

BELIZE:

BILL

for

AN ACT to amend the Moneylenders Act, Chapter 260 of the Substantive Laws of Belize, Revised Edition 2011; to make provision for enhanced supervisory powers, for greater transparency in relation to an applicant for a moneylenders licence and ensuring that persons connected with moneylending business are fit and proper; and to provide for matters connected therewith and incidental thereto.

(Gazetted 27th August, 2016).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

MONEYLENDERS (AMENDMENT) ACT, 2016,

CAP. 260. and shall be read and construed as one with the Moneylenders Act, which is hereinafter referred to as the principal Act.

Amendment of section 2.

2. The principal Act is amended in section 2—

- (a) by deleting the definitions of “certificate” and “moneylenders excise licence”;
- (b) in the definition of “registered name” and “registered address” by deleting the word “certificate” and replacing it with the word “licence”;
- (c) by inserting the following definitions in alphabetical order—

CAP. 104.

“AML/CFT obligation” has the meaning given in the Money Laundering and Terrorism (Prevention) Act;

“approval” means an approval that may be granted by the Registrar under this Act, but excludes a licence;

“associate” has the meaning given in subsection (3);

CAP. 262.

“Central Bank of Belize” means the entity established under the Central Bank of Belize Act;

“compliance inspection” means an inspection referred to in section 30C;

“condition” means a condition attached to a licence or to an approval and includes a condition as varied in accordance with section 2D;

“fit and proper” has the meaning given in section 2A;

“foreign regulatory authority” means an authority in a jurisdiction outside Belize which exercises a regulatory function similar to that of the Registrar;

“former moneylender” means a person who has, at any time, held a licence that has been cancelled or revoked;

“licence” means a licence issued by the Registrar to a moneylender in accordance with this Act;

“moneylending business” means the business of extending credit that is subject to interest or finance charges and includes pawnbroking, but does not include the business carried on by the following—

- (a) any registered society within the meaning of the Friendly Societies Act, or any society registered or having rules certified under the Building Societies Act; CAP. 317.
CAP. 310.
- (b) any body corporate, incorporated or empowered by a special enactment to lend money in accordance with such special enactment;
- (c) any person, in accordance with the laws of Belize, carrying on the business of banking or insurance;
- (d) any person, in accordance with the laws of Belize, carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof that person lends money;
- (d) any person licensed as a financial institution under the Domestic Banks and Financial Institutions Act, 2012; No. 11 of
2012.

CAP. 314.
CAP. 313.

- (e) any person registered under the Credit Unions Act, or the Cooperative Societies Act;
- (f) any person licensed by the International Financial Services Commission of Belize in accordance with the International Money Lending (Short Term and Unsecured Small Loans) Regulations, 2008;

“pawnbroker” means a person who carries on a moneylending business of pawnbroking;

“pawnbroking” means lending money on the security of a pledge;

“pledge” means goods that are taken into possession by a moneylender as security for the repayment of a loan;

“prescribed” means prescribed by Regulations made under this Act;

“Register” means the Moneylenders Register referred to in section 2E;

“Registrar” means Registrar of Moneylenders established under section 2B;”;

- (d) by replacing the definition of “moneylender” with the following—

“moneylender” means a person who engages in moneylending business;

- (e) by inserting the following new subsections (3) and (4)—

“(3) A person is an associate of a moneylender or an applicant for a licence if the person—

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power, whether on the person’s own behalf or on behalf of any other person, in the moneylending business of the moneylender or applicant, and by virtue of that interest or power, is able or will be able to exercise significant influence over or with respect to the operation of that moneylending business; or
 - (b) holds or will hold any relevant position, whether on the person’s own behalf or on behalf of any other person, in the moneylending business of the moneylender or applicant.
- (4) For the purposes of subsection (3)—
- (a) “relevant financial interest” means, in relation to a moneylending business, five per cent or more of the voting capital of the business;
 - (b) “relevant position”, in relation to a moneylending business, means the position of director, officer, manager or other executive position, however that position is designated; and
 - (c) “relevant power” in relation to a moneylending business, means any power, whether exercisable by voting

or otherwise, and whether exercisable alone or in association with others—

- (i) to participate in any directorial, managerial or executive decision; or
- (ii) to elect or appoint any person to any relevant position.”.

Insertion of section 2A.

3. The principal Act is amended by inserting the following new section after section 2—

“Fit and proper.

2A. (1) For the purposes of this Act, whether a person is fit and proper for any purpose or function under this Act shall be determined by the Registrar.

(2) In determining whether any person is a fit and proper person to be concerned in or associated with the ownership, management or operation of a moneylending business, the Registrar may consider such of the following as it considers appropriate—

- (a) whether the person—
 - (i) is of good repute, having regard to the person’s character, honesty and integrity;
 - (ii) is of sound and stable financial background;
 - (iii) has any business association with any person who, in the

- opinion of the Registrar,
is not of good repute,
having regard to the
character, honesty and
integrity of that person,
or who has undesirable
or unsatisfactory
financial resources;
- (iv) has, or has arranged, a
satisfactory ownership
structure;
- (v) holds or is able to
obtain—
- (A) financial resources
adequate to ensure
the financial
viability of the
moneylending
business; and
- (B) the services of
persons who have
s u f f i c i e n t
experience in the
operation of the
moneylending
business;
- (vi) has sufficient
k n o w l e d g e ,
experience and
skills to successfully

operate the
moneylending
business;

- (b)** whether senior management and each director, partner, shareholder, and any other person determined by the Registrar to be or connected with the ownership, administration or management of the moneylending business is a suitable person to act in that capacity;
- (c)** whether any person proposed to be engaged or appointed to manage or operate the moneylending business is a suitable person to act in that capacity;
- (d)** whether any other matter that may be prescribed, or condition that may be imposed on the licence, will be fulfilled;
- (e)** any other matter that may be prescribed or which the Registrar considers appropriate.”.

