;
  - (iii) currency exchange;
  - (iv) the issuance, sale or redemption of money orders or traveller’s cheques;
  - (v) pay day advances;
  - (vi) any other services or businesses that the Minister may specify by Order published in the *Gazette*; or
- (b) the business of operating as an agent or franchise holder of any of the businesses mentioned in paragraph (a);

“net worth” means excess assets over liabilities as presented under international accounting standards subject to adjustment for non-admitted assets as determined by the Authority;

*Money Services Business Act, 2008 – 26.*

“pay day advances” means any advances made prior to the payment of a person’s salary, where the salary to be paid is used as collateral for the advance;

“significant shareholder” means a person who either alone or with an affiliate or related or connected person, is entitled to exercise or control ten percent or more of the voting power at any general meeting of the licensee or another company of which the licensee is a subsidiary.

3. (1) This Act does not apply to:
- (a) a person licensed under the Banking Act, 2004 and any exempt company or entity incorporated under the Companies Act, 1996, the Nevis Offshore Banking Ordinance, 1996 or the Nevis Business Corporation Ordinance, 1984 unless such person, exempt company or entity is operating as agent or franchise holder of a money services business;
  - (b) the Central Bank;
  - (c) an organisation licensed as a clearing agency under the Securities Act, 2001;
  - (d) an operator of a clearing house or funds transfer system.

Application of the Act.

(2) A money services business which is licensed under this Act is not required to be licensed under the Licenses on Businesses and Occupations Act, 1972.

(3) This Act does not apply to or affect the validity of any money services business transaction in existence at the date of commencement of this Act.

## **PART II LICENCES**

4. (1) Subject to subsections (2) and (5) a person shall not carry on money services business in Saint Christopher and Nevis unless that person holds a licence in accordance with this Act.

Requirement for licence.

(2) A person who immediately before the date of commencement of this Act was carrying on money services business, shall upon that date be deemed to be duly licensed under this Act for a period of four months, or such other period as the Authority approves and shall require a licence in order to carry on money services business after the expiry of that period.

(3) A person holding funds which that person has obtained by conducting money services business without being in possession of

*Money Services Business Act, 2008 – 26.*

a licence granted under this Act shall settle his obligations in accordance with Regulations issued by the Minister.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

(5) The Minister may by Order exempt any person from the licence requirement contained in subsection (1) if:

- (a) that person is a local government body or agency;
- (b) it is considered that the exemption would be beneficial to the economic needs of Saint Christopher and Nevis.

Classes of  
licences.

5. (1) There shall be several classes of licences as specified in Schedule 1, which may be applied for and granted subject to the provisions of this Act.

(2) The several classes of licences issued under this Act shall authorise the holders, for the period specified in the licence, to carry on money services business as specified under this section and not otherwise –

- (a) a “Class A” licence permits the holder to carry on any or all of the following businesses –
  - (i) transmission of money or monetary value in any form;
  - (ii) the issuance, sale or redemption of money orders or traveller’s cheques;
  - (iii) cheque cashing;
  - (iv) currency exchange;
- (b) a “Class B” licence permits the holder to carry on any or all of the following businesses:
  - (i) the issuance, sale or redemption of money orders or traveller’s cheques;
  - (ii) cheque cashing;
  - (iii) currency exchange;
- (c) a “Class C” licence permits the holder to carry on the business of cheque cashing;
- (d) a “Class D” licence permits the holder to carry on the business of currency exchange;
- (e) a “Class E” licence permits the holder to carry on the business of pay day advances.

*Money Services Business Act, 2008 – 26.*

(3) The Minister may by Order published in the *Gazette* amend Schedule 1 to add to, vary or remove the classes of licences.

6. (1) In order to obtain a licence as a money services business, a person shall apply in writing to the Authority and submit the documents and other information as specified in Schedule 2 and pay the application fee prescribed in Schedule 4.

Application for licence, formalities and consideration.

(2) In considering an application for a licence, the Authority shall conduct such investigation as it may deem necessary at the expense of the applicant, to ascertain:

- (a) the validity of the documents submitted in accordance with Schedule 2,
- (b) the financial condition and history of the applicant,
- (c) the nature of the business of the applicant,
- (d) the experience of the persons who are to constitute its management,
- (e) the source of initial capital, and
- (f) the convenience and needs of the community to be served by the granting of the licence.

(3) In considering an application for a Class A or Class B licence, the Authority shall, in addition to the matters specified in subsection (2), take into consideration -

- (a) the adequacy of capital structure, and
- (b) the earning prospects of the applicant.

(4) Within a reasonable time of its receipt of the application for a licence the Authority shall:

- (a) if it is satisfied that an application under subsection (1) is in order and that the applicant is a fit and proper person to be licensed to conduct money services business and that it can fulfill the obligations of a licensee under this Act:
  - (i) approve the application and issue a licence to the applicant in the form set out in Schedule 3, subject to the applicant paying the prescribed licence fee set out in Schedule 4 and making the prescribed statutory deposit in accordance with section 8, and subject to such other terms, conditions and restrictions it considers necessary;

*Money Services Business Act, 2008 – 26.*

- (ii) on issuing the licence to the applicant submit a copy of the licence to the Central Bank and recommend to the Central Bank that the licensee be designated in accordance with section 11 of the Payment Systems Act, 2008; or,
  - (b) if it is of the opinion that it would be undesirable in the public interest to grant the licence or that the applicant is not a fit and proper person to be licensed to conduct money services business, it may refuse to grant the same and shall inform the applicant that it has refused to grant the licence.
- (5) In considering whether an applicant is a fit and proper person to be licensed, the Authority:
  - (a) shall have regard to, in respect of each of its significant shareholders, directors, executive management, agents and officers:
    - (i) his financial status;
    - (ii) his educational or other qualifications or experience having regard to the nature of his application;
    - (iii) his ability to perform his proposed function efficiently, honestly and fairly; and
    - (iv) his reputation, character, financial integrity and reliability; and
  - (b) may take into account any matter relating to:
    - (i) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;
    - (ii) any person who will be acting as a principal or representative in relation to such business; and
    - (iii) any significant shareholder, director or officer of the applicant, any other company or firm in the same group of companies or to any director or officer of any such company or firm.
- (6) For the purposes of this section, the Authority may have regard to any information in its possession whether furnished by the applicant or not.
- (7) A licence to carry on money services business under this Act is not transferable.

