

BELIZE:

SECURITIES INDUSTRY BILL, 2021

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SCHEDULE II

BELIZE:**BILL****for**

AN ACT to provide for the regulation of securities business and activities and to provide for matters connected therewith or incidental thereto.

(Gazetted _____, 2021.)

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

PART I*Preliminary*

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|--------------|---|
| Short title. | 1. This Act may be cited as the Securities Industry Act, 2021. |
| Purposes. | 2. The purposes of this Act are to— <ul style="list-style-type: none"> (a) facilitate capital formation and economic growth; (b) provide protection to investors from unfair, improper or fraudulent practices; (b) foster the development of fair and efficient capital markets and confidence in the capital markets in or from within Belize; (c) reduce systemic risk; and (d) promote public understanding of the financial system, including awareness of the benefits and risks of different kinds of investment or other financial dealing. |

Interpretation.

3. In this Act—

“affiliate” means, in relation to a company, another company if—

- (a) one of them is the subsidiary of the other; or
- (b) the same person controls each of them;

“alternative trading system” or “ATS” means a marketplace that—

- (a) is not a quotation and trade reporting system or a securities exchange; and
- (b) does not—
 - (i) require an issuer to enter into an agreement to have its securities traded on the marketplace;
 - (ii) provide, directly, or through one or more subscribers, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis;
 - (iii) set requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the marketplace; and
 - (iv) discipline subscribers other than by exclusion from participation in the marketplace;

“Appeals Board” has the meaning given in section 152(1);

“approved auditor” means an auditor recognized by the Commission under Part X;

“ancillary facility” means any person providing prescribed services to a marketplace, registrant, or to a public issuer where the services facilitate or are ancillary to the operations of that marketplace, registrant or public issuer, and includes a rating organisation

“associate” means, if used to indicate a relationship with a person,—

- (a) a partner, other than a limited partner, of the person;
- (b) a trust or estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar capacity;

- (c) an issuer of which the person owns or controls voting securities carrying more than 10% of the voting rights attached to all outstanding voting securities of the issuer; or
- (d) a family member of the person, or a family member of the person's spouse;

“beneficial owner” means the person who is entitled to the benefits of ownership of a security although that person may not be the registered owner of the security;

“beneficial ownership” includes ownership through a trustee, legal representative, agent or other intermediary;

“business combination” means an amalgamation, merger, arrangement or similar transaction;

CAP. 262. “Central Bank” means the Central Bank of Belize established under section 4 of the Central Bank of Belize Act;

CAP. 272. “Commission” means the Financial Services Commission established under section 3 of the Financial Services Commission Act;

“company” means any body corporate or other incorporated person and includes a limited liability partnership and an international limited liability company;

CAP. 4. “Consolidated Revenue Fund” means the fund established by section 114 of the Belize Constitution;

“constitutional documents” means the principal documents governing the formation and governance of the mutual fund and includes–

- (a) the memorandum and articles of association in the case of a company;
- (b) the partnership agreement in the case of a partnership;
- (c) the trust deed in the case of a unit trust; or
- (d) other equivalent constituting documents;

“control block holder” means a person that–

- (a) holds more than 30% of the voting rights attached to all an issuer's outstanding voting securities; or

- (b) is able to affect materially the control of the issuer, whether alone or by acting in concert with others;

“Court” means the Supreme Court;

“Court of Appeal” has the same meaning as in section 2 of the Court of Appeal Act; CAP. 90.

“custodial services” includes—

- (a) holding, possessing or controlling assets that include securities in safekeeping or segregation for the benefit of another person, whether —
 - (i) on trust;
 - (ii) under a custodial or depository agreement; or
 - (iii) under another arrangement; or
- (b) carrying out such other activities as may be prescribed;

“custodian” means a person providing custodial services with respect to securities or other property;

“decision” means—

- (a) if used in relation to the Commission or a person delegated a power of the Commission, a direction, decision, order, ruling or requirement made under this Act; or
- (b) if used in relation to a marketplace or self-regulatory organisation, a direction, decision, order, ruling or requirement made in relation to a regulatory instrument;

“director” means a director of a company, or a person performing a similar function or occupying a similar position for a company or any other person;

“Director General” means the person appointed under section 8 of the Financial Services Commission Act; CAP. 272.

“distribution” means—

- (a) a trade in a security of an issuer that has not been previously issued;
- (b) a trade, by or on behalf of an issuer, in a previously issued security of that issuer that has been redeemed, purchased by or donated to that issuer;

- (c) a trade in a previously issued security of an issuer by or on behalf of a control block holder of that issuer;
- (d) a trade within a prescribed class of trades; or
- (e) a trade described in an order made under section 176(2);

“distribution period” means the period between the issue of the receipt for a prospectus and the earlier of—

- (a) the date the distribution ceased; or
- (b) the lapse date of the prospectus under section 63;

“document” includes, in addition to a document in writing,—

- (a) information in electronic form;
- (b) any map, plan, graph or drawing;
- (c) any photograph;
- (d) any disc, tape, sound track or other device in which sounds or other data, not being visual images, are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced; and
- (e) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;

“domestic regulatory authority” means an authority in Belize that exercises regulatory, supervisory, enforcement or similar functions and includes—

- (a) authorities that regulate or supervise financial intermediaries;
- (b) the Central Bank;
- (c) securities exchanges;
- (d) self-regulatory organisations;
- (e) law enforcement agencies;
- (f) governmental or regulatory agency not mentioned in paragraph (a) to (e); or

(g) any other authority in Belize, as prescribed;

“equity interest in a mutual fund” means the rights or interests, however described, of the investors in a mutual fund with regard to the property of the fund, but does not include a debt;

“expert” means a lawyer, engineer, accountant, valuator or any other person whose profession or reputation gives authority to a statement made by that person;

“expert's report” means a report, opinion, valuation or statement made or purporting to be made by an expert;

“family member” means a person's spouse, parent, grandparent, brother, sister, child or grandchild;

“file” means to submit a document to the Commission under a provision of this Act that requires such document be filed, other than a document provided to the Commission under Part XIII;

“financial intermediary” means—

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|-----|---|---------------------|
| (a) | a bank or financial institution licensed under the Domestic Banks and Financial Institutions Act; | Act No. 11 of 2012. |
| (b) | a bank licensed under the International Banking Act; | CAP. 267. |
| (c) | an insurance company registered under the Insurance Act; | CAP. 251. |
| (d) | an insurance company licensed under the International Insurance Act; | CAP. 269. |
| (e) | a credit union registered under the Credit Unions Act; | CAP. 314. |
| (f) | a person licensed to carry on a securities business under the Financial Services Commission Act; or | CAP. 272. |
| (g) | such other entity as may be prescribed; | |

“foreign exchange contract” means a contract—

- (a) to buy or sell currency; or
- (b) to exchange one currency for another,

regardless of whether the transaction involves Belize dollars;

“foreign jurisdiction” means a jurisdiction other than Belize;

“functionary” in relation to a mutual fund means—

- (a) the manager, administrator, investment advisor, or custodian of the mutual fund;
- (b) in the case of a mutual fund that is a unit trust, it includes the trustee; or
- (c) a person undertaking such other function with respect to the mutual fund as may be prescribed;

CAP. 272.

“General Fund” means the fund established under section 18 of the Financial Services Commission Act;

“generally accepted accounting principles” means the International Financial Reporting Standards promulgated by the International Accounting Standards Board or as prescribed;

“generally accepted auditing standards” means the International Standards on Auditing issued by the International Auditing and Assurance Standards Board or as prescribed;

“inside information” means material information that has not been generally disclosed;

“insider” means—

- (a) a director, senior officer or significant security holder of an issuer; or
- (b) a director or senior officer of a subsidiary of an issuer or of a significant security holder of an issuer, if that director or senior officer's responsibilities routinely provide the person with access to inside information about the issuer;

“interim financial period” means a period commencing on the first day of the financial year and ending six months after the start of the financial year or such other period as may be prescribed;

“issuer” means a person that—

- (a) has a security outstanding; or
- (b) proposes to issue a security;

“issuer bid” means an offer by an issuer to repurchase its outstanding securities;

“Institute of Chartered Accountants of Belize” means the Institute of Charters Accountants of Belize established under section 3 of the Accountancy Profession Act; CAP. 305.

“jurisdiction” means a country or territory or a political subdivision of a country or territory;

“market participant” means—

- (a) a marketplace;
- (b) a self-regulatory organisation;
- (c) a registrant;
- (d) a compensation, contingency or similar fund formed to compensate clients of registrants;
- (e) a custodian of assets of a registrant or a client of a registrant;
- (f) a public issuer;
- (g) a transfer agent or registrar for securities of a public issuer;
- (h) a regulated mutual fund;
- (i) a party related to a mutual fund;
- (j) a general partner or a partner, director, officer or significant security holder of a person referred to in this definition;
- (k) a person that is exempt from a requirement to be registered under this Act pursuant to an order of the Commission;
- (l) a rating organisation; or
- (m) a person described in an order made under section 176(2),

but does not include a person that is described in an order made under section 176(1) or is within a prescribed class of persons;

“marketplace” means—

- (a) a securities exchange, a quotation and trade reporting system, or an ATS;
- (b) a person not included in paragraph (a) that –

- (i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities;
 - (ii) brings together the orders for securities of multiple buyers and sellers; and
 - (iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade; or
- (c) a person described in an order made under section 176(2);

but does not include a person that is described in an order made under section 176(1) or is within a prescribed class of persons;

“material change” means any change in any material information regarding a public issuer;

“material information” means information relating to the business, operations or securities of an issuer that would reasonably be expected to significantly affect the value or market price of the issuer or a security of the issuer;

"material order information" means information that—

- (a) relates to—
 - (i) the intention of a person responsible for making decisions about an investment portfolio to trade a security on behalf of the investment portfolio;
 - (ii) the intention of a registrant trading on behalf of an investment portfolio to trade a security on behalf of the investment portfolio; or
 - (iii) an unexecuted order, or the intention of any person to place an order, to trade a security; and
- (b) if disclosed, would reasonably be expected to affect the market price of the security.

“Member” means a member of the Commission;

“Minister” means the Minister with responsibility for finance;

“misrepresentation” means –

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- (a) in relation to an issuer–
 - (i) an untrue statement of material information;
 - (ii) the failure to disclose material information that is required to be disclosed; or
 - (iii) the omission of material information from a statement, if that information is necessary to prevent the statement from being false or misleading in the circumstances; or
 - (b) in any other circumstance, a statement about something that a reasonable investor would consider important–
 - (i) in making a decision to trade a security; or
 - (ii) in relation to a trading or advising relationship with a person,
if the statement is untrue or omits information necessary to prevent the statement from being false or misleading in the circumstances;

“mutual fund” or “fund” means a company, partnership, unit trust or other entity prescribed that is incorporated, formed or organised under the laws of Belize or the laws of any other country, that–

- (a) collects and pools investor funds for the purpose of collective investment in securities and other permitted assets, with the aim of spreading investment risks and enabling investors in the mutual fund to share the profits or gains from the acquisition, holding, management or disposal of investments on a proportionate basis;
- (b) does not invest for the purpose of being actively involved in the management of any issuer in which it invests; and
- (c) includes a company, partnership, unit trust or other legal entity of a class or description prescribed to be a mutual fund,

but does not include a person licensed as a bank or insurance company under the laws of Belize or another country or a person of a class or description prescribed not to be a mutual fund;

“offering document” means a notice, circular, advertisement or document inviting applications or offers to subscribe for or purchase of securities

being sold in a distribution to which section 52 would apply but for the availability of one or more of the exemptions contained in this Act or regulations;

“officer of the Commission” means an individual working in an executive capacity for the Commission, an issuer, a regulated person or any other person functioning in a similar capacity;

“operator” in relation to a mutual fund means—

- (a) if the mutual fund is a unit trust, a trustee of that trust;
- (b) if the mutual fund is a partnership, a general partner in the partnership; or
- (c) if the mutual fund is a company, a director of that company;

“order” means, unless a contrary intention appears, an order or decision of the Commission or a person delegated by the Commission in accordance with section 13;

“overseas regulatory authority” means an authority in a jurisdiction outside Belize that exercises functions corresponding to any function of the Commission under this Act;

“party related to a mutual fund” means the mutual fund’s administrator, operator, promoter, custodian, valuer, manager, or advisor;

“person” includes an individual, company, partnership, entity, trust, fund, association and any other organised or incorporated group of persons, and the personal or other legal representative of any person to whom the context can apply;

“private company” means a company whose constitutive document—

- (a) restricts the right to transfer its shares;
- (b) limits the number of its beneficial owners, exclusive of persons who are in the employment of the company and of persons who, having been formerly in the employment of the company, were, while in such employment, and have continued after the end of such employment, to be beneficial owners of the company, to fifty; and
- (c) prohibits any invitation to the public to subscribe for any securities of the company;

“private fund” means a mutual fund the constitutional documents of which specify that—

- (a) the mutual fund is not authorized to have more than fifty investors; and
- (b) prohibits any invitation to the public to subscribe for any securities issued by the mutual fund;

“professional fund” means a mutual fund, the constitutional documents of which specify that—

- (a) the mutual fund’s securities shall be issued only to professional investors; and
- (b) the initial investment of each investor in the fund shall be not less than such sum as may be prescribed;

“professional investor” means any person who comes within any of the following categories at the time of the sale of securities to that person—

- (a) any financial intermediary or an entity licensed in a similar capacity under the laws of another jurisdiction, whether acting in its individual or fiduciary capacity;
- (b) any registered company under this Act or licensed in a similar capacity under the laws of another jurisdiction;
- (c) any regulated mutual fund or a mutual fund regulated in a similar capacity under the laws of another jurisdiction;
- (d) any individual whose individual net worth, or joint net worth with the person’s spouse, exceeds two million dollars;
- (e) any individual who had an individual income in excess of two hundred thousand dollars in each of the two most recent years or joint income with that person’s spouse in excess of three hundred thousand dollars in each of those years and has a reasonable expectation of reaching the same income level in the current year;
- (f) any trust with total assets in excess of five million dollars ;
- (g) any entity where all the equity owners satisfy one of the requirements in paragraphs (a) to (f);
- (h) any entity with net assets in excess of five million dollars ;
or

- (i) any person that is recognized or designated by the Commission as a professional investor;

“prospectus” means a notice, circular, advertisement or document inviting applications or offers to subscribe for or purchase securities, or offering any securities for subscription or purchase, in connection with a distribution;

“promoter” means a person that takes the initiative in founding or organising an issuer;

“public issuer” means an issuer that—

- (a) is required to file a prospectus under Part VI;
- (b) has completed a takeover, business combination or other reorganisation, involving an exchange of securities in which one of the parties was a public issuer;
- (c) has issued a security that, at any time after this Act comes into force, has been traded on a registered marketplace; or
- (d) is described in an order made under section 176(2);

but does not include an issuer that is described in an order made under section 176(1) or is within a prescribed class of issuers;

“public mutual fund” means a mutual fund that is neither a private fund nor a professional fund;

“publish” with respect to an action to be taken by the Commission includes—

- (a) publish in a daily newspaper of general circulation in Belize;
- (b) print in a periodical regularly published by the Commission;
- (c) post on the Commission's website; or
- (d) any other method of publication of the document or matter as prescribed;

“purchase” includes any purchase or acquisition of a security for valuable consideration, whether the terms of payment are on margin, instalment or otherwise, but does not include a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a bona fide debt;

“quotation and trade reporting system” means a facility that disseminates price quotations for the purchase and sale of securities and reports of completed transactions in securities for the exclusive use of registrants, but does not include a securities exchange, ATS or a registrant;

“rating organisation” means an organisation that issues publicly available ratings that are current assessments of the creditworthiness of obligors with respect to specific securities;

“registered company” means a person registered under section 36(1) to carry on securities business in Belize;

“registered marketplace” means a marketplace registered under Part III of this Act;

“registered securities exchange” means a securities exchange registered under Part III of this Act;

“registered self-regulatory organisation” means a self-regulatory organisation registered under Part III of this Act;

“registrant” means any person registered under Part IV of this Act or required to be so registered;

“regulated mutual fund” means a registered public mutual fund or a recognized professional fund under this Act, but does not include a private fund;

“regulated person” means a registrant, a person registered under Part III of this Act or a regulated mutual fund under Part XI;

“regulations”, unless the context otherwise indicates, means regulations made under this Act;

“regulatory instrument” means a by-law, rule or other similar instrument of a marketplace or self-regulatory organisation;

“representative” means, when used in relation to a registered company, an individual who acts for or on behalf of the registered company in the carrying out of securities business and who is a director, officer, partner or employee of the registered company who performs any such securities business for the registered company;

“reserve fund” means the fund established by the Commission under section 18;

“resident” means a person declared as a resident in accordance with regulation 39(2) of the Exchange Control Regulations;

“sale” includes a sale or disposition of a security for valuable consideration, whether the terms of payment are on margin, instalment, or otherwise, but does not include a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a bona fide debt;

Schedule I. “securities” includes, but is not limited to, the assets, rights or interests set out in Part I of Schedule I;

“securities activity” means—

Schedule I. (a) an activity of a kind specified in Part 2 of Schedule I or one that falls within a class of activities so specified; and

Schedule I. (b) not excluded by Part 3 of Schedule I;

“securities business” means engaging in one or more securities activities in the course of business and includes entering or offering to enter into an agreement the making or performance of which by either party constitutes a securities activity;

“securities exchange” means a marketplace, other than a quotation and trade reporting system or ATS, that maintains or provides—

(a) physical facilities where persons may meet to execute trades in securities; or

(b) a mechanical, electronic or other system that facilitates execution of trades in securities by matching offers of purchase and sale;

“self-regulatory organisation” means a person, other than a marketplace, that sets standards for or monitors the conduct of its members or participants relating to trading in or advising on securities;

“selling security holder” means a control block holder on whose behalf a distribution is being made;

“senior officer” means an officer of an issuer whose responsibilities routinely provide the officer with access to inside information about the issuer;

“significant security holder” means, in relation to a person, a security holder that—

(a) owns or controls 10% or more of any class of the person's voting securities, excluding any securities that the security holder, if a registrant, holds in the course of a public distribution; or

- (b) is able to affect materially the control of the person, whether alone or by acting in concert with another person;

“solicit” means issuing a notice, circular, letter or advertisement in any media that—

- (a) invites a person to enter into an agreement for, or with a view to subscribing for, or otherwise acquiring or underwriting, any securities; or
- (b) contains information reasonably calculated to lead, directly or indirectly, to a person entering into such an agreement.