Insertion of Part
IA.

4. The principal Act is amended by inserting the following new Part after Part I—

“PART IA

Establishment and Functions of the Registrar

Establishment
and
functions
of the
Registrar.

2B. (1) The Central Bank of Belize is the Registrar of Moneylenders.

(2) Subject to the provisions of this Act, the Registrar shall—

(a) licence, regulate and supervise moneylending business; and

(b) maintain an accurate and up to date Moneylenders Register in accordance with section 2E.

Powers of
the
Registrar.

2C. (1) The Registrar may do all things necessary for the carrying out of its functions under this Act.

(2) Without limiting subsection (1), the Registrar may”

(a) licence and register moneylenders;

(b) supervise and monitor the operation of moneylenders to ensure that moneylenders comply with the terms and conditions of their licenses and with the provisions of this Act or the regulations and with any applicable directives issued by the Registrar in accordance with this Act;

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- (c) inquire into the suitability of any person applying for a moneylending license or approval under this Act and to ensure that any person involved in the ownership, operation or management of a moneylender's moneylending business is a fit and proper person to carry out functions relative to such business;
 - (d) use all powers vested in it by this or any other law to ensure that moneylending business is kept free from criminal activity, and to prevent, detect and take all reasonable measures to ensure the prosecution of any offence against this Act;
 - (e) advise the Minister on new developments, needs and risks in moneylending business and to make such proposals as may be deemed necessary or expedient to respond to those risks;
 - (f) take enforcement action and co-operate with domestic law enforcement and foreign regulatory authorities in accordance with this Act;
 - (g) make regulations and guidelines give directions in accordance with this Act;

- (h) issue guidance notes referred to in section 37;
- (i) enter into bilateral or multilateral agreements or memoranda of understanding with other local or overseas regulatory authorities, or other government agencies, for various matters including but not limited to exchange of information and other forms of collaboration or cooperation;
- (j) do all other things connected with or incidental to any of the foregoing;
- (k) perform any other function as may from time to time be assigned to it by this Act or any other law.

Power to
impose
conditions.

2D. (1) Subject to subsections (2) and (3), the Registrar may impose such conditions as it considers appropriate on any licence issued or approval granted.

(2) It is a condition of every licence issued or approval granted that the person in respect of whom the licence is issued or approval granted is considered by the Registrar to be a fit and proper person for the function he performs or proposes to perform.

(3) It is a condition of every licence issued that the moneylender complies with the moneylender's AML/CFT obligations.

(4) If a licence is issued, or an approval granted, subject to one or more conditions other than those referred to in subsection (2) or (3)—

- (a) the Registrar shall, together with the licence or approval, issue a written notice specifying the condition or conditions; and
- (b) if, in respect of any condition, it considers that it is in the public interest to do so, the Registrar may state that condition on the licence or approval and issue a public statement concerning the condition, in such manner as it considers fit.

(5) The Registrar may, upon giving reasonable written notice to a moneylender, at any time—

- (a) vary or revoke a condition imposed under subsection (1); or
- (b) impose new conditions on the licence or approval.

(6) A moneylender may apply to the Registrar in writing for a condition to be revoked or varied and, if the Registrar is satisfied that the condition is no longer necessary or should be varied, it may revoke or vary the condition.

(7) If the Registrar revokes or varies a condition or imposes a new condition, the moneylender shall, if requested to do so by the Registrar, deliver its licence to the Registrar for re-issue.

Moneylenders
Register.

2E. (1) There is established a Moneylenders Register which will be kept by the Registrar.

(2) The Register shall contain the following information in respect of each moneylender licensed under this Act—

- (a) in the case of a moneylender that is a legal person, the name, country and date of formation, and registered office of the moneylender;
- (b) in the case of a moneylender that is a natural person, the name and address of the moneylender;
- (c) the principal business address of the moneylender in Belize and the moneylender's telephone number and e-mail address, if any;
- (d) the class of licence held by the moneylender and any conditions imposed on the licence;
- (e) the date the licence was granted and, if applicable, revoked; and
- (f) such other information as the Registrar considers appropriate.

(3) The Register and the information contained in any document filed with the Registrar, may be kept in such manner as the Registrar considers appropriate, including either wholly or partly, by means of a device or facility that—

- (a) records or stores information magnetically, electronically or by other means; and
- (b) permits the information recorded or stored to be inspected and reproduced in legible and usable form.”.

Replacement
of Part II.

5. The principal Act is amended by deleting Part II and replacing it with the following—

“PART II

Licensing of Moneylenders”.

Prohibition
of
unlicensed
moneylending.

3. (1) Notwithstanding any law to the contrary, no person shall provide, carry on, transact or hold himself out as providing, carrying on, or transacting moneylending business in, or from within, Belize unless that person holds a valid moneylenders license granted by the Registrar under this Act.

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

(3) Where any person, acting in contravention of subsection (1), enters into a contract for a loan or gives any guarantee or security for such a loan—

- (a) the contract for the loan, and the guarantee or security, as

the case may be, is unenforceable; and

- (b) any money paid by or on behalf of the unlicensed moneylender under the contract for the loan is not recoverable in any court of law.

Licences to be taken out by moneylenders.

4. (1) Every moneylender or person who intends to carry on moneylending business, in or from within Belize shall apply to the Registrar for a licence.

(2) An application referred to in subsection (1) shall be made in accordance with section 6.

(3) Any person who—

- (a) is under the age of 18 years;
- (b) in the opinion of the Registrar, is not a fit and proper person; or
- (c) has an associate who, in the opinion of the Registrar, is not a fit and proper person;

is not eligible for a licence.

Classes of moneylending licences.