*Money Services Business Act, 2008 – 26.*

(8) The Authority may at any time vary or repeal the conditions or restrictions it imposed pursuant to subsection (4).

(9) The Minister may amend or replace Schedules 2 and 4 by Order and the amendment or replacement shall be published in the *Gazette*.

7. An applicant shall forthwith give written notice to the Authority of:

- (a) any proposed alteration to, or
- (b) the occurrence of any event which it knows affects or may affect in a material respect,

information supplied to the Authority in relation to the application, being a proposal or event made or occurring while the application is pending a decision by the Authority.

Alteration of facts disclosed in application.

8. (1) A licensee shall maintain adequate capital in such form and based on such formula as the Minister may by Order prescribe.

Adequacy of capital.

(2) A licensee shall make a statutory deposit of a portion of the prescribed capital referred to in subsection (1) with the Authority to be held in trust in an interest bearing account with a bank or other financial institution approved by the Authority for the benefit of holders of outstanding payment instruments, in the event that the licensee becomes bankrupt or for any other reason is unable to meet its contractual obligations to its customers.

(3) A trust referred to in subsection (2) shall be created by trust deed.

(4) The Authority shall retain the deposit for a period of at least six months after the licensee ceases money services business in Saint Christopher and Nevis subject to any court order made in respect of the said deposit.

(5) Where there is a deficiency in the prescribed capital, the Authority shall require the licensee to present a plan that is satisfactory to the Authority to reconstitute its capital within thirty days or such longer period as may be determined by the Authority.

(6) Where the licensee:

- (a) fails to present a satisfactory plan pursuant to subsection (5); or
- (b) fails to implement a plan presented pursuant to subsection (5) the Authority shall take such remedial action as it deems necessary in accordance with section 38.

*Money Services Business Act, 2008 – 26.*

(7) The requirements of this section shall not apply to the holder of a Class C, Class D or Class E licence.

(8) The Minister may by Order exempt any other licensee from the requirements of this section.

Period of licence and licence fee.

9. (1) Every licensee shall pay the prescribed annual licence fee according to the classification of the licence as set out in Schedule 4.

(2) A licence to carry on money services business is valid from the date of first issue to the 31<sup>st</sup> December of that year and is renewable each year on payment of the prescribed annual fee on or before the 15<sup>th</sup> day of January.

(3) All licence fees paid under this Act shall be payable to the Accountant General and form part of the Consolidated Fund, except that where the money services business concerned is to be conducted on the Island of Nevis, the licence fees and any other fees to be collected shall be paid by the licensee to the Nevis Island Administration and shall form part of the Consolidated Fund of the Island of Nevis.

Authorisation of location and approval of new business premises.

10. (1) A licence granted under this Act authorises the licensee to carry on money services business in Saint Christopher and Nevis at the place of business designated in the licence.

(2) Where different places of business are kept in the name of the same person, a separate licence shall be taken out for each such place of business.

(3) No licensee shall open a new place of business or change the location of an existing place of business in Saint Christopher and Nevis without the prior approval of the Authority and no licensee shall close an existing place of business in Saint Christopher and Nevis without having given thirty days prior written notification to the Authority.

(4) A licensee which is formed under the laws of Saint Christopher and Nevis shall not open a place of business elsewhere than in Saint Christopher and Nevis without the prior written approval of the Authority.

(5) A licensee which is formed under the laws of Saint Christopher and Nevis shall not close a place of business outside of Saint Christopher and Nevis without having given twenty-one days prior written notification to the Authority.

Display of licence certificate.

11. A licensee shall display or cause to be displayed and shall keep displayed a copy of the certificate of its licence granted under this Act in a conspicuous place in the public part of any place of business of the licensee.

*Money Services Business Act, 2008 – 26.*

12. (1) No licensee shall be granted or continue to hold a licence under a name which:

Restrictions of names likely to mislead.

- (a) is identical to that of any company, firm or business house, whether within Saint Christopher and Nevis or not, or that so nearly resembles that name as to be misleading;
- (b) falsely suggests, the patronage of or connection with some person or Minister, whether within Saint Christopher and Nevis or not;
- (c) falsely suggests, that the money services business has a special status in relation to or derived from the Government, has the official backing of or acts on behalf of the Government or any department, branch, agency or organ of Government, or of any officer of Government or is recognised in Saint Christopher and Nevis as a national or central money services business.

(2) The Authority may refuse to grant a licence to or revoke the licence of a person who contravenes subsection (1).

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

13. (1) No person, other than a licensee or any entity to which this Act does not apply pursuant to section 3, shall

Advertisement.

- (a) use any English or foreign words in the description or title under which the person carries on business within Saint Christopher and Nevis, representing that that person is carrying on money services business;
- (b) make any representation in any billhead, letter, letterhead, circular, paper, notice or advertisement or in any other manner that that person is carrying on money services business within Saint Christopher and Nevis; or
- (c) in any manner solicit or receive money from any person for the purpose of carrying on money services business within Saint Christopher and Nevis.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

*Money Services Business Act, 2008 – 26.*

Actions of  
fundamental  
change requiring  
approval.

14. Unless the approval of the Authority is first obtained no licensee shall:

- (a) change its name;
- (b) change its principal office;
- (c) transfer the whole or any substantial part of its assets or liabilities in Saint Christopher and Nevis other than in the ordinary course of its business; or
- (d) enter into a merger or consolidation within Saint Christopher and Nevis.

Change in  
directorship.

15. (1) A licensee must, no less than thirty days prior to the proposed date of appointment of a director or other senior officer:

- (a) submit to the Authority a completed Form B in Schedule 2 and the prescribed application form in respect of each proposed appointee; and
- (b) obtain approval of the Authority for appointment of the proposed appointee as director or other senior officer.

(2) Upon receipt of the completed Form B in Schedule 2 and the prescribed application form the Authority shall conduct an investigation at the expense of the applicant to determine whether the proposed appointee satisfies the fit and proper criteria established in section 6 (5).

(3) Within six weeks of the receipt of the completed Form B in Schedule 2 and the prescribed application form the Authority shall:

- (a) approve the appointment of the proposed appointee to the proposed post and notify the licensee; or
- (b) inform the licensee that the proposed appointee does not satisfy the fit and proper criteria and refuse approval for appointment of the proposed appointee as director or other senior officer.