“spouse” means a wife, husband, a person with whom a person is in a common law union as defined in section 148(D) of the Supreme Court of Judicature Act or is otherwise engaged in a marriage-like relationship;

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“subsidiary” means an issuer that is controlled in accordance with section 5 by another issuer;

“subscriber”, when used in relation to an ATS, means any person that has entered into a contractual agreement with an ATS to access such ATS for the purpose of effecting transactions in securities or submitting, disseminating or displaying orders on such ATS, including a client, member user or participant in the ATS;

“take-over bid” means an offer or attempt to take control of an issuer by buying its shares, to the extent or in the manner prescribed;

“trade” includes—

- (a) any purchase or sale of a security for valuable consideration;
- (b) entering into an option contract, futures contract, or contract for differences or acquiring or disposing of such contract; or
- (c) any participation as a registrant or agent in any transaction in a security;

“underwriter” means a person that—

- (a) as principal, agrees to purchase a security for the purpose of a distribution;
- (b) as agent, offers for sale or sells a security in connection with a distribution; or

- (c) participates directly or indirectly in a distribution described in paragraph (a) or (b) for valuable consideration;

but does not include—

- (a) a person whose interest in the transaction is limited to receiving the usual and customary distribution or sales commission payable by an underwriter or issuer; or
- (b) an issuer that purchases shares of its own issue and resells them; and

Ownership and control of securities.

4.—(1) A person owns a security if the security is beneficially owned by the person.

(2) A person controls a security if—

- (a) the person, directly or indirectly, directs the trading or voting of the security;
- (b) the security is owned by an affiliate of the person; or
- (c) the security is owned by an issuer that the person controls in accordance with section 5.

Control of an issuer.

5.—(1) A person controls an issuer if the person, acting either alone or jointly or in concert with other persons, has the power to direct the business and affairs of the issuer.

(2) If the person or persons own or control more than fifty per cent of the outstanding securities carrying voting rights in an issuer, such person or persons are deemed to control the issuer.

(3) If the person or persons own or control more than thirty per cent of the outstanding securities carrying voting rights in an issuer, such person or persons are presumed to control the issuer.

(4) The power under sub-section (1) to direct the business and affairs of an issuer may arise through the ownership or control over securities of the issuer, or by virtue of any agreement, arrangement, commitment or understanding with any person or persons.

Determination of “fit and proper”.

6.—(1) In determining whether a person is a fit and proper person for the purposes of any provision of this Act, the Commission shall make such investigation and inquiries as it deems necessary and shall, in addition to any other matter that the Commission may consider relevant, have regard to—

-
- (a) in relation to a natural person, the following information regarding that person—
- (i) the financial status or solvency;
 - (ii) the educational or other qualifications or experience, having regard to the nature of the functions that, if the application is granted, the person will perform;
 - (iii) the ability to carry on the regulated activity competently, honestly and fairly; and
 - (iv) the reputation, character, reliability and financial integrity; or
- (b) in relation to a company, the following information regarding the company and any director, significant holder, chief executive officer and any other officer of the company—
- (i) the financial status or solvency;
 - (ii) the educational or other qualifications or experience, having regard to the nature of the functions that, if the application is granted, the person will perform;
 - (iii) the ability to carry on the regulated activity competently, honestly and fairly; and
 - (iv) the reputation, character, reliability and financial integrity.

(2) Without limiting the generality of sub-section (1), in determining whether a person is a fit and proper person for the purposes of any provision of this Act, the Commission may take into account—

- (a) any decision made in respect of the person by the Commission, any domestic regulatory authority or any overseas regulatory authority;
- (b) any information in the possession of the Commission, whether provided by the person or not, relating to —
 - (i) the person;
 - (ii) any other person who is or is to be employed by or associated with the person for the purposes of the

regulated activity for which the registration is granted or the application is made;

- (iii) any other person who will be acting for or on behalf of the person in relation to the regulated activity; and
- (iv) if the person is a company in a group of companies—
 - (A) any other company in the same group of companies; or
 - (B) any significant security holder or officer of any other company in the group of companies;
- (c) if the determination relates to a registration under section 24 or section 36(1), or an application for such registration, whether the person has established effective internal control procedures and risk management systems to ensure compliance with all applicable regulatory requirements; and
- (d) the state of affairs of any other business that the person carries on or proposes to carry on.

(3) For the purposes of this section, “regulated activity” means the activity carried on or proposed to be carried on by the person that requires registration, recognition of other approval by the Commission under this Act.

Carrying on
business in or
from within
Belize.

7.—(1) A person carries on securities business “in or from within Belize” if such person—

- (a) carries on securities business in any jurisdiction and is incorporated, established, formed, governed, organised or registered under any law in Belize;
- (b) carries on securities business from a place of business maintained by or on behalf of such person in Belize;
- (c) solicits a person in Belize for the purposes of offering to provide a service that constitutes securities business; or
- (d) engages in an activity, the doing of which constitutes the carrying on by such person of securities business in or from within Belize under an order made under sub-section (2).

(2) The Commission may make an order specifying the circumstances in which a person is to be regarded as—

- (a) carrying on securities business in or from within Belize; or
 - (b) not carrying on securities business in or from within Belize.
- (3) An order under sub-section (2) may be made so as to apply–
- (a) generally to all securities activities;
 - (b) in relation to a specified category of securities activity; or
 - (c) in relation to a particular securities activity.
- (4) An order made under sub-section (2) may be made subject to conditions.
- (5) For the purpose of this section, a person maintains a place of business if the person carries on securities business from premises the person occupies, at which the person employs staff and pays salaries and other expenses in connection with that business.

PART II

The Commission

Sub-Part I – Functions and Powers

9. Nothing in this Act shall limit the authorities, powers, functions and obligations of the Commission as set out in the Financial Services Commission Act, or any other legislation for which the Commission is responsible.

Authority of
Commission
under other laws.
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10.–(1) For purposes of this Act, and in addition to the functions entrusted to it by or in accordance with the Financial Services Commission Act, the functions of the Commission are to–

Functions of the
Commission.

- (a) advise the Minister on all matters relating to the capital markets and its participants;
- (b) maintain surveillance over the capital markets and ensure orderly, fair and equitable trading in securities;
- (c) foster timely, accurate, fair and efficient disclosure of information to the investing public and the capital markets;
- (d) protect the integrity of the capital markets against any abuses arising from financial crime, market misconduct and other unfair and improper practices;

- (e) promote an understanding by the public of the capital markets and its participants, and the benefits, risks, and liabilities associated with investing;
- (f) create and promote conditions that facilitate the orderly development of the capital markets;
- (g) cooperate with and provide assistance to regulatory authorities in Belize and elsewhere; and
- (h) perform any other function conferred or imposed on it by this Act or any other law.

(2) In the exercise of its functions the Commission shall satisfy itself that the provisions of any other Act or regulation administered by the Commission are being complied with.

Powers of the Commission.

11. For the purpose of discharging its functions under this Act, the Commission has power to—

- (a) regulate and govern all aspects of the capital markets and its participants including that which concerns market integrity or investor protection;
- (b) deal with such matters as may be referred to it by any person from time to time;
- (c) authorize and regulate regulated persons and other market participants with a view to maintaining proper standards of conduct and professionalism in the capital markets;
- (d) monitor the solvency of regulated persons and take measures to protect the interests of clients, investors and others if the solvency of any such regulated person is in doubt;
- (e) regulate issuers offering their securities to the public, including public issuers and mutual funds;
- (f) adopt measures to supervise and minimise any conflict of interests that may arise in the case of market participants;
- (g) regulate issuer bids and take-over bids;
- (h) take enforcement action against any person for failing to comply with this Act;
- (i) cooperate with and provide assistance to regulatory authorities in Belize and elsewhere;
- (j) make regulations;
- (k) publish notices, guidelines, bulletins, and policies describing the views of the Commission regarding the interpretation, application, or enforcement of this Act;

- (l) make any order which the Commission may make under this Act; and
- (m) do all things, and take all actions, which may be necessary or expedient or are incidental to the discharge of any function or power given to the Commission.

12. For purposes of this Act, the Director General is responsible for the execution of the policy of the Commission and the management of its affairs, subject to the direction of the Commission.

Responsibility of
Director General.

13.—(1) The Commission may, by written Order, delegate any responsibility, power or function conferred on it by this Act, except the power to make regulations and to hear appeals within its jurisdiction, to the Director General, any other officer of the Commission, or any panel established under section 22.

Delegation by
the Commission.

(2) The Director General may, by written order, sub-delegate to any officer of the Commission any responsibility, power or function delegated to the Director General by the Commission under sub-section (1), unless the Commission delegation order specifically states that no sub-delegation is permitted.

14.—(1) For the purpose of performing its functions under this Act, meetings of the Commission shall be in accordance with section 13 of the Financial Services Commission Act.

Meetings.
CAP. 272.

- (2) The Commission may establish codes—
- (a) respecting the calling of and conduct of business at meetings of the Commission;
 - (b) respecting any other matter, whether or not required by this Act, relating to the organisation, procedure, administration or practice of the Commission.

Sub-Part II – Financial Matters

15.—(1) In addition to the revenues of the Commission received under and in pursuance of the Financial Services Commission Act, the revenues of the Commission for purposes of this Act shall consist of—

Revenues.
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- (a) all sums that may be provided from time to time by the National Assembly;
- (b) all fees, fines and other sums from time to time paid to or received by the Commission from its operations under this Act;

- (c) all sums from time to time borrowed by or advanced to the Commission under this Part; and
- (d) all other sums or other property as from time to time may in any manner be lawfully paid to or vested in the Commission in respect of any matter incidental to its powers, functions or duties.

General Fund. **16.**—(1) The revenues of the Commission set forth under section 16 shall not form part of the Consolidated Revenue Fund and shall—

- CAP. 272. (a) be placed into and credited to the General Fund of the Commission; and
- (b) be applied to carrying out the powers conferred and duties imposed on the Commission under this Act.

(2) All expenses incurred or payable by the Commission pursuant to this Act shall be paid out of the General Fund and all disbursements from the General Fund shall be in accordance with accounting procedures that may be made by the Commission from time to time.

Investment. **17.**—(1) The Commission may from time to time invest any of its funds not immediately required to be expended in meeting its obligations or discharging its functions under this Act in securities issued by the Government of Belize and bank deposits locally.

(2) All interest from such investments shall be paid to the credit of the General Fund.

Reserve fund.
CAP. 15. **18.**—(1) Subject to the Finance and Audit (Reform) Act, there shall be established a special fund by the Commission to be called the Reserve Fund.

(2) The Commission may determine the management of the Reserve Fund, the sums to be carried from time to time to the credit of that fund, and the application of that fund.

(3) No part of the reserve fund shall be applied otherwise than for the purposes of the Commission.

Sub-Part IV – General

19.–(1) For the purpose of performing its functions under this Act, the Commission may appoint, hire or retain, on such terms and conditions as it may approve, an expert to assist it in any manner that it considers necessary.

Appointment of experts.

(2) If the Commission appoints an expert to advise it on the development of specific policies, regulations or other regulatory proposals of the Commission, the expert shall formulate and report the expert's views to the Commission in writing and the Commission may, if it thinks fit, make the report available to the public.

20.–(1) No civil or criminal liability shall attach to the Commission, a Member, the Director General, an employee or an agent of the Commission for an act done in good faith in the performance of a duty or in the exercise of a function or power of the Commission under this Act.

Immunity and indemnification.

(2) The Commission may indemnify a Member, the Director General, an employee or an agent of the Commission against the cost of defending his actions while so discharging his functions.

21.–(1) The Commission shall promptly give the Minister any information about its activities, operations and financial affairs as the Minister requests.

Powers of Minister.

(2) The Minister may designate a person to examine any financial or accounting procedures, activities or practices of the Commission and the person designated shall report the results of the examination to the Minister.

(3) The Members and employees of the Commission shall give the person designated by the Minister under sub-section (2) all the assistance and co-operation necessary to enable that person to complete the examination.

22.–(1) The Commission may establish one or more panels and, in matters referred to a panel by the Commission, the panel has the powers of the Commission delegated to it by Commission in accordance with section 13.

Panels of the Commission.

(2) A panel shall be composed of three or more persons appointed by the Commission, one or more of whom may be a Member.

(3) The Commission may appoint one or more qualified person to a panel who is not a Member.

(4) The Commission may–

(a) terminate appointments to a panel; and

(b) except for a panel that has commenced a hearing, fill a vacancy on a panel.

(5) The Commission may refer a matter that is—

(a) before the Commission to a panel; and

(b) before a panel to the Commission or to another panel.

(6) An approved settlement agreement in a matter involving disciplinary proceedings before a panel shall not be subject to appeal.

Advisory committees.

23.—(1) The Commission may establish one or more committees for the purpose of providing advice to the Commission on matters related to any part of the securities business or securities markets in Belize.

(2) An advisory committee shall consist of the number of qualified persons as the Commission sees fit to appoint and shall be chaired by a representative of the Commission.

PART III

Regulation of Marketplaces, Self-regulatory Organisations and Ancillary Facilities

Registration.

24.—(1) No person shall carry on business as a marketplace in or from within Belize unless registered under this Part.

(2) If the Commission considers it in the public interest to do so, the Commission may require a self-regulatory organisation or ancillary facility to register under this Part and may prescribe the requirements applicable to such persons.

(3) An application for registration under this Part shall be made in the form and accompanied by the information, documents and fee prescribed.

(4) An applicant may be required to provide supplementary information or clarification of the information initially provided in an application.

(5) On application, the Commission may register the person if the Commission is satisfied that—

(a) the applicant intends, if registered, to carry on the business and activities proposed;

(b) the applicant satisfies the requirements of this Act and the regulations with respect to the application;

- (c) the applicant will, on registration—
 - (i) have capital resources at least equal to the prescribed minimum amount that it is required to maintain; and
 - (ii) otherwise be in compliance with this Act and the regulations applicable to it;
- (d) the applicant, its directors and officers, and any person that is a significant security holder of the applicant is a fit and proper person;
- (e) the organisation, management and resources of the applicant are, or on the issuance of the registration will be, adequate for carrying on the business and activities proposed;
- (f) issuing the registration is not against the public interest; and
- (g) every person having a share or legal or equitable interest in the applicant, is a fit and proper person.

(6) If the Commission refuses to grant a registration under this Part, the applicant shall be provided with notice in writing of the reasons for the refusal and the applicant may appeal that decision in accordance with section 150.