5. (1) Subject to section 7, a license may be issued in one of the following classes—

- (a) a *single store moneylender*, which shall allow the holder to carry on moneylending

business at the single address specified in the licence;

- (b) a *master agent moneylender*, which shall allow the holder to carry on moneylending business at the number of locations specified in the licence;
- (c) a *single store pawnbroker*, which shall allow the holder to carry on pawnbroking business at the single address specified in the licence; or
- (d) a *master agent pawnbroker*, which shall allow the holder to carry on moneylending business at the number of locations specified in the licence.

(2) The Registrar may prescribe qualifications, conditions and fees applicable to any class or classes of moneylenders license referred to in subsection (1).

Applications.

6. –(1) Subject to subsection (2), every application for a licence under this Act shall be in in writing in such form as directed by the Registrar and be accompanied by—

- (a) identification information for—
 - (i) the applicant; and
 - (ii) any senior management or director of the applicant; and

- (b) a current list of associates of the applicant, including, where any financial interest is 5% or more of the voting capital, identification information for the beneficial owner of any shares held by a legal person or in the name of nominee shareholder;
- (c) such information or documents as may be required by this Act or requested by the Registrar; and
- (d) such fee as the Registrar may prescribe.

(2) Subsections (1)(a)(ii) and (b) do not apply to an applicant that is a publically traded company.

(3) The Registrar may require an applicant to—

- (a) provide such information and documents, in addition to those specified in subsection (1)(c), as it reasonably requires to determine the application and any such information and documents shall be in such form as the Registrar may require; and
- (b) verify any information and documents provided in support of an application in such manner as the Registrar may specify.

(4) If, before an application is determined—

- (a) there is a material change in or in relation to any information or documents provided by or on behalf of the applicant to the Registrar in connection with the application; or
- (b) the applicant discovers that any such information or documents are incomplete, inaccurate or misleading,

the applicant shall, as soon as reasonably practicable, give the Registrar written particulars of the change or of the incomplete, inaccurate or misleading information or documents.

Grant of
licence.

7.-(1) After reviewing an application made, and any additional information provided, under section 6, the Registrar may grant to the applicant a licence, if the Registrar is satisfied that—

- (a) the applicant and each associate of the applicant is a fit and proper person to be concerned in or associated with the management or operation of a moneylending business; and
- (b) the applicant or any associate has not been convicted of a specified offence.

(2) A licence shall be in such form and contain such particulars as the Registrar may direct.

(3) For the purposes of this section, “specified offence” means—

- (a) an offence under this Act or the regulations;
- (b) an offence under the Domestic Banks and Financial Institutions Act, 2012, or any other law that regulates financial institutions or financial services;
- (c) an offence under the Money Laundering and Terrorism (Prevention) Act, Cap. 104;
- (d) an offence under Part XI of the Criminal Code, Cap. 101;
- (e) conspiracy to commit or attempting or aiding and abetting any offence referred to in paragraph (a) to (d); or

- (f) in the case of a jurisdiction other than Belize, an offence under the laws of that jurisdiction which is analogous to any of those referred to in paragraphs (a) to (e).

8. Every licence issued under this Act shall expire each year on 31 December, but may be renewed on application by the licence holder in such form and manner, and containing such information, as the Registrar may direct and—

Duration and renewal of licence.

- (a) on payment of such fee as the Registrar may prescribe; and
- (b) if the Registrar remains satisfied that the requirements referred to in section 7(1) are still met.

9. (1) The Registrar may refuse an application for a licence if—

Refusal of application.

- (a) the application does not comply with section 6;
- (b) the applicant fails to provide any information or documents required by the Registrar under section 6;
- (c) the Registrar is of the opinion that the applicant does not, or does not intend to, carry on the business for which it seeks to be licensed;
- (d) any of the applicant's senior management, directors, or owners, or their associates, have committed a specified offence referred to in section 7(4); or
- (e) the applicant, at any time, held a licence, a licence as a financial institution or a licence to carry on any financial services that was revoked.

(2) The Registrar shall refuse an application for a licence if it is of the opinion that—

- (a) any condition referred to in section 4(3) is met;
- (b) the applicant does not, or on commencement of business will not, have the capacity or willingness to comply with its obligations under this Act or its AML/CFT obligations or to identify, mitigate and manage the money laundering and terrorism financing risks to which it is exposed;
- (c) the moneylender, or its business, represents a significant money laundering or terrorist financing risk; or
- (d) it is contrary to the public interest for the applicant to be licenced.

(3) If the Registrar refuses an application for a licence, it shall, as soon as practicable, send the applicant a written notice of refusal, stating the grounds for its refusal.

Revocation of licence.

10. (1) Notwithstanding section 8, the Registrar may at any time revoke a moneylender's licence if—

- (a) it is entitled to take enforcement action against the moneylender under section 30F;
- (b) the moneylender has failed to commence or ceased to carry on the moneylending business for which it was licensed; or
- (c) the moneylender has purported to transfer the licence in contravention of section 11.

(2) The Registrar may, on the application of a moneylender, cancel the moneylender's licence, subject to such conditions as the Registrar considers appropriate.

(3) Subject to subsection (4), before revoking a license under subsection (1), the Registrar shall give written notice to the moneylender—

- (a) stating the grounds upon which it intends to revoke the license; and
- (b) containing a statement to the effect that unless the moneylender, by written notice filed with the Registrar, shows good reason why the license should not be revoked, the license will be revoked on a date not less than 14 days after the date of the notice.

(4) If, on the application of the Registrar, the Supreme Court is satisfied that it is in the public interest or to the interests of any borrowers, potential borrowers, or creditors of a moneylender that subsection (3) should not have effect or that the period referred to in subsection (3)(b) should be reduced, it may so order.

(5) An application under subsection (4) may be made without notice or upon such notice as the Supreme Court may require.

11. (1) No person to whom a licence has been granted under this Act shall transfer or assign it to any other person, or in any way alter, deface or destroy such licence before the date of expiration thereof.

Licence not transferable.

