

CONSULTATION PAPER
FOR DISCUSSION PURPOSES ONLY
Reform of the Insurance Act, CAP 310



**FINANCIAL SERVICES
COMMISSION**

Event: 15th Anniversary Industry Stakeholder Consultation on Legislative Reform Project

Focus: Day 2: Insurance Reform – Balancing Global Ambition and Domestic Priority

Date: April 14, 2026

Venue: Hilton, Barbados

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EXECUTIVE SUMMARY

This Consultation Paper outlines overarching proposals for a reform of legislative framework for Barbados' insurance sector. The objective is to establish a risk-based, globally competitive regime that aligns with the International Association of Insurance Supervisors (IAIS) Insurance Core Principles (ICPs), thereby more effectively balancing Barbados' global ambitions for the industry and its domestic priorities.

Key pillars of this reform include:

- **Tiered Licensing:** Introducing specialised classes for Captive, Retail, and Reinsurers, Insurance Intermediaries, Insurance Holding Companies and Association of Underwriters.
- **Risk-Based Capital:** Transitioning from fixed capital to models that reflect actual risk profiles.
- **Group Supervision:** Establishing requirements for insurance groups and holding companies.
- **Innovation & Inclusion:** Establishing frameworks for microinsurance, and formalizing frameworks for use of digital service delivery systems.
- **Refined Ongoing Requirements:** Strengthening and specifying ongoing requirements
- **Enhanced Resolution Powers and Process:** Strengthening policyholder protection through robust resolution planning and resolution and wind-up protocols.
- **ESG Integration:** Embedding climate and sustainability risks into governance and risk management frameworks for retail insurers.
- **Enhanced Intervention and Enforcement Powers:** Expanding administrative penalties and other enforcement powers.

This Consultation Paper also highlights the change in scope of the legislative and supervisory framework and references ancillary changes that are anticipated including the definitions and interpretation sections of the legislation, anticipated transition arrangements, and tables a re-naming of the legislation for consideration.

Relevant Amendments to the Financial Services Commission Act

Additionally, for completeness, the draft Financial Services Commission (Amendment) Bill, 2025 (the "FSCA Bill") attached as **Appendix I** seeks to support the Commission's ability to satisfy the requirements for becoming a signatory to the IAIS MMoU, strengthening the Commission's cross-border supervisory cooperation. This FSCA Bill would potentially impact the Insurance sector by:

1. Refining the definition of "financial institution" to expressly exclude insurance intermediaries;
2. Establishing a framework for cooperation with other regulatory authorities; and
3. Strengthening the confidentiality framework. In particular, the obligations relating to protection and proper use of confidential information are extended to former members and former employees of the Commission. The Bill also expands the circumstances in which confidential information may be disclosed, including to foreign regulatory authorities.

BACKGROUND & CONTEXT

Purpose of Reform

The proposed reform of the Insurance Act, CAP 310 seeks to modernize Barbados' insurance legislative framework and reinforce Barbados' position as a globally competitive captive insurance domicile, with robust domestic regulation. It also aims to align our legislative and supervisory framework with international standards such as the IAIS Core Principles, address gaps highlighted by insurer failures, strengthen policyholder protection and promote public confidence.

The Insurance Act, Cap. 310, enacted in 1997, and amended on four occasions since the establishment of the Financial Services Commission (the "Commission"), no longer reflects best legislative practice in structure, clarity, or navigability. While these amendments were largely technical in nature, the amendments which came into effect in 2019 introduced more notable changes, including the consolidation of domestic and captive (international) insurance business under a single statute. This resulted in a highly fragmented legislative architecture, requiring extensive cross-referencing, carve-outs, and transitional provisions. This has increased legal complexity, reduced transparency, and made it more difficult for industry practitioners to navigate the regulatory framework.

Against this background, the Commission seeks to create a reformed, dual-track, risk-based framework. That is, a regulatory approach where:

- (a) Domestic (Retail) Insurance Business is subject to robust and proportionate prudential, conduct and consumer protection obligations;
- (b) Captive and International Insurance Business is subject to proportionate, risk-aligned regulation; and
- (c) The sector is positioned for sustainable future growth through alignment with international best practices and embedding forward-looking elements such as Economic, Social and Governance (ESG) considerations and disclosure mechanisms.

This approach reflects the need to balance financial stability and policyholder protection with market development and growth, given Barbados' domestic priorities and global ambitions.

To this end, the draft Financial Services Commission (Amendment) Bill, 2025 (the "FSCA Bill") attached as Appendix I proposes to introduce a number of targeted amendments aimed at strengthening the governance safeguards and enhancing the Commission's regulatory toolkit. Importantly, the proposed amendments are also intended to support the Commission's ability to satisfy the requirements for becoming a signatory to the IAIS MMoU, which would strengthen the Commission's cross-border supervisory cooperation.

The proposals in the FSCA Bill seek primarily to make the following changes which would impact the insurance sector:

4. Refine the definition of “financial institution” to expressly exclude insurance intermediaries. This amendment is intended to provide greater clarity as to the entities subject to the Commission’s oversight under the Act.
5. Establishes a framework for cooperation with other regulatory authorities. This includes empowering the Commission to cooperate with local and foreign regulatory authorities and to enter into memoranda of understanding with such authorities.
6. Strengthen the confidentiality framework. In particular, the obligations relating to protection and proper use of confidential information are extended to former members and former employees of the Commission. The Bill also expands the circumstances in which confidential information may be disclosed, including to foreign regulatory authorities.

In addition to the FSCA Bill, the proposed reforms presented in this Consultation Paper are intended to facilitate more than mere incremental adjustment, but rather true transformation of Barbados’ insurance legislation. The Commission is confident that by addressing the gaps identified below and comprehensively reforming the primary legislation and its supported regulations and guidelines, Barbados will restore coherence and clarity, enhance its standing as a captive insurance domicile in keeping with other leading jurisdictions, and position itself as a strong domestic regulator. It is also intended that these reforms will provide the Commission with a range of modern, enforceable supervisory tools to more effectively discharge its mandate. Thereby, positioning Barbados as a future-ready insurance jurisdiction, rather than one constrained by iterative amendments to a legacy statute.

Summary of Gap Analysis & Benchmarking

The legislative and supervisory frameworks of various jurisdictions were reviewed including:

- Cayman Islands
- Bermuda
- Guernsey
- Canada
- Eastern Caribbean
- Trinidad and Tobago
- United States

In addition, the IAIS Core Principles were reviewed to identify potential gaps.

Preliminary analysis highlights several gaps in the existing framework including the following:

- Insufficiently differentiated regulatory treatment across insurer types
- Outdated capital and, solvency regimes, reporting and other regulatory requirements

- Gaps in governance, risk management, and oversight frameworks
- Lack of clarity on requirements for varying types of material changes such as re-domiciliation, conduct of run-off business, transfers of assets
- Limited resolution and recovery mechanisms
- Inadequate market conduct and policyholder protection measures
- Inadequate intervention and enforcement tools and powers
- Absence of newer types of licencees e.g. Managing General Agents / Lack of provision for introducing new types of regulated activities
- Inadequate provisions to for insurance group supervision
- Absence of a framework for regulatory sandbox to enable regulated entities to test innovative products, services and practices
- Adequate powers to support information sharing and cooperation with other regulators

Recommendations under Consideration

TITLE, SCOPE AND PRELIMINARIES

A. Proposed Revision to the Title of the Act

The title “Insurance Act” is widely used across the Caribbean and internationally, including by jurisdictions that directly compete with Barbados for captive and reinsurance business. The absence of a distinctive legislative identity creates ambiguity for external stakeholders and perpetuates reference to an “old Act” versus a “new Act” despite multiple rounds of reform. Given the scale of past amendments and the scope of reforms proposed herein, the existing statute no longer represents a coherent legislative platform.

Identified Gap: The name “Insurance Act” does not reflect the commercial, cross-border nature of modern insurance activity, fails to distinguish Barbados’ regime from other regional competitors, and masks the significant post-2007 transformation of the framework, particularly following the repeal of the Exempt Insurance Act.

Benchmarking: Jurisdictions with mature insurance sectors increasingly adopt business-oriented or jurisdiction-specific titles, which:

- Signal modernity and intentional reform;
- Enhance international recognisability; and
- Clearly denote the scope of regulated activity.

