

CONSULTATION PAPER  
**FOR DISCUSSION PURPOSES ONLY**  
Proposed Amendments to the Financial Services Commission Act, 2010-21



**FINANCIAL SERVICES  
COMMISSION**

---

**Event:** 15<sup>th</sup> Anniversary Industry Stakeholder Consultation on Legislative Reform Project

**Focus:** Enhanced Intervention and Enforcement Powers – Key Proposed Amendments to Financial Services Commission Act, 2010-21

**Date:** April 13, 2026 to April 17, 2026

**Venue:** Hilton, Barbados

---

## Contents

EXECUTIVE SUMMARY .....	3
BACKGROUND & CONTEXT .....	3
Purpose of Reform .....	3
IOSCO MMoU and Enhanced MMoU.....	4
Key Contextual Factors Impacting Intervention and Enforcement Frameworks .....	5
Intervention Framework .....	6
SUMMARY OF GAP ANALYSIS & BENCHMARKING .....	7
Key Legislative and Institutional Gaps.....	7
Benchmarking against international standards .....	7
Core direction of proposed amendments to FSCA and intervention framework .....	7
Key Drivers .....	7
CONSULTATION OBJECTIVES.....	8
CONSULTATION QUESTIONS: ENFORCEMENT & INTERVENTION.....	8

## EXECUTIVE SUMMARY

This Consultation Paper provides context regarding the Financial Services Commission’s proposed approach to strengthening its intervention and expanding its enforcement powers through amendments to the Financial Services Commission Act, 2010-21. The proposals are reflected in the draft **Financial Services Commission (Amendment) Bill (the “FSCA Bill”) (Appendix I)** accompanying this document.

The reform is aimed at ensuring that the Commission is equipped with a robust, credible and internationally aligned enforcement framework capable of responding to increasingly complex financial sector risks.

The proposed amendments are to enable the Commission to become a full signatory to the International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding (MMoU) and its Enhanced MMoU (EMMoU), thereby strengthening its ability to cooperate with international regulators and participate effectively in cross-border enforcement actions. It is intended that the amendments will also facilitate the Commission’s ability to become a signatory to the International Association of Insurance Supervisors (IAIS).

Beyond international alignment, the amendments seek to materially enhance the Commission’s ability to:

- Detect and investigate misconduct
- Compel information and testimony
- Take timely and proportionate enforcement action
- Intervene early to address emerging risks
- Strengthen market integrity and consumer protection

The Consultation Paper also includes a brief summary regarding the Commission’s Intervention Framework for the purpose of sensitising regulated entities about the Commission’s approach to intervention and enforcement. This framework is intended to promote transparency, proportionality and consistency in regulatory actions.

## BACKGROUND & CONTEXT

### Purpose of Reform

The Financial Services Commission (the “Commission”), established under the Financial Services Commission Act, 2010-21, is responsible for the supervision and regulation of non-bank financial institutions in Barbados and under the specified enactments.

As financial markets become increasingly complex, interconnected and technology driven, the effectiveness of regulatory frameworks is increasingly dependent on the strength of supervisory, intervention and enforcement powers.

In this context, the Commission is seeking to amend its regulatory framework to:

- strengthen its enforcement and investigative powers;
- align Barbados with international regulatory standards;
- enhance its ability to cooperate with foreign regulators;
- support a proactive, risk-based supervisory approach; and
- reinforce market integrity, financial stability and consumer protection.

## IOSCO MMoU and Enhanced MMoU

The International Organization of Securities Commissions (IOSCO) is an international standard setting body comprising securities regulators across the world. The Commission like many regional and international regulators is a member of IOSCO.

The IOSCO MMoU establishes a framework for cooperation and information sharing among securities regulators. The former Securities Commission became an Appendix B signatory to IOSCO's MMoU for cooperation and information sharing in 2009. Appendix B status recognised that the Commission had some of the powers needed to share information and cooperate with other regulators, but that there were specific deficiencies which impacted on its ability to meet all the requirements that were needed to achieve full signatory status i.e. become an Appendix A signatory.

The IOSCO Multilateral Memorandum of Understanding (MMoU) was established in 2002, and requires that the securities regulators have the power to obtain and provide information and assistance, including records:

- to enable reconstruction of all securities and derivatives transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts relating to these transactions;
- that identify the beneficial owner and controller of an account;
- for transactions, including the amount purchased or sold; the time of the transaction; the price of the transaction; and the individual and the bank or broker and brokerage house that handled the transaction;
- providing information identifying persons who beneficially own or control companies;
- taking or compelling a person's statement or, where permissible, testimony under oath, regarding the potential offence

While Barbados is currently an Appendix B signatory, achieving Appendix A signatory status requires the Commission to have clear and enforceable legal authority to:

- compel the production of information including compelling a person's statement or testimony under oath regarding potential offences.
- share information – no domestic secrecy/blocking laws or regulations to impede sharing of information

- cooperate with regulators even where the contraventions under investigation are not specifically a violation within its own jurisdiction.