(2) Any person who contravenes with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding two years, or to both.

(3) Where a person transfers or assigns a licence to any other person in contravention of subsection (1)—

- (a) the purported transfer or assignment is void; and
- (b) the licence may be revoked in accordance with section 10(1)(c).

Transfer of significant interest.

12. (1) No person owning or holding a significant interest in a moneylending business shall sell, transfer, charge or otherwise dispose of that interest in the moneylending business, or any part of that interest, unless the prior written approval of the Registrar has been obtained.

(2) No person shall, whether directly or indirectly, acquire a significant interest in a moneylending business, unless the prior written approval of the Registrar has been obtained.

(3) No moneylender shall, unless the prior written approval of the Registrar has been obtained—

- (a) cause, permit or acquiesce in a sale, transfer, charge or other disposition referred to in subsection (1); or
- (b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation, including of its share structure, that results in—
 - (i) a person acquiring a significant interest in the moneylending business; or
 - (ii) a person who already owns or holds a significant interest in the moneylending business, increasing or decreasing the size of the interest.

(4) An application to the Registrar for approval under subsection (1), (2) or (3) shall be made by the moneylender.

(5) The Registrar shall not grant approval under subsection (1), (2) or (3) unless, he is satisfied that, following the acquisition or disposal, any person who will acquire a significant interest is fit and proper.

(6) For the purposes of this section, “significant interest”, in respect of a moneylending business, means a holding or interest in the business or in any holding company of the business held or owned by a person, either alone or with any other person and whether legally or equitably, that entitles or enables the person, directly or indirectly—

- (a) to control ten per cent or more of the voting rights of the moneylending business at a meeting of the business or of its members;
- (b) to a share of ten per cent or more in any distribution made by the moneylending business;
- (c) to a share of ten per cent or more in any distribution of the surplus assets of the moneylending business;
or
- (d) to appoint or remove one or more directors of the moneylending business.

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

(8) Where a person contravenes subsection (1), (2) or (3), any transaction purported to be made in connection with the contravention is void.

Notification of changes in senior management and directors.

12A. (1) A moneylender shall provide the Registrar with written notice of any change in its senior management or directors, whether as a result of a member of senior management or director ceasing to hold office or the appointment of a new member of senior management or director.

(2) A written notice under subsection (1) shall—

(a) specify the date of the change;

(b) include the full name of the member of senior management or director who has ceased to be, or has been appointed as, a member of senior management or director; and

(c) be provided to the Registrar within 14 days of—

(i) the change occurring, in the case of the appointment or resignation of a member of senior management or director, or

(ii) the moneylender first becoming aware of the change, in the case of the death of a member of senior management or director.

(3) A moneylender that fails to provide written notice of a change in its senior management or directors in accordance with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding seventy five thousand dollars.

Notification of change in associates.

12B. (1) A moneylender shall provide the Registrar with written notice of any change in its associates, whether as a result of a person becoming an associate or ceasing to be an associate.

(2) A written notice under subsection (1) shall—

- (a) specify the date of the change;
- (b) provide details of the identity of the new or former associate and the nature of the associate's interest in, or control of, the moneylender;
- (c) be provided to the Registrar within 14 days of the moneylender first becoming aware of the change.

(3) A moneylender that fails to provide written notice of a change in its associates in accordance with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding seventy five thousand dollars.

12C. (1) A moneylender shall provide the Registrar with written notice of any change in the information required to be registered under section 2E.

Notification of change in information required to be registered.

- (2) A written notice under subsection (1) shall—
 - (a) specify the date of the change;
 - (b) set out the details of the change;
 - (c) be provided to the Registrar within 14 days of the moneylender first becoming aware of the change.

(3) A moneylender that fails to provide written notice of a change in its registered information in accordance with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.”.

6. The principal Act is amended in section 14, by—

Insertion of section 14A.

- (a) renumbering the section as subsection (1);
- (b) inserting the following new subsections—

“(2) Any moneylender who makes a contract in contravention of subsection (1) 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.

(3) Where, under any contract made in contravention of subsection (1), it is provided that the borrower is required to pay to the moneylender any sum directly or indirectly representing compound interest or an increased rate or increased amount of interest by reason of any default in the payment of any amount due under the contract, such sum—

- (a) shall not be recoverable from the borrower or any surety;
- (b) if so paid, shall be recoverable as a debt due to the borrower or surety, as the case may be; and
- (c) if not recovered, shall be set-off against the outstanding amount of the loan, and all sums of interest, late interest and any fees, costs, charges or expenses prescribed under section 15 that may be payable under the contract.”.

Insertion of
section 14A.

7. The principal Act is amended by inserting the following sections after the heading for Part IV—

“Prohibition of unsolicited loans. 14A. (1) No moneylender shall—

- (a) grant a loan to any person;
- (b) grant approval to any person to obtain a loan from the moneylender; or
- (c) send or deliver, directly or indirectly, any article or document to any person on

an undertaking by the moneylender that such article or document, when used or produced in a specified manner, enables a loan to be obtained from the moneylender,

without the person having first applied to the moneylender in writing for the loan.

(2) Any moneylender who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding six months or to both.”.

8. The principal Act is amended by deleting section 15 and replacing it with the following—

Amendment
of section
15.

15. (1) The Registrar may prescribe the types or amounts of fees, costs, charges and expenses that a moneylender may impose in respect of a loan granted by a moneylender, including the fees or charges for or on account of legal representation or advice.

(2) Any moneylender who imposes fees, costs, charges and expenses other than, or in excess of, those prescribed under subsection (1) 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 one year, or to both.