Proposed Reform: Rename the statute to “Insurance Business Act”. This would:

- Establish a clean legal demarcation from the legacy framework;
- Support international marketing and regulatory clarity; and
- Provide an appropriate platform for consolidated reform “in form and substance”.

B. Redefined scope of the Act

The scope of legislation governing the insurance sector needs to be clear and comprehensive to support effective and transparent supervision, orderly conduct of business, market stability and ensure legal certainty for participants.

Identified gap: The harmonisation of the domestic and international insurance regimes in 2018, coupled with the evolution of the insurance sector, and supervisory frameworks and practices are not adequately reflected in the scope and purpose of the legislation.

Benchmarking and International Practice: International principles for insurance legislation highlight the importance of ensuring that the scope of the regulated activities and regulation is clear and comprehensive in order to ensure that the legislation and the supervisory regime meet international best practices. A review of the legislation of regional and international jurisdictions highlights gaps in the scope of Barbados’ Insurance legislation.

Proposed Reform: Revise the scope and purpose of the legislation to ensure that the insurance legislation amongst other things governs domestic (retail) insurance business; domestic and international captive insurance business; insurance intermediaries, insurance holding companies and association of underwriters; provides for group and consolidated supervision of insurance entities; strengthens policyholder protection; provides the range of powers required, outlines the objectives and responsibilities of the FSC as regulator and supervisor of the insurance sector.

C. Expansion, Consolidation and Modernisation of Definitions and Interpretation

The definitions and interpretation provisions of the Insurance Act are key to enabling users to confidently and efficiently navigate the legislation and understand the obligations to which they are subject.

Identified Gap: The definitions and interpretation provisions of the Insurance Act no longer provide a comprehensive foundation for the regulatory framework. Since the Act’s original enactment in 1997 and particularly following the 2018 legislative amendments that consolidated domestic and captive insurance under a single statute, definitions have been added, modified, and duplicated across the principal Act and amending legislation. This has resulted in inconsistencies, interpretive uncertainty, and difficulty for regulated entities in understanding the precise scope and application of key terms.

In addition, several core concepts used in modern insurance regulation are either undefined, inadequately defined, or defined using terminology that is no longer consistent with internationally recognised regulatory language, including that used in leading jurisdictions such as Canada, as well as in international standards and comparative legislative models. The absence of consolidated, modernised definitions also undermines effective implementation of proposed reforms, including risk-based capital, new insurance products, captive-specific regimes, and enhanced enforcement powers.

Benchmarking and International Practice: Contemporary insurance legislation in well-regarded jurisdictions typically includes:

- A single, consolidated interpretation section which governs the entire Act;
- Definitions aligned with international insurance supervision norms, including those reflected in Canadian insurance legislation and other common-law jurisdictions; and
- Express authority for regulators to supplement definitions through rules or guidance where market innovation requires flexibility.

Such approaches reduce ambiguity, enhance enforceability, and support regulatory credibility in cross-border insurance business.

Proposed Reform: It is proposed that the Interpretation and Definitions sections of Insurance legislation be holistically revised to:

- Consolidate all existing definitions from the original Act and its amendments (including the 2018 amendments) into a single, modernised interpretation section, including eliminating duplicated terms;
- Update existing terms to align with internationally recognised insurance and supervisory terminology, ensure greater certainty with respect to meanings, and ensure consistency in terminology, used throughout the legislation.
- Introduce new definitions and interpretive provisions required to support the proposed legislative changes, including those relating to:
 - New and emerging insurance products and services including microinsurance products
 - Group and consolidated supervision
 - Risk-based capital and solvency frameworks
 - Insurer and reinsurer sub-categories
 - Defining related business
 - Innovative activities
 - New VASP legislation
 - Information sharing, enforcement, investigations, and cost recovery mechanisms; and
 - Remove obsolete or duplicative terminology that no longer reflects current regulatory or market realities.

It is proposed that the reform will also take into consideration:

- Comparative definitions used in Canadian insurance legislation and other relevant jurisdictions; and
- Prior amendment proposals and new legislation developed by the Commission that have not yet been enacted but remain relevant.

LICENSING

D. Redefined Classes of Insurance Licences

The 2018 amendment to the Insurance Act introduced 3 new, but broad classes of licencees. Class 1 and Class 2 were restricted to insurance companies and Class 3 were assigned to insurance intermediaries, insurance holding companies, insurance managers and association of underwriters. Within each class of licence however there are differences in terms of the activities which entities may be authorised to conduct and the “catch-all” classes add to the burden of administering and navigating the legislation.

Current Gap(s): The difference in the activities which entities may undertake requires the application of suitable regulatory obligations. The use of broad classes is inefficient when implementing a risk-based approach to supervision which necessitates demarcation in the requirements that apply to different types of regulated activities.

Regulatory requirements that apply to a particular sub-class of licencee are not specified in a manner that makes it easy for users to determine and navigate e.g. several provisions of the amendments to the Insurance Act include language which seeks to qualify who the provision applies to by stating that it applies or does not apply to *“an insurer which carries on insurance business of insuring risks located within Barbados, and in respect of which premiums originate from within Barbados”* or a variation thereto. The absence of better-defined classes of licences means that even with revisions to the legislation this round-about method of defining the applicable licencee remains.

In addition, the use of these broad classes has necessitated the adoption of additional bureaucratic measures to manage regulatory and operational processes including fees determination and facilitation, licence generation, and data collation.

Benchmarking: The practice in jurisdictions with clear legislative frameworks including in leading captive insurance jurisdictions such as Cayman Islands, Bermuda and Guernsey is to create very defined categories for all regulated entities including providing for sub-groups/categories of licencees where appropriate. Classes of licences or registration are defined by various factors including risk exposure, business purpose, and related-party activity, enabling tailored capital, governance, and reporting requirements.

Proposed Reform: Redefine insurance licence classes to align with regulated activities and consequently regulatory intensity by increasing the number of primary licence classes and introducing sub-classes.

It is envisioned that additional classes of insurance company licences; separate classes of licences for association of underwriters, insurance holding companies and insurance management companies and insurance intermediaries will be required.

Transition arrangements to facilitate re-issuance of licences will be necessary.

E. Enhanced Requirement for Licensing

Comprehensive provisions regarding the requirement for licensing helps to ensure that persons who purport or attempt to carry on regulated activities without the requisite licence can be held accountable, thus protecting the integrity of the market.

Current Gap: While the existing legislation restricts persons from carrying on business without authorisation, it would be further strengthened by provisions which also make holding oneself out as authorised to carry on a regulated activity without the requisite authorisation an offence.

Benchmarking: Both Canada's Insurance Act, R.S.O. 1990, c. I.8 and Guernsey's Insurance Business (Bailiwick of Guernsey) Law, 2002 contain express "holding out" prohibitions as a regulatory baseline.

Proposed Reform: To insert an overarching provision which restricts any person from carrying out any business/activity for which a licence is required without holding a valid licence issued by the Commission.

- To include a provision that establishes that persons must apply for a licence if they intend to carry on a business/an activity in or from Barbados for which a licence is required
- To include a restriction that a person cannot hold themselves out as carrying on a regulated business or activity or being an insurer etc, without a licence.
- To make it an offence to carry on business or hold oneself out as carrying on a regulated business or activity in or from Barbados without a valid licence.

F. Refined Licensing Criteria and Process

Licensing is a core and critical function which helps to preserve the market integrity by ensuring that only suitable persons are authorised to conduct regulated activities. Licensing criteria must be robust and appropriate for the different regulated activities and licences. Licensing criteria must be clear to ensure certainty and efficiency for potential market participants in navigating the licensing process.

Current Gap: Licensing criteria in respect of certain categories of regulated persons and for insurance groups has not kept pace international best practices. Further, the licensing criteria of the existing

legislation was originally geared towards entities undertaking domestic business. There are therefore a number of provisions which have been amended to reflect the inclusion of the captive and international insurance sector under the Insurance Act, however further amendments will be required to address remaining inconsistencies and gaps in licensing requirements.

The legislation does not adequately or efficiently provide for the various circumstances related to licensing including expedited processing of applications; preliminary approvals that are needed by existing insurance entities seeking to re-domicile within Barbados; changes the in class of licence held or transition of regulated individuals from one firm to another.