(4) Notwithstanding subsection (1), where prior notification of the appointment of a proposed appointee as director or other senior officer of a licensee is not possible, the licensee:

- (a) may appoint the proposed appointee as director or other senior officer as the case may be, conditional on the approval of the Authority in accordance with subsection (3); and
- (b) shall within five days of such appointment submit to the Authority the forms prescribed under subsection (1) and a letter specifying the reasons for

*Money Services Business Act, 2008 – 26.*

the appointment of the proposed appointee without prior approval.

**PART III**  
**AUDIT, INFORMATION AND EXAMINATION**

16. (1) A licensee shall appoint annually an auditor who must be a chartered accountant, a certified public accountant, a member of the Institute of Chartered Accountants of the Eastern Caribbean (ICAEC) or some other professionally qualified accountant, satisfactory to the Authority whose duties shall:

Annual audit, report and publication of financial statements and results.

- (a) be to examine the books and records and to make a report on the annual financial statements and financial position; and
- (b) include all or any of the following duties as may from time to time be imposed on the auditor by the licensee at the request of the Authority:
  - (i) to submit such additional information in relation to the audit of the licensee as the Authority considers necessary;
  - (ii) to carry out any other examination or establish any procedure in any particular case;
  - (iii) to submit a report on any of the matters referred to in sub-paragraphs (i) and (ii);
  - (iv) to submit a report on the financial and accounting systems and risk management controls of the licensee;
  - (v) to provide an opinion on whether suitable measures to counter money laundering and to combat the financing of terrorism have been adopted by the licensee and are being implemented in accordance with the applicable laws.

(2) A licensee shall within three months of the end of the financial year, forward the audited financial statements referred to in subsection (1) to the Authority unless prior written approval for an extension has been granted by the Authority.

(3) The audited financial statements referred to in subsection (1) shall cover a period of not more than eighteen months beginning on the date the licensee was incorporated, or if the licensee has previously prepared audited financial statements, beginning at the end of the period covered by the most recent audited financial statements.

*Money Services Business Act, 2008 – 26.*

(4) A designated licensee shall submit audited financial statements annually to the Central Bank in accordance with the provisions of the Payment Systems Act, 2008 and shall submit a copy of such audited financial statements to the Authority.

(5) A licensee shall remunerate the auditor in respect of the discharge by the auditor of all or any of the duties set out in subsection (1).

(6) If in the course of the performance of an auditor's duties an auditor is satisfied that:

- (a) there has been a serious breach of or non-compliance with the provisions of this Act or any regulations, notice, order, guidelines or directions issued under this Act;
- (b) there is evidence:
  - (i) that a criminal offence involving fraud or other dishonesty may have been committed; or
  - (ii) of any suspicious transaction as defined in the Anti-Money Laundering Regulations 2001, issued pursuant to the Proceeds of Crime Act, 2000,

the auditor shall immediately report the matter to the licensee and the Authority.

(7) The Authority may request copies of reports submitted to the licensee by both its internal and external auditors.

(8) An auditor shall report to the Authority any matter it is required to report on any licensee to any investigative, regulatory or other institution, simultaneously with its report to that institution.

(9) A licensee who fails to secure compliance with a request under subsection (1) (b) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars for each such failure.

(10) If a licensee fails to appoint an auditor satisfactory to the Authority, the Authority may appoint an auditor for such licensee. The remuneration of the auditor so appointed shall be determined by the Authority and paid by the licensee.

(11) The Authority may appoint an auditor to conduct an independent audit of a licensee, in accordance with the instructions of the Authority, and to report the findings or results to the Authority.

*Money Services Business Act, 2008 – 26.*

(12) No auditor shall be liable for breach of any duty solely by reason of compliance with the provisions of subsections (1), (6) or (8), of this section or any other request for information by the Authority.

- (13) (a) No person having an interest in any licensee otherwise than as a depositor and no director, manager, secretary, employee or agent of a licensee shall be eligible for appointment as auditor for such licensee; and
- (b) any person appointed as auditor who shall, after an appointment, acquire any interest in a licensee, or become a director, manager, secretary, employee or agent of such licensee shall immediately cease to be such auditor.

(14) The Minister may by Order:

- (a) exempt any licensee or any class of licensee from the audit requirement contained in subsection (1) of this section;
- (b) waive the audit requirement contained in subsection (1) of this section in respect of any licensee or any class of licensee;
- (c) require that the Authority conduct an ad hoc audit of any licensee or any class of licensee in respect of which the audit requirement is waived or lifted under paragraphs (a) and (b) of this subsection.

(15) The Authority may assess a licensee for the reasonable expenses of conducting any ad hoc audit ordered by the Minister under paragraph (c) of subsection (14).

17. A licensee must notify the Authority in writing of its intention to terminate the appointment of its auditor, or not to reappoint its auditor for a new term, and state the reasons for its decision in the notification.

Notice of termination of auditor's appointment.

18. (1) A licensee must in accordance with this section, in respect of its money services business:

Accounting records and systems of business control.

- (a) keep accounting records; and
- (b) establish and maintain systems
- (i) of internal control and record keeping, and
- (ii) for inspection and report.

(2) The systems of control, inspection and report shall ensure that the money services business is so conducted and its records so kept that:

*Money Services Business Act, 2008 – 26.*

- (a) the information necessary to enable the directors and the business to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or as needed and with sufficient promptness, for those purposes; and
- (b) the information obtained by or furnished to the Authority under or for the purposes of this Act is sufficiently accurate for the purpose for which it is obtained or furnished.

(3) A licensee shall institute procedures to ensure that its accounting records and systems of business control comply with the requirements of the Anti-Money Laundering Regulations 2001, issued pursuant to the Proceeds of Crime Act, 2000.

Returns.

19. (1) The holder of a Class A or Class B licence, must, in the format provided by the Authority, file quarterly returns with the Authority within fifteen days of the end of a quarter, along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(2) The holder of a Class C, Class D or Class E licence must, within fifteen days of the end of the financial year, file an annual return with the Authority along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(3) A designated licensee must submit a copy of its returns to the Central Bank within the stipulated time.

(4) A licensee who fails to file the returns within the time stipulated in subsections (1) or (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.

Extension of time for providing information.

20. At the request of a licensee, the Authority may extend, from time to time, any period within which such licensee is, in accordance with the provisions of this Act, obliged to furnish any document or information.

Retention of records.

21. (1) A licensee shall retain for a period of at least five years from the date of creation of each particular record, all records created and obtained by them, in particular records of each transaction executed by them, records of each outstanding transaction, bank reconciliation records and bank statements received during the course of operation and administration of its money services business.