The EMMoU builds on the MMoU and requires extended powers referred to as “ACFIT” that are needed for investigations involving advanced technology and complex financial instruments. The primary powers being:

- **A - Audit Papers:** The power to obtain and share audit working papers, communications, and other information relating to the audit or review of financial statements.
- **C - Compel Attendance:** The power to compel physical attendance for testimony and apply sanctions if a person refuses to comply.
- **F - Freeze Assets:** The ability to freeze or sequester assets, or provide information on the location of funds/assets and assist in their freezing.
- **I - Internet Records:** The power to obtain and share existing Internet Service Provider (ISP) subscriber records, traffic data (metadata), and recordings of electronic communications, often with court or prosecutor support.
- **T - Telephone Records:** The power to obtain and share existing telephone records (subscriber data, call duration, and numbers)

Alignment with these standards is essential for:

- cross-border enforcement effectiveness
- international credibility
- market access and cooperation
- mitigating reputational and regulatory risks

## Key Contextual Factors Impacting Intervention and Enforcement Frameworks

- **Increasing complexity of financial markets:** Emerging products and cross-border structures require more sophisticated investigative tools.
- **Cross-Border Nature of Misconduct:** Regulatory effectiveness increasingly depends on cooperation and information sharing across jurisdictions.
- **Regulatory Credibility:** International partners expect demonstrable enforcement capability.
- **Proactive Supervision:** Modern regulatory approaches emphasize early intervention rather than reactive enforcement.

## Intervention Framework

Key features of the Framework:

- **Defined Supervisory Ladder** consisting 5 Stages (0-4). 0 representing normal supervision and stages 1 to 4 representing heightened/enhanced supervision.
- **Graduated Stages of Intervention:** ranging from normal monitoring & supervision (low risk) to non-viable (high risk) increasing intensity aligned with risk severity.
- **Risk-Based Trigger Points:** Progression up the ladder is triggered by specific, pre-defined quantitative or qualitative markers, such as prudential ratios falling below certain thresholds, material governance or risk management failures, or unabated non-compliance).
- **Proportionality:** The intervention's severity aligns with the seriousness of the risk or breach.
- **Transparency:** The framework, including potential actions at each level, is usually published to ensure consistency and awareness.
- **Clear Timetables:** It outlines specific deadlines for action to mitigate supervisory inaction.
- **Early Intervention:** Act early to identify problems or emerging problems.
- **Root Cause Analysis:** Interventions look beyond the immediate problem to identify underlying causes, such as poor governance or faulty business models.
- **Evidence of Resolution:** The intensity of intervention is only scaled back or intervention ended once the financial institution has cogently evidenced that the expected outcome of remediation has been achieved.

### Examples of Regulatory Actions

- **Lower Levels of the Ladder (Less Intrusive):** Warning letters, Supervisory letters, more frequent and or detailed reporting requirements, and enhanced supervision, additional or enhanced disclosure requirements, more frequent examinations, more frequent meetings with Board and Senior Management
- **Higher Levels of the Ladder (More Intrusive):** Directives, Investigations, Imposing additional capital requirements, restricting activities, appointment of advisers, suspension of licence or registration, disgorgement or restitution orders

### Fitness and Propriety - Impact of Intervention Measures

- Regulatory actions may trigger reassessments of the fitness and propriety of directors, senior management and key functionaries.

Adverse findings may:

- Restrict individuals result in re-assessments of key persons' fitness and propriety and a determination that a person is no longer fit and proper. This finding impacts an individual's ability to undertake roles such as directors or senior officers within other regulated entities.

## SUMMARY OF GAP ANALYSIS & BENCHMARKING

### Key Legislative and Institutional Gaps

- Limited powers to compel testimony
- Constraints on access to internet and telephone records
- Absence of explicit asset-freezing powers
- Limitations affecting timely cross-border cooperation

### Benchmarking against international standards

Leading regulators who are signatories to Appendix A of the MMoU typically have:

- Broad investigative and information-gathering powers
- Strong legal gateways for international cooperation
- Clear authority to compel, freeze and access records
- Integrated supervisory and enforcement frameworks

Barbados' current framework does not yet fully meet these standards, limiting its effectiveness and international standing.

### Core direction of proposed amendments to FSCA and intervention framework

1. Expand Investigative powers
2. Enable access to critical records and data
3. Introduce asset preservation powers
4. Strengthen cross-border cooperation
5. Embed a risk-based intervention framework
6. Enhance regulatory credibility and deterrence

### Key Drivers

- ✓ IOSCO MMoU and EMMoU compliance
- ✓ Strengthened enforcement capability
- ✓ Market integrity

- ✓ Consumer and investor protection
- ✓ International credibility
- ✓ Effective cross-border cooperation

## CONSULTATION OBJECTIVES

- Validate proposed enforcement powers
- Identify operational and legal challenges
- Ensure proportionality and practicality
- Align framework with international best practices

## CONSULTATION QUESTIONS: ENFORCEMENT & INTERVENTION

### PILLAR 1: STRATEGIC ENFORCEMENT POSITIONING

- How should the Commission balance deterrence vs regulatory flexibility, early intervention vs formal enforcement and market confidence vs proportionality?
- What aspects of enforcement activity should be publicly disclosed to strengthen market confidence?

### PILLAR 2: INVESTIGATIVE POWERS

- Are the proposed powers (compulsion, audit access etc) sufficiently broad and clear?
- What procedural safeguards should apply?
- What operational challenges may arise in obtaining and preserving electronic evidence?

### PILLAR 3: INTERVENTION FRAMEWORK

- Are the stages appropriately calibrated?
- What triggers should move entities between stages?

### PILLAR 4: ENFORCEMENT TOOLS & SANCTIONS

- Are the available sanctions sufficient and proportionate?
- What additional tools may be required?

### PILLAR 5: CROSS-BORDER COOPERATION

- What challenges may arise in information sharing?
- How can cooperation be operationalized effectively?
- How important is signatory to the IOSCO MMoU and EMMoU to market confidence and sector competitiveness?

# **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.”.**