25.—(1) The Commission may grant or renew a registration under this Part subject to such terms, conditions or restrictions as it deems fit.

Conditions and restrictions on registration.

(2) The Commission may, at any time, by notice in writing to the registered person, vary any term, condition or restriction or impose any term, condition or restriction as it deems fit.

26. A person granted registration under this Part shall renew that registration annually in the manner and subject to the payment of fees prescribed.

Renewal.

27. If a person registered under this Part adopts, amends or repeals a regulatory instrument, the adoption, amendment or repeal is not effective until the Commission approves it.

Approval of regulatory instruments.

28.—(1) If the Commission considers it in the public interest to do so, the Commission may make a decision about a person registered under this Part, including a decision about—

Commission powers to supervise.

- (a) the person's regulatory instruments;
- (b) the person's procedures or practices;
- (c) the business or regulatory services provided by the person;

- (d) trading or quotation activity on a marketplace;
- (e) a security or class of securities traded or quoted on a marketplace; or
- (f) an issuer whose securities are traded or quoted on a marketplace.

(2) No registered securities exchange may admit any person to membership on the securities exchange unless that person is registered under the Act.

(3) No registered securities exchange may permit a person to become a security holder of the securities exchange unless the Commission has approved that person.

(4) The Commission shall have the authority to hear appeals from any ruling, decision or order of a person registered under this Part and may establish its own procedures for such proceedings.

Delegation to securities exchange or self-regulatory organisation.

29.—(1) The Commission may, by written order, delegate to a registered securities exchange or registered self-regulatory organisation any of the powers conferred on it by this Act, other than the power to make regulations and to hear appeals within its jurisdiction.

(2) Without limiting sub-section (1), the Commission may delegate the authority to adopt and enforce rules for the conduct of the members of the registered securities exchange or registered self-regulatory organisation and the responsibility to regulate their members' compliance with the provisions of those rules and of this Act.

(3) Any order of delegation issued under this section shall be published by the Commission.

(4) The Commission may withdraw, add or vary any powers delegated under this section as it deems necessary.

(5) Notwithstanding any delegation under this section, the Commission shall continue to have full authority to regulate directly the activities of the registered securities exchange or registered self-regulatory organisation and any of its members.

Voluntary surrender.

30.—(1) If a person registered under this Part applies to the Commission to surrender its registration, the Commission may accept the surrender unless the Commission considers it prejudicial to the public interest to do so.

(2) On receiving an application under sub-section (1), the Commission may, without providing an opportunity to be heard, suspend or impose any

condition or restriction on the registration that the Commission deems appropriate.

31. Every person registered under this Part shall appoint an approved auditor who shall make such examinations and conduct such reviews as required by this Act. Auditors and audits.

32. Within the prescribed periods, a person registered under this Part shall deliver to the Commission— Reporting to the Commission.

- (a) annual financial statements in respect of the person's financial year prepared in accordance with generally accepted accounting principles and certified as prescribed, along with the report of the auditor;
- (b) interim financial statements prepared in accordance with generally accepted accounting principles and certified as prescribed; and
- (c) all reports or other information and documents as the Commission may prescribe.

33.—(1) An applicant for registration under this Part and a person registered under this Part shall provide the Commission notice in writing of the occurrence of any prescribed event within the time periods prescribed. Notices.

(2) Upon receipt of a notice under sub-section (1), the Commission may review the person's application or registration and may take any action that the Commission deems appropriate.

34.—(1) A person shall not establish or maintain, or assist in establishing or maintaining, a marketplace in or from within Belize or conduct business on or with a marketplace in or from within Belize other than one registered in accordance with this Act. Offences.

(2) Any person who contravenes sub-section (1) commits an offence and is liable on indictment in accordance with section 154.

PART IV

Registration of Persons Carrying on Securities Business

35.—(1) A person shall not carry on any securities business in or from within Belize, or purport to do so, unless that person is registered with the Commission to carry on that business. Registration requirement.

(2) Sub-section (1) does not apply to any person excluded under Part 4 of Schedule I or exempt from registration by regulation or Commission order, in such circumstances and to such extent as may be specified. Schedule I.

(3) For the purposes of sub-section (1), a person is considered to be carrying on a securities business if that person—

- (a) uses one or more words which connote securities business, either in English or in any other language, in the description or title under which the person carries on business;
- (b) makes a representation in a document or in any other manner that the person is carrying on securities business; or
- (c) otherwise holds itself out as carrying on securities business.

(4) The categories of registration and the applicable terms, conditions and requirements for initial registration and registration on an on-going basis, including for any other services provided, shall be as prescribed.

(5) The terms, conditions and requirements for each prescribed category may, without limitation, impose provisions that differ by—

- (a) the type of securities activity carried on or proposed to be carried on;
- (b) the securities or class of securities in which the person carries on or proposes to carry on a securities activity;
- (c) the characteristics of the clients of the person; or
- (d) such other basis as is prescribed.

(6) An application for registration under this Part shall be made in the form and accompanied by the information, documents and fee prescribed.

(7) An applicant may be required to provide supplementary information or clarification of the information initially provided in an application

Registration by
the Commission

36.—(1) On application, the Commission may register a person as a registered company if the Commission is satisfied that—

- (a) the applicant is incorporated under the Companies Act, the International Business Companies Act, the Limited Liability Partnership Act, the International Limited Liability Companies Act or under any enactment amending or substituting the said Acts or such other statute as may be prescribed;
- (b) the applicant intends, if registered, to carry on the securities business applied for;

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- (c) the applicant satisfies the requirements of this Act and the regulations with respect to the application;
 - (d) the applicant will, on registration—
 - (i) have capital resources at least equal to the prescribed minimum amount that it is required to maintain; and
 - (ii) otherwise be in compliance with this Act and the regulations applicable to it;
 - (e) the applicant, its directors and officers, and any person that is a significant security holder of the applicant is a fit and proper person ;
 - (f) the organisation, management and financial resources of the applicant are, or on registration will be, adequate for the carrying on of the relevant securities business;
 - (g) the registration is not against the public interest; and
 - (h) every person having a share or legal or equitable interest in the applicant, is a fit and proper person.
- (2) The Commission shall issue to the applicant a written notice of registration.
- (3) A registration—
- (a) shall be issued in one or more of the categories prescribed and shall state the categories and sub-categories of securities business that the registered company is authorised to carry on; and
 - (b) does not authorise the holder to carry on any category or sub- category of securities business that is not specified on the registration.

37.—(1) No individual shall act as a representative of a registered company in respect of any securities business or hold himself or herself out as doing so unless—

- (a) that person, having met the prescribed qualifications to be a representative of a registered company for a particular class or category of securities business, has been so registered; and
- (b) when so acting, the individual is doing so for the registered company that sponsored that individual's application for, or for renewal of, registration as a representative.

Individual
registration.

(2) The requirement to register set out in sub-section (1) does not apply to—

- (a) an employee performing functions which are solely administrative in nature, including technology support, facilities support, human resources management and clerical support; or
- (b) any prescribed person.

(3) The termination of the employment of registered representative with a registered company shall be notified to the Commission immediately and operate as a suspension of the registration of that individual until notice in writing has been received by the Commission from another registered company of the employment of the individual and the reinstatement of the registration has been approved by the Commission.

Terms and conditions, effective period, refusals.

38.—(1) The Commission may grant or renew a registration under this Part subject to such terms, conditions or restrictions as it thinks fit.

(2) The Commission may, at any time, by notice in writing to the registered company or registered representative, vary any term, condition or restriction or impose any term, condition or restriction as it may think fit.

(3) If the Commission refuses to grant a registration under this Part, the applicant shall be provided with notice in writing of the reasons for the refusal and the applicant may appeal that decision in accordance with section 152.

Notices.

39.—(1) An applicant for registration and a registrant shall provide the Commission notice in writing of the occurrence of any prescribed event within the time periods prescribed.

(2) Upon receipt of a notice under sub-section (1), the Commission may review the person's application or registration and may take any action that the Commission deems appropriate

Renewal.

40. A person granted registration under this Part shall renew that registration annually in the manner and subject to the payment of fees prescribed.

Surrender of registration.

41.—(1) On application by a registrant, the Commission may accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant if the Commission is satisfied that the surrender of the registration would not be prejudicial to the public interest.

(2) On receiving an application under sub-section (1), the Commission may, without providing an opportunity to be heard, suspend or impose any

condition or restriction on the registration that the Commission deems appropriate.

42.—(1) If a registrant is convicted in Belize or elsewhere of a criminal offence involving fraud or dishonesty, such person shall cease to be registered under this Act with effect from the date of the conviction.

Effect of
criminal
convictions.

(2) The Commission may revoke, suspend or impose any other remedial action if a person registered under this Part is convicted of any criminal offence, other than fraud or dishonesty, under the laws of Belize or is convicted of any like criminal offence under any foreign law in any foreign jurisdiction.

(3) The Commission shall review and may revoke or suspend the registration of a person or take other remedial action if a registrant has been the subject of any disciplinary action by any domestic regulatory authority or overseas regulatory authority.

(4) A person who is registered under this Part shall, without delay, inform the Commission in writing if the person—

- (a) is convicted of any criminal offence in or under the laws of Belize or any other jurisdiction; or
- (b) has been the subject of any disciplinary action by any domestic regulatory authority or overseas regulatory authority.

43.—(1) A registered company shall not commence voluntary winding-up without the prior approval of the Commission.

Winding-up.

(2) If proceedings for an involuntary winding-up are commenced against a registered company, the registered company, its directors or its officers shall immediately notify the Commission in writing.

(3) When a registered company has passed a resolution for voluntary winding-up, it shall in addition to notice required under section 158 of the Companies Act, give notice of the resolution in writing to the Commission.

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(4) Where a registered company is being wound-up voluntarily or involuntarily, the Commission may apply to the court for—

- (a) the determination of any question or issue which arises from the winding-up;
- (b) the exercise of any power or the issue of any order which the court may exercise or issue under the Companies Act when a company is being wound-up by court order or subject to the supervision of the court.

- Offences.
- 44.**—(1) It is an offence—
- (a) for a person to carry on securities business or purport to do so without having been registered to do so with the Commission under this Part; and
 - (b) for a person to make a misrepresentation in any filing, application, notification, or other document required to be filed, delivered or notified to the Commission under this Part.

(2) A person that commits an offence under sub-section (1) is liable on indictment in accordance with section 154.

PART V

Conduct of Securities Business

- Duties to clients.
- 45.** In conducting their business activities, every registered company and each of its officers, directors, partners, representatives, employees and agents shall—

- (a) act with integrity;
- (b) act honestly, fairly and good faith in the best interests of its clients; and;
- (c) act with due skill, care and diligence.

- Auditor.
- 46.** Every registered company shall appoint an approved auditor who shall make such examinations and conduct such reviews as required by this Act.

- Reporting to the Commission.
- 47.** Within the prescribed periods, a registered company shall deliver to the Commission—

- (a) annual financial statements in respect of the company's financial year prepared in accordance with generally accepted accounting principles and certified as prescribed along with the report of the auditor;
- (b) interim financial statements prepared in accordance with generally accepted accounting principles and certified as prescribed; and
- (c) all other reports or information as the Commission may prescribe

- Responsibility for actions of persons acting on behalf of registered company.
- 48.** A registered company shall be responsible for all acts and omissions of each partner, director, officer, representative, employee and agent acting on its behalf.

49.—(1) A registered company shall—

- (a) make and keep such information and documents in such form and for such periods —
 - (i) as are reasonably necessary in the conduct of its business and operations, including to document compliance with all requirements imposed by statute or regulation on the registered company; and
 - (ii) as may be prescribed; and
- (b) file with or deliver to the Commission any prescribed document or report.

Keeping of records.

(2) The Commission may require a registered company to disseminate to the public any report filed with the Commission under sub-section (1)(b).

(3) A registered company shall deliver to the Commission a copy of, or an extract from, any information or document kept under this section upon receipt of a written request from the Commission.

50.—(1) A registered company may not, without the prior approval of the Commission—

Prohibition.

- (a) become a significant security holder of any issuer that is not a registered company, other than in the usual course of the business of trading in securities;
- (b) acquire any shares, debentures or other interest in any other registered company, except where the transaction involves acquiring all the voting securities of the other registered company, or
- (c) permit anyone to become a significant security holder of the registered company.

(2) Failure to comply with this section shall render the registration of the registered company revocable by the Commission.

51.—(1) It is an offence for a registered company to carry on securities business or purport to do so otherwise than in accordance with this Part.

Offence.

(2) A person that commits an offence under sub-section (1) is liable on indictment in accordance with section 154.

PART VI

Distributions and Prospectuses

Prospectus required.

52. Subject to section 60, no person shall trade or solicit a trade in a security on the person's own account or on behalf of any other person where the trade would be a distribution of the security, unless a prospectus and the requisite fee has been filed with the Commission and the Commission has issued a receipt for the prospectus.

Form and content of prospectus – full disclosure.

53.–(1) A prospectus to be submitted to the Commission shall–

- (a) be in writing and be dated;
- (b) provide full and accurate disclosure of all material information, including all information investors would reasonably require and expect to find for the purpose of making an informed investment decision;
- (c) contain a summary statement of investors' rights of action as provided in Part XVI of this Act;
- (d) be in the form, and contain the information, statements, certificates and other matters prescribed; and
- (e) have attached to it such documents as may be prescribed.

(2) Any documents attached to the prospectus referred to in sub-section (1) shall comply with the prescribed requirements.

Advertising.

54. A person shall not solicit the purchase or sale of a security by way of advertisement in connection with a distribution of a security, unless a receipt has been issued by the Commission for the prospectus offering the security and, the advertisement–

- (a) identifies the security being distributed;
- (b) states that a receipt has been issued;
- (c) identifies persons from whom the prospectus may be obtained and through whom orders may be executed; and
- (d) contains all other prescribed information.

Delivery of prospectus.

55.–(1) An issuer, selling security holder or registrant who, during the distribution period, receives an expression of interest, order or subscription for a security offered in a distribution, shall send to such person a prospectus, or amended prospectus, as the case may be.

(2) The documents required under sub-section (1) shall be sent within two business days after the expression of interest, order or subscription is received.

(3) An issuer or selling security holder that files a prospectus with the Commission under this Part shall make copies of those documents available without charge upon request and shall furnish to a registrant a reasonable number of copies of the documents.

56.—(1) If, during the distribution period, there is a change in any material information the issuer shall file with the Commission an amended prospectus containing the particulars of the material information.

Amendments.

(2) Every prospectus thereafter sent or given to any person shall include the amended prospectus.

(3) If an amended prospectus is required to be filed with the Commission under sub-section (1), the distribution of securities under the prospectus shall cease until such time as the Commission has issued a receipt for the amended prospectus.

(4) Sub-section (3) does not apply to a mutual fund in continuous distribution.

(5) An issuer, selling security holder or registrant who sent a prospectus to a purchaser under section 55 shall send to each purchaser an amended prospectus immediately after a receipt is issued by the Commission for the amended prospectus.

57. A prospectus or amended prospectus filed with the Commission shall contain certificates in the prescribed form signed by the prescribed persons.

Certificates.

58. The Commission shall not issue a receipt for a prospectus that includes an expert's report unless the prescribed requirements have been met regarding the expert's consent.

Expert's consent.

59.—(1) Subject to sub-sections (2), (3) and (4), the Commission shall issue a receipt for a prospectus or an amendment to a prospectus within a reasonable time after the date of the filing of the prospectus.

Issue of receipt and reasons for refusal.

(2) The Commission shall not issue a receipt for a prospectus or an amendment to a prospectus if it appears to the Commission that—

- (a) the prospectus, amendment to the prospectus or any document required to be filed with it –
 - (i) does not comply in any substantial respect with any of the requirements of this Act or regulations;
 - (ii) contains any statement, promise, estimate or other information that is misleading, false or deceptive; or
 - (iii) contains a misrepresentation;

- (b) the aggregate of the proceeds from the sale of securities under the distribution that are to be paid to the treasury of the issuer and the other resources of the issuer, is insufficient to accomplish the purposes of the issue stated in the prospectus; or
- (c) approving the prospectus or amendment to the prospectus would be contrary to the public interest.

(3) If the Commission refuses to issue a receipt for a prospectus or an amended prospectus, the Commission shall give the issuer or selling security holder notice in writing of the reasons for the refusal and that person may appeal that decision in accordance with section 152.

(4) The Commission may, in connection with the issue of a receipt for a prospectus or an amended prospectus, impose any condition that in the opinion of the Commission is necessary for the protection of investors.