(3) Where, under any contract for a loan between a moneylender and a borrower, it is provided that the borrower is required to pay to the moneylender any sum representing fees, costs, charges or expenses other than, or in

“Charges
other than
prescribed
fees
unenforceable.

excess of, those prescribed under subsection (1), such sum—

- (a) shall not be recoverable from the borrower or any surety;
- (b) if so paid, shall be recoverable as a debt due to the borrower or surety, as the case may be; and
- (c) if not recovered, shall be set-off against the outstanding amount of the loan, and all sums of interest, late interest and any fees, costs, charges or expenses prescribed under subsection (1) that may be payable under the contract for the loan.

(4) Subsection (2) does not apply to any sum representing payment for or on account of stamp duties or other amounts payable to the Government of Belize through a moneylender on behalf of a borrower by or under this Act or any other law.”.

Amendment of section 17.

9. The principal Act is amended in subsection (2) of section 17—

- (a) by deleting the words “a fine of not less than five hundred dollars and not exceeding one thousand dollars” and replacing it with the words “a fine of not less than one thousand dollars and not exceeding ten thousand dollars”; and
- (b) by deleting the phrase “a fine of five thousand dollars” and replacing it with the phrase “a fine of fifty thousand dollars”.

10. The principal Act is amended in section 18, by—

Amendment of
section 18.

- (a) deleting the phrase “Banks and Financial Institutions Act (CAP. 263)” and replacing it with the phrase “Domestic Banks and Financial Institutions Act, 2012 or the Offshore Banking Act, Cap. 267”; and
- (b) by deleting the words “to a fine of five thousand dollars for each day during which the offence continues” and replacing it with the words “a fine of ten thousand dollars for each day during which the offence continues”.

11. The principal Act is amended by deleting section 19 and replacing it with the following—

Amendment of
section 19.

“Display of
licence and
information.

19. (1) Every moneylender shall display in a conspicuous and prominent position that is clearly visible to the public at or in each place of business—

- (a) the licence issued in relation to the moneylending business; and
- (b) a sign bearing the effective annual rate of interest charged and all other fees, costs, charges and expenses levied on loans.

(2) Any person who contravenes subsection (1) 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.”.

12. The principal Act is amended in section 20—

Amendment of
section 20.

- (a) in subsection (1), by deleting the words “Central Bank of Belize” wherever they appear and replacing them with the word “Registrar”;
- (b) by inserting the following new subsection after subsection (1)—

“(1A) In addition to the information referred to in subsection (1), every moneylender shall provide to the Registrar such information or make such returns, in such form and at such intervals, as the Registrar may prescribe.”;
- (c) in subsection (2)—
 - (i) by deleting the phrase “subsection (1) above” and replacing it with the phrase “subsection (1) or (1A)”;
 - (ii) by deleting the words “a fine of not less than fifty thousand dollars” and replacing it with the words “to a fine of not less than seventy-five thousand dollars”;
 - (iii) by deleting the phrase “, and the court may also order the cancellation or suspension of his certificate”.

“Approval
required for
assignment.

20A. (1) No moneylender shall make any assignment, or cause, permit or acquiesce in any assignment, unless the prior written approval of the Registrar has been obtained.

(2) No person shall, whether directly or indirectly, accept an assignment, unless the prior written approval of the Registrar has been obtained.

(3) An application to the Registrar for approval under subsection (1) or (2) shall be made by the moneylender.

(4) The Registrar shall not grant approval under subsection (1) or (2) unless satisfied that, following the assignment, any person who will become the assignee is fit and proper.

(5) For the purposes of this section, “assignment” means an assignment referred to in section 21.

(6) Any person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding twenty thousand dollars, or to imprisonment for a term not exceeding two years, or to both.”.

14. The principal Act is amended in section 26, by deleting subsection (2) and replacing it with the following—

Amendment of
section 26.

“(2) Notwithstanding section 2D(5), where a court re-opens a transaction of a moneylender under section 24, the Registrar may require the moneylender to produce the moneylender’s licence and, without delay, may impose such conditions as the Registrar considers appropriate.”.

Insertion of
Part VIIIA.

15. The principal Act is amended by inserting the following new Part VIIIA immediately after section 30—

“PART VIIIA

Compliance and Enforcement

Compliance
policies,
systems and
controls.

30A. A moneylender shall establish, maintain and implement a compliance policy and compliance systems and controls that are appropriate for the nature, scale, complexity and diversity of the moneylending business carried on by the moneylender.

Compliance
officer.

30B. (1) A moneylender shall appoint as its compliance officer a person approved, upon application in writing by the moneylender, by the Registrar as being a fit and proper individual to so act.

(2) The principal functions of the compliance officer are—

- (a) in relation to this Act, any regulations, or guidelines made under this Act and all laws for the time being in force concerning moneylending business—
 - (i) to oversee and monitor the moneylenders’ compliance; and
 - (ii) to act as the liaison between the moneylender and the Registrar in matters relating to compliance;

- (b) be responsible for establishing, maintaining and ensuring compliance such manual of compliance procedures as the Registrar may require in relation to the moneylenders' compliance policy and compliance systems and controls referred to in section 30A.

(3) The Registrar may, by notice in writing to a moneylender, revoke its approval of an individual as the moneylender's compliance officer.

(4) Where the Registrar issues a notice under subsection (3), the moneylender shall, without delay, appoint another individual as its compliance officer in accordance with this section.

Compliance
inspections.

30C.—(1) In this section “relevant person” means—

- (a) a moneylender;
- (b) a former moneylender; or
- (c) an associate of a moneylender or of a former moneylender.

(2) The Registrar may, for a purpose specified in subsection (3)—

- (a) inspect the premises and the business, whether in or outside Belize, including the procedures, systems and controls, of a relevant person;
- (b) inspect the assets, including cash, belonging to or in the possession or control of a relevant person;
- (c) examine and make copies of

documents belonging to or in the possession or control of a relevant person that, in the opinion of the Registrar, relate to the carrying on of moneylending business by the relevant person; and

- (d) seek information and explanations from the officers, employees, agents and representatives of a relevant person, whether orally or in writing, and whether in preparation for, during or after a compliance inspection.

