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**THE CENTRAL BANK OF SAMOA ACT 1984**

1984

No. 20

**AN ACT** to establish the Central Bank of Samoa as successor to the Monetary Board of Samoa and for purposes connected therewith.

*(25 February 1984)*

**PART I**  
**PRELIMINARY**

**1. Short title and commencement - (1)** This Act may be cited as the Central Bank of Samoa Act 1984.

(2) This Act shall come into force by Order of the Head of State in the manner and on the dates specified in such Order.

**2. Interpretation** - In this Act unless the context otherwise requires:

**"Bank"** means the Central Bank of Samoa established in accordance with section 3(1).

**"bank"** means a financial institution whose operations include the acceptance of deposits subject to withdrawal or transfer by cheque or other means of third party transfer.

**"Banking business"** means any customary banking operation and includes the business of accepting deposits of money withdrawable or payable upon demand or after a fixed period or after notice or any similar operation through the sale or placement of bonds certificates, notes or other securities and the use of such funds either in whole or part for loans or investments for the account and at the risk of the person doing such business.

**"Board"** means the Board of Directors of the Bank established under this Act.

**"Body Corporate"** means a company incorporated in Samoa or elsewhere under any law for the time being in force relating to the formation and registration of companies, or corporation established in Samoa or elsewhere under any Act.

**"Chairperson"** means the Chairperson of the Board.

**"Credit institution"** means any financial institution other than a bank.

**"Currency"** means bank note or currency note or coin other than commemorative coin.

**"Financial institution"** means any person doing banking business and includes all offices and branches of any such person.

**"Financial year"** means the period of 12 months ending on the expiration of the 30<sup>th</sup> day of June, or such other period as determined by the Board.

**"Governor"** means the Governor of the Bank appointed under this Act.

**"Minister"** means the Minister of Finance.

**"Person"** includes a body corporate.

## **PART II**

## CONSTITUTION

**3. Establishment of the Bank and transfer of assets and liabilities - (1)** There is hereby established in accordance with the provisions of this Act a Central Bank for Samoa to be called the Central Bank of Samoa.

(2) The Bank is a body corporate with perpetual succession and a common seal capable of entering into contracts issuing obligations suing or being sued in its own name and subject to the provision of this Act may acquire, hold, pledge mortgage and dispose of real and personal property and do all things and make expenditures necessary for the proper discharge of its functions.

(3) The assets, liabilities, rights and obligations of the Monetary Board of Samoa established under the Monetary Board of Samoa Act 1974 are hereby transferred to the Bank and any currency issued or deemed to have been issued under that Act shall be deemed to have been issued by the Bank.

(4) On the date when subsection (3) comes into force the Government shall cause to be transferred to the ownership of the Bank such securities or assets as the Board may propose and the Minister approve to cover the liability of the Bank in respect of currency issued under the Monetary Board of Samoa Act 1974.

**4. Functions of the Bank** - The functions of the Bank are:

- (a) To regulate the issue supply availability and international exchange of money;
- (b) To advise the Government on banking and monetary matters;
- (c) To promote internal and external monetary stability;
- (d) To promote a sound financial structure;
- (e) To promote credit and exchange conditions conducive to the orderly and balanced economic development of Samoa;

- (f) To supervise and regulate banking business and the extension of credit; and
- (g) To regulate the insurance industry in Samoa, and other financial institutions, in accordance with any Act making provision in that regard.

**5. Offices branches agents and correspondents - (1)**

The Bank shall have its principal place of business in Apia and may establish branches and appoint agents and correspondents within Samoa and abroad.

(2) The Bank may require an agent within Samoa to maintain cash holdings in excess of the reserves mentioned under section 34 but not exceeding the liability of the agent to the Bank.

**PART III**

**CAPITAL, PROFIT AND RESERVES**

**6. Capital - (1)** The authorised capital of the Bank shall be \$1,000,000 and may be increased from time to time by an amount proposed by the Board and approved by the Minister.

(2) There shall be paid up by the Government by way of subscription to the capital stock upon the establishment of the Bank an amount of \$250,000 and any subsequent amount proposed by the Board and approved by the Minister.

(3) An amount equal to any preliminary expenses paid by the Government for the establishment of the Bank and the value of any assets vested in the Bank by the Government shall be deemed to have been paid up by the Government by way of subscription to the capital stock of the Bank.

(4) All capital stock of the Bank as and when subscribed shall be for the sole account of the Government and may not be transferred or subjected to encumbrance or reduced.

(5) The Minister notwithstanding any other provision of this Act shall cause to be transferred to the ownership of the Bank non interest bearing securities issued by the Government from time to time for such an amount as is necessary for the purpose of preserving the paid up capital from any impairment whenever in the opinion of the Board, the assets of the Bank are less than the sum of its liabilities and paid up capital.

**7. Profits** - The net profits of the Bank for any financial year shall be determined by the Bank after meeting all current expenditures for that year and after providing for:

- (a) Bad and doubtful debts, depreciation in assets, and contributions to staff and pension funds; and
- (b) Such other purposes proposed by the Board and approved by the Minister.