Exempt
distributions.

60.—(1) The requirement to file a prospectus under section 52 does not apply to a distribution—

- (a) of securities issued or guaranteed by or on behalf of the Government of Belize;
- (b) of securities issued or guaranteed by a bank or financial institution duly licensed by the Central Bank;
- (c) of securities issued by a private company;
- (d) of securities issued by a mutual fund that is a private fund or recognized professional fund;
- (e) by an issuer of its own securities that are distributed to holders of its securities as a dividend;
- (f) by an issuer of a security to holders of its securities incidental to a reorganisation or winding-up or to a distribution of its assets for the purpose of winding-up its affairs;
- (g) by an issuer of a security that is exchanged by or for the account of the issuer with another issuer or the security holders of another issuer on—
 - (i) a statutory amalgamation or arrangement; or
 - (ii) a statutory procedure by which one issuer takes title to the assets of another issuer that loses its existence

by operation of law or by which the existing issuers merge into a new issuer;

- (h) by an issuer pursuant to a prescribed take-over bid;
- (i) if the Commission, being satisfied that to do so would not be prejudicial to the public interest, makes an order exempting the distribution and such order may be subject to any condition the Commission considers appropriate;
- (j) of shares issued by a credit union registered under the Credit Unions Act to its members; or
- (k) in such other prescribed circumstances.

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61.—(1) A distribution of securities issued, or to be issued, by an issuer that is incorporated in or established under the laws of Belize, that is made outside Belize, shall be made in accordance with the laws or regulations of the country in which the distribution is made.

Distributions made outside Belize.

(2) For the purposes of sub-section (1), “laws” includes any subordinate legislation and “regulations” includes any applicable listing rules or any rules issued by a marketplace to which the issuer is subject.

62. The first trade in securities that were previously acquired pursuant to a prescribed exemption, other than a further trade exempted by the Act, is deemed to be a distribution, unless the prescribed conditions are met.

Resale restrictions.

63.—(1) No distribution of a security to which section 52 applies shall continue after the lapse date unless a new prospectus that complies with this Part is filed and the Commission issues a receipt for the document.

Lapse date.

(2) For the purposes of this section, “lapse date” in relation to a distribution under sub-section (1) means the date that is 12 months after the date the Commission issued the receipt for the prospectus or such longer period as may be prescribed.

(3) Notwithstanding sub-section (2), the Commission may order that the period specified in sub-section (1) shall be reduced to not less than three months.

64. If a distribution is carried out other than in compliance with this Part, the issuer and every person who is knowingly a party to the distribution commits an offence and is liable on indictment in accordance with section 154.

Offence.

PART VII

Continuing Obligations of Public Issuers

General standards – disclosure to the public, fair treatment and director duties.

65.–(1) A public issuer shall disclose to the public the prescribed information about the business operations and securities of the issuer.

(2) A public issuer shall disclose to the public, as soon as practicable, any information relating to the public issuer, including information on any significant new developments in the issuer's business or affairs which is not public knowledge, that–

- (a) is necessary to enable the public to assess the position of the public issuer;
- (b) is necessary to avoid the establishment of a false market in its securities;
- (c) might reasonably be expected materially to affect market activity in and the price of its securities; or
- (d) may significantly affect its ability to meet its commitments.

(3) Information disclosed to the public by a public issuer shall–

- (a) include all material information;
- (b) not contain a misrepresentation; and
- (c) present a balanced view of the issuer's activities.

(4) The Commission may prescribe the method to be used by the public issuer to disclose information to the public.

(5) A public issuer shall treat its security holders in a fair and equitable manner.

(6) Every director and officer of a public issuer, in exercising their powers and discharging their duties, shall–

- (a) act honestly and in good faith with a view to the best interests of the issuer; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances

Website requirements for public issuer.

66.–(1) A public issuer is required to maintain a website containing the following information relating to the issuer–

- (a) its audited financial statements;
- (b) its interim financial statements;
- (c) its annual reports;
- (d) any material change notices required under section 48;
- (e) all insider reports delivered to the issuer under Part XV;
and
- (f) any other information prescribed.

(2) During the course of any distribution by an issuer, its website shall also contain the prospectus for the distribution and any amendment to that prospectus.

(3) The information on the website shall be kept up to date and any new document required to be posted under this section shall be posted promptly upon the document being available to the public issuer.

(4) Notwithstanding sub-section (1), no information is required to remain posted on a public issuer's website that relates to a financial period that ended more than five years earlier.

67.—(1) Subject to sub-section (2), if a material change occurs in the affairs of a public issuer, the issuer shall—

Timely
disclosure of
material changes.

- (a) immediately, and in any event within one day of the material change, issue a press release that discloses the nature and substance of the material change;
- (b) within one day of the press release under paragraph (a), post the notice on the public issuer's website; and
- (c) within five days of the material change, file with the Commission a report in the prescribed form.

(2) A public issuer that is of the opinion that the disclosure required by sub-section (1) may be unduly detrimental to its interests may, instead of complying with sub-section (1), immediately advise the Commission in writing of the material change and the reasons why the issuer is of the opinion that public disclosure should be withheld.

(3) Upon review of the information filed under sub-section (2) and after giving the public issuer an opportunity to be heard, the Commission may—

- (a) require disclosure to the public of the material change in accordance with sub-section (1); or
- (b) permit non-disclosure of the material change by the public issuer provided non-disclosure does not continue beyond the time set out in sub-section (4).

(4) Notwithstanding any permitted non-disclosure under this section, the public issuer shall disclose such material change no later than the thirtieth day following the date on which the public issuer would have been required to issue a press release in respect of the material change under sub-section (1).

(5) Notwithstanding any permitted non-disclosure under this section, the public issuer shall promptly disclose the material change in the manner referred to in sub-section (1) upon the public issuer becoming aware, or having reasonable grounds to believe, that persons are purchasing or selling securities of the issuer with knowledge of the undisclosed material change.

Auditors and audits.

68. Every public issuer shall appoint an approved auditor who shall make an examination, in accordance with generally accepted auditing standards, of the annual financial statements of the person and shall provide the Commission with the prescribed reports on the financial affairs of the public issuer.

Financial statements – annual audited.

69.–(1) Every public issuer shall, within 120 days after the end of the issuer's financial year or such other prescribed period, file with the Commission, annual financial statements prepared in accordance with generally accepted accounting principles and certified as prescribed.

(2) Every financial statement referred to in sub-section (1) shall be accompanied by a report of the auditor of the public issuer.

Financial statements – interim statements.

70.–(1) Subject to section 191, every public issuer shall file with the Commission interim financial statements prepared in accordance with generally accepted accounting standards and certified as prescribed, within 60 days or such other prescribed period after the end of the interim financial period to which it relates.

(2) Interim financial statements prepared and filed under sub-section (1) are not required to include an auditor's report, but if an auditor has been associated with that statement, the auditor's report or comments on the unaudited financial information shall accompany the financial statements.

Annual reports and other information.

71. Every public issuer shall, within the prescribed period, file with the Commission–

- (a) a copy of its annual report that shall contain a discussion by management of the public issuer regarding the issuer's market environment and financial performance of the issuer for the relevant financial year and such other information as may be prescribed; and
- (b) any other reports, information and documents as may be prescribed.

72.—(1) Subject to section 191, within five days after filing with the Commission or such other period as may be prescribed, a public issuer shall send to each security holder, at the address provided to the public issuer as the preferred delivery address of the security holder or at the last address of the security holder shown on the securities register of the public issuer, the public issuer's—

Delivery of continuing disclosure documents to security holders.

- (a) annual financial statements and the report of the auditor;
- (b) interim financial statements;
- (c) annual report; and
- (d) any other prescribed report or document.

(2) The documents to be sent under sub-section (1) shall be provided at no cost to the security holder.

(3) The obligation to send documents to security holders under sub-section (1) does not apply—

- (a) to documents published as prescribed; or
- (b) if a security holder has informed the issuer that the security holder does not wish to receive the documents.

73.—(1) A public issuer shall—

Books and records requirements.

- (a) make and keep such information and documents in such form and for such periods—
 - (i) as are reasonably necessary in the conduct of its business and operations, including to document compliance with all requirements imposed by statute or regulation on the public issuer; and
 - (ii) as may be prescribed; and

- (b) file with or deliver to the Commission any document or report prescribed.

(2) A public issuer shall deliver to the Commission a copy of, or an extract from, any information or document kept under this section upon receipt of a written request from the Commission.

Offence.

74. A public issuer that contravenes this Part, or makes a misrepresentation in any document required to be filed with the Commission or sent to security holders under this Part commits an offence and is liable on indictment in accordance with section 154.

PART VIII

Governance of Public Issuers

Governance of public issuers.

75. For the purposes of this Act and regulations, a public issuer shall comply with all prescribed requirements regarding the governance of public issuers, including, without limitation, requirements relating to—

- (a) the composition of its board of directors and qualifications for membership on the board, including matters respecting the independence of members;
- (b) the separation of the office of chief executive officer and chair of the board of directors;
- (c) the establishment of specified types of committees of the board of directors, the mandate, functioning and responsibilities of each committee, the composition of each committee and the qualifications for membership on the committee, including matters respecting the independence of members;
- (d) the establishment and enforcement of a code of business conduct and ethics applicable to its directors, officers and employees and applicable to persons or companies that are in a special relationship with the public issuer, including the minimum requirements for such a code; and
- (e) procedures to regulate conflicts of interest between the interests of the public issuer and those of a director or officer of the public issuer.

PART IX

Take-over Bids

76. A person shall not make a take-over bid or issuer bid for a public issuer, except in accordance with the prescribed requirements. Take-over bids.

PART X

Approved Auditors

77.—(1) Only an approved auditor may act for any regulated person or public issuer. Requirement to be approved.

(2) An application for recognition as an approved auditor shall be made to Commission, in the form and accompanied by the information and documents prescribed.

(3) An applicant may be required to provide supplementary information or clarification of the information initially provided in an application.

78. An applicant, in order to be recognized as an approved auditor, shall satisfy the following— Qualifications for approval.

- (a) be a member in good standing of the Institute of Chartered Accountants of Belize and hold a practising certificate of that Institute;
- (b) not have been barred or suspended by the Commission from acting for any regulated person or a public issuer in Belize; and
- (c) not have been barred or suspended by any domestic regulatory authority or overseas regulatory authority from acting as auditor for any person under that regulatory authority's jurisdiction.

79.—(1) An approved auditor shall— Duties.

- (a) comply with the International Code of Ethics for Professional Accountants of the International Federation of Accountants;
- (b) be independent of the persons being audited;

- (c) conduct all audits in accordance with generally accepted auditing standards;
- (d) not cause, assist or abet others in breaching any law of Belize or any standards mandated by the Institute of Chartered Accountants of Belize; and
- (e) carry out such other tasks and duties as may be prescribed.

(2) For the purposes of sub-section (1)(b), “independent” means without any direct or indirect material relationship with the person being audited or as otherwise prescribed.

(3) The auditor shall make such examinations as will enable the auditor to make the reports required by this Act.

Additional powers of Commission for auditors.

80.—(1) The Commission may impose all or any of the following duties on the approved auditor of a regulated person or a public issuer—

- (a) a duty to submit to the Commission such additional information in relation to the audit as the Commission considers necessary;
- (b) a duty to enlarge or extend the scope of the audit of the business and affairs of the person being audited;
- (c) a duty to carry out any other examination or establish any procedure in any particular case, including to determine whether the business of the person being audited has been conducted in accordance with the provisions of this Act; and
- (d) a duty to submit a report to the Commission on any of the matters referred to in paragraphs (b) and (c).

(2) The auditor shall carry out such additional duties imposed by the Commission under sub-section (1).

(3) The regulated person or public issuer being audited shall remunerate the auditor in respect of the discharge of such additional duties as the Commission may impose under sub-section (1).

Auditor duty to notify.

81.—(1) An approved auditor shall notify, in writing, the Commission immediately when, in the course of performing the duties required by this Act, the auditor comes to the view that—

- (a) a matter is present that could give rise to a qualification in the audit report on the financial statements;

- (b) a material deficiency, weakness or non-compliance with any provision in this Act is present; or
- (c) there is evidence indicating involvement in fraudulent or criminal activities.

(2) A copy of the notice under sub-section (1) shall be delivered promptly to the person being audited.

(3) The notice shall contain complete details about the circumstances giving rise to the notice.

82. If the Commission receives a notice under section 81, or where any report of the auditor required by this Act is qualified in any respect or discloses that there are any material weaknesses, deficiencies or non-compliance with any provisions of this Act, the Commission may take any action that is deemed necessary, until the matters giving rise to the notice, qualified audit report or weaknesses, deficiencies or non-compliance identified are resolved or rectified.

Commission power to act.

83.—(1) A person required by this Act to appoint an approved auditor shall give notice of the appointment, termination or resignation of an auditor to the Commission and to the affected auditor.

Duties of person required to appoint an approved auditor.

(2) The notice shall contain the prescribed information and be sent to the Commission and the affected auditor within 2 days after the appointment, termination or resignation, as the case may be.

84. A person that acts other than in compliance with this Part commits an offence and is liable on indictment in accordance with section 154.

Offence.

PART XI

Mutual Funds

85. This Part is without prejudice or limitation to the application of other provisions in this Act concerning securities, securities business, securities activities, registrants, market participants, registered companies or other regulated persons to mutual funds.

No prejudice or limitation of general provisions.

86. A person shall not carry on securities business in or from within Belize, as a mutual fund unless the mutual fund has been—

Registration or recognition of mutual fund required.

- (a) registered as a public mutual fund; or
- (b) recognized as a professional fund.

Restriction on acting as a party related to a mutual fund.

87. A person shall not carry on securities business in or from within Belize, by acting as a party related to a mutual fund, unless—

- (a) the party related to the mutual fund has been registered to carry on securities business under Part IV; and
- (b) that mutual fund has been registered or recognized as a mutual fund under this Act.

Restriction on soliciting or promoting a mutual fund.

88. A person, including a mutual fund itself, shall not promote or solicit in or from within Belize in respect of a mutual fund unless that mutual fund has been registered or recognized under this Act and the fund is promoted as permitted by this Act or Regulations.

Registration as a public mutual fund.

89.—(1) A person who desires to carry on securities business as a public mutual fund shall apply to the Commission for registration as a public mutual fund.

(2) An application under sub-section (1) shall be in the prescribed form and accompanied by the prescribed information, documents and fee.

(3) An applicant may be required to provide supplementary information or clarification of the information initially provided in an application.

(4) The Commission may register a public mutual fund if satisfied that—

- (a) the mutual fund is—
 - (i) a company incorporated under the Companies Act or the International Business Companies Act or any other enactment in relation to companies or business;
 - (ii) a unit trust that is governed by the trust laws of Belize and has a trustee that is based in Belize; or
 - (iii) any other prescribed legal entity incorporated, established, formed, governed, organised or registered or organised under the laws of Belize;
- (b) the mutual fund satisfies the requirements of this Act;
- (c) the mutual fund will, on registration, be in compliance with this Act and its business will be carried out in the proper way;
- (d) every functionary of the mutual fund—
 - (i) is a fit and proper person;

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- (ii) has sufficient expertise to carry out the duties of that functionary; and
- (iii) where required, is registered with the Commission under this Act;
- (e) the mutual fund has, or on registration will have, a custodian that meets the prescribed independence requirements;
- (f) the prospectus of the mutual fund fulfils the requirements under this Act and a receipt for the prospectus has or will be issued in accordance with Part VI;
- (g) the mutual fund's name is not undesirable or misleading; and
- (h) registering the mutual fund is not contrary to the public interest.

90.—(1) A person who desires to carry on securities business as a professional fund shall apply to the Commission for recognition as a professional fund.

Recognition of professional fund.

(2) An application under sub-section (1) shall be in the prescribed form and accompanied by the prescribed information, documents and fee.

(3) An applicant may be required to provide supplementary information or clarification of the information initially provided in an application.

(4) The Commission may recognize a professional fund if it satisfied that—

- (a) the mutual fund is lawfully incorporated, established, formed, governed, organised or registered under the laws of Belize or under the laws of a country outside Belize;
- (b) the constitutional documents of the mutual fund contain the required terms to meet the definition of professional fund, as the case may be;
- (c) the mutual fund satisfies such other requirements of this Act that may be specified for recognition as a professional fund, as the case may be;
- (d) the mutual fund will, on recognition, be in compliance with this Act, and its business will be carried out in the proper way;
- (e) every functionary of the mutual fund—
 - (i) is a fit and proper person;

- (ii) has sufficient expertise to carry out the duties of that functionary; and
- (iii) where required, is registered with the Commission under this Act;
- (f) the mutual fund has, or on registration will have, a custodian that meets the prescribed independence requirements;
- (g) the offering document of the mutual fund fulfils the prescribed requirements for that type of fund;
- (h) the mutual fund's name is not undesirable or misleading; and
- (i) recognizing the mutual fund as a professional fund, as the case may be, is not contrary to the public interest.