(3) A compliance inspection may be undertaken for the following purposes—

- (a) the supervision of moneylending business, including monitoring and assessing a relevant person's compliance with—
 - (i) this Act, the regulations made under this Act and any other law related to moneylending business; and
 - (ii) any guidelines or directive issued by the Registrar; and
- (b) monitoring and assessing a relevant person's compliance with AML/CFT obligations.

(4) Subject to subsection (5), the Registrar shall give reasonable notice to a relevant person of its intention to exercise its powers under subsection (2).

(5) Where it appears to the Registrar that the circumstances so justify, the Registrar may exercise its powers under subsection (2) without giving notice of its intention to do so.

(6) Subject to subsection (7), the Registrar may, upon the request of a foreign regulatory authority, permit that authority to take part in a compliance inspection undertaken by the Registrar under this section.

(7) In deciding whether to permit a foreign regulatory authority to take part in a compliance inspection under this section, the Registrar may take into account, in particular, whether, in its opinion—

(a) the participation of the foreign regulatory authority—

(i) is necessary for the effective supervision of the person to be subject to the compliance inspection or its subsidiary or holding company, and

(ii) is not contrary to the public interest; and

(b) the foreign regulatory authority is subject to adequate legal restrictions on further disclosure and that it will not, without the written permission of the Registrar—

(i) disclose information obtained or documents examined or

obtained during the compliance inspection to any person other than an officer or employee of the authority engaged in prudential supervision, or

- (ii) take any action on information obtained or documents examined or obtained during the compliance inspection.

(8) Subject to subsection (5), a relevant person shall permit any employee of the Registrar or person appointed by the Registrar for the purpose to have access at any reasonable time to any of its business premises to enable that person to undertake a compliance inspection.

(9) The Registrar may require a moneylender to contribute towards the costs of a compliance inspection.

(10) The amount to be contributed under subsection (9) shall be determined in such manner as may be prescribed.

Power of Registrar to gather information.

30D. (1) The Registrar may, by notice in writing, require a person specified in subsection (2) to—

- (a) provide, in accordance with directions in the notice, such information relevant to the moneylender, that associate or the moneylending business, or with such information as the Registrar requires, and specified in the notice;

(3) Where records are produced under this section, the Registrar, or such person as may be designated by the Registrar to whom they are produced, may retain possession of the records for such period as may reasonably be necessary for an investigation to be carried out.

(4) At any reasonable time during the period for which records are retained, the Registrar, or such person as may be designated by the Registrar, shall permit inspection of the records by a person who would be entitled to inspect them if they were not in the possession of the Registrar, or person designated by the Registrar.

(5) A person, including a director, officer or employee of a moneylender, who provides information or produces records to the Registrar in compliance with a notice under this section does not contravene any law, rule of law, agreement or professional code of conduct to which that person is subject and no civil, criminal or disciplinary proceedings shall lie against him, or against the moneylender, in respect thereof.

Power to
give
directions.

30E.—(1) The Registrar may give to a moneylender written directions relating to the conduct, supervision or control of operations in the moneylending business of the moneylender and the moneylender shall comply with such directions within the period specified in the direction.

(2) Any directions given under subsection (1) shall take effect when such directions are delivered to the moneylender or at such later date as may be specified in the directions.

(3) The power conferred upon the Registrar by this section includes the power to give a direction to a moneylender to do any of the following—

- (a) adopt, vary, cease or refrain from any practice in respect of the conduct of moneylending business;
- (b) where the Registrar is of the opinion that a member of senior management, director or compliance officer of the moneylender does not satisfy its fit and proper criteria—
 - (i) remove that person and, if it considers it appropriate, to replace that person with another person acceptable to the Registrar; or
 - (ii) ensure that the person ceases to undertake certain specified functions in relation to the moneylender.

Enforcement action. 30F.—(1) The Registrar may take enforcement action against a moneylender if—

- (a) in the opinion of the Registrar, the moneylender—
 - (i) has contravened or is in contravention of this Act or the regulations made under this Act;
 - (ii) is carrying on, or is likely to carry on, moneylending busi-

ness in a manner detrimental to the public interest or to the interest of any of its customers;

- (iii) is or is likely to become insolvent;
- (iv) is in breach of any term or condition of its licence;
- (v) has failed to comply with a direction given to it by the Registrar;
- (vi) is not a fit and proper person to hold a licence; or
- (vii) has provided the Registrar with any false, inaccurate or misleading information, whether on making application for a licence or approval or subsequent to the issue of the licence or approval; or

(b) in the opinion of the Registrar—

- (i) a person having a share or interest in the moneylender, whether equitable or legal, or any director, officer, manager or employee of the moneylender is not a fit and proper person to have an interest in or be concerned with the management or operation of a moneylending business, as the case may be, or

- (ii) the moneylender or a subsidiary or holding company of the moneylender has refused or failed to cooperate with the Registrar on a compliance inspection conducted by the Registrar under section 30C.

(2) If the Registrar is entitled to take enforcement action under subsection (1) it may exercise such powers therefor as may be prescribed.

Disciplinary
measures.

30G. (1) The Registrar may take disciplinary measures against a moneylender under this section where it is—

- (a) entitled to take enforcement action under section 30F; or
- (b) satisfied that the moneylender has committed a regulatory violation.

(2) The Registrar takes disciplinary measures against a moneylender by taking such actions as may be prescribed therefor.

(3) For the purposes of this section, “regulatory violation” means—

- (a) a contravention of a provision of this Act or regulations or guidelines made or direction given under this Act; or
- (b) failure to comply with an AML/CFT obligation.”.

Amendment of
Part heading.

16. The principal Act is amended in the heading for Part IX, by inserting the phrase “Offences, Penalties, Appeals, Regulations and” before the word Miscellaneous”.