**8. General Reserve - (1)** The Bank shall establish a General Reserve to which shall be allocated at the end of each financial year:

- (a) All the net profits whenever the General Reserve does not exceed 50% of the authorised capital; and
- (b) 50% of the net profits whenever the General Reserve exceeds 50% but not more than 200% of the authorised capital,-

and the General Reserve may be increased beyond such amount at such rate and to such extent as is proposed by the Board and approved by the Minister.

(2) After appropriate allocations have been made to the General Reserve under subsection (1) the remainder of the net profits for the financial year shall be applied to the redemption on behalf of the Government of any securities held by the Bank which have been issued in accordance with sections 6(5) and 28(2).

(3) The balance of the net profits for the financial year remaining after all allocations and applications under subsections (1) and (2) have been made shall be paid to the Treasury Fund as soon as practicable.

(4) No allocation, application or payment shall be made under this section if, in the opinion of the Board, the assets of the Bank are, or after the allocation, application or payment would be, less than the sum of its liabilities and paid up capital.

(5) The Board may direct, with the approval of the Minister, whenever the General Reserve exceeds 50% of the authorised capital that an amount not exceeding the lesser of:

- (a) 50% of the General Reserve; or
- (b) The difference between the issued and paid-up capital and the authorised capital,-

be converted to issued and paid-up capital.

#### **PART IV** **GOVERNOR, BOARD AND EMPLOYEES**

**9. Governor-**(1) The Head of State, acting on the advice of Cabinet, shall from time to time appoint a Governor of the Central Bank from amongst persons of recognised standing and experience in financial and banking matters.

(2) The Governor shall:

- (a) Serve as the Chief Executive Officer of the Bank;
- (b) Be responsible to the Board for the execution of the Bank's policies and the efficient management of the Bank;
- (c) In carrying out his or her duties, follow any general or special directions given by the Board.

(3) The Governor shall be appointed for a period not exceeding three years and on such terms and conditions as may be specified.

(4) The Governor may be reappointed.

(5) The Governor shall devote the whole of his or her professional services to the Bank and not hold any other office, (whether remunerated or not) without the written permission of the Minister given on the recommendation of the Board.

(6) No person may be appointed under subsection (1) to be the Governor or may continue to hold office as the Governor, while that person is:

- (a) A Member of Parliament; or
- (b) A Director, officer or employee of a corporation (other than the Bank) the business of which is wholly or mainly that of Banking business or the extension of credit and which is conducted in Samoa; or
- (c) An officer or employee of the Public Service.

(7) The Governor may delegate in writing any power, duty or authority which the Governor has under this Act save for this power of delegation.

**10. Board of Directors** – There shall be a Board of Directors of the Bank appointed pursuant to section 12.

**11. Duties of Board-**(1) Subject to this Act, the Board shall maintain a constant review of the following matters:

- (a) The carrying out of the functions of the Bank;
- (b) The performance of the Governor in discharging the duties and responsibilities of the office;

(c) The use of the Bank's resources.

(2) The Board may give directions and advice to the Governor on any matter relating to the performance of the Bank's functions and the exercise of its powers.

(3) The Board may make by-laws for the conduct of its business and issue directives for the purpose of giving effect to the provisions of this Act.

**12. Appointment of Directors-**(1) The Board shall consist of:

- (a) The Governor, who shall be the Chairperson of the Board;
- (b) The Financial Secretary who in the absence of the Governor shall be the acting Chairperson of the Board; and
- (c) Three (3) Directors appointed under this section.

(2) The three (3) Directors specified in subsection (1)(c) shall be appointed from time to time by the Head of State, acting on the advice of Cabinet and shall be citizens of Samoa and shall include one or more persons having industrial or commercial or agricultural experience.

(3) The Directors appointed under subsection (1)(c) shall hold office on such terms and conditions as may be determined by the Head of State, acting on the advice of Cabinet, and may from time to time be reappointed.

(4) No person may be appointed to be a Director under subsection (1)(c) or may continue as a Director, while he or she is:

- (a) A Member of Parliament; or
- (b) A director, shareholder, officer or employee of a corporation (other than the Bank) the business of which is wholly or mainly that of Banking business or the extension of credit and which is conducted in Samoa.

**13. Vacation of office-**(1) A Director appointed under section 12(1)(c) may at any time resign from office by notice in writing delivered to the Head of State.

(2) The Head of State, acting on the advice of Cabinet, may remove any Director appointed under section 12(1)(c) from office:

- (a) For disability, neglect of duty, misconduct, or bankruptcy; or
- (b) If the Head of State is satisfied that the Director has permanently left Samoa; or
- (c) If the Director is absent from three consecutive meetings of the Board without leave of absence from the Board; or
- (d) Pursuant to sections 16 and 17A.

(3) If an appointed Director dies, or resigns, or is removed from office under this section, the vacancy thereby occurring shall be deemed to be an extraordinary vacancy and shall be filled as soon as practicable by an appointment made in the same manner as that of a Director vacating office.

(4) Any person appointed to fill an extraordinary vacancy shall hold office for the unexpired balance of the term of office of his or her predecessor, but may from time to time be reappointed.