(2) The retention of records under subsection (1) may be effected by electronic means.

*Money Services Business Act, 2008 – 26.*

22. (1) The Authority, shall examine or cause an examination to be made of each licensee from time to time or whenever in its judgment such examination is necessary or expedient in order to determine that such licensee is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of its business.

Examination by Authority.

(2) For the purpose of determining the condition of a licensee and its compliance with this Act, the Authority may at any time examine or cause an examination to be made of any affiliate of the licensee in Saint Christopher and Nevis to the same extent that an examination may be made of the licensee.

(3) The Authority may assess a licensee for the reasonable expenses of conducting an examination under subsections (1) and (2).

(4) The Authority shall forward copies of balance sheets, statements and reports on the results of any examination to the licensee.

(5) A licensee refusing to make available for examination any books, accounts and records having been requested to do so by the Authority commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

23. No person who has acquired knowledge in his capacity as director, manager, secretary, officer, employee or agent of any licensee or as its auditor or receiver or official liquidator or as director, officer, employee or agent of the Authority, shall disclose to any person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a customer of the licensee except:

Confidential information.

- (a) with the written authorisation of the customer or of his heirs or legal personal representatives; or
- (b) for the purpose of the performance of his duties within the scope of his employment in conformity with the provisions of this Act; or
- (c) when lawfully required to make disclosure by any court of competent jurisdiction within Saint Christopher and Nevis; or
- (d) under the provisions of any law of Saint Christopher and Nevis.

24. Notwithstanding section 23, the Authority may:

- (a) share any information received or any report prepared by it in the performance of its duties under this Act, with the Central Bank or any foreign authority responsible for the supervision or regulation of

Exchange of information.

*Money Services Business Act, 2008 – 26.*

affiliates of a licensee, or for maintaining the integrity of the financial system; or

- (b) provide access, to any officer of the Central Bank or a foreign authority responsible for the supervision or regulation of affiliates of a licensee in order to assess the safety and soundness of an affiliate;

on a reciprocal basis and subject to

- (i) an agreement of confidentiality and a Memorandum of Understanding between the Authority and the Central Bank or such authorities; and
- (ii) any law on the protection of confidential information.

**PART IV**  
**SEGREGATED ACCOUNTS,**  
**BANKRUPTCY OR INSOLVENCY OF LICENSEE**

Segregated accounts.

25. (1) A licensee on receipt of funds from a customer shall immediately and irrevocably segregate the amount intended for transmission or delivery to the payee customer exclusively for the purpose of the proper payment of the funds in due course to the payee customer.

(2) Any funds which are not delivered or transmitted to the payee customer by or on behalf of the licensee shall be a first charge on the assets of a bankrupt or otherwise insolvent licensee and shall be:

- (a) re-paid to the payor customer; or
- (b) paid to the payee customer;

by the licensee, receiver, liquidator or administrator out of the segregated account to which it was placed or was deemed to have been placed.

Bankruptcy or insolvency of licensee.

26. (1) A licensee must notify the Authority as soon as practicable after bankruptcy or insolvency proceedings are instituted.

(2) A person does not contravene subsection (1) if he took reasonable steps to comply with that subsection.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

Utilisation of deposits, etc.

27. (1) Notwithstanding anything to the contrary in the Bankruptcy Act, Chapter 9, the Companies Act, 1996, or the Companies Ordinance No. 4 of 1999, any funds delivered to a licensee by or on behalf of a customer, prior to the issue of any bankruptcy, winding-up or receivership order against that licensee shall be utilised by the licensee,

*Money Services Business Act, 2008 – 26.*

receiver or liquidator solely to discharge the licensee's contractual obligations to the customer.

(2) Notwithstanding anything to the contrary in the Bankruptcy Act, Chapter 9, the Companies Act, 1996, or the Companies Ordinance No. 4 of 1999, if a licensee goes into bankruptcy, receivership or is wound up any provision contained in a written agreement between that licensee and a customer is binding upon the liquidator, receiver or administrator in respect of any payment or settlement obligation.

(3) A person who contravenes the provisions of this subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

**PART V  
ABANDONED PROPERTY**

28. (1) Subject to subsection (2) the following items which are held or owing by a licensee shall be presumed to be abandoned:

Abandoned property.

- (a) any funds paid in Saint Christopher and Nevis toward the purchase of shares or other interests in a licensee, together with any interest or dividend, but excluding any lawful charges;
- (b) any sum payable on written instruments issued in Saint Christopher and Nevis on which a licensee is directly liable or;
- (c) any sum delivered to the licensee for transmittal to a person in Saint Christopher and Nevis or in another jurisdiction for and on behalf of a payee.

(2) The items enumerated in subsection (1) shall not be presumed to be abandoned if the owner has

- (a) corresponded in writing with the licensee concerning the items; or
- (b) otherwise indicated an interest in the items as evidenced by a memorandum concerning them written by a licensee

within two years of the date of deposit, payment of funds or issuance of instruments, as the case may be.

29. (1) A licensee who holds any of the items enumerated in section 28 shall within ninety days after the end of its financial year report such holdings to the Authority, and subsequently pay or deliver to the Authority all property presumed to be abandoned listed in the report in accordance with Regulations issued by the Minister under this Act.

Report, publication and disposal of abandoned property.

*Money Services Business Act, 2008 – 26.*

(2) Upon paying or delivering such property identified in subsection (1) into the custody of the Authority a licensee is relieved of all liability to the extent of the value of the property for any claim in that respect.

(3) Within thirty days after the end of its financial year but before the filing of the report to the Authority required by subsection (1), a licensee shall publish in the *Gazette* and a newspaper circulating in Saint Christopher and Nevis the name of the owner and particulars concerning the property and shall mail a notice to the owner at his last known address containing particulars concerning the property.

30. (1) A licensee may sell at public sale all property other than money presumed to be abandoned after the expiration of sixty days from the later date of publication or mailing required by section 29(3) following such advertisement of the sale as the Minister may prescribe.

Sale and handling of proceeds of sale of abandoned property.

(2) A purchaser shall receive title to the property free from all claims of the owner or prior holder and from all persons claiming through or under him.

(3) A licensee shall deposit with the Authority the proceeds of the sale of property in accordance with subsection (1) less all reasonable costs incurred by it in connection with the sale, mailing of notices, and service as it may deem appropriate to assure the prompt payment of claims which may subsequently be made and approved by the Minister.