Audit.

91. Every recognised professional fund shall appoint an approved auditor who shall make an examination, in accordance with generally accepted auditing standards, of the annual financial statements of the mutual fund and shall provide the Commission with the prescribed reports on the financial affairs of the person.

Annual audited financial statements.

92.—(1) Every recognised professional fund shall, within 120 days after the end of the fund's financial year or such other prescribed period, file with the Commission the mutual fund's annual financial statements prepared in accordance with generally accepted accounting principles and certified as prescribed.

(2) Every financial statement referred to in sub-section (1) shall be accompanied by a report of the auditor of the fund.

(3) Within five days after filing with the Commission or such other period as may be prescribed, a recognised professional fund shall send annual financial statements and the report of the auditor to each security holder, at the address provided to the fund as the preferred delivery address of the security holder or at the last address of the security holder shown on the securities register of the fund.

Terms and conditions, refusals.

93.—(1) The Commission may register or renew the registration of a public mutual fund or recognise or renew the recognition of a professional fund, subject to such terms, conditions or restrictions as the Commission thinks fit.

(2) As a condition of registration, the Commission may require the constitutional documents of a public mutual fund to provide that the securities issued by the fund entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to

the value of a proportionate interest in the whole or in a part of the net assets of the mutual fund.

(3) The Commission may, at any time, by notice in writing to the mutual fund, vary any term, condition or restriction or impose any term, condition or restriction as the Commission thinks fit.

(4) If the Commission refuses to grant a registration or recognition under this Part, the applicant shall be provided with notice in writing of the reasons for the refusal and the applicant may appeal that decision in accordance with section 152.

94. A registered public mutual fund or recognised professional fund shall renew that authorisation annually in the manner and subject to the payment of fees prescribed.

Renewal.

95.—(1) A person shall not be appointed as an operator, director or a functionary of a regulated mutual fund without the prior approval of the Commission.

Appointment and termination of an operator, director or functionary.

(2) The Commission shall not grant an approval under sub-section (1) unless the Commission is satisfied that the person concerned is a fit and proper person and, where applicable, is registered under this Act for the function to be carried out by the operator, director or functionary.

(3) Written notice shall be given to the Commission within the prescribed period after an operator, director or functionary ceases to hold office with or to act for a mutual fund.

(4) The notice provided under sub-section (3) shall include a statement of the reasons for the operator, director or functionary ceasing to hold office with or to act for a mutual fund and such other information as prescribed.

96.—(1) The Commission may refuse to register a public mutual fund or recognize a professional fund, as the case may be, if that mutual fund has a name that—

Name.

- (a) is identical with that of any company, firm, business or other entity, whether or not within Belize, or which so nearly resembles the name of such a company, firm, business or entity as to be likely to deceive;
- (b) is likely to falsely suggest the patronage of or connection with some person, whether or not within Belize; or
- (c) is likely to falsely suggest that the fund has a special status in relation to or derived from the Government or the Crown.

(2) If, in the Commission's opinion, a regulated mutual fund is carrying on, or attempting to carry on business in or from within Belize in a name that the Commission would have refused by virtue of sub-section (1), the Commission may direct the regulated mutual fund to change its name to a name approved by the Commission.

Books and records.

97.—(1) A regulated mutual fund shall maintain reliable records that are sufficient to—

- (a) show and explain its transactions;
- (b) enable its financial position to be determined with reasonable accuracy;
- (c) represent the results of operations, changes in owner's equity and cash flows;
- (d) enable it to prepare such financial statements and make such returns as it is required to prepare and make under this Act and regulations;
- (e) to enable its financial statements to be audited in accordance with this Act;
- (f) to identify all the assets of the fund and the locations at which or parties through whom they are held;
- (g) to document compliance with all requirements imposed by statute or regulation on the fund; and
- (h) include relevant underlying documentation as may be necessary to facilitate compliance with this section.

(2) A regulated mutual fund shall perform reconciliations as often as necessary to ensure the accuracy of its records, and shall perform reconciliations at least once every month—

- (a) on all balances with a bank; and
- (b) on all balances with a custodian.

(3) A regulated mutual fund shall immediately correct any differences discovered as a result of a reconciliation performed under sub-section (2).

(4) The Commission may prescribe—

- (a) the form and manner in which the records specified in sub-section (1) are to be maintained;
- (b) the place where the records required to be maintained; and

- (c) other records required to be maintained by a regulated mutual fund, and the form, manner and place in which such records are to be maintained.

(5) A regulated mutual fund shall retain the records required by this section for a period of at least five years after the completion of the transaction to which they relate.

(6) Sub-section (5) applies to a regulated mutual fund after the cancellation or revocation of its registration or recognition as if the registration or recognition had not been cancelled or revoked.

98.—(1) An administrator of a regulated mutual fund shall make such reports to the Commission regarding the regulated mutual fund for which it acts as the administrator as the Commission may require.

Reporting to
Commission.

(2) A manager of a regulated mutual fund shall make such reports to the Commission regarding the regulated mutual fund for which it acts as the manager as the Commission may require.

99.—(1) A functionary of a regulated mutual fund shall immediately give the Commission written notice if the functionary knows or has reason to believe that a regulated mutual fund to which it provides a service, or a promoter or operator of such regulated mutual fund—

Notice by
functionary.

- (a) is or is likely to become unable to meet its obligations as they fall due;
- (b) is carrying on business otherwise than in accordance with this Act or any other law; or
- (c) is carrying on business in a manner that is or is likely to be prejudicial to investors or creditors of the regulated mutual fund.

(2) The notice to be given under sub-section (1) shall include the functionary's reasons for that knowledge or belief.

100. The custodian of a regulated mutual fund shall—

Asset
segregation.

- (a) take custody and control of all assets of the mutual fund and hold them in trust for the investors in accordance with the Act, regulations and the offering documents and other constitutional documents of the fund;
- (b) ensure that its books and records clearly separate and segregate assets of the mutual fund from the assets of—
- (i) the functionaries of the mutual fund;

- (ii) other clients of the custodian; and
- (iii) assets of any other mutual fund; and
- (c) comply with all other prescribed requirements.

Offences. **101.** A person that acts other than in compliance with this Part commits an offence and is liable on indictment in accordance with section 154.

PART XII

Misconduct Offences

Application. **102.**—(1) Sections 103, 104, 105, 108, 113, and 114 shall not apply to conduct relating to securities issued by regulated mutual funds.

Market manipulation. **103.** A person shall not take part in, or carry out, whether directly or indirectly, a transaction or series of transactions in Belize or elsewhere, that has or is likely to have the effect of—

- (a) creating an artificial price for trading in securities on a registered marketplace; or
- (b) maintaining a price for trading in securities on a registered marketplace at a level that is artificial, whether or not it was previously artificial.

False trading and market rigging—creating a false or misleading appearance of active trading. **104.**—(1) A person shall not do, or omit to do, an act, whether that act is in Belize or elsewhere, if that act or omission has or is likely to have the effect of creating, or causing the creation of, a false or misleading appearance—

- (a) of active trading in securities on a registered marketplace; or
- (b) with respect to the market for, or the price for trading in, securities on a registered marketplace.

(2) For the purposes of sub-section (1), a person is taken to have created a false or misleading appearance of active trading in particular securities on a registered marketplace if that person –

- (a) enters into, or carries out, either directly or indirectly, any transaction of purchase or sale of any of those securities that does not involve any change in the beneficial ownership of the products;
- (b) makes an offer to sell any of those securities at a specified price and has made or proposes to make, or knows that an associate of the person has made or proposes to make, an offer to purchase the same number, or substantially the same number, of those securities at a price that is

substantially the same as the price specified in the offer to sell; or

- (c) makes an offer to purchase any of those securities at a specified price and has made or proposes to make, or knows that an associate of the person has made or proposes to make, an offer to sell the same number, or substantially the same number, of those securities at a price that is substantially the same as the price specified in the offer to purchase.

(3) The circumstances in which a person creates a false or misleading appearance of active trading in particular securities on a marketplace are not limited to the circumstances set out in sub-section (2).

(4) For the purposes of sub-section (2)(a), a purchase or sale of securities does not involve a change in the beneficial ownership if—

- (a) a person who had an interest in the securities before the purchase or sale; or
- (b) an associate of such a person;

has an interest in the securities after the purchase or sale.

(5) The reference in sub-section (2)(a) to a transaction of purchase or sale of securities includes—

- (a) a reference to the making of an offer to purchase or sell securities; and
- (b) a reference to the making of an invitation, however expressed, that expressly or impliedly invites a person to offer to buy or sell securities.

105.—(1) A person shall not enter into or engage in a fictitious or artificial transaction or device in Belize or elsewhere, if that transaction or device results in—

- (a) the price for trading in securities on a registered marketplace being maintained, inflated or depressed; or
- (b) fluctuations in the price for trading in securities on a registered marketplace.

(2) In determining whether a transaction is fictitious or artificial for the purposes of sub-section (1), the fact that the transaction is, or was at any time, intended by the parties who entered into it to have effect according to its terms is not conclusive.

False trading and market rigging—artificially maintaining trading price.

Misleading or deceptive conduct.

106.—(1) A person shall not engage in conduct, in or from within Belize in relation to securities business or a security, that is misleading or deceptive or is likely to mislead or deceive.

(2) The reference in sub-section (1) to engaging in conduct in relation to a security includes –

- (a) trading in a security;
- (b) issuing a security;
- (c) publishing a notice in relation to a security;
- (d) making, or making an evaluation of, an offer under a take-over bid or a recommendation relating to such an offer; or
- (e) carrying on negotiations, or making arrangements, or doing any other act, preparatory to, or in any way related to, an activity covered by any of paragraphs (b), (c) or (d).

Misleading the Commission.

107. A person shall not, in purported compliance with any requirement imposed by or under this Act, knowingly or recklessly provide the Commission or the public with information that is—

- (a) false;
- (b) misleading in a material particular; or
- (c) fails to state a fact that is required to be stated or that is necessary to make the statement not misleading.

Dissemination of information about illegal transactions.

108. A person shall not circulate or disseminate or be involved in the circulation or dissemination, whether in Belize or elsewhere, of any statement or information to the effect that the price for trading in securities on a registered marketplace will, or is likely to, rise, fall, or be maintained, because of a transaction or other act or thing done in relation to those securities, if—

- (a) the transaction, or thing done, constitutes a contravention of section 103, 104, 105 or 106; and
- (b) the person, or an associate of the person –
 - (i) has entered into such a transaction or done such an act or thing; or
 - (ii) has received, or may receive, directly or indirectly, a consideration or benefit for circulating or disseminating, or authorising the circulation or dissemination of, the statement or information.

False or misleading statements.

109. A person shall not, make a statement, or disseminate information in Belize or elsewhere, if—

- (a) the statement or information is false or misleading in a material particular;
- (b) the statement or information is likely –
 - (i) to induce persons in Belize to trade securities; or
 - (ii) to have the effect of increasing, reducing, maintaining or stabilising the price for trading in securities on a registered marketplace; and
- (c) when the person makes the statement, or disseminates the information–
 - (i) the person does not care whether the statement or information is true or false; or
 - (ii) the person knows, or ought reasonably to have known, that the statement or information is false or misleading in a material particular .

110. A person shall not, in or from within Belize, induce another person to trade in securities in or from within Belize–

Inducing persons to trade.

- (a) by making or publishing a statement, promise or forecast if the person knows, or is reckless as to whether, the statement is misleading, false or deceptive;
- (b) by a dishonest concealment of material information; or
- (c) by recording or storing information that the person knows to be false or misleading in a material particular if –
 - (i) the information is recorded or stored in, or by means of, a mechanical, electronic or other device; and
 - (ii) when the information was so recorded or stored, the person had reasonable grounds for expecting that it would be available to others.

111. A person shall not, in the course of carrying on a securities business in or from within Belize, engage in dishonest conduct in relation to securities business or a security.

Dishonest conduct.

112.–(1) Except as prescribed, no person, for the purpose of inducing another person to trade in a security, shall make any written or oral representation that any person–

Prohibited representations.

- (a) will resell or repurchase such security; or
- (b) will refund all or any of the purchase price of such security.

(2) Sub-section (1) does not apply to a security that carries an obligation of the issuer to redeem or purchase the security, or gives the owner a right to require the redemption or repurchase of the security.

(3) No person, for the purpose of inducing another person to trade in a security, shall make any representation, written or oral, relating to the future value or price of such security.

(4) Except as prescribed, no person, for the purpose of inducing another person to trade in a security, shall make any representation, written or oral, that such security will be listed on any securities exchange or other marketplace.

Prohibition on purchasing or selling of securities by certain persons.

113.—(1) In this section—

“person in a special relationship with a public issuer” includes—

- (a) an insider, officer, employee, affiliate or associate of the public issuer;
- (b) an associate or affiliate of an insider of that public issuer;
- (c) a person that is making or proposing to make a take-over bid for the securities of the public issuer;
- (d) a person that is proposing to —
 - (i) become a party to a reorganisation or business combination with the public issuer; or
 - (ii) acquire a substantial portion of the property of the public issuer;
- (e) a person engaging in or proposing to engage in any business or professional activity with or on behalf of the public issuer or with or on behalf of a person referred to in paragraph (c) or (d);
- (f) an insider, officer, employee, affiliate or associate of a person referred to in paragraph (c), (d) or (e);
- (g) a person with inside information, if the information was obtained at a time when the person was a person in a special relationship under paragraph (a), (b), (c), (d), (e) or (f); or
- (h) a person that obtained inside information from another person—
 - (i) who, at the time, was a person in a special relationship under this definition, including this paragraph; and

- (ii) whom the person knew or reasonably should have known was a person in a special relationship;
- (2) A person that is in a special relationship with a public issuer and has inside information about the public issuer shall not—
 - (a) trade any security of the public issuer; or
 - (b) enter into a transaction involving a security the value of which is derived from or varies materially with the value or market price of a security of the public issuer.
- (3) A public issuer, or a person in a special relationship with a public issuer, shall not inform another person of inside information about the public issuer unless it is necessary in the course of the public issuer's or the person's business.
- (4) A public issuer, or a person in a special relationship with a public issuer, with inside information about the public issuer, shall not recommend or encourage another person to—
 - (a) trade a security of the public issuer; or
 - (b) enter into a transaction involving a security the value of which is derived from or varies materially with the value or market price of a security of the public issuer.

114. A person that knows material order information shall not—

Front running.

- (a) trade a security that is the subject of the information;
- (b) enter into a transaction involving a security the value of which is derived from or varies materially with the value or market price of the security referred to in paragraph (a);
- (c) inform another person of the material order information, unless it is necessary in the course of the person's business; or
- (d) recommend or encourage another person to—
 - (i) trade the security referred to in paragraph (a); or
 - (ii) enter into a transaction involving a security the value of which is derived from or varies materially with the value or market price of the security referred to in paragraph (a).

115.—(1) A person does not contravene sections 113(2), 114(a) or (b) if, at the time the person trades the security, the person reasonably believes that the person on the other side of the transaction knows the inside information or material order information.

Defences - belief that other party knows information.

(2) A person does not contravene sections 113(3) or (4), 114(c) or (d) if, the person reasonably believes that the other person knows the information at the time the person—

- (a) informs the other person of the inside information or material order information; or
- (b) recommends or encourages the other person to trade the security.

Defences -
automatic or
predetermined
trade.

116. A person does not contravene sections 113(2), 114(a) or (b) if the person—

- (a) trades the security under a written automatic dividend reinvestment plan, written automatic purchase plan or other similar written automatic plan, in which the person agreed to participate before obtaining the inside information or material order information; or
- (b) trades the security as a result of a written legal obligation—
 - (i) imposed on the person; or
 - (ii) that the person entered into before obtaining the inside information or material order information.

Defences –
trading as agent.

117. A person does not contravene sections 113(2), 114(a) or (b) if the person trades—

- (a) as agent under the specific unsolicited instructions of its principal;
- (b) as agent under specific instructions that the agent solicited from its principal before obtaining the inside information or material order information;
- (c) as agent or trustee for another person because of that other person's participation in a written automatic dividend reinvestment plan, written automatic purchase plan or other similar written automatic plan; or
- (d) as agent or trustee for another person to fulfil a written legal obligation of the other person.