**14. Remuneration of appointed Directors** – Every Director shall be paid such remuneration and allowances as may from time to time be fixed by Cabinet.

**15. Meetings of the Board-**(1) Subject to subsection (2), the Board shall meet at such times and places as the Board determines, or as the Governor (or in his absence the Financial Secretary) directs.

(2) The Board shall meet at least once in every two months.

(3) The Governor, or in his or her absence the Financial Secretary, shall convene a meeting whenever required to do so in writing by any two members of the Board.

(4) At any meeting of the Board three members (of whom one shall be the Governor or the Financial Secretary) shall form a quorum.

(5) The Governor shall preside at every meeting at which he or she is present.

(6) If the Governor is for any reason absent from a meeting the Financial Secretary shall preside at that meeting.

(7) Every question arising at a meeting shall be decided by a majority of the votes of the members present and voting.

(8) At every meeting the Governor or other member presiding shall have a deliberative vote and in the case of an equality of votes, he or she shall also have a casting vote.

(9) Subject to the provisions of this Act, the Board may regulate its own procedure in such manner as it thinks fit.

(10) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the Directors.

**16. Termination for conflict of interest-**(1) No member of the Board shall act as a delegate of any business interest or receive or accept directions therefrom in respect of duties to be performed under this Act.

(2) Any Director who, otherwise than as a Director, is directly or indirectly interested in any arrangement entered into, or proposed to be entered into by the Bank, shall as soon as possible after the relevant facts have come to his or her notice, disclose the nature of such interest at a meeting of the Board.

(3) A disclosure under this section shall be recorded in the minutes of the meeting of the Board and the Director shall not take

part after the disclosure in any deliberation or decisions relating to the arrangement, but shall be counted as present for the purpose of forming a quorum of the Board for any such deliberation or decision.

(4) No member of the Board, or any officer or employee of the Bank, shall accept any gift or advantage for himself or herself, or for any person with whom the member may have family, business, or financial connections if the acceptance thereof would result, or give the appearance of resulting in a diminishment of his or her impartial devotion to functions, duties or responsibilities under this Act.

(5) (a) Where any member of the Board or any officer or employee of the Board acts contrary to the provisions of this Act, or uses information obtained through the Bank for his personal gain (or the gain of any other person) and Cabinet is satisfied that such a breach has occurred that member shall be immediately terminated as a Director of the Board; and

(b) Any person terminated under this section shall not be eligible for reappointment at any time to be a Director of the Bank.

**17. Power to appoint officers and employees** – The Governor may appoint and employ, at such remuneration and on such terms and conditions as the Governor may determine, such officers and employees as may be considered necessary for the due performance of the functions of the Bank.

**17A. Secrecy - (1)** No member of the Board, or any officer or employee of the Bank shall disclose to any person any information relating to the affairs of the Bank or of any financial institution or of any other person which he or she has acquired in the performance of his or her duties under this Act, except where disclosure is required for the purpose of the performance of his or her duties or is lawfully required by any Court or under the provision of any law.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to

imprisonment for a term not exceeding two years or to a fine not exceeding 50 penalty units, or to both.

(3) Each member of the Board and each officer and employee of the Bank shall forthwith upon his appointment or employment, as the case may be, make a declaration of secrecy in the form specified by the Minister.

(4) Any disclosure in breach of this section shall be grounds for the immediate termination of appointment in the case of a Director or immediate dismissal in the case of an official or employee of the Bank.

**17B. Indemnity** – The Board of Directors, the Governor and any officer or employee of the Bank shall not incur any liability as a result of anything done in good faith in the exercise of any power or the performance of any duty under this Act.

## **PART V** **CURRENCY**

**18. Sole right to issue currency - (1)** The Bank shall have the sole right of issuing currency in Samoa and no other person shall issue currency or any documents payable to bearer on demand having the appearance of or purporting to be currency.

(2) Any person contravening the provisions of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding 14 years.

**19. Defacement of notes - (1)** No person shall, without the authority of the Bank, wilfully cut tear file or otherwise damage, disfigure or mutilate, or deface by means of any writing, printing, stamp, mark or erasure any currency.

(2) Any person contravening the provisions of this section shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding 10 penalty units.

**20. Legal tender** - Currency issued by the Bank is legal tender in Samoa.

**21. Manufacture and characteristics of currency - (1)**  
The Bank:

- (a) Shall arrange for the printing or striking and issue of currency and for all matters relating thereto, and for the security and safekeeping of unissued currency and for the custody, disposal and destruction, as necessary, of plates and retired currency; and
- (b) With the approval of the Minister, may determine the denominations, composition, form, design, content and material of its currency.

(2) The characteristics of currency to be issued by the Bank shall be published in the Gazette or the Savali.

**22. Power to recall - (1)** Notwithstanding section 20, the Bank shall have power, on giving notice in the Gazette or the Savali and in one newspaper published and in general circulation in Samoa, to call in, for the purpose of withdrawing from circulation, any currency issued by the Bank on payment of the face value thereof, and any such currency so recalled shall, on the expiration of the time limit specified in the notice, cease to be legal tender.