(4) Any property remaining unsold shall be delivered to the Authority and shall be disposed of by the Authority in such manner as the Minister may direct.

31. (1) Any person claiming an interest in any property which has been paid to, or delivered into the custody of the Authority or in the proceeds from the sale may file a claim, with the Authority and, after an appropriate hearing the decision of which shall be communicated to the claimant and made a public record, the Authority may deliver up the property or make payment.

Claims on abandoned property.

(2) Any person aggrieved by a decision of the Authority may commence an action in the High Court to establish his claim within thirty days following the decision of the Authority.

32. (1) A licensee shall not willfully fail to file the report or to pay or deliver property presumed to be abandoned into the custody of the Authority in accordance with section 29 (1) or 30 (4).

Penalties for failure to file abandoned property report.

(2) A licensee who contravenes subsection (1) commits an offence, and it and each of its directors shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment

*Money Services Business Act, 2008 – 26.*

for a term not exceeding three months or to both such fine and imprisonment.

**PART VI  
ENFORCEMENT**

33. (1) The Authority may revoke any licence to carry on money services business in Saint Christopher and Nevis if the licensee:

- (a) fails to commence operations within a period of three (3) months following the granting of the licence;
- (b) fails to comply with the conditions or restrictions of its licence;
- (c) is in breach of any of the provisions of this Act;
- (d) ceases to carry on money services business in Saint Christopher and Nevis for a period in excess of ten months;
- (e) is conducting its affairs in a manner detrimental to the public interest or to the interest of its customers;
- (f) goes into liquidation or is wound up or otherwise dissolved; or
- (g) by reason of any other circumstance, is no longer a fit and proper person to hold a licence.

Revocation and termination of licence.

(2) The Authority shall terminate a licence at the request of the licensee.

(3) Before revoking a licence under subsection (1), the Authority shall give the licensee concerned notice in writing of its intention to do so, specifying therein the grounds upon which it proposes to make the revocation and shall require the licensee to submit to it within a specified period being not less than thirty days, a statement of objections to the making of the revocation and thereafter, the Authority shall advise the licensee of its decision.

(4) Notice under subsection (3) shall be served at the licensee's last known address and shall be published in the *Gazette* or in any local newspaper.

(5) If any licensee is aggrieved by any decision made under subsection (1), that licensee may appeal to the High Court within fourteen days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the said decision.

(6) Where a licence to carry on money services business in Saint Christopher and Nevis has been revoked, the Authority shall, as soon as possible thereafter cause a notice of the revocation to be

*Money Services Business Act, 2008 – 26.*

published in the *Gazette* and a newspaper circulating in Saint Christopher and Nevis and cause such other steps to be taken as are deemed to be necessary to inform the public of such revocation.

34. (1) The Authority may, if it thinks it necessary:
- (a) as a matter of urgency for the protection of the public, or
  - (b) as a result of any investigation under this Act or Regulations made under this Act;

Suspension of licence.

suspend a licence granted under this Act for such period, or until the happening of an event, as the Authority considers appropriate.

(2) A person whose licence is suspended under this Act shall be notified accordingly by the Authority and shall, for the purpose of this Act, be deemed not to be licensed from the date of notification of suspension.

(3) Notice under subsection (2) shall be served at the licensee's last known address and shall be published in the *Gazette* or in any newspaper circulating in Saint Christopher and Nevis

(4) If any licensee is aggrieved by any decision made under subsection (1), that licensee may appeal to the High Court within fourteen days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the said decision.

35. (1) If the Authority has reasonable cause to suspect that
- (a) any person is carrying on money services business without a licence granted under this Act; and
  - (b) evidence of contravention of section 4(1) is to be found on any premises in Saint Christopher and Nevis,

Persons carrying on money services business without a licence.

the Authority may lay information on oath before a Magistrate as regards its suspicions.

(2) Upon filing of the information in subsection (1), the Magistrate may, by warrant, authorise an officer of the Authority named in such warrant to enter and search such premises with the assistance of the police and seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash as may be found on the premises relating to the conduct of money services business, to ascertain whether the person is carrying on money services business without a licence.

- (3) Any such warrant may authorise:
- (a) the Authority to detain the books, accounts, records, vouchers and other documents, cheques, securities and any cash for a period not exceeding thirty days;

*Money Services Business Act, 2008 – 26.*

- (b) the officer to make copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash; and
  - (c) the Authority to retain copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash.
- (4) The person authorised by a warrant to search any premises may:
- (a) seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash found:
    - (i) in the premises; or
    - (ii) in the possession of any person described in paragraph (b) of this sub-section;

if he has reasonable grounds for believing that any of those books, accounts, records, vouchers and other documents, cheques, securities and any cash relate to the conduct of money services business on those premises.

- (b) search every person who:
  - (i) is found in those premises; or
  - (ii) has recently left or is about to enter those premises;

whom he has reasonable grounds to believe is in possession of any books, accounts, records, vouchers and other documents, cheques, securities and any cash in respect of the conduct of money services business on those premises.

(5) In pursuance of any warrant issued under this section, no person shall be searched by an officer of the opposite sex.

(6) Where under this section a person has the power to enter any premises, he may if necessary use reasonable force to enter the premises.

(7) A person who obstructs the Authority or any other person in the exercise of any powers conferred under this section commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months or both such fine and imprisonment.

36. (1) Without prejudice to section 4(1), where a person is found under section 35 (1) to be conducting money services business without a licence, the Authority may apply to the court for appointment of a receiver to liquidate the business.

*Money Services Business Act, 2008 – 26.*

(2) Before applying for the appointment of a receiver under subsection (1), the Authority shall give the person concerned notice in writing of its intention to do so and shall require the person to comply with the requirements of this Act within a specified period being not less than thirty days and thereafter the Authority shall advise the person of its decision.

Authority may apply to court to preserve customers' interests.

37. (1) The Authority may, in a case where a licensee, or a person who has at any time been a licensee, is being wound up voluntarily, apply to the Court if the Authority considers that the winding up is not being conducted in the best interests of the licensee's customers or creditors, and the Court shall make any order it considers appropriate.

(2) If it appears to the Authority that there is reasonable ground for suspecting that an offence against this Act has been or is being committed by any person, the Authority may, with the approval of the court, take any action it considers necessary, in the interest of the person's customers or creditors, to preserve any assets held by that person.