Benchmarking: Jurisdictions that reflect international best practices outline very clear, transparent principles for licensing within their legislation whilst preserving the flexibility to establish documentation requirements to evidence that the criteria has been met. Further they provide regulators with the powers needed to navigate various circumstances associated with licensing and authorisation of persons.

Proposed Reform:

- Ensure that general requirements/principles that should apply to all persons seeking to be licensed and seeking to maintain a licence are covered in a holistic manner. In addition, ensure that there is certainty in the specific requirements that apply for different types of regulated persons whilst enabling the Commission to update and refine documentary requirements as needed.
- Facilitate the fast tracking of applications; conditional or pre-approvals required by entities seeking to re-domicile in Barbados and carry on a regulated activity; changes in the class of licence held or facilitate of transitions by specified individuals under specific terms.
- Strengthen the requirements in respect of foreign insurers seeking to underwrite risks located in Barbados.
- Ensure that initial minimum capital requirements are risk-based and are suitable for the corporate structures such as Segregated Cell Companies and Incorporated Cell Companies

G. New Insurance Products and Services

Current Gap: The Act does not easily facilitate the supervision of new products, services and business practices by the insurance sector. E.g. as insurers increasingly adopt digital and Artificial Intelligence systems into their operations, the present legislation does not provide adequate powers for the Commission to safeguard policyholders.

Benchmarking: International insurance legislation increasingly provides enabling provisions allowing supervisors to introduce and approve new products and services and establish supervisory requirements without further legislative amendment. Further, some jurisdictions are able to establish mechanisms such

as regulatory sandboxes and innovation hubs which enable market participants to develop and trial products, services and practices under supervised terms.

Proposed Reform: Express powers allowing the Commission to authorise new and innovative insurance products and establish regulatory and supervisory safeguards for products and services and innovative practices for the protection of policyholders or the market.

ONGOING REGULATORY REQUIREMENTS

A modern legislative framework imposes requirements that are commensurate with the level of risk and in doing so mitigates regulatory burden.

H. Rationalised Reporting, Disclosure, Approvals and Prudential Requirements

Current Gap:

The current insurance legislation imposes various requirements for the different types of regulated entities, however there are some requirements are static, overly prescriptive, outdated and are thus unsuitable for a modern and risk-based supervisory regime. In addition, amendments to the legislation to harmonise the domestic and international sector, have added undue complexity to navigating the requirements applicable to insurance companies. This has a negative impact on entities' capacity to ensure ongoing compliance and effective risk management. Further, there are some differences in requirements applicable to domestic retail insurers versus captive and international insurers where they should otherwise be harmonised.

Benchmarking:

International best practices including the regimes of other captive insurance jurisdictions have set out in clear terms the requirements that apply to the various categories of regulated entities. The provisions of legislative regimes such as Cayman Islands have included provisions related to:

- Ongoing reporting or filing requirements of regulated entities for financial and other information including establishing the scope and frequency of reporting that correlates with their risk-based supervisory frameworks.
- Reporting and disclosure requirements for persons providing services to insurers such as actuaries and auditors

Proposed Reform:

- Define and segregate the requirements that apply to the respective classes (and sub-classes) of licencees to facilitate greater clarity for regulated persons in managing their compliance and risk

management obligations. At the same time ensuring that the requirements are proportionate to the risk-level associated with the regulated activities.

- Establish principles-based requirements within the Act which are supplemented by further specifics in regulations and guidelines. For example, the Act may state that specific licencees are required to maintain professional indemnity insurance in accordance with the regulations. The regulations in turn will define the terms of the professional indemnity insurance.
- Introduce suitable ongoing requirements for the different categories of regulated entities where there are gaps in the supervisory oversight e.g. requirements for insurance holding companies and insurance groups
- Update or introduce approval requirements for material business changes that are not adequately addressed in the legislation such as insurer transition to run-off business;
- Introduce or update requirements related to recordkeeping requirements, information sharing and access to records and information of licencees
- Introduce or update requirements related to market conduct and protection of policyholders in Barbados to align with international best practices (applicable to insurers and insurance intermediaries)
- Enhance reporting or disclosure obligations in respect of service providers to insurers e.g. insurance managers, actuaries, custodians to better support effective ongoing supervision of these entities.
- Maintain and strengthen requirements to support risk-based capital and solvency standards for insurers
- Update or introduce requirements for such other matters as may be necessary to supervise the insurance sector.
- Streamline requirements that should be similarly applied to domestic and captive insurers and insurance intermediaries including requirements related to restricted names or changes in names, and alteration of articles of incorporation.

I. Enhanced Powers of the Commission

IAIS Core Principles require that regulators have clear, comprehensive and robust authority to regulate and supervise participants, business and activities in the insurance sector.

Current gaps: While powers of the Commission are outlined in the Financial Services Commission Act, there are areas which apply to insurance business that are not adequately or comprehensively addressed in the Insurance legislation. Additional powers are needed to strengthen the Commission's supervisory and enforcement capabilities.

Proposed Reform: Provide for new, or enhanced powers including powers to:

- supervise insurance groups

- compel the transfer of an insurer’s portfolio to a solvent insurer
- access, retain and share information, data etc in a manner that facilitates signatory status to the IAIS MMoU
- remove or disqualify key persons
- suspend voting rights or nullification of votes cast
- manage resolution of insurance entities
- recover specific costs from regulated entities e.g. in respect of the exercise of specific enforcement actions

J. Other Legislative Reforms

There are other legislative revisions that are needed to improve the functioning of the legislation or remove legacy provisions, arrangements and terms that no longer reflect the supervisory and legislative framework needed for the sector.

Cancellation of Registration vs. Revocation of Licence: The Commission recognises that with the Financial Services Commission Act, and the changes to the Insurance legislation in 2018 there is a need for rationalisation of certain provisions and terms to avoid confusion in the market. One such area relates to the references to “cancellation of registration” vs “revocation of licences”. To reflect the current terminology and framework, changes will be proposed to eliminate such inconsistencies.

Section 56(1): Winding-Up and Companies Act References: Update cross-references to reflect modern insolvency and corporate restructuring standards and avoid procedural dependency on the Companies Act and Bankruptcy Act.

Repeal of Self-Insurance Legislation (BLPC): Repeal the Insurance (Barbados Light and Power Company Limited) (Self-Insurance Fund) Regulations, 1998. The 2018 amendments to the Insurance Act created an avenue for domestic entities to establish self-insurance structures in the form of a captive within the jurisdiction, thus eliminating the need for a separate self-insurance regime.

ESG & Sustainable Finance

ESG Vision Statement

Barbados is committed to strengthening the resilience, integrity, and inclusiveness of its financial system through the integration of Environmental, Social, and Governance (ESG) considerations into its legislative and regulatory framework.

Global developments, including guidance from the Financial Stability Board and the United Nations Environment Programme Finance Initiative, have highlighted the growing importance of incorporating climate-related and broader sustainability risks into financial decision-making, governance practices, and supervisory approaches. Barbados recognizes the need to align with these evolving expectations while ensuring that reforms are appropriately calibrated to the domestic context.

This consultation therefore proposes the adoption of ESG as a cross-cutting principle across the non-bank financial services sector, with the following objectives:

- Strengthening the identification and management of climate-related and other long-term risks to support financial stability;
- Promoting financial inclusion and fair treatment of consumers;
- Enhancing governance, transparency, and accountability across regulated entities; and
- Supporting, where appropriate, the mobilization of capital toward sustainable and climate-resilient economic activity.

The proposed approach is grounded in proportionality and practicality, recognizing the diversity of institutions within the Barbadian financial system. ESG integration will be implemented on a phased basis, supported by clear guidance and ongoing stakeholder engagement, to ensure that requirements are aligned with the size, complexity, and capacity of regulated entities.

Through this reform process, Barbados seeks to ensure that its financial sector remains resilient and well-regulated, while also positioning itself to respond effectively to emerging risks and opportunities in a rapidly evolving global environment.