(2) The holder of any currency is entitled at any time to claim payment from the Bank of the face value thereof.

(3) The face value of any currency remaining in circulation 5 years after it has ceased to be legal tender shall be paid to the Treasury Fund and written off the liabilities of the Bank.

**23. Recovery of lost, stolen, mutilated, or otherwise damaged currency - (1)** No person shall be entitled to recover from the Bank the value of any lost or stolen currency, except under the terms of any waiver expressly executed in respect of the assumption by the Bank of risks incidental to shipments of currency.

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

**24. Counterfeit currency** - The Bank shall assist in the enforcement of any law related to the counterfeiting of currency in Samoa and certification by a duly authorised officer of the Bank that an item in question is or is not genuine shall be prima facie evidence of the fact in any legal proceeding in Samoa.

**PART VI**  
**EXTERNAL RESERVE, FOREIGN EXCHANGE**  
**OPERATIONS AND REVALUATION**  
**RESERVE ACCOUNT**

**25. External Reserve - (1)** The Bank shall maintain an External Reserve consisting of all or any of the following on such terms and conditions as the Board may determine:

- (a) Gold;
- (b) Foreign exchange in the form of currency or bank balances held abroad;
- (c) Any internationally recognised reserve asset, including:
  - (i) the reserve tranche position of Samoa in the General Department of the International Monetary Fund; and
  - (ii) the holding of any special drawing rights by Samoa;
- (d) Bills of exchange and promissory notes denominated in foreign currency and payable at any place outside Samoa;
- (e) Treasury bills issued by foreign governments specified from time to time by the Board;

- (f) Securities issued or guaranteed by foreign governments, supranational organisations, international financial institutions or any foreign public, municipal or local authority specified from time to time by the Board;
- (g) Such other external assets as the Board, with the approval of the Minister, shall specify.

(2) The Bank shall endeavour to maintain the External Reserve at an adequate level, in the opinion of the Board, for the international transactions of Samoa, and wherever, in the opinion of the Board, the External Reserve has declined or is likely to decline below such level the Bank shall submit a report of the circumstances to the Minister and its recommendations to remedy the situation for his or her approval.

**26. Operations in gold and foreign exchange -** The Bank may:

- (a) Buy, sell or deal in gold coins or bullion;
- (b) Buy, sell or deal in foreign exchange using for these purposes any of the instruments commonly used in such banking transactions;
- (c) Buy, sell or deal in treasury bills and other securities issued or guaranteed by foreign governments, supranational organisations, international financial institution or any foreign public, municipal or local authority specified from time to time by the Board;
- (d) Open and maintain accounts with central banks and other banks and financial institutions abroad; and
- (e) Open and maintain accounts for, and act as agent or correspondent for, foreign central banks, monetary authorities, commercial banks, foreign governments and agencies, supranational organisations and international financial institutions.

**27. Limitations** - The Bank shall, in connection with the operations enumerated in section 26, deal only with banks and credit institutions doing business in Samoa, the Government, foreign governments or their agencies, supranational organisations, central banks, monetary authorities commercial banks, international financial institutions, foreign public, municipal or local authorities and members of a recognised overseas stock exchange.

**28. Revaluation Reserve Account - (1)** The gains or losses arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in, gold or foreign currencies or any internationally recognised reserve asset as a result of alterations of the exchange rate of the currency of Samoa, or of any change in the values of those assets or liabilities with respect to the currency of Samoa, shall be credited or debited to a Revaluation Reserve Account and neither profit nor loss arising from any such change shall be included in the computation of the annual profit or loss of the Bank.

**(2)** Any net loss arising from any such change referred to in subsection (1) shall be set off against any credit balance in the Revaluation Reserve Account and notwithstanding any other provision of this Act, if such balance is insufficient to cover that loss, the Government shall cause to be transferred to the ownership of the Bank non-negotiable non-interest bearing securities issued by the Government to the extent of any deficiency.

**(3)** Any credit balance in the Revaluation Reserve Account at the end of each financial year shall be applied, on behalf of the Government, to the redemption of all securities issued and outstanding under subsection (2) and section 6 (5); one-fifth of the remaining balance shall be paid to the Government to be used for such purposes as the Government, after consultation with the Bank, may decide:

**PROVIDED THAT** when the remaining balance does not exceed \$100,000 it shall be paid in full to the Government.

(4) No credit or debit shall be made to the Revaluation Reserve Account except in accordance with the provisions of this section.

**29. External value** - The external value of the Tala shall be determined from time to time in a manner proposed by the Bank and approved by the Minister and which has due regard to the obligations which Samoa has assumed in accordance with the provisions of any international monetary agreement to which it is a party or to which it has adhered.

**30. Exchange rates - (1)** The Bank may, in accordance with instructions proposed by the Board and approved by the Minister, determine the rate at which Samoa currency may be exchanged for the currency of any other country.

(2) Any person who exchanges any Samoa currency for the currency of any other country, at a rate other than the rate determined under section (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding 12 months or to a fine not exceeding 20 penalty units or to both.