Powers of the Authority in respect of licensees.

38. (1) Whenever the Authority is of the opinion that:

- (a) a licensee is or appears likely to become unable to meet its obligations as they fall due;
- (b) a licensee is carrying on business in a manner detrimental to the public interest or the interest of its customers or creditors;
- (c) a licensee has contravened this Act;
- (d) a licensee has failed to comply with a condition of its licence;
- (e) there has been or is, on the part of a licensee or its directors, a failure to satisfy any one or more of the criteria of prudent management set out in section 41;
- (f) a licensee, director, manager, secretary or other officer concerned in the management of a licensee refuses to cooperate with the Authority in the performance of its functions under section 40;
- (g) a licensee is carrying on business in an unlawful manner;
- (h) a licensee has failed to maintain the prescribed capital; or
- (i) is violating any law, regulation or guideline to which the licensee or person is subject;

the Authority may take one or more of the measures set out in subsection (2).

*Money Services Business Act, 2008 – 26.*

(2) Without prejudice to sections 33 and 34, the measures that the Authority may take in pursuance of subsection (1) are as follows:

- (a) impose conditions, or further conditions, as the case may be, upon the licence and may amend or revoke any of the conditions;
- (b) require the suspension or removal of a director or officer of the licensee;
- (c) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of its affairs and to report to the Authority within three months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require;
- (d) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall, have all the powers of a person appointed as a receiver or manager under the Bankruptcy Act, Chapter 9, who shall report to the Authority within three months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require;
- (e) require a licensee, to take, refrain from, or discontinue any action as the Authority considers necessary;
- (f) revoke the licence.

(3) The Authority may, on receipt of a report under subsection (2):

- (a) revoke the appointment of the person appointed under subsection (2)(c) or (d);
- (b) extend the period of appointment of a person appointed under subsection 2 (c) or (d);
- (c) subject to any conditions that the Authority may impose, allow the licensee to reorganise its affairs in a manner approved by the Authority; or,
- (d) revoke the licence.

(4) The Authority must comply with the procedures established in subsections (3), (4), (5) and (6) of section 33 if it decides to revoke a licence pursuant to subsections 2(f) and 3(d).

(5) If any licensee is aggrieved by any decision made under subsection (2), that licensee may appeal to the High Court within fourteen days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the decision.

*Money Services Business Act, 2008 – 26.*

Transactions effected prior to suspension or revocation of licence.

39. The suspension or revocation of a license under this Act does not void or affect any agreement, transaction or arrangement relating to a provision of money services business entered into by the licensee before the suspension or revocation of the licence and does not affect any right, obligation, or liability arising under any such agreement, transaction or arrangement.

Powers and duties of the Authority.

40. (1) The Authority shall ensure the proper administration of this Act and without limiting the generality of the foregoing, shall:

- (a) maintain a general review of money services business practice in Saint Christopher and Nevis;
- (b) whenever it thinks fit, examine the affairs or business of any licensee carrying on business within Saint Christopher and Nevis for the purpose of satisfying itself that this Act has been or is being complied with and that the licensee is in a sound financial position and is managing its business in a prudent manner;
- (c) assist in the investigation of any offence against the laws of Saint Christopher and Nevis which it has reasonable grounds to believe has or may have been committed by a licensee or by any of its directors or officers in their capacity as directors or officers;
- (d) examine-
  - (i) returns furnished to it under section 19, and
  - (ii) audited financial statements forwarded to it under section 16, and report on them to the Minister whenever it thinks fit;
- (e) require or perform consolidated supervision of affiliates whenever it thinks fit; and
- (f) cooperate with and facilitate the Central Bank in consolidated supervision of designated licensees.

(2) In the performance of its functions under this Act the Authority is entitled at all reasonable times:

- (a) to have access to the premises, books, records, vouchers, documents, cash and securities of any licensee;
- (b) to remove and make copies of any books, records, vouchers and documents found on the premises of a licensee;
- (c) to request the information, matter or thing from any person who it has reasonable grounds to believe is

*Money Services Business Act, 2008 – 26.*

carrying on money services business in contravention of section 4(1); and

- (d) to call upon the manager of the licensee or any similar person, or an officer designated by either of them, for any information or explanation, the Authority may require for the purpose of enabling it to perform its functions under this Act; and information requested under this subsection shall be provided in such form as the Authority may require.

(3) A person who fails to comply with a requirement under subsection (2) by the Authority commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

41. For the purpose of section 40(1)(b), the criteria of prudent management are as follows:

- (a) maintenance of
  - (i) adequate reserves and other capital resources in amounts which may be prescribed by the Minister;
  - (ii) adequate assets in liquid form in amounts which may be prescribed by the Minister;
  - (iii) a system for managing and containing risks to the net worth of the licensee's business and risks to its net income, whether arising from fluctuations in interest or exchange rates or from other factors;
  - (iv) the requisite accounting records;
  - (v) systems of internal control and record keeping; and
  - (vi) systems for inspection and report;
- (b) management conducted with prudence and integrity by a sufficient number of persons, having regard to the range and scale of the business, who are fit and proper to be directors or, as the case may be, officers of the licensee in accordance with the criteria established under section 6(5); and
- (c) conduct of the licensee's business with adequate professional skills.

Criteria of prudent management.

*Money Services Business Act, 2008 – 26.*

Management's  
duty of  
compliance with  
the requirements  
of the law.

42. A director, manager, secretary or other officer concerned in the management of a licensee who fails to take all reasonable steps to secure compliance by the licensee with the requirements of this Act commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

False or  
misleading  
information.

43. A licensee, director or an officer of a licensee who knowingly or willfully supplies false or misleading information to the Authority commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

Removal and  
disqualification  
of officers.

44. (1) Any person who is a director, manager or other officer concerned with the management of a licensee shall cease to hold office upon:

- (a) notification by its management team of a finding by two-thirds of its members of his permanent incapacity or serious neglect of, or misconduct in, office; or
- (b) his being declared bankrupt or compounding with, or suspending payment to, his creditors; or
- (c) his conviction in a court of law of any offence involving fraud or dishonesty; or
- (d) his being sentenced for an offence involving a term of imprisonment of at least six months or the payment of a fine in default of such a term of imprisonment; or
- (e) his being deemed not to be a fit and proper person in accordance with the criteria established under section 6(5).