ESG as a Cross-Cutting Theme

ESG considerations are increasingly central to financial sector development, shaping risk management, capital allocation, and regulatory expectations globally. For Barbados, ESG is not only a matter of international alignment but also a strategic national priority, given its vulnerability to climate change and its commitment to sustainable and inclusive growth. Global standards and guidance from bodies such as the Financial Stability Board (FSB), the International Association of Insurance Supervisors (IAIS), International Organisation of Securities Commissions (IOSCO), International Credit Union Regulators Network (ICURN) and the United Nations Environment Programme Finance Initiative are increasingly emphasizing:

- Integration of climate and broader ESG risks into financial decision-making;
- Enhanced disclosures, including climate-related and sustainability reporting; and
- Consideration of long-term systemic risks, particularly those related to climate change.

For Barbados, embedding ESG into legislative and regulatory reform supports multiple policy objectives:

- **Financial Stability:** Improving the identification and management of long-term and systemic risks, particularly climate-related risks
- **International Competitiveness:** Aligning with global expectations to maintain credibility and market access
- **Inclusive Growth:** Expanding access to financial services and supporting underserved communities
- **Climate Resilience:** Mobilizing capital toward adaptation and mitigation efforts

A key policy consideration is adopting a proportionate and phased approach, ensuring ESG requirements are:

- Commensurate with the size and complexity of regulated entities
- Operationally feasible for smaller institutions
- Supported by clear guidance and capacity-building initiatives

Sector-Specific ESG Calibration: ESG as Risk & Opportunity

IAIS has recognised that insurers need to effectively manage Environmental, Social and Governance (ESG) risks, and more specifically climate related risks. Governance, internal controls and risk management frameworks of insurers are expected to incorporate ESG oversight. In addition, the impact of climate related risks are expected to part of insurers' evaluation of capital adequacy and solvency. While the Commission has required domestic insurers to undertake climate related stress tests, is anticipated that guidance on ESG risk management will be developed and issued to this class of insurers as the Commission strengthens the supervisory framework for insurers.

Unifying Policy Approach

Across all sectors regulated and supervised by the Commission, ESG integration would be anchored on three consistent principles:

1. **Proportionality:** requirements should reflect the size, complexity, and risk profile of entities.
2. **Phased Implementation:** the intention is to start with high-level principles and disclosures, with scope for gradual enhancement.
3. **Alignment with National Priorities:** ESG frameworks should support Barbados' broader goals, particularly:
 - (a) climate resilience
 - (b) financial inclusion
 - (c) sustainable economic development

CONSULTATION QUESTIONS: Insurance Reform

Pillar I: Licensing – Classification, Requirements and Process

Expanded multi-tiered license classes/structures with sub-classes

Expanded multi-tiered license classes/structures with sub-classes e.g. Class 1 to 6 as the main class and sub-classes e.g. an insurance agent may be Class 4A and New types of Licencees

- **Captives:** Single-parent Pure Captives; Captives with Limited Third-Party Business; and Captive Reinsures for Third Parties; Association Captives
- **Retail Insurers (General, Long-Term, Composite):** Insurers dealing with the public – domestic insurers
- **Commercial Reinsurers:** Large, high-capital entities focused on institutional risk
- **Insurance Intermediaries:** Insurance agents, Insurance brokers, Insurance salespersons, Insurance surveyors, Insurance loss assessors, Insurance loss adjusters, Insurance management companies
- **Insurance Holding Companies**
- **Association of Underwriters**
- **Managing General Agents (MGA):** A potential new licensee type - MGAs are a specialised type of insurance agent or broker. They differ from traditional brokers and agents because they are granted underwriting authority by an insurer to act on its behalf. MGAs issue policies and settle claims. They are generally reserved for niche markets/specialised risk areas.
- **Provide for other new forms of insurance products and services to be created**

CONSULTATION QUESTIONS

Licensing & Proportionality

1. Do the outlined license class categories appropriately reflect the diversity of your business models?
2. Does increasing the classes make it easier to navigate the legislation, and to provide guidance to potential applicants and participants in the market?
3. What do you see as the potential positive and negative implications for introducing Managing General Agents (MGAs) as a new licence category?
4. Are there additional new categories of licencees/regulated activity that should be contemplated?

Licensing Requirements – Restrictions and Model for Licensing Requirements

- **Clear restrictions – carrying on and holding oneself out as carrying on a regulated activity without a licence/authorization**

- **A model for Licensing Requirements which outlines primary criteria/principles for licensing:**
 - a. Fitness and Propriety
 - b. Demonstrating capacity to comply with legislative and regulatory requirements

Support the provisions stating the principles by outlining the ongoing supervisory requirements in a consolidated provision or series of provisions. E.g. minimum capital and solvency requirements, ongoing capital and solvency requirements, reporting requirements, disclosure requirements, governance and risk management requirements are outlined holistically.

- Insurer Business Plan including 3-year financial projections
- Submission of feasibility study by Insurers

CONSULTATION QUESTIONS

Licensing Requirements

1. The model outlined is intended to ensure that all requirements/factors that impact licensing are comprehensively captured thus reducing inefficiencies in processing applications. What do you see as the positive and negative implications of using this approach?
2. Is the 3-year financial projections for business plans adequate or should it be increased?
3. Which insurers should be required to submit feasibility studies?

Licensing Process

- **Provision for fast tracking/expedited approvals of applications for licensing**
- **Explicit pre-approval or preliminary approval process of entities seeking to re-domicile in Barbados**
- **Provision for transfer/addition of licensed salespersons from one insurer to another rather than requiring a full application process**
- **Removal of references to registration and refer solely to licensing**

CONSULTATION QUESTIONS

Licensing Process

1. Are there other areas that need to be included in the legislative reform that impact the licensing process?
2. What is a reasonable fee for fast tracking/expedited applications?
3. What is a reasonable timeframe for processing fast tracked/expedited applications?
4. What benefits do you see to permitting insurance salespersons to transfer or be added from one insurer to another rather than having to undertake a full re-application process?
5. Are there administrative or other challenges that you envision with facilitating transfer or addition of salespersons from one insurer to another?

Licensing of Foreign Insurers

Licensing of Foreign i.e. registered but not incorporated (in Barbados)

- **Insurers that are registered but not incorporated (in Barbados) and intending to write local business should be licenced as subsidiaries rather than branches**

CONSULTATION QUESTIONS

Licensing of Foreign Insurers

1. Strengthening policyholder protection within the jurisdiction includes imposing requirements that give regulators greater oversight. Other regional regulators have required the establishment of subsidiaries rather than branches for insurers underwriting risks located in Barbados. Does this model present unique challenges for insurers operating in Barbados?

Pillar II: Capital, Solvency, and Group Supervision

- **Minimum Initial Capital Requirements:** Largely maintain existing minimum capital requirements but differentiate capital requirements for pure captives versus captives undertaking limited third-party business/association captives i.e. slightly higher requirement for the latter
- **Insurance Group Capital & Solvency Requirements - retail (domestic) insurers:** Require risk-based insurance group capital and solvency requirements including provisions to manage intra-group transactions
- **Tiered Structure - retail (domestic) insurers:** Capital requirements based on tiers, e.g. Tier 1 (high-quality capital, capable of absorbing loss immediately); Tier 2 tier (comprising assets with a longer duration)
- **Own Risk and Solvency Assessment (ORSA) requirement – based on size and type of insurer**
- **Robust Standalone/Internal Capital and Solvency Models for qualifying insurers – stringent criteria to be met**
- **Minimum and ongoing capital and solvency requirements for MGAs**

CONSULTATION QUESTIONS

Capital, Solvency and Group Supervision

1. The specific requirements for risk-based capital and solvency requirements are to be determined. These are the high-level components within a risk-based model. What are the anticipated operational or other challenges that may arise from adopting new capital and solvency requirements?
2. Should existing minimum capital requirements be maintained or raised?
3. Are there proportionality measures/principles that we should contemplate which would reduce burdens on smaller insurers or insurers with very restricted insurance activities e.g. pure captives?
4. What challenges are envisioned by having Group Own Risk and Solvency Assessment (ORSA) requirements for insurance groups (retail insurers)?
5. For which types of insurers is an ORSA requirement most appropriate?