## **PART VII** **RELATIONS WITH FINANCIAL INSTITUTIONS**

**31. Opening accounts for financial institutions** - The Bank may under such terms and conditions as the Board may determine open accounts for, and accept deposits from financial institutions doing business in Samoa.

**32. Operations with account holders** - The Bank may:

- (a) Issue drafts and effect any other kinds of remittance payable at its own offices or at the offices of any agent and correspondent for its own account and account holders;
- (b) Purchase from, sell to, discount and rediscount for account holders:

- (i) Bills of exchange and promissory notes drawn or made for bona fide commercial, industrial, or agricultural purposes, bearing two or more good signatures of which one shall be that of a bank; and
  - (ii) Government treasury bills forming part of a public issue, maturing within 183 days from the date of their acquisition by the Bank;
- (c) For its own account issue, sell or place bonds, certificates, notes and similar instruments and purchase such instruments, provided that notwithstanding any other provisions of this Part, such operations need not be limited only to account holders, banks and credit institutions;
- (d) Grant to holders of accounts with it advances for periods not exceeding 183 days:
- (i) Secured by:
    - (aa) instruments specified in paragraphs (b) and (c) of this section; or
    - (bb) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured:

**PROVIDED THAT** the Bank shall determine the maximum percentage of advances in relation to the current value of those commodities or goods; or

- (cc) holdings of any assets which the Bank is permitted to buy, sell, or deal in under section 25; or
- (dd) notes, bills, stocks, securities or other evidence of indebtedness issued or guaranteed by the Government subject to the provisions of section 45; or

- (ii) Secured by such other assets or on such terms and conditions as the Board may specify.
- (e) Under such terms and conditions to be determined by the Board, guarantee pre-shipment and post-shipment loans and advances granted by account holders to exporters of goods and services.

**33. Determination of rates** - The Bank shall determine and publicly announce from time to time its minimum rates for discounts, rediscounts, advances, loans or overdrafts, and may determine different rates for various classes of transactions or maturities.

**34. Required reserves of financial institutions - (1)** The Bank may, by written notice to the principal place of business in Samoa or each financial institution and by publication in the Gazette or the Savali specify the reserves required to be maintained against deposits and other similar liabilities which may be specified for this purpose. These reserves shall be maintained by way of cash holdings or deposits with the Bank or by both in such proportions as the Bank may specify.

(2) The Bank may fix rates of interest to be paid to financial institutions on all or part of any reserves required to be maintained under subsection (1).

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

**PROVIDED THAT:**

- (a) The Bank shall not require a financial institution to hold a total amount of reserves in excess of 25% of the total deposits and other similar liabilities to which reserve ratios have been made applicable;

- (b) The initial specification of, or any increase in the required reserve ratios shall be effective only after at least 30 days' notice thereof has been given and shall not relate to a period prior to the initial date of notice; and
- (c) The specified reserve ratios shall be uniform for all financial institutions within the same category.

(4) Any financial institution who fails to maintain required reserves in the appropriate ratio specified under this section, shall be liable to pay as a debt due to the Bank, a penalty to be determined by the Bank which shall not exceed 0.1% of the amount of the deficiency in the financial institutions reserve holdings for each day on which the deficiency continues.

**35. Regulation of interest and credit - (1)** The Bank may specify by publication in the Gazette and the Savali and by written notice to the principal place of business in Samoa of each financial institution:

- (a) The maximum or minimum, or maximum and minimum, rates of interest payable in respect of deposit and other similar liabilities and the method of computation thereof.
- (b) The permissible purposes, aggregate callings, maximum amounts beyond which the approval of the Bank is necessary, the maximum maturities, and maximum and minimum rates of interest chargeable in respect of:
  - (i) The making of advances, whether by loans or overdrafts, and investments;
  - (ii) The discounting of bills of exchange, promissory notes and other commercial or financial paper;
  - (iii) The issuing of letters of credit;
  - (iv) The granting of acceptances and other forms of credit.

- (c) The manner of disclosure to the public and to:
- (i) Each depositor in a financial institution, of the effective annual interest rate payable and the manner of computation thereof, the nature and amount or basis of computing charges, fees and other payments of whatever sort made by or to the depositor in respect of deposits made therewith;
  - (ii) Each person to whom credit is extended, of the terms of obtaining such credit including the effective annual interest rate payable and the manner of computation thereof, the nature, amount and basis of computing commissions, charges, fees, penalties and other payment of whatever sort made by or to such person in respect of the credit so obtained; and
  - (iii) Each person to whom any service such as money transfer, sale of certified cheque or rental of a safe deposit box is rendered, of the amount and basis of computing commissions, charges or fees in respect of such service so obtained.

(2) The Bank, in its notices under this section may:

- (a) Differentiate in respect of the items specified in subsection (1)(a) and (b) between financial institutions in different categories but not between such institutions within the same category;
- (b) Establish different criteria for different purposes under subsection (1)(a) and (b).