(2) No person who has been a director of, or directly or indirectly concerned, in, the management of a licensee, the licence of which has been revoked shall, without the approval of the Authority, act or continue to act as a director, or be directly or indirectly concerned in the management of any licensee.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

45. (1) Where an offence under this Act has been committed by a body of persons which is:

- (a) a body corporate, society or other body of persons, every person who at the time of the commission of

*Money Services Business Act, 2008 – 26.*

the offence was a director, manager, secretary or other officer of the body corporate, society or other body of persons as well as that body corporate, society or other body of persons commits the offence;

Offences by officers of corporate bodies.

- (b) a partnership or firm, every partner of the partnership or firm as well as that partnership or firm commits the offence, and is liable to be proceeded against and punished accordingly.

(2) No person referred to in subsection (1) shall be convicted of an offence under that subsection where he proves, that:

- (a) the act constituting the offence took place without his knowledge or consent, or
- (b) he exercised all due diligence to prevent the commission of the offence.

46. A person who contravenes any provision or requirement of this Act for which no offence is specifically created or penalty provided commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

General penalty.

## **PART VII IMMUNITIES, REGULATIONS AND GUIDELINES**

47. Neither the Authority nor an employee of the Authority shall be liable for anything done or omitted in the discharge or purported discharge of its functions under this Act unless it is shown that the act or omission was in bad faith.

Immunity.

48. The Authority in administering the provisions of this Act may issue prudential guidelines and related orders and without limiting the generality of the foregoing may issue prudential guidelines and related orders respecting:

Prudential guidelines.

- (a) policies, practices and procedures for evaluating the quality of assets;
- (b) policies, procedures and systems for identifying, monitoring and controlling transfer risk, market risk, operational risk; and such other risks as the Authority shall specify;
- (c) corporate governance;
- (d) auditors;
- (e) procedures to be adopted by licensees and the Authority; and

*Money Services Business Act, 2008 – 26.*

- (f) anti-money laundering and combating the financing of terrorism matters.

49. The Minister may make Regulations for giving effect to the provisions of this Act, and without limiting the generality of the foregoing, may make Regulations respecting:

Regulations.

- (a) the form of advertising by licensees;
- (b) registers and records to be kept under this Act;
- (c) forms to be used by licensees;
- (d) fees payable under this Act; and
- (e) any other matter required to be prescribed under this Act.

**SCHEDULE 1**

[Section 5]

**Classes of Licences**

<u>Class of Licence</u>	<u>Description of Licence</u>
Class A	Money Transmission
Class B	Issuance, Sale and Redemption of Payment Instruments
Class C	Cheque Cashing
Class D	Currency Exchange
Class E	Pay day advances

**SCHEDULE 2****Form A**

[Section 6]

**INFORMATION TO BE CONTAINED IN AND TO ACCOMPANY  
AN APPLICATION FOR THE GRANT OF A LICENCE**

1. The name and address of the money services business in respect of which the licence is sought.
2. The name and address of the applicant.
3. The type of money services business the applicant proposes to conduct.

*Money Services Business Act, 2008 – 26.*

4. The source and quantum of funds for initial capital or acquisition of the money services business.
5. The address of the principal office of the applicant and of its registered office if different.
6. If the applicant is a corporation, limited liability company, partnership or other entity the applicant must provide –
  - (a) the date and place of incorporation or formation and a copy of the memorandum and articles of association, Act, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a declaration made by one of its directors or partners or its secretary; and
  - (b) a brief description of the structure or organisation of the applicant including any parent or subsidiary of the applicant.
7. The name and address of each person who –
  - (a) owns or controls the money services business;
  - (b) is a director or officer of the money services business;
  - (c) is an agent of the applicant;
  - (d) otherwise participates in the conduct of the affairs of the money services business.
8. The following information is also required from the named persons in Item 7 and each significant shareholder –
  - (a) legal name and any alias and residential address;
  - (b) occupation (over the previous five years) and business address;
  - (c) date of birth;
  - (d) citizenship;
  - (e) [social security] [NIS] number;
  - (f) passport number;
  - (g) two (2) character references, a police or other certificate satisfactory to the Authority that the person has not been convicted of a serious crime or any offence involving dishonesty.
9. The name and address of any depository institution at which a transaction account is maintained for the purposes of the money services business.
10. Where appropriate a statement in writing in a form acceptable to the Authority from the body responsible for the administration of the laws relating to money services businesses and the supervision of the businesses in the country in which the applicant or its parent company is incorporated that the body has no objection to the application being made.

*Money Services Business Act, 2008 – 26.*

11. If the applicant is a company the following information is required (where applicable)
- 
- (a) the annual accounts for the two year period immediately preceding the date of the application, of each significant shareholder which is a body corporate, together with similar accounts for the parent body, if any, of each of the bodies corporate or the annual accounts for the current year, in the case of a body corporate which is in existence for less than two years;
  - (b) two or more references verifying the good financial standing of each significant shareholder who is a natural person;
  - (c) the name and address of its proposed auditor;
  - (d) a statement giving the date for the drawing up of the annual accounts of the applicant;
  - (e) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of its parent body, if any, that they concur in the making of the application;
  - (f) three business references of which at least one shall be from a bank;
  - (g) a detailed business plan, containing details of the current money services business activities, if any, of the applicant and its proposed activities if the licence applied for is granted, including:
    - (i) the reasons for applying for the licence;
    - (ii) the business aims of the applicant in respect of the money services business and its potential client base;
    - (iii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the two years next succeeding the date of such grant together with an estimate of expected income;
    - (iv) particulars of its management structure and personnel;
    - (v) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each company constitutes an asset of the applicant;
    - (vi) a chart showing the relationship to its subsidiaries and affiliates and any holding company; and
    - (vii) a brief description of each of its subsidiaries and affiliates;
    - (viii) details of the identified economic needs that the applicant intends to meet, growth prospects in that service area over the next five years, the exact nature and source of capital financing to be made available to the company for start-up and ongoing operations;
  - (h) details of the applicant's proposals for establishing and maintaining, in respect of the money services business, systems of control, inspection and report, if the licence applied for is granted;

*Money Services Business Act, 2008 – 26.*

- (i) in the case of a company incorporated outside the State, the name and address of the supervisory or regulatory authority responsible for the supervision of each of the applicant’s agents operating outside the State.
- 12. If the applicant is a franchise holder the contract and any other documents relating to the operation of the franchise.
- 13. General requirements –
  - (a) the applicant must submit a description of any money services business, other than that which is the subject of the application, previously or currently engaged in by the applicant;
  - (b) the applicant must submit completed copies of a Personal Questionnaire for each executive officer, director and significant shareholder;
  - (c) the applicant must submit copies of the applicant’s audited financial statements.
- 14. Any other information requested by the Authority.