Defences-
trade or
recommendation
by individual
with no inside or
material order
information.

118. A person does not contravene sections 113(2) or (4), 114(a), (b) or (d) if—

- (a) the person is not an individual; and
- (b) the individual making the trade or recommendation on behalf of the person does not have inside information or material order information, and is not acting on the advice

or recommendation of an individual who does have that information.

- 119.** The Commission may prescribe that—
- (a) a person or class of persons is exempt from all or specified provisions of this Part;
 - (b) a security or a class of securities are exempt from all or specified provisions of this Part; or
 - (c) this Part applies as if specified provisions were omitted, modified or varied as prescribed.
- 120.** Any person who contravenes a provision under this Part commits an offence and is liable on indictment in accordance with section 154.

Exemptions and modifications.

Offence.

PART XIII

Investigations, Inspections, Access to Information and Assistance to Other Regulatory Authorities

Sub-Part I – Investigations and Inspections

- 121.**—(1) The Commission may conduct such investigation as it considers necessary or expedient for any of the following purposes—
- (a) to determine whether any person has contravened, is contravening or is about to contravene this Act;
 - (b) to determine whether a person may have committed a breach of trust, fraud or misconduct in carrying out securities business;
 - (c) to determine whether a regulated person has engaged, or is engaging, in any activity in the securities market in a manner that is not in the public interest;
 - (d) for the administration of this Act; or
 - (e) to assist in the administration of the securities legislation of another jurisdiction.
- (2) For the purposes of sub-section (1), the Commission may conduct the investigation or may, in writing, appoint another person for that purpose.
- (3) The Commission may exercise any of its powers under this Part for the purposes of conducting an investigation under sub-section (1) notwithstanding the provisions of any written law or any requirement imposed thereunder.

Power to investigate

Powers to obtain information for investigation.

122.—(1) If the Commission considers that a person is or may be able to give information or produce a document which is or may be relevant to an investigation, the Commission may—

- (a) require such person to attend before it at a specified time and place to answer questions, including under oath or affirmation;
- (b) enter, during normal business hours, the business premises of such person for the purpose of—
 - (i) inspecting and copying information or documents stored in any form on such premises; and
 - (ii) removing from the premises any information or documents;
- (c) require such person to give, or procure the giving of, specified information or information of a specified description in such form as the Commission may reasonably require;
- (d) require such person to produce, or procure the production of, specified documents or documents of a specified description;
- (e) if necessary, to reproduce, or assist in reproducing, into a usable, legible or intelligible form, information recorded or stored in any book, record, document or class of documents specified in the notice, within the time and in the manner specified in the notice;
- (f) require such person to give an explanation of or further particulars regarding any information or document provided, produced or obtained under this sub-section; and
- (g) require such person to give the Commission all assistance in relation to the investigation that the person is reasonably able to give.

(2) Without limiting the generality of sub-section (1), the Commission may require the following information to be furnished—

- (a) information from a person's auditor, including, but not limited to, audit working papers, communications, and other information relating to an audit or review of financial statements;
- (b) subscriber records held or maintained by telephone service providers located in Belize that include the name and address of subscribers, payment details and incoming and outgoing communications with date, time, duration and identification of phone numbers from which

communications are made or received, and such other details as prescribed; and

- (c) subscriber records held or maintained by internet service providers or other electronic communication providers located in Belize that include the name and address of subscribers, payment details, length of service, type of service utilized, network addresses, session times, dates and durations, and such other details as prescribed.

(3) If a person, acting on behalf of the Commission, enters premises under sub-section (1)(b), the person shall present proof of his authority to do so.

(4) The Commission may, in exercising its powers under this section, seek the assistance of the Commissioner of Police.

(5) The assistance sought under sub-section (4) shall be—

- (a) for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified by the Commission; and
- (b) provided in such a manner as the Commission may require.

(6) Any information or document removed under sub-section (1)(b) shall be returned to the person from whom, or premises from which, it was taken as soon as practicable.

123.—(1) At any time, the Commission may conduct an on-site or off-site inspection of the business of a regulated person for the purpose of—

- (a) determining if the person is complying with this Act; or
- (b) assisting in the administration of the securities legislation of another jurisdiction.

(2) The Commission may, in writing, appoint another person to conduct the inspection under sub-section (1).

(3) The Commission may, by notice in writing, require a regulated person under inspection to produce information or documents, or a class of information or documents, that reasonably relates to the inspection, and the notice shall provide the regulated person with a reasonable period of time for that production.

(4) After receiving a notice under sub-section (3), a regulated person shall, within the period specified in the notice, provide to the Commission the information or document that is described in the notice and that is in the custody, possession or control of the person.

Compliance
inspections of
regulated person.

(5) The Commission may enter, during normal business hours, the business premises of such regulated person for the purpose of—

- (a) inspecting and copying information or documents stored in any form on such premises; and
- (b) removing from the premises any information or documents.

(6) The Commission may require a regulated person under inspection to give an explanation of or further particulars regarding any information or document provided, produced or obtained under this section.

(7) If a person, acting on behalf of the Commission, enters premises under sub-section (5) the person shall present proof of his or her authority to do so.

(8) Any information or document removed under sub-section (5) shall be returned to the regulated person from whom, or premises from which, it was taken as soon as practicable.

Power to require reports.

124.—(1) The Commission may require a regulated person to provide the Commission with a report, in such form as may be specified in the notice, by the person's approved auditor or by an accountant or other person with relevant professional skill on, or on any aspect of, any matter about which the Commission has required or could require the regulated person to provide information under sections 122 or 123.

(2) The report shall be prepared at the expense of the regulated person.

(3) The person appointed by a regulated person to make the report required under sub-section (1) shall immediately give written notice to the Commission of any fact or matter of which that person becomes aware that indicates that—

- (a) any of the minimum criteria for initial or continued registration is not or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the regulated person; and
- (b) the facts or matters are likely to be of material significance for the exercise, in relation to such person, of the Commission's functions under this Act.

(4) The person appointed to make a report required under this section shall be a person approved by the Commission.

Compliance inspection of other market participant.

125.—(1) The Commission may inspect the business of a market participant, other than a regulated person, for the purpose of—

- (a) determining if the person is complying with this Act; or
- (b) assisting in the administration of the securities legislation of another jurisdiction.

(2) For the purposes of sub-section (1), the Commission may, in writing, appoint another person to conduct the inspection.

(3) The Commission may, by notice in writing, require a person under inspection to produce information or documents, or a class of information or documents, that reasonably relates to the inspection.

(4) After receiving a notice under sub-section (3), a person shall, within a reasonable period as specified in the notice, provide to the Commission the information or document that is described in the notice and that is in the custody, possession or control of the person.

(5) The Commission may require a person who received a notice under sub-section (3) to give an explanation of or further particulars regarding any information or document produced under sub-section (4).

126.—(1) After the conclusion of an inspection of a regulated person under section 123 or a market participant under section 125, a report shall be prepared setting out the findings of that inspection.

General.

(2) The Commission shall consider and make recommendations on any information or report prepared under this Part.

(3) The Commission shall assess charges to recover the cost of any inspection performed under this Part.

(4) Upon application, the Commission may grant an exemption regarding the payment of costs if the Commission considers it appropriate.

Sub-Part II – Provision of Other Information to Commission

127.—(1) For the purposes of assisting in the performance of any of the Commission's functions or the exercise of any of its powers under this Act, the Commission may, by notice in writing, require any of the persons specified in sub-section (2) to furnish to the Commission any of the information specified in sub-section (3) within the time and in the form set out in the notice, and the notice shall provide the person with a reasonable period of time for that production.

Provision of information relating to transactions.

- (2) The persons specified for the purposes of sub-section (1) are—
 - (a) a person registered as the holder of securities in a register kept by or on behalf of an issuer;

- (b) a person that the Commission has reasonable cause to believe holds any securities;
- (c) a person that the Commission has reasonable cause to believe has acquired or disposed of any securities, whether directly or through a nominee, trustee or agent, and whether as beneficial owner, nominee, trustee, agent or otherwise; or
- (d) a regulated person through which the Commission has reasonable cause to believe any securities have been acquired, disposed of, dealt with or traded.

(3) The information specified for the purposes of sub-section (1) are—

- (a) particulars that are reasonably capable of establishing the identity of the person on whose behalf, or by, from, to or through whom the securities in question are held, or have been acquired, disposed of, dealt with or traded, as the case may be;
- (b) the instructions given to or by the person referred to in paragraph (a) or any officer, employee or agent of such person, in relation to the holding, acquisition, disposal, or trading of or in respect of the securities.
- (c) the particulars of the securities and the consideration given or received; and
- (d) any other information in the possession of the person as the Commission may specify.

General
authority to
access records
and to request
information.

128.—(1) If requested to do so by the Commission by notice in writing, a regulated person shall give the Commission—

- (a) access to or provide at any reasonable time all documents relating to the regulated person; and
- (b) such information or such explanation in respect of the regulated person,

as the Commission may reasonably request to enable the Commission to carry out its functions and exercise its powers under this Act.

(2) The documents, information and explanations requested under sub-section (1) shall be provided by the regulated person within such time and verified in such manner as the Commission may specify and the notice shall provide the person with a reasonable period of time for that production.

Sub-Part III – Assistance to Other Regulators

129.–(1) For the purposes of this Sub-Part–

Definitions.

“designated third party”, in relation to a foreign jurisdiction, means–

- (a) any person or body responsible for supervising the overseas regulatory authority in question;
- (b) any authority of the foreign jurisdiction responsible for carrying out the supervision, investigation or enforcement in question; or
- (c) any authority of the foreign jurisdiction, other than the requesting overseas regulatory authority, exercising a function that corresponds to a regulatory function of the Commission under this Act;

“enforce” means enforce through criminal, civil or administrative proceedings;

“enforcement” means the taking of any action to enforce a law or regulatory requirement against a specified person, if the law or regulatory requirement relates to the capital markets of the foreign jurisdiction of the regulatory authority concerned;

“investigation” means an investigation to determine if a specified person has contravened or is contravening a law or regulatory requirement, if the law or regulatory requirement relates to the capital markets of the foreign jurisdiction of the regulatory authority concerned;

“material” includes–

- (a) any information, document or record in any form or a copy of that information, document or record; and
- (b) in relation to information recorded otherwise than in a usable, legible or intelligible form, a copy of the information after being produced or reproduced into a usable, legible or intelligible form;

“supervision”, in relation to an overseas regulatory authority, means the taking of any action for the supervision of–

- (a) a marketplace, intermediary, or any other person regulated or supervised by the overseas regulatory authority; or
- (b) the issue of or trading in securities in the foreign jurisdiction of the overseas regulatory authority.

130.–(1) At the request of a domestic regulatory authority, the Commission may, if it considers appropriate, exercise its powers under this

Exercise of powers on behalf of domestic regulatory authorities.

Act for the purposes of assisting the performance by the domestic regulatory authority of its regulatory functions.

CAP. 272.

(2) Notwithstanding section 11A of the Financial Services Commission Act, the Commission may provide information that it has acquired in the course of its duties or in the exercise of its functions under this Act to any other domestic regulatory authority if the Commission considers such information may be relevant to the functions of such other domestic regulatory authority or as a necessary part of a framework for consolidated supervision, oversight or regulation of the financial services sector.

Assistance that may be rendered to an overseas regulatory authority.
CAP. 272.

131.—(1) Notwithstanding section 11A of the Financial Services Commission Act, the provisions of any written law or any requirement imposed thereunder, any rule of law, any contract, or any rule of professional conduct that would restrict the ability of the Commission to access or transmit information or material, the Commission may, in relation to a request by an overseas regulatory authority for assistance—

- (a) transmit to the overseas regulatory authority any material in the possession of the Commission that is requested by the authority;
- (b) order any person to furnish to the Commission any material that is requested by the overseas regulatory authority, that the Commission may then transmit to that authority;
- (c) order any person to give the Commission assistance in connection with a request made by an overseas regulatory authority;
- (d) order any person to make an oral statement to the Commission on any information requested by the overseas regulatory authority, record such statement, and transmit the recorded statement to the authority; or
- (e) request any ministry, government department or regulatory authority to give to the Commission any material that is requested by the overseas regulatory authority and transmit the material to the overseas regulatory authority.

(2) Without limiting the generality of sub-section (1), the material the Commission may order be furnished under sub-section (1) includes—

- (a) information from a person's auditor including, but not limited to, audit working papers, communications, and other information relating to an audit or review of financial statements;
- (b) subscriber records held or maintained by telephone service providers located in Belize that include the name and

address of subscribers, payment details and incoming and outgoing communications with date, time, duration and identification of phone numbers from which communications are made or received, and such other details as prescribed; and

- (c) subscriber records held or maintained by internet service providers or other electronic communication providers located in Belize that include the name and address of subscribers, payment details, length of service, type of service utilized, network addresses, session times, dates and durations, and such other details as prescribed.

132.—(1) The Commission may provide the assistance referred to in section 131 to an overseas regulatory authority if the Commission is satisfied that the following conditions are fulfilled—

Conditions for provision of assistance to an overseas regulatory authority.

- (a) the assistance is intended to enable the overseas regulatory authority, or any designated third party, to carry out the supervision, investigation or enforcement to which the request relates;
- (b) the overseas regulatory authority has given a written undertaking that any material obtained pursuant to its request shall not be used for any purpose other than a purpose that is specified in the request and approved by the Commission;
- (c) the overseas regulatory authority has given a written undertaking not to disclose to a third party other than a designated third party under paragraph (d), any material received pursuant to the request unless the overseas regulatory authority is compelled to do so by the law or a court of the foreign country;
- (d) the overseas regulatory authority has given a written undertaking to obtain the prior consent of the Commission before disclosing to a designated third party any material received pursuant to the request, and to make such disclosure only in accordance with such conditions as may be imposed by the Commission;
- (e) the material requested is of sufficient importance to the carrying out of the supervision, investigation or enforcement to which the request relates and cannot reasonably be obtained by any other means;
- (f) the matter to which the request relates is of sufficient gravity; and

- (g) the rendering of assistance will not be contrary to the public interest of Belize or the interest of the investing public.

(2) In deciding whether to grant a request for assistance referred to in section 131 from an overseas regulatory authority, the Commission may also have regard to the following—

- (a) whether the act or omission that is alleged to constitute the contravention of the law or regulatory requirement to which the request relates would, if it had occurred in Belize, have constituted a breach of this Act;
- (b) whether the overseas regulatory authority has given or is willing to give an undertaking to the Commission to comply with a future request by the Commission to the overseas regulatory authority for similar assistance; and
- (c) whether the overseas regulatory authority has given or is willing to give an undertaking to the Commission to contribute towards the costs of providing the assistance that the overseas regulatory authority has requested.

(3) If an overseas regulatory authority fails to comply with a requirement of the Commission under sub-section (1) or (2), the Commission may refuse to provide the assistance sought.

Authority to
enter into
Memoranda of
Understanding.

133.—(1) The Commission may, in the exercise of its cooperative functions, enter into memoranda of understanding with overseas regulatory authorities for—

- (a) the purpose of assisting an overseas regulatory authority, or any designated third party, to carry out its supervision, investigation or enforcement functions;
- (b) the purpose of assisting in consolidated supervision with such overseas regulatory authority, or any designated third party; or
- (c) such other purposes as the Commission may deem fit.

(2) No memorandum of understanding may call for assistance beyond that which is provided for under this Act, or relieve the Commission of any of its obligations under this Part.

(3) The Commission shall notify the Minister of each memorandum of understanding and promptly publish the memorandum of understanding in the *Gazette*.

134. If a person who is required under this Part to produce a document fails to do so, the Commission may require the person to state to the best of that person's knowledge and belief—

Information about documents not in person's possession.

- (a) if that document may be found; and
- (b) the identity of the person who last had custody of that document.

135.—(1) No civil or criminal proceedings, other than proceedings for an offence under section 137, shall lie against any person for—

Immunities.

- (a) furnishing to the Commission or transmitting any material to the Commission or an overseas regulatory authority if the person had furnished or transmitted that material in good faith in compliance with an order made under this Part;
- (b) making a statement to the Commission in good faith and in compliance with an order made under this Part; or
- (c) doing or omitting to do any act, if the person had done or omitted to do the act in good faith and as a result of complying with such an order.

(2) Any person who complies with a requirement imposed by the Commission in the exercise of its powers under this Part shall not be treated as being in breach of any written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct that restricts the disclosure of information or material.