Amendment of
section 31.

17. The principal Act is amended in section 31, by—

- (a) deleting the words “a misdemeanour” and replacing them with the words “an offence”;
- (b) deleting the words “two thousand dollars” and replacing them with the words “fifty thousand dollars”.

Insertion of
sections 31A -
31F.

18. The principal Act is amended by inserting the following new sections after section 31—

“Harassing
borrower,
besetting
borrower’s
residence, etc.

31A.—(1) Where a moneylender—

- (a) uses or, as the case may be, displays any threatening, abusive or insulting words, behaviour, writing, sign or other visible representation; or
- (b) does any act likely to cause alarm or annoyance to a borrower or surety, any member of the family of the borrower or surety, or any other person,

in connection with the loan to the borrower, whether or not the moneylender does the act personally or by any person acting on the moneylender’s behalf, the moneylender commits an offence.

(2) Any person who, acting on behalf of a moneylender, does any of the acts specified in subsection (1) commits an offence.

(3) A person guilty of an offence referred to in subsection (1) or (2) is liable on summary conviction to—

- (a) a fine of not less than ten thousand dollars and not more than fifty thousand dollars or imprisonment for a term not exceeding 5 years or both;
- (b) in the case of a second or subsequent offence, a fine of not less than fifteen thousand dollars and not more than seventy-five thousand dollars or imprisonment for a term of not less than 2 years and not more than 9 years or both;
- (c) in the case where the person is a legal person, a fine of not less than twenty thousand dollars and not more than one hundred thousand dollars.

(4) If the court is satisfied that, in the course of committing an offence referred to in this section, damage was caused to any property or injury was caused to another person, the person guilty of the offence is liable to three times the fine referred to in subsection (3).

(5) For the purposes of subsection (1)(a), a person who—

- (a) uses any threatening, abusive or insulting words in any telephone call made by him; or
- (b) by any means, sends any thing which contains any threatening, abusive or insulting words, writing, sign or other visible representation,

whether from a place in Belize or outside Belize, to any person or place in Belize shall be taken to have done an act referred to in that subsection.

(7) For the purposes of subsection (1)(b), a person who makes any telephone call, or by any means sends

any article, message, word, sign, image or other visible representation, whether from a place in Belize or outside Belize, to any person or place in Belize, which is likely to cause alarm or annoyance to a person referred to in that subsection, shall be taken to have done an act referred to in that subsection.

(8) For the purposes of subsection (2), any person who does any of the acts specified in subsection (1) in connection with a demand for the repayment of a loan to a moneylender shall be presumed, until the contrary is proved, to act on behalf of the moneylender.

(9) For the purposes of subsection (4), damage is deemed to be caused to property by the following acts—

- (a) defacing the property by means of any paint, pen, marker or any other delible or indelible substance or affixing, posting up or displaying on such property any poster, placard, bill, notice, paper or other document;
- (b) destroying or damaging the property through the use of fire or any other substance;
- (c) doing any other act of mischief which causes a disadvantageous change in any property or which otherwise diminishes its value or utility.

Penalty for failure to comply with notice.

31B. (1) Any person who, without reasonable excuse, fails to comply with a notice issued under section 30D(1) commits an offence.

(2) Any person who in purported compliance with a notice issued by the Registrar under section 30D(1)—

- (a) provides information which he knows to be false or misleading in a material respect; or
- (b) recklessly provides information which is false or misleading in a material respect;

commits an offence.

(3) Any person who, for the purpose of obstructing or frustrating compliance with a notice issued by the Registrar under section 30D(1) destroys, mutilates, defaces, hides or removes a document commits an offence.

(4) Any person who commits an offence under this section is liable on summary conviction—

- (a) to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year, or to both; and
- (b) where an offence under subsection (1) is a continuing offence, a fine of five hundred dollars for each day during which the offence continues.

Penalty for failure to comply with direction.

31C. Any person who, without reasonable excuse, fails to comply with a direction given under section 30E commits an offence and is liable on summary conviction—

- (a) to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; and

- (b) where an offence under subsection (1) is a continuing offence, a fine of five hundred dollars for each day during which the offence continues.

Obstruction. 31D. Any person who wilfully obstructs or hinders the Registrar or a person designated by, or acting on behalf of, the Registrar in the performance of any duty imposed or the exercise of any authority conferred on the Registrar or person under 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 one year, or to both.

Penalty for making false return, breach of condition, etc.

31E.-(1) Any person who—

- (a) knowingly furnishes any information, record or return required by the Registrar that is false in any material particular;
- (b) contravenes or fails to comply with the terms and conditions of a valid licence,

commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding two years, or to both.

**CAP. 91.
Appeals.**

31F. (1) Subject to subsection (2), a person who is aggrieved by a decision of the Registrar made under this Act may, within 30 days of the date of the decision, appeal to the Supreme Court under the provisions of Part IX of the Supreme Court of Judicature Act, and for this purpose, the Registrar is deemed to be an inferior court

and the rules governing the inferior court appeals apply, with such changes as the circumstances require, to every such appeal.

(2) Notwithstanding section 112 of the Supreme Court of Judicature Act, Cap. 91, an application for leave to appeal, an appeal and an application for judicial review shall not itself result in the suspension of the decision of the Registrar in relation to which the application or appeal is made, but the appellant may, within the time prescribed under the Supreme Court of Judicature Act, Cap. 91, for filing such appeal, apply to the Supreme Court for stay of execution of the order appeal from, pending the determination of such appeal.

(3) Upon hearing an appeal, the Supreme Court may—

- (a) dismiss the appeal; or
- (b) remit the matter back to the Registrar for further consideration with such directions as it considers fit.”.

19. The principal Act is amended by inserting the following new sections after section 33—

Insertion of
section 34- 37.