**FORM B**

**PERSONAL QUESTIONNAIRE  
[Fit and Proper Test]  
PART A**

NAME:

---

PREVIOUS NAMES (IF ANY):

---

ALIASES: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_

CITIZENSHIP:

---

PLACE OF BIRTH

---

[SOCIAL SECURITY] [NIS] NUMBER:

---

PASSPORT NUMBER:

---

*Money Services Business Act, 2008 – 26.*

ADDRESS (Home & Business):

---

---

OCCUPATION:

---

1. Have you at any time been charged or convicted of any offence by a civil, criminal or military court? (excluding minor Road Traffic offences). If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

---

---

2. Have you ever been the subject of investigation/disciplinary procedures, censured, disciplined by any professional body to which you belong or have belonged? If so, give particulars.

---

---

3. Have you ever been refused entry to any profession or vocation? If so, give particulars.

---

---

4. Have you ever been dismissed or requested to resign from any office or employment? If so, give particulars.

---

---

5. Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of -

(a) any regulatory authority?

(b) any officially appointed enquiry?

*Money Services Business Act, 2008 – 26.*

- (c) any other established body concerned with the regulation of a relevant activity (as described in the glossary at the end of this form) ? If so, give particulars.

---

---

- 6. In connection with the formation or management of any corporation, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation or any member of the corporation? If so, give particulars.

---

- 7. In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.

---

- 8. Have you ever –

- (a) been adjudged bankrupt by a court in any jurisdiction?
- (b) had a receiving order made against you?
- (c) had your estate sequestrated?
- (d) entered into a deed of arrangement, or other composition or arrangement with your creditors?

If so, give particulars.

---

---

- 9. Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?

---

---

*Money Services Business Act, 2008 – 26.*

10. Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity (as described in the glossary at the end of this form) who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.

---



---

11. Will you be actively engaged in the business or the entity to which this application relates and devote the major portion of your time to it?

---



---

**PART B****RELATED OR OTHER INTEREST**

1. Are you a director of any company, partnership, corporate body or any other business organisation engaged in money services business? If so, state –
- name of company/corporation/etc;
  - nature of business;
  - date of commencement of directorship;
  - whether or not employed on service contract (e.g. managing directorship) in any case.
2. Have you been a director of a deposit taking institution, credit extending institution, other financial service provider, any other limited company or corporation other than those stated in the previous questions? If so, state –
- name of company/corporation;
  - nature of business;
  - date of commencement of directorship;
  - date of cessation of directorship.
3. Are you or have you been engaged –
- in partnership?; or
  - in business as a principal on your own account?

If so, give particulars.

---



---

*Money Services Business Act, 2008 – 26.*

4. Are you a beneficial owner of any controlling interest in any unlisted private or public company? If so, give particulars.

---

---

5. Have you ever been a director of, or directly concerned with the management of a bank or other financial institution –
- (a) that has been wound up by a court?
  - (b) the licence of which has been revoked?
  - (c) which has been placed in receivership?
  - (d) which has entered into a composition with its creditors?
  - (e) whose business had been adjudged to have been conducted imprudently or fraudulently?
  - (f) which has failed to meet the solvency requirements prescribed by law?

If so, give particulars.

---

---

6. Have you ever been a director, or been directly concerned with the management or conduct of affairs of any company which has gone into liquidation, whilst you were, or within one year of your being a director, or so concerned? If so, give details of the circumstances including the following –
- (a) name of company;
  - (b) name of liquidator;
  - (c) address of liquidator.
7. Have you ever been concerned with the management or conduct of affairs of any corporation which, by reason of any matter relating to a time when you were so concerned, has been censured or disciplined by –
- (a) any regulatory authority?
  - (b) any official appointed enquiry?
  - (c) any other body concerned with regulation of a relevant activity?

If so, give particulars.

---

---

*Money Services Business Act, 2008 – 26.*

- 8. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount sixty or more days in arrears? If so, state the following –
  - (a) form
  - (b) amount
  - (c) source
  - (d) maturity date
- 9. Has any person, firm or company guaranteed the indebtedness? If so, give particulars (see previous question).

---



---

- 10. Are you at present guaranteeing the debts and obligations of any third parties? If so, give particulars.

---



---

I,..... certify that all the statements contained in this questionnaire are true, accurate and fair to the best of my knowledge and belief.

.....  
**Signature**

**\*AUDITED FINANCIAL STATEMENTS**

- 1. If the applicant is a business that was in existence and operating prior to the date of application, copies of audited financial statements (balance sheet, profit and loss, auditor’s report and notes to accounts) for the five consecutive years immediately preceding its application, except however that where such applicant has been functioning for less than five years, a copy of its audited financial statements for each year it has been in operation shall be sufficient.
- 2. Where item 1 is not applicable the opening balance sheet, (audited).
- 3. Operating projections for the proposed licensee’s first five years of business. This should include balance sheet, income statement and cash flow projections prepared in an acceptable accounting format. Details of any financial or economic assumptions on which these projections are based should be clearly indicated.
- 4. Where applicant is a subsidiary or affiliate of another company, submit in addition to item 1 or 2, audited financial statements of the parent company and all other “connected” companies.



**SCHEDULE 4****[Sections 6 and 9]****FEES**

<b>Class of Licence</b>	<b>Description of Licence</b>	<b>Fees</b>	
		<b>Application Fee</b>	<b>Annual Licence Fee</b>
Class A	Transmission of money or monetary value in any form, the issuance, sale or redemption of money orders or traveller's cheques, cheque cashing, currency exchange	\$1000,00	\$5000,00
Class B	Issuance, sale or redemption of money orders or traveller's cheques, cheque cashing, currency exchange	\$1000,00	\$5000,00
Class C	Cheque Cashing	\$1000,00	\$5000,00
Class D	Currency Exchange	\$1000,00	\$5000,00
Class E	Pay day advances	\$1000,00	\$5000,00

CURTIS A. MARTIN  
*Speaker*

Passed by the National Assembly this 31<sup>st</sup> day of July, 2008.

JOSÉ LLOYD  
*Clerk of the National Assembly*