(3) The Bank may specify by written notice to the principal place of business in Samoa of each financial institution and by publication in the Gazette or the Savali the minimum cash margin or security required in respect of the items enumerated in subsection (1)(b):

**PROVIDED THAT** any increase in the said minimum cash margin or security required shall only be effective after at least 30 days' notice thereof has been given and shall not relate to a period prior to the initial date of notice.

(4) With the approval of the Minister, the provisions of subsections (1), (2) and (3) may be made applicable by the Bank, by publication in the Gazette or the Savali and by written notice, to any person having as a principle object of his business the extension of credit.

(5) The Bank may examine the accounts, books and papers of any person who it has been to suspect is extending or has extended credit contrary to a notice issued under this section.

(6) Any financial institution which fails to comply with any requirement specified in any notice issued under this section shall be liable to pay as a debt due to the Bank, a penalty to be determined by the Bank which shall not exceed \$2,000.

(7) Any person to whom the provisions of subsections (1), (2) or (3) have been made applicable pursuant to subsection (4) shall be guilty of an offence if:

- (a) That person fails to comply with any requirement specified in any notice issued under this section; or
- (b) That person supplies false information or fails to furnish, within the specified time, any information required by the Bank to satisfy it that that person is complying with this section.

(8) Any person guilty of an offence under subsection (7) shall be liable:

- (a) In respect of an offence under paragraph (a) thereof to a fine not exceeding 20 penalty units; or

- (b) In respect of an offence under paragraph (b) thereof to a fine not exceeding 2 penalty units each day during which the offence continues.

**36. Foreign exchange position** - The Bank may determine:

- (a) The maximum amount of the working balances which financial institutions may hold in foreign currencies generally or in any specified currency; and
- (b) The maximum amount of indebtedness in foreign currencies generally or in any specified currency which financial institutions may incur.

**37. Local assets ratio** - (1) A financial institution shall maintain assets consisting of such claims payable in the currency of Samoa and other assets situated in Samoa in such minimum proportion of its deposits and other similar liabilities payable in Samoa as the Bank may specify.

(2) Any financial institution which fails to comply, within such reasonable time as the Bank may fix, with any requirement of subsection (1) shall be liable to pay as a debt due to the Bank, a penalty to be determined by the Bank which shall not exceed 0.1% of the amount of the deficiency for each day on which the deficiency continues.

**38. Supply of information** - (1) A financial institution shall furnish to the Bank such information regarding its business, or that of any related company in Samoa or elsewhere, as the Bank may require for the purposes of this Act.

(2) The Bank may require a certificate from the auditor of the financial institution verifying the accuracy of any information furnished under subsection (1).

(3) Every director and every manager of a financial institution which fails to provide the required information or a certificate from its

auditor shall be guilty of an offence and shall be liable to a fine not exceeding 5 penalty units for each day during which the offence continues.

(4) If information provided under this section is false in any material particular, every director and every manager of the financial institution shall be guilty of an offence and shall be liable to a fine not exceeding 5 penalty units.

(5) Any person who is prosecuted in respect of any offence under this section shall have a good defence if he or she proves that the offence was committed without the person's consent or connivance and that the person exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the person's position in the financial institution in respect of which the offence was committed.

(6) In subsection (1), "related company" means any body corporate which is or has at any relevant time been the financial institution's subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary.

(7) The Bank may publish any information furnished to it under subsection (1) but no information shall be published which would disclose the affairs or identity of any person who is a customer of a financial institution unless such person consents in writing.

**39. Extension of any time limit for provision of documents and information** - At the request of a financial institution the Bank may extend any period within which the financial institution is, in accordance with the provisions of this Act obliged to furnish any document or information.

**40. Clearing facilities** - The Bank may in co-operation with financial institutions establish facilities for the clearing and settlement of cheques and other instruments for effecting payment in Samoa.

## **PART VIII**

**RELATIONS WITH THE GOVERNMENT****41. Bank to be banker, agent and depository to Government** - The Bank shall:

- (a) In so far as the Government requires it to do so, act as banker and fiscal agent of the Government and be the depository of Government Funds;
- (b) Issue and administer Government securities on behalf of the Government;
- (c) When designated by the Minister, act as depository and fiscal agent of any international financial institution of which Samoa is a member; and
- (d) Exercise any power under any law relating to exchange control and the regulation of financial institutions in Samoa as may be delegated to it by the Minister.

**42. Advice and policy directives - (1)** It is the duty of the Bank to advise the Minister concerning any matter which, in the opinion of the Board, is likely to affect the carrying out of its functions.

(2) The Minister shall consult the Bank on any legislation proposed by the Government concerning money, credit or banking and may request the Bank to advise on any matter relating to the functions of the Bank under this Act.

(3) In carrying out its functions the Bank shall have regard to any policy of the Government adopted after consultation with the Bank and communicated to it in writing by the Minister.

**43. Advances to Government** - The Bank may make advances to the Government:

- (a) By overdraft facility in anticipation of current budget revenue, repayable not later than the end of the financial year within which an advance is made and the total of moneys advanced

shall not exceed at any time 25% of the total revenue received into the Treasury Fund in the preceding financial year; and

- (b) In respect of any payment relating to the membership of Samoa in any international financial institutions, on terms and conditions proposed by the Board and approved by the Minister;

**44. Acquisition of evidence of debt issued by the Government** - The Bank may acquire notes, bills, securities or other evidence of debt issued or guaranteed by the Government, offered for sale to the public or part of a public issued.