Pillar III: Group Supervision - Retail (Domestic) Insurers

- **Insurance group widely defined to capture all entities within the group whether they seem to pose a material risk to the insurer or not.**
- **Approval/Prior Notification requirements or intra-group transactions above a specified threshold (e.g. transactions exceeding 5% or 10% of capital)**
- **Prohibition on double-gearing (Double gearing defined to include where one entity in a group holds capital issued by another entity in the same group, allowing both to count the same capital as a solvency buffer.)**

CONSULTATION QUESTIONS

Group Supervision

1. Is the outlined scope for insurance group appropriate? Who should be excluded and why?
2. What are the challenges with approval vs prior notifications requirements intra-group transactions?
3. What should the threshold be for approval? What should the threshold be for prior notification only?
4. Does a rule against double-gearing pose any material challenges?

Pillar IV: Innovation and Inclusion (Retail Insurers)

- Microinsurance products defined as policies/products designed to provide low-income persons with simple and affordable but valuable coverage.
- Specific approval required to conduct
- Restricted areas – motor insurance
- Market conduct requirements specifically for microinsurance products e.g. requirements related to use of low-cost distribution models, simplified policy terms, transparency, conflicts of interest
- Regulatory sandbox for testing microinsurance products or testing digital service delivery options

CONSULTATION QUESTIONS

Innovation and Inclusion

1. Is there demand for microinsurance products?
2. What is the level of interest by insurers to provide microinsurance products?
3. What risks should be included for microinsurance?
4. Should motor insurance be excluded? What other risks should be excluded?
5. How can pilot programmes for the sandbox be structured to enable them to be successful?
6. What other factors should we contemplate?

Pillar V: Refined Ongoing Requirements

Captive Insurers

- Annual Statutory Filing or Return
- Quarterly Statutory Filing or Return – reduced information requirements
- Audited Financial Statements
- Periodic actuarial opinions – long-term and liability insurance business

Retail Insurers

- Annual Statutory Filing or Return
- Quarterly Statutory Filing or Return
- Audited Financial Statements
- Annual actuarial opinions and certifications – long-term and liability insurance business
- More frequent returns for large insurers
- Independent Actuarial Reports where appropriate
- Public disclosures on termination of licence or material changes e.g. amalgamations
- Guidelines for market conduct aligned with IAIS principles including transparent and prompt claims handling requirements, digital service delivery, product governance and design, post-sale monitoring requirements, oversight of intermediaries
- Environmental, Social and Governance requirements – climate risk focus
- Guarantees from parent companies for capital, liquidity and other financial support for subsidiaries

Insurance Intermediaries

- Annual Statutory Filing or Return – Brokers, MGAs, Agents
- Quarterly Statutory Filing or Return – Brokers, MGAs
- Audited Financial Statements – Brokers, MGAs
- Guidelines for market conduct aligned with IAIS principles including requirements related conflicts of interest, disclosures, premiums handling, advice and suitability, ongoing education
- Guidelines for market conduct requirements for loss assessors, surveyors
- Professional Indemnity minimum requirement
- Public disclosures on termination of licence or material changes e.g. amalgamation, name changes etc.

Insurance Management Companies

- Annual Statutory Return
- Disclosure obligations e.g. non-compliance, solvency and risk management, AML/CFT concerns, fit and proper issues in respect of managed insurers
- Guidelines/Guidance on Insurance Management

CONSULTATION QUESTIONS**Ongoing Requirements**

1. Are there any requirements that need to be reconsidered (in existing legislation or what has been outlined)?
2. Is the existing frequency for filings appropriate?
3. Are there any other factors that should be considered in refining the ongoing filing and reporting requirements?
4. What is a reasonable timeframe for implementing enhanced market conduct requirements?

Pillar VI: Enhanced Resolution Powers and Process

- Resolution Authority is the Financial Services Commission for smaller insurers and captives
- Resolution Authority is a committee for designated insurers
- Priority Schedule in Insolvency to ensure clarity in the order of assets distribution including prioritising policyholders
- Insurer Living Wills and Exit Strategy plan for specified retail insurers
- Claw-back of assets or payments under specified circumstances
- Power to require a transfer of an insurer's book of business to a solvent insurer as an alternative to cancellation of policies.
- Run-off Plan requirement or captive insurers and reinsurers
- Business closure plans – Insurance Intermediaries

CONSULTATION QUESTIONS**Enhanced Resolution Powers and Process:**

1. Are there additional requirements/powers/measures that should be included to protect policyholders and creditors and ensure an orderly resolution of insurers?
2. Are there material challenges for captive insurers in developing and submitting run-off plans?
3. Are there material challenges for intermediaries in developing business closure plans?
4. What additional guidance in the form of guidelines or other communication is needed regarding resolution of insurers and other market participants?

Pillar VII: ESG Integration – Retail Insurers

- Climate related risk focus including reporting requirements
- Guidelines on ESG requirements aligned with IAIS Principles

CONSULTATION QUESTIONS

ESG Integration – Retail Insurers

1. What are the operational or other challenges anticipated with incorporating ESG requirements?
2. What timeframe is reasonable for implementation of ESG requirements?

Pillar VIII: Enhanced Intervention and Enforcement Powers

- Suspension of voting rights in specified circumstances (e.g. where there is an acquisition of significant interest without approval)
- Divestment orders to compel the sale of shares held by a person who is determined to not be fit and proper
- Removal, Disqualification or Substitution of directors, key managers or personnel e.g. due to fit and proper concerns or issues
- Expanded powers to compel provision of information including from custodians, actuaries, auditors and other service providers to insurers
- Updated Intervention Framework

CONSULTATION QUESTIONS**Enhanced Intervention and Enforcement Powers**

1. Do the proposed measures cover the identified key risk areas effectively, especially regarding the safety and rights of the consumer?
2. Did the Intervention Framework presented provide a reasonable understanding of how the enforcement powers may operate in practice?

Other Legislative considerations

Revised Title of the Act

The title “Insurance Act” is widely used across the Caribbean and internationally, including by jurisdictions that directly compete with Barbados for captive and reinsurance business. The absence of a distinctive legislative identity creates ambiguity for external stakeholders and perpetuates reference to an “old Act” versus a “new Act” despite multiple rounds of reform. Given the scale of past amendments and the scope of reforms proposed herein, the existing statute no longer represents a coherent legislative platform.

Suggestion for a newly titled Act: “Insurance Business Act”

Scope of Legislative and Supervisory Regime

A revision to the scope and purpose of the legislation to ensure that the insurance legislation amongst other things governs domestic (retail) insurance business; domestic and international captive insurance business; insurance intermediaries, insurance holding companies and association of underwriters; provides for group and consolidated supervision of insurance entities; strengthens policyholder protection; provides the range of powers required; comprehensively outlines the objectives and responsibilities of the FSC as regulator and supervisor of the insurance sector.

Expansion, Consolidation and Modernisation of Definitions and Interpretation

The definitions and interpretation provisions of the Insurance Act are key to enabling users to confidently and efficiently navigate the legislation and understand the obligations to which they are subject. The definitions and interpretation provisions of the Insurance Act no longer provide a modern, comprehensive foundation for the regulatory framework.

- Consolidated existing definitions from the original Act and its amendments a single, modernised interpretation section, eliminating duplicated terms;
- Updated existing terms to align with internationally recognised insurance and supervisory terminology, ensure greater certainty with respect to meanings, and ensure consistency in terminology used throughout the legislation.
- New definitions and interpretive provisions required to support the proposed legislative changes, including those relating to:
 - New and emerging insurance products and services including microinsurance products
 - Group and consolidated supervision
 - Risk-based capital and solvency frameworks
 - Related business
 - Innovative activities
 - (New) VASP legislation

Cancellation of Registration vs. Revocation of Licence

The Commission recognises that with the Financial Services Commission Act, and the changes to the Insurance legislation in 2018 there is a need for rationalisation of certain provisions and terms to avoid confusion in the market. One such area relates to the references to “cancellation of registration” vs “revocation of licences”. To reflect the current terminology and framework, changes are proposed to eliminate such inconsistencies.

Section 56(1): Winding-Up and Companies Act References

Update cross-references to reflect modern insolvency and corporate restructuring standards and avoid procedural dependency on the Companies Act and Bankruptcy Act.