(3) A person is neither liable to a proceeding, nor subject to a liability, merely because the person has complied, or proposes to comply, with a requirement made or purporting to have been made under any provision of this Part for the inspection, copying or production of information or documents.

136.—(1) If information or documents are produced pursuant to this Part, the Commission may—

Use of documents.

- (a) take copies or extracts from them; and
- (b) use or permit the use of any of the information or documents in any proceeding.

137.—(1) A person commits an offence and is liable on indictment in accordance with section 154 who, without reasonable cause—

Offences.

- (a) refuses or fails to comply with a requirement or order of the Commission under this Part;

- (b) with intent to avoid the provisions of this Part falsifies, destroys, mutilates, defaces, hides or removes a document;
- (c) in purported compliance with an order under this Part, furnishes to the Commission any material known to the person to be false or misleading in a material particular;
- (d) in purported compliance with an order made under this Part, makes a statement to the Commission that is false or misleading in a material particular; or
- (e) wilfully obstructs an inquiry by the Commission made in accordance with the provisions of this Part.

(2) A person contravenes this section if the person knows or reasonably should know that a hearing, inspection or investigation is to be conducted and the person takes any action referred to in sub-section (1) before the hearing, inspection or investigation.

PART XIV

Enforcement, Appeals and Reviews

Sub-Part I – Enforcement Measures

Power to issue directions.

138.—(1) In addition to all other powers given to the Commission under this Act and without prejudice to any other action that may be instituted or taken against a person, the Commission may, by notice in writing and without a hearing, give a direction to any person if it appears to the Commission that—

- (a) it is desirable for the protection of investors;
- (b) a person is contravening, has contravened, or is about to contravene any provision of or requirement under this Act;
- (c) a person has failed to comply with any provision of or requirement under this Act; or
- (d) a person, in purported compliance with any provision or requirement, has furnished the Commission with information that is false, inaccurate or misleading.

(2) A direction under this section may contain one or more of the following prohibitions or requirements—

- (a) require a person to cease and desist from the contravention;
- (b) require a person to comply with the provision or requirement;
- (c) prohibit a person from entering into transactions of a class or description specified in the notice or prohibit entering

into the transactions otherwise than in the specified circumstances or to the extent specified;

- (d) prohibit a person from soliciting business from a person of a class or description specified or from persons other than persons of such a class or description;
- (e) prohibit a person from carrying on business in a specified manner or otherwise than in a specified manner;
- (f) as regards any assets, whether in Belize or elsewhere and whether they are the assets of the person or not—
 - (i) prohibit the person from disposing of such assets or prohibit the person from dealing with them in a manner specified in the notice; or
 - (ii) require a person to deal with such assets in, and only in, a manner specified in the notice;
- (g) require a person to maintain in Belize assets of such value as appears to the Commission to be desirable with a view to ensuring that the person will be able to meet its liabilities in respect of its securities business; or
- (h) require a person to transfer control of assets of a specified class or description to a trustee approved by the Commission.

(3) A direction under this section shall be for such specified period as the Commission considers necessary and may be extended for such period as the Commission deems necessary.

(4) Notwithstanding sub-section (3), a direction issued by the Commission containing any prohibition or requirement under sub-section (2) (f), (g) or (h) shall be for a period not exceeding thirty days.

(5) A person who fails to comply with a direction of the Commission commits an offence.

(6) The Commission, by written notice either on its own motion or on the application of a person on whom a prohibition or requirement has been imposed under this section, may rescind or vary the prohibition or requirement if it appears to the Commission that it is no longer necessary or that it should take effect or continue in force in different form.

139.—(1) A person commits an infringement if the person—

- (a) contravenes a prescribed provision of this Act;
- (b) breaches a term or condition of a registration, recognition or other authorisation issued under this Act;

Administrative
actions and
sanctions.

- (c) has failed to comply with a requirement, directive or order given by the Commission;
- (d) has been convicted in any jurisdiction of a criminal offence arising from a transaction, business or course of conduct related to securities;
- (e) has been found by a court to have contravened the securities legislation of any jurisdiction; or
- (f) has been found by an overseas regulatory authority to have contravened the securities legislation of that jurisdiction.

(2) If the Commission becomes aware of any infringement by a person, the Commission may impose one or more of the following measures or sanctions—

- (a) issue a written warning, censure or reprimand;
- (b) issue a written order to cease and desist from an infringement and to undertake remedial action;
- (c) issue a written order to perform the acts as are necessary for compliance with the Act, a Commission decision or order, or the regulatory instruments or a decision of a person registered under Part III;
- (d) order regular reports from the person on the measures it is taking to rectify the infringement;
- (e) impose, in such manner as may be prescribed, an administrative penalty in an amount not exceeding \$100,000.00;
- (f) prohibit a person from —
 - (i) acting as a partner, director or officer of another person;
 - (ii) acting as a registrant;
 - (iii) acting as a party related to a mutual fund;
 - (iv) acting as an approved auditor;
 - (v) acting in a management or consultative capacity in connection with activities in the securities market; or
 - (vi) promoting the trading of a security or of securities generally;
- (g) replace or restrict the powers of managers, directors or controlling owners;
- (h) impose conditions or restrictions on a registration, recognition or other authorisation;

- (i) suspend or revoke a registration, recognition or other authorisation;
- (j) order the person to cease trading a security, a class of securities or all securities;
- (k) order that any or all of the exemptions in this Act do not apply to a person; or
- (l) impose such other measure as may be prescribed.

(3) If the Commission intends to take an administrative action under this section, the Commission shall give notice in writing to the concerned person.

(4) The notice referred to in sub-section (3) shall set out—

- (a) the administrative measure or sanction the Commission intends to take or impose;
- (b) the reasons for the action, measure or sanction; and
- (c) a reasonable period, which shall not be less than fifteen days, within which the person to whom the notice is given may make representations to the Commission.

(5) If representations are made in response to a notice under sub-section (4), the Commission shall take them into account in deciding whether to impose the measure or sanction.

(6) In determining an administrative measure or sanction to be taken, the Commission shall consider—

- (a) the seriousness of the infringement;
- (b) the actual or potential effect of the infringement on investor protection and confidence in the markets;
- (c) the stage at which the infringement was detected;
- (d) whether the infringement was voluntarily reported by the person that committed the infringement; and
- (e) whether the measure or sanction is appropriate to remedy or end the infringement.

140.—(1) The Commission, upon a settlement or after a hearing and if it is considered to be in the public interest, may take one or more of the actions set out in sub-section (2) if it appears that a person has—

- (a) breached a provision of this Act or regulations;
- (b) breached a term or condition of its registration, recognition or other authorisation issued under this Act; or

Orders in the public interest exercisable after a hearing or settlement.

(c) failed to comply with a requirement, directive or order given by the Commission.

(2) The actions that may be taken by the Commission in the public interest include—

- (a) imposing any of the sanctions or measures set out in section 139(2);
- (b) ordering a person to change a document;
- (c) ordering a person to publish information or a document;
- (d) ordering a person not to publish information or a document;
- (e) ordering a person that is a market participant to make changes to its practices and procedures;
- (f) applying to the court for an order to take such action as it considers necessary to protect the interests of—
 - (i) clients or creditors of a registrant;
 - (ii) investors or creditors of a public issuer; or
 - (iii) investors or creditors of a regulated mutual fund;
- (g) applying to the court for an order that the person be wound up by the court;
- (h) ordering that a distribution of securities cease and that any subscription funds collected be repaid to subscribers;
- (i) ordering the disgorgement of profits or other unjust enrichment plus a penalty not to exceed twice the amount of such profits or unjust enrichment;
- (j) ordering restitution; or
- (k) imposing any other measures, sanctions or remedies as the justice of the case may require.

Urgency.

141.—(1) If the Commission considers it in the public interest to do so, the Commission may, without a hearing or providing an opportunity to be heard, make an order under section 139(2) or section 140, other than an order under section 139(2)(b), (c) or (d), that is effective for not more than 15 days.

(2) If the Commission considers it in the public interest to do so, the Commission may, without a hearing or providing an opportunity to be heard, extend an order made under sub-section (1) until the Commission makes a decision after a hearing or an opportunity to be heard is provided.

(3) If the Commission makes an order under this section, the Commission shall send the order to each person named in the order.

(4) When the Commission sends an order under sub-section (3), the Commission shall send a notice of hearing, or a notice of opportunity to be heard, with the order.

142.—(1) If the Commission considers it in the public interest to do so, the Commission may, upon a settlement with a regulated person or after a hearing—

Appointment of person.

- (a) appoint a person to advise a regulated person on the proper conduct of its affairs and to report to the Commission thereon; or
- (b) appoint a person to assume control of a regulated person's affairs who shall, subject to necessary modifications, have all the powers of a person appointed as a receiver or manager of a business appointed under the law governing bankruptcy or winding-up.

(2) A person appointed under sub-section (1) is appointed at the expense of the relevant regulated person and any expenses reasonably incurred by the Commission by virtue of the appointment is an amount due to the Commission payable by the regulated person.

(3) A person appointed under sub-section (1)(b) has all the powers necessary, to the exclusion of any other person, other than a liquidator or receiver, to administer the affairs of the relevant regulated person in the best interest of the clients, investors and creditors of the regulated person.

(4) The powers referred to in sub-section (3) include the power to terminate the business of the regulated person if it is judged to be insolvent.

(5) A person appointed in respect of a regulated person under sub-section (1) shall—

- (a) supply the Commission with such information in respect of the regulated person, when requested to do so by the Commission;
- (b) within three months of the person's appointment, or within such other period as the Commission may specify, prepare and supply to the Commission a report on the affairs of the regulated person and where appropriate make recommendations in respect of the regulated person; and

(c) if the person's appointment is not terminated after supplying the report referred to in paragraph (b), subsequently supply to the Commission such other information, reports and recommendations as the Commission shall require.

(6) If a person appointed under sub-section (1)–

(a) fails to comply with an obligation under sub-section (5); or

(b) in the Commission's opinion, is not carrying out the person's obligations in respect of the relevant regulated person satisfactorily,

the Commission may revoke the appointment and appoint some other person in the person's place, and may assess the charges payable to such appointed person up to the date of the revocation of the appointment.

(7) On receipt of any information or report pursuant to sub-section (5) in respect of a regulated person, the Commission may–

(a) require the regulated person to reorganise its affairs in a manner specified by the Commission;

(b) apply to the Court for an order to wind up, dissolve, liquidate or otherwise terminate the regulated person upon such terms and conditions as the Court thinks fit; or

(c) take such action in respect of the appointment or continued appointment of the person appointed under sub-section (1) as the Commission considers appropriate.

(8) If the Commission takes action under sub-section (7) it may–

(a) apply to the Court for an order to take such other action as it considers necessary to protect the interests of the clients or creditors of, or investors in, the regulated person; or

(b) take any other action set out in section 140.

Automatic
penalty for late
filing.

143. Any person in breach of any provision of the Act solely by reason of failing to file with or deliver to the Commission a document within the required time period, shall be subject to an automatic administrative penalty of up to \$1,000.00, for every day from the day the document was required to be filed or delivered to the day the document was filed or delivered.

Removal of
benefits.

144. If the Commission considers it in the public interest to do so, the Commission may, after a hearing, order a person to pay to the Commission any amount obtained, or payment or loss avoided, as a result of a

contravention of this Act, plus a penalty not to exceed twice the amount obtained or payment or loss avoided.

145.—(1) An administrative penalty payable to the Commission shall be due within one month from the date the notice of the imposition of the administrative penalty was given.

Payments to
Commission.

(2) The Commission may prescribe that a payment due pursuant to sub-section (1) that is not paid by the date it is due shall be subject to interest from the date due at a rate not exceeding twelve per cent per annum.

(3) The Commission may impose an administrative penalty on a person notwithstanding the fact that the registration, recognition or other authorisation of that person has been revoked.

146.—(1) The Commission may order a person subject to a hearing to pay the costs of the Commission's investigation, hearing and related costs.

Payment of
costs.

(2) For the purposes of this section, the costs that the Commission may order the person to pay include—

- (a) costs incurred in respect of services provided by persons appointed or engaged under section 19 or section 121(2);
- (b) costs of matters preliminary to the hearing;
- (c) costs for time spent by the Commission or the staff of the Commission;
- (d) any fee paid to and costs of a witness; and
- (e) costs of legal services provided to the Commission.

147. The Commission may, at any time, without a hearing and in addition to exercising any other power, apply to the court for an order to take any action as it considers necessary if—

Application to
court.

- (a) the Commission considers it in the public interest to do so;
or
- (b) if a person has failed to comply with or is in breach of an order of the Commission.

148.—(1) Without limitation to section 147, if the Commission considers it in the public interest to do so, the Commission may, for the administration of this Act or to assist in the administration of the securities legislation of another jurisdiction, apply to the court for an order—

Order to freeze
property.

- (a) directing a person having on deposit, under control or for safekeeping any funds, securities or other property of the person named in the order to hold them;

- (b) directing a person–
 - (i) not to withdraw any funds, securities or other property from any person having them on deposit, under control or for safekeeping; or
 - (ii) to hold all funds, securities or other property of a client of that person, or of others, in the person's possession or control in trust for a receiver, receiver-manager, trustee or liquidator appointed under an enactment of Belize; or
 - (c) to otherwise freeze the assets or a portion of the assets of a person or entity.
- (2) An application under sub-section (1) may be made *ex parte* but, if the application is *ex parte*–
- (a) an order under sub-section (1) may be for a period not exceeding 30 days; and
 - (b) notice of the court order shall be immediately given by the Commission to all persons named in the order.
- (3) The court may make an order under sub-section (1) if the court is satisfied that the order would be reasonable and expedient in the circumstances, having due regard to the public interest and the administration of this Act or securities legislation of another jurisdiction.
- (4) An aggrieved person may apply to the court to discharge the order of the Commission under this section and shall serve notice on the Commission to join in the proceedings, but the court order shall remain in effect until the court determines otherwise.
- (5) An order may be made under this section in respect of a person, notwithstanding that a penalty has already been imposed on that person in respect of the same non-compliance or breach.

Sub-Part II -Hearings, Appeals and Reviews

Hearings.

149.–(1) At a hearing, the Commission shall provide a reasonable opportunity for each person directly affected to be heard and shall give reasonable notice to each such person and may give notice to any interested market participant, which notice shall include the prescribed information.

- (2) The Commission may–
- (a) issue a subpoena or other request or summons requiring a person to attend at a hearing, to testify to all matters relating to the subject of the hearing, and to produce all records relating to the subject of the hearing that are in the

person's possession or under the person's control, whether they are located in or outside Belize; and

(b) compel a person to give evidence on oath orally or in writing.

(3) Notwithstanding sub-section (2), no persons giving evidence before the Commission shall be compelled to incriminate themselves, and every person shall be entitled to all privileges that a witness giving evidence before a court is entitled to in respect of the evidence given by the person to the Commission.

(4) On application by the Commission to the court, a person summoned under sub-section (1) is liable to be committed for contempt, as if in breach of an order or judgment of the court, if the person neglects or refuses to—

(a) attend;

(b) give evidence; or

(c) produce a document in the custody, possession or control of the person.

(5) A hearing under this section shall be open to the public unless the Commission directs otherwise.

(6) A person who is entitled to notice of a hearing under sub-section (1) may be represented by counsel and, subject to the procedural rules made by the Commission under this Act, may present evidence and argument and may cross-examine witnesses at the hearing.

(7) Counsel may advise a witness at a hearing under sub-section (1).

(8) The Commission may admit as evidence any oral testimony or documentary exhibit that it considers relevant to the subject matter of the proceedings and may take notice of any fact that may be judicially noticed and of any generally recognised scientific or technical fact, information or opinion within its area of expertise.

(9) The Commission shall make provision for all oral evidence presented at a hearing under sub-section (1) to be transcribed.

(10) The Commission shall—

(a) make a decision in writing and state the findings of fact on which it is based and the reasons for it;

- (b) send a copy of the decision and reasons to each person given notice under sub-section (1) and to each person who appeared at the hearing, and
- (c) publish a copy of the decision and reasons or a summary of the decision and reasons in a periodical published by the Commission, on its website, or in a daily newspaper circulating in Belize and the Commission, at its discretion, may omit the name of an affected person from a decision so published.

Reviews of decisions made under delegated authority.

150.—(1) Any person directly affected by a decision of the Director General or any officer exercising delegated authority from the Commission may request and be entitled to a hearing and review of that decision by the Commission.