“Offences by legal persons. 34. Where an offence is committed by a legal person, any person who at the time of the commission of the offence was a member of senior management or director of the legal person, or purported to act in such capacity, is deemed to have committed the offence unless that person adduces evidence to the effect that the offence was committed without the person’s consent or connivance and that the person

exercised all due diligence to prevent the commission of the offence as the person ought to have exercised having regard to the nature of the person's functions in that capacity and to all the circumstances.

Immunity. 35. (1) No person to whom this subsection applies is liable for anything done or omitted in the discharge or purported discharge of any functions or duties or the exercise or purported exercise of any powers under this Act or any other enactment unless it is shown that the act or omission was in bad faith.

(2) Subsection (1) applies to—

(a) the Registrar;

(b) any Board member of the Registrar or a member of a committee of the Board of the Registrar;

(c) an employee of the Registrar; and

(d) a person authorised by the Registrar to perform any function or exercise any power on behalf of the Registrar.

(3) Subsection (1) does not limit any liability of a person specified in paragraph (2)(d) to the Registrar.

(4) No civil, criminal or disciplinary proceedings may be taken against a person by reason solely of the fact that the person has provided information or produced documents to the Registrar pursuant to a notice issued by the Registrar under the Act.

Regulations. 36. (1) The Registrar, with the approval of the Minister, may make regulations prescribing the following—

- (a) the procedure for making applications for licences and renewal of licences;
- (b) the criteria for eligibility for obtaining a licence;
- (c) a limit on the number of licensees;
- (d) different classes of licences, the persons eligible to hold each class of licence, and the terms and conditions applicable to each class of licence;
- (e) the records and accounts to be kept by a moneylender and the manner in which the records are to be kept;
- (f) the fees to be paid in respect of any matter required for the purposes of this Act, including licence fees;
- (g) the class or description of borrowers to which a moneylender may grant a loan, or a loan above a specified amount, either generally or in specified circumstances;
- (h) the maximum amount which may be lent to a borrower or any class or description of borrowers;
- (i) the types of activities and services that a moneylender may not engage in or provide;

- (j) regulation of the use of advertisements by or on behalf of any moneylender, or any solicitation or canvassing for business by or on behalf of any moneylender;
- (k) regulation of the conduct of the business of moneylending, or specific types of moneylending activities or services;
- (l) the determination of, or the method for determining, the amount to be paid by a moneylender in relation to a compliance inspection;
- (m) the procedures to be adopted when taking enforcement action against a moneylender;
- (n) the determination of, or the method for determining, the amount of the administrative penalty that may be imposed for a regulatory violation;
- (o) all matters and things which by this Act are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to this Act.

(2) Regulations made under this section may provide that any breach thereof shall constitute either or both of the following, as the case may require—

- (a) an offence and may provide for penalties on summary conviction of

a fine not exceeding two hundred fifty thousand dollars, or imprisonment for a term not exceeding two years, or to both a fine and imprisonment;

- (b) a regulatory violation and may provide for imposition of an administrative penalty not exceeding five hundred thousand dollars and for the determination of, or the method for determining, the amount of the administrative penalty that may be imposed for a regulatory violation.

(3) Regulations made under this section—

- (a) may relate to all or any class or description of moneylenders and make different provisions for different classes or descriptions of moneylenders;

- (b) are subject to negative resolution.

Guidelines
and
guidance
notes.

37. (1) The Registrar may issue one or more guidelines specifying requirements, not inconsistent with this Act or the regulations made under this Act, relating to the carrying on by moneylenders of moneylending business.

(2) Without limiting subsection (1), guidelines may provide for the—

- (a) standards of compliance expected of moneylenders;

- (b) individuals who may act as the compliance officer for a moneylender;

- (c) factors that the Registrar will take into account in considering the suitability of a person as a compliance officer;
- (d) functions and responsibilities of a compliance officer;
- (e) preparation by moneylenders of a compliance manual and the matters to be included in such a manual; and
- (f) requirements with respect to the compliance policies, systems and controls of a moneylender.

(3) Guidelines may—

- (a) make different provision in relation to persons, cases or circumstances of different descriptions; and
- (b) include such transitional provisions as the Registrar considers necessary or expedient.

(4) The Registrar may amend, add to or replace any guidelines by notice published in the *Gazette*.

(5) The Registrar may issue guidance notes with respect to—

- (a) compliance by moneylenders with this Act or the regulations;
- (b) any matter required or permitted to be specified or provided for in guidelines; and

(c) such matters as it considers relevant to its functions.

(6) Guidance notes may make different provision in relation to different persons, circumstances or cases.

(7) Failure to follow guidance notes issued under this section shall not, of itself, render a person liable to proceedings of any kind but such failure may be taken into account by the Court or the Registrar, as the case may be, in determining whether there has been a contravention of this Act, the regulations or guidelines.”.

20. (1) A certificate granted under the principal Act which was in force immediately before the date of commencement of this Act shall have effect as if it were a licence granted under this Act and continues to have effect until December 31, 2016, subject to the provisions of this Act.

Saving and transitional provisions.

(2) A holder of a certificate referred to in subsection (1) who intends to continue to carry on a moneylending business after 31 December 2016 may make an application for renewal of a licence under section 8, subject to the provisions of this Act.

(3) An application for the grant of a certificate or a moneylenders excise licence under the principal Act which was pending immediately before the date of commencement of this Act is deemed to be made under this Act and this Act shall, with such modifications as may be required to be made to the application, apply accordingly.

(4) Sections 14(2), 14A, and 15(2) do not apply to a contract for a loan between a moneylender and a

borrower that is made before the commencement of this Act.

(5) For the purposes of this section, “certificate” means a certificate of registration as a moneylender.

**Consequential
amendments.
CAP. 104.**

21. The Money Laundering and Terrorism (Prevention) Act is amended in the Third Schedule, item 6, by deleting the words “Ministry of Finance” and replacing them with the words “Central Bank of Belize”.