Repeal of Self-Insurance Legislation (BLPC)

Repeal the Insurance (Barbados Light and Power Company Limited) (Self-Insurance Fund) Regulations, 1998. The 2018 amendments to the Insurance Act created an avenue for domestic entities to establish self-insurance structures in the form of a captive within the jurisdiction, thus eliminating the need for a separate self-insurance regime.

Implementation and Transitional Considerations

To give effect to the wide range of changes to the insurance legislation implementation and transitional provisions and arrangements may need to be put in place including:

- Taking a repeal and replacement approach rather than incremental amendments to the insurance legislation;
- Consolidated transitional guidance for existing licensees;
- Transition periods, grandfathering arrangements and provisions
- Public guidance and communication strategy

CONSULTATION QUESTIONS

Other Legislative Considerations

1. Are there other general revisions to the legislation to be examined?
2. Are there suggestions for the title of the new legislation?
3. What other areas do you want to have specific consultation on that we have not already covered?

APPENDIX I

2025-06-26

OBJECTS AND REASONS

This Bill would amend the Financial Services Commission Act, 2010 (Act 2010-21).

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Act 2010-21
3. Amendment of section 4 of Act 2010-21
4. Amendment of section 6 of Act 2010-21
5. Insertion of section 6D into Act 2010-21
6. Amendment of section 8 of Act 2010-21
7. Insertion of new sections 9A, 9B and 9C in Act 2010-21
8. Amendment of section 10 of Act 2010-21
9. Amendment of section 11 of Act 2010-21
10. Repeal and replacement of section 15 of Act 2010-21
11. Amendment of section 16 of Act 2010-21
12. Insertion of section 19A into Act 2010-21
13. Amendment of section 20 of Act 2010-21
14. Amendment of section 23 of Act 2010-21
15. Amendment of section 25 of Act 2010-21

- 16.** Amendment of section 31 of Act 2010-21
- 17.** Repeal and replacement of section 38 of Act 2010-21
- 18.** Insertion of new sections 39A, 39B, 39C, 39D and 39E into Act 2010-21
- 19.** Amendment of section 40 of Act 2010-21
- 20.** Amendment of section 54 of Act 2010-21
- 21.** Insertion of 54A into Act 2010-21

BARBADOS

A Bill entitled

An Act to amend the *Financial Services Commission Act, 2010*
(Act 2010-21).

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Financial Services Commission (Amendment) Act, 2025*.

Amendment of section 2 of Act 2010-21

2. *Section 2 of the Financial Services Commission Act, 2010 (Act 2010-21), in this Act referred to as the principal Act, is amended by*

(a) deleting the definition of “financial institution” and substituting the following definition:

“ “financial institution”

(a) means an institution or a business which is governed by any of the Acts set out in the *Second Schedule*; and

(b) includes

(i) a credit union;

(ii) a mutual fund;

(iii) a pension plan; or

(iv) a reporting issuer; ”; and

(b) inserting the following definitions in their appropriate alphabetical order:

“ “administrative penalty” means a penalty of up to \$250 000 payable to the Commission for

(a) a breach of a term or condition of a licence, certificate, registration or authorization, as the case may be; or

(b) a contravention of this Act, its statutory instruments or a specified enactment;

“intermediary” includes

- (a) an insurance intermediary as defined in section 2 of the *Insurance Act*, Cap. 310;
- (b) a market actor as defined in section 2 of the *Securities Act*, Cap. 318A; and
- (c) a mutual fund administrator as defined in section 2 of the *Mutual Funds Act*, Cap. 320B;

“mutual fund” has the meaning assigned to it under section 2 of the *Mutual Funds Act*, Cap. 320B;

“pension plan” has the meaning assigned to it under section 2 of the *Occupational Pension Benefits*, Cap. 350B;

“reporting issuer” has the meaning assigned to it under section 2 of the *Securities Act*, Cap. 318A;”.

Amendment of section 4 of Act 2010-21

3. Section 4 of the principal Act is amended in subsection (1)

- (a) *by deleting the word “and” appearing immediately after the words “operating in Barbados” in paragraph (h);*
- (b) *by deleting paragraph (i);*
- (c) *by inserting the following new paragraphs immediately after paragraph (h):*
 - “(i) to establish and promote any conditions necessary, advisable or appropriate, as the case may be, to facilitate the orderly growth and development of the non-bank financial sector including the introduction of new services and products;
 - (j) to maintain surveillance of the market; and

- (k) to do such other things as are necessary to effectively carry out the purposes of this Act.”.

Amendment of section 6 of Act 2010-21

4. *The principal Act is amended by deleting section 6 and substituting the following:*

“Duty to be licensed or registered

6.(1) Subject to subsection (2), no person shall operate a financial institution or function as an intermediary unless it is registered or licensed, as the case may be, in accordance this Act or the relevant specified enactment.”

(2) After the commencement of this Act, all licences and certificates of registration issued under the specified enactments shall remain valid until the date fixed for their expiry.

(3) An application shall be in the prescribed form and manner.

(4) No person shall be registered or licensed, as the case may be, unless it provides such sum of capital **as prescribed by the Commission** that adequately reflects the risk associated with the stated proposed activity of the financial institution.

(5) The Commission shall issue a certificate of registration or licence, as the case may be, where it is satisfied that

 (a) **a person has met the requirements under this Act or any of the specified enactments;** and

 (b) the person is a fit and proper person to operate a financial services business.

(6) The certificate of registration or licence issued under subsection (1) shall be in such form as the Commission approves.

(8) Where there is reasonable cause to believe that a person has contravened subsection (1), the Commission may cause an examination to be made of that person and the provisions of this Act shall apply *mutatis mutandis* for the purposes of the examination as if the person was registered or licensed under this Act.

(9) A person who holds funds obtained from carrying on business in Barbados contrary to subsection (1) shall repay those funds in accordance with the direction of the **Commission**.

(10) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$100 000.”.

Insertion of section 6D into Act 2010-21

5. *The principal Act is amended by inserting immediately after section 6C the following new section:*

“Display of licence or certificate of registration

6D.(1) A licensee or registrant shall conspicuously display

(a) **its licence or certificate of registration, as the case may be, at the primary location where the licensee or registrant conducts business; and**

(b) **a copy of the licence or certificate of registration, as the case may be, at every other location or branch in Barbados.**

(2) A person who contravenes subsection (1) **is liable to an administrative penalty.”.**

Amendment of section 8 of Act 2010-21

6. Section 8 of the principal Act is amended by

(a) deleting subsection (1) and substituting the following:

“(1) The Commission shall have the power to

(a) give directives

(i) to ensure compliance with this Act, its statutory instruments, guidelines or any of the specified enactments;

(ii) to ensure that a financial institution is being properly managed and remains financially sound;

(b) examine or investigate the affairs of any person in accordance with this Act or any of the specified enactments;

(c) suspend, cancel or revoke the licence, certificate, registration or authorization, as the case may be, of a financial institution or intermediary, pursuant to this Act and the specified enactments or take such other action, measure or impose such sanction as permitted under the specified enactments;

(d) seize the management and control of a financial institution, appoint a manager or take any other necessary action for the purpose of protecting the interest of customers of financial institutions, as well as creditors and the public and ensuring that the financial institution remains financially sound;

- (e) reorganize or wind up a financial institution in accordance with the specified enactments and any other applicable enactment;**
- (f) exempt any financial institution or any financial services sector from any requirement under this Act, its statutory instruments, any specified enactment or the guidelines where, in the opinion of the Commission, it is necessary to do so;**
- (g) exercise any of the powers exercisable by the regulatory authorities under the specified enactments before the commencement of this Act;**
- (h) require a person seeking to be registered or licensed, as the case may be, under the Act, provide appropriate levels of capital that reflect the risk associated with the stated activity of the financial institution;**
- (i) impose administrative measures including administrative penalties;**
- (j) cause or initiate the wind up of a registered or licensed financial institution where such institution has not commenced business within one year of the issue of a certificate of registration or licence, as the case may be;**
- (k) review, approve or refuse, as the case may be, an amalgamation, merger, takeover or any other form of business combinations;**
- (l) make an application to the court for an order to freeze the assets of a registered or licensed financial institution or any other person;**
- (m) make an application to the court for the purpose of protecting the interest of customers and creditors of the**

financial institutions, the public and integrity of the financial services sector;

- (n) approve or refuse a service, product or transaction;**
- (o) prohibit a person from carrying on business under a name that is likely to mislead the public that such person is licensed or registered, as the case may be, under the Act;**
- (p) issue orders and give directions, to such persons and in such manner as it thinks fit, for the purpose of**
 - (i) ensuring the attendance of a party or witness to any proceeding or hearing;**
 - (ii) requiring the disclosure of documents or other evidence;**
 - (iii) requiring parties or witnesses to answer questions; and**
 - (iv) conducting its proceedings in a proper and orderly manner; and**
- (q) exercise such other powers as are necessary to enable it to effectively discharge its functions under this Act, its statutory instruments or any of the specified enactments.”; and**

(b) *by inserting the following new subsections immediately after subsection (3)*

“(4) No person shall, without reasonable excuse, refuse or fail to comply with an order or instruction of the Commission made or given under subsection (1)(p).