**45. Limitations on credit to Government** - The Bank may not make advances to the Government or acquire any evidence of debt issued or guaranteed by the Government except as expressly provided in this Act.

## **PART IX** **ACCOUNTS AND STATEMENT**

**46. Audit of accounts - (1)** The accounts of the Bank shall be audited annually by auditors appointed by the Board with the approval of the Minister.

**(2)** The Minister may require the Controller and Chief Auditor to examine and report on the accounts of the Bank or any aspect of its operations.

**47. Preparation of accounts, reports and statements - (1)** Within 3 months after the close of each financial year, the Bank shall submit to the Minister:

- (a) A copy of the annual accounts certified by the auditors; and
- (b) A report of its operations during that year; and
- (c) A report dealing with economic monetary and financial developments during that year.

(2) The Minister shall lay copies of the accounts and reports referred to in subsection (1) before the Legislative Assembly within 28 days after they are submitted to him, if the Legislative Assembly is then in session or if it is not, within 28 days after the commencement of the next ensuing session.

(3) The Minister shall cause copies of the accounts referred to in subsection (1) to be published in the Gazette or the Savali as soon as practicable after their receipt.

(4) The Bank shall, as soon as practicable after the last working day:

- (a) Of each month, submit to the Minister a statement of its assets and liabilities at the close of the business on that day; and
- (b) Of March, June, September and December, publish a statement of its assets and liabilities at the close of business on that day in the Gazette or the Savali.

(5) In its accounts, the Bank shall not be required to included the face value of coin issued by the Minister in the Bank.

**PART X**  
**GENERAL, TRANSITIONAL AND REPEAL**

**48. Exemption from taxation** - The Bank shall not be liable to taxation except for customs and excise duties.

**49. Prohibited activities** - The Bank may not:

- (a) Engage in trade, purchase the shares of any corporation or company, including the shares of any banking company or otherwise have an ownership interest in any commercial agricultural, industrial, or other undertaking except such interest as the Bank may acquire in the course of satisfaction of debts due to it:

**PROVIDED THAT** all such interests so acquired shall be disposed of at the earliest suitable opportunity.

- (b) Purchase, acquire, or lease real property except so far as the Bank may consider it necessary or expedient for the provision or future provision of premises for the conduct of its business and for the housing of, and amenities for, its staff and similar requirements incidental to the performance of its functions under the provisions of this Act:

**PROVIDED THAT** the Bank may let real property or premises not immediately required for the conduct of its business or for the housing of an amenities for its staff and similar requirements.

**50. Advances to officers and employees** - The Bank may, on terms and conditions determined by the Board make advances to an officer or employee of the Bank:

- (a) For the purchase, construction or repair of a single residence for occupation by the employee and his or her family, against the security of the residence; and
- (b) For other purposes in an aggregate amount not to exceed at any time the annual remuneration received by the officer or employee from the Bank.

**51. Prohibited names** - (1) No bank shall be licensed in Samoa by a name which includes any of the words "Samoa", "Samoan", "Samoa", "Samoan", "Central", "Reserve", "National" or "State", or their equivalent in any other language, except with the written approval of the Minister on the recommendation of the Board.

(2) This section shall not apply to the Bank of Western Samoa established by the Bank of Western Samoa Ordinance 1959.

**52. Banking Ordinance 1960** - The Bank is not subject to the Banking Ordinance 1960.

**53. Transitional - (1)** The Exchange Control Regulations 1961 in so far as they are not inconsistent with the provisions of this Act, continue in force as if made under this Act.

**(2)** Parts 1, 11, 111, 1V, V, V1, V111 and 1X of the Monetary Board of Samoa Act 1974 are repealed.

**(3)** Part V11 of the Monetary Board of Samoa Act 1974 is amended as follows:

- (a) Any reference to a bank or financial institution or to a bank or institution shall be read as a reference to a financial institution as defined by this Act;
- (b) Any reference to the Board shall be read as a reference to the Central Bank of Samoa.

**54. Repeals and amendments -** The Acts specified in the first column of the Schedule are amended or repealed to the extent specified in the second column of that Schedule.

**55. Regulations -** The Head of State, acting on the advice of Cabinet, may make such regulations as may be necessary or expedient for giving full effect to this Act and for the due administration thereof.