(5) A person who contravenes subsection (4) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for one year or to both.”.

Insertion of new sections 9A, 9B and 9C in Act 2010-21

7. *The principal Act is amended by inserting the following new section immediately after section 9:*

“Administrative penalty notice

9A.(1) Where the Commission intends to impose an administrative penalty, it shall issue an administrative penalty notice in the form approved by the Commission.

(2) An administrative penalty notice shall

- (a) specify the nature of the act constituting the breach or contravention;**
- (b) the penalty to be paid to the Commission; and**
- (c) require the person to whom it is addressed to pay the penalty within 30 days of the date of the notice.**

(3) A person who is in receipt of an administrative penalty notice issued pursuant to subsection (1) shall pay the amount of the penalty set out in the notice on or before the date specified in the notice.

(4) Notwithstanding subsection (3) where the Commission is satisfied on grounds of undue hardship or for any other reason that it would be just and equitable to do so, it may arrange with the person who is the subject of the penalty notice to pay the penalty set out in the notice in instalments.

Procedure for challenging an administrative penalty

9B. A person to whom an administrative penalty notice is addressed may appeal to the Tribunal.

Administrative penalty to constitute a debt to the State

9C. The amount of an outstanding administrative penalty constitutes a debt to the State and is recoverable in civil proceedings before a magistrate's court."

Amendment of section 10 of Act 2010-21

8. *The principal Act is amended by deleting section 10 and substituting the following:*

"Submission of information

10.(1) Subject to section 8(1)(f), a financial institution shall submit to the Commission, within 30 days of the end of each quarter, interim unaudited financial statements and any information relating to the financial statements.

(2) In addition to the furnishing of the financial statement pursuant to subsection (1), every financial institution shall furnish to the Commission at such time as the Chief Executive Officer of the Commission may fix in writing, such time being reasonable in all the circumstances; and in such manner as may be specified, the following information relating to its business operations:

- (a) any information relating to the financial statements or any information relating to the financial returns of the financial institution;

- (b) any information the Commission considers necessary in respect of any holding company, subsidiary or affiliate of the financial institution; and
- (c) any other information, records or documents the Commission considers necessary for the purpose of carrying out its functions under section 4(1)(b).
- (3) Notwithstanding subsection (1), the Commission may grant an extension of time for the submission of interim unaudited financial statements and any information relating to the financial statements.
- (4) Where the Commission is satisfied that a document submitted under this section is incomplete, inaccurate, unclear or not prepared in accordance with the provisions of the Act, the Commission shall, by notice in writing, require a financial institution to complete, amend, submit or prepare in accordance with the provisions of the Act, as the case may be, a document.
- (5) A person who contravenes subsection (1) or (2) is liable to an administrative fine.”.

Amendment of section 11 of Act 2010-21

9.*Section 11 of the principal Act is amended*

- (a) *in subsection (6) by deleting paragraph (b) and substituting the following:*

“(b) the financial institution to submit to the Commission a copy of the audited annual financial statement and a copy of the report referred to in paragraph (a), within 4 months of the end of the financial year, and in the case of an occupational pension plan, within 6 months of the end of the financial year.”; and

(b) *inserting the following new subsection after subsection (6):*

“(6A) Notwithstanding subsection (6)(b), the Commission may grant an extension of time for the filing of audited annual financial statement, reports or other information.”.

Repeal and replacement of section 15 of Act 2010-21

10. *The principal Act is amended by repealing section 15 and substituting the following:*

“Production of documents and information

15.(1) An auditor, officer or employee of a financial institution shall

- (a) produce for an examiner at such time as the examiner fixes, such time being reasonable in all the circumstances, all books, minutes, cash, securities, vouchers and other documents and records relating to its assets, liabilities and business generally; and
- (b) give the examiner such information concerning its affairs and business as the examiner may request orally or in writing.

(2) A financial institution shall retain all books, minutes, cash, securities, vouchers and other documents and records relating to its assets, liabilities and business generally until the Commission has given written permission for their disposal.

(3) A person who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for one year or to both.”.

Amendment of section 16 of Act 2010-21

11. Section 16 of the principal Act is amended

(a) by deleting subsection (1) and substituting the following:

“(1) The Commission may authorize a suitably qualified person to conduct an investigation into the affairs of a financial institution or any person for the purpose of determining whether a person has contravened, is contravening or is likely to contravene a provision of the Act, **its statutory instruments or** a specified enactment.”;

(b) in subsection (2) by

(i) deleting paragraph (a) and substituting the following:

“(a) request information from the financial institution or any person; or”.

(ii) deleting the word “or” appearing immediately after the words “association with the financial institution;” in subparagraph (ii); and

(iii) inserting after subparagraph (iii) the following new subparagraph:

“(iv)any other person.”.

Insertion of section 19A into Act 2010-21

12. The principal Act is amended by inserting the following new section immediately after section 19:

“Fraudulent information and statements

19A.(1) No person shall intentionally provide any information or make a statement that is false or contains misleading or inaccurate information in pursuance of an order or request made under the Act or a specified enactment.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100 000 or to imprisonment for one year or to both.”.

Amendment of section 20 of Act 2010-21

13. *Section 20 of the principal Act is amended in subsection (2) by deleting the words “subsection (1)(b)(ii)” and substituting the following words “subsection (1)(c)(ii)(A)”.*

Amendment of section 23 of Act 2010-21

14. *The principal Act is amended by deleting section 23 and substituting the following:*

“Obstruction

23. Any person who

- (a) obstructs the Commission or any person authorised in writing by the Commission while in the exercise of any power or authority given under this Act, its statutory instruments or a specified enactment; or**
- (b) in any way obstructs any proceeding, hearing, the examination or investigation of a financial institution, business or person under this Act or a specified enactment,**

is guilty of an offence and is liable on conviction on indictment to a fine of \$200 000 or imprisonment for 5 years or to both.”.

Amendment of section 25 of Act 2010-21

15. Section 25 of the principal Act is amended by

(a) deleting subsection (1) and substituting the following:

“(1) The Commission may, after consultation with the Minister, revoke the licence or cancel the registration of a financial institution **or intermediary** where

- (a) a licence or certificate of registration was obtained through misrepresentation, providing misleading or fraudulent information or concealing information;
- (b) a licence **or** certificate **of** registration was obtained through the mistake of the licensee, registrant, Commission or other person;
- (c) a financial institution or intermediary has ceased to carry on the business for which it was licensed or registered upon the expiration of one year after the licence or certificate of registration was issued;
- (d) a financial institution or intermediary has failed to satisfy a requirement or condition of a licence or certificate of registration;
- (e) a financial institution **or intermediary** has failed to make a payment under the Act or any other enactment;
- (f) a financial institution or intermediary has been convicted of an offence involving fraud or dishonesty;
- (g) a financial institution or intermediary is carrying on business in an unlawful manner;

- (h) a financial institution or intermediary has had final judgment ordered against it and that judgment remains unsatisfied for more than one month;
- (i) a financial institution **or intermediary** fails to maintain high standards of financial probity or follow sound business practices; or
- (j) there is a failure to comply with the provisions of the Act, its statutory instruments, a specified enactment, the *Money Laundering and Financing of Terrorism (Prevention and Control) Act, 2011* (Act 2011-23)**or any relevant enactment.**”;

(b) ***deleting subsection (5) and substituting the following:***

“(5) The Commission may suspend the operation of a financial institution **or intermediary**

- (a) pending the determination of an appeal;
- (b) where a financial institution **or intermediary** is prosecuted for breaching the provisions of the Act or a specified enactment; or
- (c) where it is the opinion of the Commission that it is in the best interest of the public to suspend the operation of the financial institution **or intermediary.**”and

(c) ***inserting the following new subsection immediately after subsection (6):***

“(7) Notwithstanding **subsection (1)**, the Commission shall not revoke the licence or cancel the registration of a financial institution **or intermediary which has outstanding liabilities unless the**

Commission is satisfied that the financial institution made or will make adequate arrangement to discharge that liability.”.

Amendment of section 31 of Act 2010-21

16.*Section 31 of the principal Act is amended by deleting subsection (1) and substituting the following:*

“(1) The Commission may delegate, in writing, any power or function conferred on it by this Act to any member, committee or senior officer of the Commission, except the power to make regulations under this Act.”

Repeal and replacement of section 38 of Act 2010-21

17.*The principal Act is amended by repealing section 38 and substituting the following:*

“Liability

38.(1) No member, officer, employee or former member, officer, employee of the Commission, auditor, examiner or other person appointed or authorized, **in writing**, by or acting on behalf of the Commission, shall be liable to any person in any action or proceeding for anything done or omitted in the discharge or purported discharge of their functions under this Act **or its statutory instruments**, unless it is shown that the act or omission was done in bad faith.

(2) No person shall be liable to any person in any action or proceeding where he

(a) provides or discloses any information or material to the Commission or a regulatory authority in good faith in compliance with an order made under the Act;

- (b) makes a statement to the Commission in good faith in compliance with an order made under the Act;
- (c) does an act or omits to do any act in good faith in compliance with an order made under the Act of in the performance of his duties; or
- (d) complies with an order made under the Act.”.

Insertion of new sections 39A, 39B, 39C, 39D and 39E into Act 2010-21

18. *The principal Act is amended by inserting the following new sections immediately after section 39:*

“Cooperation with other authorities

39A.(1) The Commission may co-operate with

- (a) an entity involved in financial services and their operation in Barbados and the regulation, monitoring and supervision of financial services in Barbados;
- (b) a regulatory authority, foreign regulatory authority or international organization dealing with regulation and oversight of financial services.

(2) The Commission may for the purpose of co-operating with an entity or regulatory authority referred to in subsection (1), enter into a memorandum of understanding with that entity or authority.

(3) Subsection (2) does not prohibit the Commission from co-operating with an authority or entity referred to in subsection (1) in the absence of a memorandum of understanding with that authority or entity.

Disclosure of information and duty of confidentiality

39B.(1) The Commission shall not directly or indirectly disclose to any person any information or document obtained during the exercise of its functions under this Act, except

- (a) for the purpose of performing its functions under this Act;
- (b) where it is necessary to protect the financial integrity, effectiveness or security of the financial services sector;
- (c) where it is disclosed to a person who is lawfully authorized to receive the information;
- (d) when disclosure is ordered by a court of law;
- (e) for statistical purposes; or
- (f) where it is required for the purpose of satisfying an obligation under an international treaty, convention or an agreement to which Barbados is a party.

(2) Notwithstanding subsection (1), the Commission or a person employed or retained by the Commission may, in accordance with section 39A, disclose data or information obtained under this Act to a foreign regulatory authority if it is satisfied that

- (a) the purpose for which the data or information will be used is sufficiently specified;
- (b) the intended use of the data or information fits the framework of the supervision of financial institutions, services, products or markets;
- (c) the supply of the data or information would be compatible with the laws of Barbados or in the public interest;
- (d) the confidentiality of the data or information is adequately guaranteed;

- (e) the supply of the data or information will not come into conflict with the objects of this Act;
- (f) the request for assistance from the regulatory authority is in a form approved by the Commission; and
- (g) there is in place a reciprocal agreement for the exchange of information with the requesting regulatory authority.

Co-operation with regulatory authorities

39C.(1) The Commission may provide assistance to a regulatory authority in Barbados or a foreign regulatory authority.

- (2) The Commission shall have the power to:
 - (a) provide any requested material or information in the possession of the Commission to the relevant regulatory authority;
 - (b) order a person to provide to the Commission any material or information requested by the relevant regulatory authority;
 - (c) provide any requested material or information to the relevant regulatory authority;
 - (d) order a person to render assistance to the Commission in relation to a request made by a regulatory authority; and
 - (e) record an oral or written statement of a person on any information requested by a regulatory authority and submit such statement to the regulatory authority.
- (3) The information or material referred to in subsection (2) shall include the following:
 - (a) auditing information including audit working papers, correspondence, documents and other information relating to the audit or review of financial statements;

- (b) banking records including statements and other documents or information relating to the identified account;
 - (c) subscriber information or records held or maintained by a telephone service provider located in Barbados that include:
 - (i) the identity of the subscriber including the name and address of the subscriber;
 - (ii) the billing and payment information;
 - (iii) incoming and outgoing communications with the date, time, duration and identification of telephone numbers from which communications are made or received; and
 - (iv) any other specified information; and
 - (d) subscriber information or records held or maintained by an internet service provider or other electronic communication provider located in Barbados that include:
 - (i) the identity of the subscriber including the name and address of the subscriber;
 - (ii) the billing and payment information;
 - (iii) **the** type of service;
 - (iv) **the** period of service;
 - (v) **the** network address;
 - (vi) **the** session times, dates and duration; and
 - (vii) any other specified information.
- (5) Notwithstanding anything contained in this section, a person shall not be in breach where he refuses or fails to disclose information or to produce a document on the grounds of legal privilege.

Participation of other regulatory authority in examination or investigation

39D. The Commission may request, approve or facilitate the participation of a regulatory authority in the examination or investigation of a person where the Commission is satisfied that such participation is necessary or beneficial for the purposes of the regulatory functions of the requesting regulatory authority or the administration or enforcement of this Act.

Assistance with court orders

39E.(1) The Commission may render assistance to a regulatory authority in the making an application to the court for an order to

- (a) freeze the assets of a person or provide information on how to freeze the assets of a person; or
 - (b) prohibit a person from withdrawing funds, securities or other property.
- (2) The Commission may render assistance
- (a) under its regulatory powers or pursuant to a request from a regulatory authority; or
 - (b) where it is satisfied that it is in the public interest.
- (3) A person who is aggrieved by an order of the court may appeal such order.”.

Amendment of section 40 of Act 2010-21

19. *Section 40 of the principal Act is amended*

- (a) *by deleting subsection (1) and substituting the following:*

“(1) No member, officer, employee or former member, officer, employee of the Commission or other person employed or retained by the Commission shall make use, either directly or indirectly, of any confidential information obtained as a result of his relationship with the Commission for his own benefit or advantage.”; and

(b) *in subsection (2) by*

- (i) *deleting the word “or” appearing immediately after the words “Government of Barbados;” in paragraph (a);*
- (ii) *deleting the full stop appearing after the words “law of Barbados” and substituting the following words “; or” immediately after the words “law of Barbados” in paragraph (b); and*
- (iii) *inserting the following new paragraph immediately after paragraph (b):*

“(c) a foreign regulatory authority **where such disclosure of confidential information is provided pursuant to the provisions of this Act.**”.

Amendment of section 54 of Act 2010-21

20. *The principal Act is amended by deleting section 54 and substituting the following:*

“Regulations

54. The Commission, after consultation with the Minister, may make the following regulations:

- (a) to make provision for any exemptions granted under section 8 (1)(f) relating to a particular financial services sector;**
- (b) prescribing any matter or thing required by this Act to be prescribed;**
- (c) to make forms;**
- (d) respecting any matter required to carry out the purposes of this Act; and**
- (e) generally for the proper administration of this Act.”**

Insertion of 54A into Act 2010-21

21. *The principal Act is amended by inserting the following new section immediately after section 54:*

“Rules

54A. The Commission may make rules

- (a) to establish standards and practices for innovating and emerging services and products.**
- (b) to impose requirements or conditions on financial institutions of new services and products;**
- (c) to regulate new products and services;**
- (d) relating to the sectors which it regulates or supervises; and**

(e) relating to any other matter under this Act.”.