#### **SCHEDULE**

<b>ACT</b>	<b>EXTEND OF AMENDMENT OR REPEAL</b>
The Bank of Western Samoa Ordinance 1959	I. Sections 11(d), 12 and 31A are repealed II. The Second Schedule is repealed.
Banking Ordinance 1960.	Section 3 is repealed
Currency and Exchange Control Ordinance 1961.	The Ordinance is repealed

- Decimal Currency Act 1966.
- I. Section 8 is amended by inserting in subsection (1) after the words "coins" the following:  
  
"in the quantity directed by the Board of Directors of the Central Bank of Samoa".
  - II. Section 11 is amended by omitting the words:-  
  
"Monetary Board of Samoa" and substituting the words "Central Bank of Samoa"
- International Finance Agreements Act 1971
- I. Section 5 is amended by omitting the word "Treasury" and substituting the words "Central Bank of Samoa".
  - II. Section II is amended by omitting the word "Treasury" and substituting the words "Central Bank of Samoa".
- Public Money Act 1964
- I. Section 2 is amended by omitting from the definition of "Bank" the words "the Bank of Samoa and includes";
  - II. Section II is amended by:
    - (a) omitting from subsection (1) the words "or by"

- (b) by omitting from subsection (1) the words "or to".
- III. Section 12 is amended by omitting the words "Bank of Samoa" and inserting the words "Central Bank of Samoa".
- IV. Section 16 is repealed.●●

### REVISION NOTES 1997

The Central Bank of Samoa Act 1984 appearing in this reprint comprised that Act together with amendments contained in the Central Bank of Western Samoa Amendment Act 1986 and the Central Bank of Western Samoa and Decimal Currency Amendment Act 1993 as set out below:

**Section 2:** The definition of "currency" has been amended by adding a reference to "coin" by section 2 of the 1993 Amendment Act. That same section inserted a definition for "Chief Executive" and repealed the definition of "General Manager". Consequently wherever General Manager appeared in the Act, this was replaced by Chief Executive.

Two further definitions were added, namely "body corporate" and "person" by section 31 of the Financial Institutions Act 1996.

**Section 10(1):** Repealed and replaced by new subsection (1) by section 4 of the 1993 Amendment Act. Amendments were also made to subsections (3), (4), (5) and (6) by section 3 of the 1986 Amendment Act and subsection (4) was later repealed by section 4 (2) of the 1993 Amendment Act. The reference throughout the principal Act to "Director" or "Directors" has been amended to read "Governor" or "Governors".

- Section 11:** Subsections 2 (a), (b), and (c) were repealed by section 4 of the 1986 Amendment Act.
- Section 14:** A new subsection 5 (a) and (b) was added by section 5 of the 1986 Amendment Act.
- Section 17(a):** A new section inserted by section 31 of the Financial Institution Act 1996.
- Section 21:** The words "or striking" were added by section 6 of the 1993 Amendment Act.
- Section 32:** The proviso was added by section 7 (i) of the 1993 Amendment Act and a new paragraph (e) added by section 7 (2).
- Section 35:** A new subsection (b) and subsection (c) were substituted by section 3 of the Financial Institutions Act 1996.
- Section 40:** The words "and settlement" were added by section 8 of the 1993 Amendment Act.
- Section 47:** A new subsection (5) was added by section 3 of the Financial Institutions Act 1996.

### **REVISION NOTES 2008**

This law has been generally edited as provided for by section 5 of the *Revision and Publication of Laws Act 2008*. The following general revisions have been made –

- (a) References to Western Samoa have been amended to Samoa in accordance with an amendment to the Constitution of Samoa in 1997.
- (b) The fines have been amended and are stated as penalty units as provided for by the *Fines (Review and Amendment) Act 1998*.

- (c) All references to the male gender have been made gender neutral.
- (d) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (e) Amendments have been made to up-date references to offices, officers and statutes.
- (f) Other minor editing has been done in accordance with the lawful powers of the Attorney General.

The following amendments have been made to specific sections of the Act to incorporate amendments made by Act of Parliament passed since the publication of the *Western Samoa Statutes Reprint 1978-1996* –

*By the Central Bank of Samoa Amendment Act 2001 -*

**Section 2** The definitions of “Board” and “Financial Year” were deleted and replaced by their current form. The definition of “Chief Executive” was deleted and replaced by the definitions of “Governor”.

**Part IV** Part IV (Board, Management and Employees) comprising sections 9-17B was repealed and replaced by Part IV in its current form comprising sections 9-17B.

Section 4 of the amending Act provides for a savings provision in the following terms –

**“4. Savings-(1)** All appointments made under the repealed provisions of Part IV prior to the coming into force of this Act shall remain, as if made under the amending provisions, for the remainder of their terms and on the same conditions, unless sooner terminated under the provisions of the principal Act.

(2) All by-laws, directives, decisions and delegations of the Board of Governors and the Chief Executive Officer, made prior to the commencement of this Act, shall have full force and effect until they are amended or rescinded by the Board of Directors or the Governor, as the case may be.”

*By the Public Finance Management Act 2001 –*

**Section 43** This section was repealed and replaced by its current form.

**Section 45** This section was repealed and replaced by its current form.

*By the Insurance Act 2007 –*

**Section 4** A new paragraph (g) was inserted.

This law has been consolidated and revised by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is an official version of this Act as at 31 December 2007. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.



Aumua Ming Leung Wai  
Attorney General of Samoa

Revised and consolidated by Graham Bruce Powell  
Under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo  
(Parliamentary Counsel)

**The Central Bank of Samoa Act 1984  
is administered in the Ministry of Finance.**