(2) The right to a review in sub-section (1) shall be exercised by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision by the Director General or officer.

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

(4) Notwithstanding the fact that a person requests a hearing and review under this section, the decision under review takes effect immediately, unless the Commission, at its discretion, grants a stay until the disposition of the hearing and review.

Review of decisions of marketplace.

151.—(1) Any person who is aggrieved by any act or omission of a person registered under Part III may lodge a complaint in respect of that act or omission with the Commission.

(2) The Commission may investigate and adjudicate upon the complaint lodged under sub-section (1).

(3) Sections 121 and 122 shall apply to any investigation conducted by the Commission under sub-section (2).

(4) The Commission may, following receipt of a complaint made under sub-section (1), make such order as it thinks just, including an order for the payment by the person registered under Part III of any sum by way of restitution or as compensation for any loss suffered by the complainant.

(5) Subject to sub-section (6), the person who has lodged a complaint against a person registered under Part III shall, if the Commission proceeds

to a judgement on the complaint, be precluded from pursuing the complaint or making it the basis of any suit, action or proceeding in any court of law.

(6) A person shall not be precluded under sub-section (5), unless the person has, before the Commission proceeds to any hearing of and judgement upon the complaint, been informed in writing to that effect.

152.—(1) A person directly affected by a decision of the Commission, other than those stated not to be subject to appeal, may appeal the decision to the Appeals Board established under Part XIII of the Domestic Banks and Financial Institutions Act and the provisions of that Part shall apply mutatis mutandis to appeals under this Act.

Appeals from decisions of Commission.

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(2) The Appeals Board may dismiss the appeal, set aside the decision of the Commission or may make any other decision which the Commission could have made.

(3) Notwithstanding the fact that an appeal is taken under this section, the decision appealed from takes effect immediately, unless the Commission or the Appeals Board, at its discretion grants a stay until the disposition of the appeal.

(4) Notwithstanding an order of the Appeals Board, the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such further decision is subject to this section.

153. Any party aggrieved by a decision of the Appeals Board may appeal to the Court of Appeal on the ground that the decision was erroneous on a point of law and the Court of Appeal may affirm or set aside the decision appealed against, and may remit the matter to the Appeals Board for rehearing and determination by it.

Appeals to Court of Appeal.

154.—(1) A person who commits an offence under this Act is liable on indictment—

Offences.

(a) in the case of an individual, to a fine of up to one hundred thousand dollars or to imprisonment for a term of four years, or to both; or

(b) in the case of a body corporate, to a fine of up to five hundred thousand dollars .

(2) If the offence is a continuing one, the person under sub-section (1) is liable to an additional fine of ten thousand dollars for every day or part of a day during which the offence continues.

(3) In addition to any penalty payable under sub-section (1) or (2), any person who is guilty of an offence under Part XII of this Act shall return any gains made or losses avoided from contravention of the sections, and if the court so directs, pay an additional penalty not to exceed two times the amount of such gains or losses avoided.

(4) If an offence under this Act, committed by an entity other than an individual, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer, director, manager or employee of that entity or any person who was purporting to act in any such capacity, each of the particular officer, director, manager, employee or other person, and the entity deemed to have committed that offence are liable on indictment to the penalty under sub-section (1).

Limitations.

155.—(1) No proceedings against any person for a breach or for a failure to comply with any of the provisions of this Act may be commenced after the expiration of five years from the day upon which the breach or non-compliance was or ought to have been discovered.

(2) The Director of Public Prosecution shall consult with the Commission before instituting prosecution in respect of an offence under this Act.

PART XV

Reporting by Security Holders of Public Issuers

Initial insider report.

156.—(1) An insider of a public issuer shall, within the prescribed time and in the prescribed form, file a report with the Commission disclosing the insider's direct or indirect beneficial ownership or control of securities of the public issuer, if the insider—

- (a) owns or controls a security of the public issuer; or
- (b) owns or controls, or has entered into a transaction involving, a security the value of which is derived from or varies materially with the value or market price of a security of the public issuer.

(2) No person is required to file a report under this section where the person does not beneficially own or control any securities of the public issuer.

(3) An insider of a public issuer shall, within the prescribed time and in the prescribed form, file a report with the Commission disclosing the change or transaction, if that insider filed or was required to file a report under sub-section (1) and—

- (a) there is a change in the insider's beneficial ownership or control of a security of the public issuer, or of a security the value of which is derived from, or varies materially with, the value or market price of a security of the public issuer;
- (b) the insider enters into a transaction involving a security of the public issuer or a security the value of which is derived from, or varies materially with, the value or market price of a security of the public issuer; or
- (c) there is a change in a transaction referred to in paragraph (b) or sub-section (1)(b), or a change in the security involved in the transaction.

(4) Any person who files a report with the Commission under this section shall immediately send a copy of that report to the public issuer.

(5) For the purposes of this section, an insider shall be deemed to beneficially own securities that are beneficially owned by an affiliate or associate of that insider.

157.—(1) A public issuer may, by notice, require any person that is a holder of its securities—

- (a) to indicate in writing the capacity in which the person holds the securities of the public issuer; and
- (b) if the person holds the securities otherwise than as beneficial owner, to indicate so far as it lies within the person's knowledge, any other person who has an interest in them, either by name and address or by other particulars sufficient to enable that other person to be identified, and the nature of that other person's interest.

(2) If a public issuer is informed that any other person has an interest in the securities of the public issuer, the public issuer may require that other person—

- (a) to indicate the capacity in which that person holds that interest; and
- (b) if that person holds it otherwise than as beneficial owner, to indicate so far as it lies within the person's knowledge, the person who has an interest in the issuer, either by name and address or by other particulars sufficient to enable that person to be identified, and the nature of that person's interest.

(3) Any public issuer may, by notice, require any holder of its securities to indicate whether any of the voting rights carried by any

Disclosure of
beneficial
interest in share
capital.

securities of the public issuer held by that person are the subject of an agreement or arrangement under which another person is entitled to control the exercise of the voting rights and, if so, to give, so far as it lies within the security holder's knowledge, particulars of the agreement or arrangement and the parties to it.

(4) If a public issuer is informed that any other person is a party to agreement or arrangement mentioned in sub-section (3), the public issuer may require that other person to give, so far as it lies within that person's knowledge, particulars of the agreement or arrangement and the parties to it.

- (5) A public issuer shall keep a record of—
- (a) each demand made under this section; and
 - (b) the information received in response to each demand.

(6) The Commission may require that a public issuer deliver to the Commission a copy of the record kept by the public issuer under sub-section (5).

(7) All notices sent by a public issuer under this section may require that a response be returned within the period specified in the notice and in all cases this period shall be at least ten days after the date the notice was sent.

- (8) All notices and responses under this section shall be in writing.

158.—(1) A public issuer shall keep or arrange to have kept a register containing the prescribed information about its security holders.

Public issuer to keep register of its security holders.

Offence.

159.—(1) Any person who commits a breach of any section in this Part or, in complying with any section in the Part, makes a statement that the person knows to be false, or recklessly makes a statement that is false, or fails to supply any particulars that the person is required to supply, commits an offence and is liable on indictment in accordance with section 154.

PART XVI

Civil Liability for Misrepresentations

Definition.

160. In this Part—

“prospectus” means a prospectus filed under section 52 and any amendment to a prospectus filed under section 56.

Liability for misrepresentation in prospectus – damages.

161.—(1) If a prospectus contains a misrepresentation, a purchaser who purchases a security offered by the prospectus during the distribution period has a right of action in damages against—

-
- (a) the issuer or the selling security holder;
 - (b) a person who is the chief executive officer, chief financial officer or a director of the issuer at the time the prospectus was filed;
 - (c) a person who consented to be named in the prospectus as the chief executive officer, chief financial officer or director or as a proposed chief executive officer, chief financial officer or director of the issuer;
 - (d) if the issuer is not a public issuer prior to the distribution, any person who was a promoter of the issuer within the prescribed period immediately preceding the date of filing of the prospectus;
 - (e) an expert person whose consent has been filed as required by section 58 but only with respect to misrepresentations in a prospectus derived from, or based on that expert's report; and
 - (f) any other person who signed a certificate in the prospectus other than a person referred to in paragraphs (a) to (e).
- (2) No person, other than the issuer or the selling security holder, is liable under sub-section (1)–
- (a) who, having consented to become the chief executive officer, chief financial officer or a director of the issuer, withdrew the consent before the filing of the prospectus and the prospectus was filed without the person's authority or consent;
 - (b) who, when the prospectus was filed without the person's knowledge or consent, gave reasonable public notice of that fact immediately after becoming aware of it; or
 - (c) who, after the filing of the prospectus and before the sale of securities under it, became aware of a misrepresentation and withdrew the person's consent, and gave reasonable public notice of the withdrawal of the consent and the reasons for it.
- (3) No person is liable under sub-section (1)–
- (a) if the misrepresentation is contained in a part of the prospectus made on the authority of an expert or based on an expert's report, if the person had reasonable grounds to believe and did believe, up to the time the prospectus was filed that–
 - (i) there was no misrepresentation;

- (ii) the language in the prospectus fairly represented and was a correct and fair copy of, or extract from, the expert's report; and
- (iii) the expert making the statement or preparing the report, opinion, or valuation –
 - (A) was competent to make it;
 - (B) had consented as required under section 58; and
 - (C) had not withdrawn that consent; or
- (b) if the misrepresentation is contained in what purports to be a statement made by a public official or a copy of or extract from a public official document, if the misrepresentation was a correct and fair representation of the statement, or copy or extract from the document and the person had reasonable grounds for believing it to be true.

(4) The liability of all persons referred to in sub-section (1) is joint and several as between themselves with respect to the same cause of action.

(5) A person who is found liable to pay a sum in damages may recover a contribution, in whole or in part, from a person who is jointly and severally liable under this section to make the same payment in the same cause of action unless, in all the circumstances of the case, a court is satisfied that it would not be just and equitable.

(6) Notwithstanding sub-sections (4) and (5), no underwriter is liable for more than the total public offering price represented by the portion of the distribution of securities underwritten, or sold by or to, the underwriter.

162.–(1) If a prospectus contains a misrepresentation, a purchaser of a security distributed under the prospectus has a right of action against the issuer, selling security holder or the underwriter that sold the securities to the purchaser under the prospectus for the rescission of the sale and the repayment to that purchaser of the price the person paid for that security.

(2) If the purchaser elects to exercise a right of action for rescission against the issuer, selling security holder or underwriter under this section, such person shall have no right of action for damages against such issuer or underwriter under section 161.

(3) The right of rescission also applies to securities sold under a prospectus that offers them for subscription in consideration of the transfer or surrender of other securities, whether with or without the payment of cash by or to the issuer, as though the issue price of the securities offered for subscription were the fair value, as ascertained by a court, of the securities

Action by security holders for rescission for misrepresentation in prospectus.

to be transferred or surrendered, plus the amount of cash, if any, to be paid by the issuer.

163.—(1) A person is not liable under sections 161 or 162 for a misrepresentation in a prospectus if the person proves that the person—

Due diligence defence.

- (a) made all inquiries that were reasonable in the circumstances; and
- (b) after doing so, believed on reasonable grounds that the statement was not a misrepresentation.

164. The Commission may apply to a court for leave to bring an action under this Part in the name and on behalf of an issuer or a security holder and the court may grant leave on any terms as to security for costs or otherwise that the court considers proper if it is satisfied that—

Commission may seek leave to bring action or appear or intervene in an action.

- (a) the Commission has reasonable grounds for believing that a cause of action exists under this Part;
- (b) the issuer or security holder has failed or is unable to commence an action; and
- (c) the Commission has given sixty days written notice to the issuer or security holder who has refused or failed to commence an action.

165.—(1) The rights of action for damages or rescission conferred by sections 161 and 162 shall be in addition to and without derogation from any other right the purchaser may have at law.

General.

(2) In an action brought under sections 161 or 162, the person bringing such action shall be deemed to have relied on the prospectus in making the investment decision and need not prove that the person was in fact influenced by the misrepresentation or that the person relied on the misrepresentation in purchasing the security.

(3) No person shall be liable under sections 161 or 162 if the purchaser bringing the action knew of the misrepresentation at the time of the purchase.

(4) The amount recoverable under sections 161 or 162 by a purchaser shall not exceed the aggregate price paid by that purchaser for the securities under the offering.

(5) In determining what constitutes reasonable investigation or reasonable grounds for belief for the purposes of this Part, the standard of reasonableness shall be that required of a prudent person in the circumstances of the particular case.

PART XVII

General Provisions

Regulations.

166.—(1) The Minister, on the advice of Commission, may make regulations prescribing all matters and things required or authorized by this Act to be prescribed or provided for, or which may be required or advisable for giving effect to the Commission's purposes, functions and responsibilities, or to carry into effect the provisions of this Act.

(2) Without limiting the generality of the authority under sub-section (1), the Commission may advise the Minister to make regulations—

- (a) prescribing requirements in respect of applications for registration and the renewal, amendment, expiration or surrender of registration and in respect of the suspension, revocation, cancellation or reinstatement of registration of regulated persons;
- (b) prescribing categories or sub-categories of regulated persons, classifying regulated persons into categories or sub-categories and prescribing the conditions of registration, or other requirements for regulated persons or any category or sub-category, including —
 - (i) standards of conduct;
 - (ii) minimum initial and on-going capital requirements;
 - (iii) insurance policies that regulated persons shall be required to obtain and maintain; and
 - (iv) requirements in respect of the residence in Belize of regulated persons;
- (c) extending any requirements prescribed for regulated persons to unregistered partners, salespersons, employees, and officers of regulated persons;
- (d) prescribing requirements in respect of the establishment, recognition, registration and regulation of marketplaces including the listing or trading of securities on a marketplace and requiring reporting of trades and quotations;
- (e) regulating trading in securities that have been distributed but are not listed or traded on a marketplace;
- (f) requiring registration of and regulating self-regulatory organisations and ancillary services under Part III;

-
- (g) governing securities activities to address conflicts of interest or to prevent activities that are fraudulent, manipulative, deceptive or unfairly detrimental to investors;
 - (h) prescribing categories or sub-categories of issuers for the purposes of the prospectus requirements under this Act and classifying issuers into categories or sub-categories;
 - (i) prescribing disclosure requirements in respect of distributions;
 - (j) to facilitate, expedite or regulate the distribution of securities or the issuing of receipts for prospectuses, including by establishing –
 - (i) requirements in respect of distributions of securities by means of a prospectus or other disclosure document or incorporating other documents by reference; and
 - (ii) provisions for rights of investors;
 - (k) designating activities, including the use of documents or advertising, in which regulated persons or issuers are permitted to engage or are prohibited from engaging in with respect to distributions;
 - (l) prescribing the circumstances in which the Commission shall refuse to issue a receipt for a prospectus and prohibiting the Commission from issuing a receipt in those circumstances;
 - (m) specifying the conditions under which any particular type of trade that would not otherwise be a distribution shall be a distribution;
 - (n) prescribing requirements in respect of the preparation, dissemination and other use by public issuers of documents providing for continuing disclosure that are set out in or are in addition to the requirements under this Act;
 - (o) requiring issuers or other persons to comply, in whole or in part, with continuing disclosure requirements made under this Act;
 - (p) prescribing standards or criteria for determining when a material change has occurred or has been published;
 - (q) respecting any matter necessary or advisable to carry out effectively the intent and purpose of Part XV;
 - (r) prescribing requirements in respect of financial accounting, financial reporting and auditing for the purposes of this

- Act, including defining acceptable accounting principles and auditing standards, and respecting a change in auditors or change in financial year by a regulated person or public issuer;
- (s) prescribing requirements for recognition as an approved auditor of a public issuer or regulated person under this Act and other duties, including—
 - (i) standards of independence and other qualifications for auditors; and
 - (ii) other reporting required to be performed by approved auditors;
 - (t) regulating all aspects of take-over bids and related party transactions;
 - (u) respecting any matter necessary or advisable to regulate mutual funds and the distribution and trading of the securities of these funds, including –
 - (i) prescribing requirements in respect of mutual funds including designating issuers or a class of issuers as mutual funds;
 - (ii) prescribing prospectuses, offering documents, and other disclosure documents;
 - (iii) prescribing permitted and prohibited activities and operations including regarding investment policies and practices;
 - (iv) prescribing requirements for asset custody; and
 - (v) requiring the approval or registration of all entities that provide services to mutual funds;
 - (v) prescribing the principles for determining the market value, market price, closing price, or the net asset value of a security, and authorizing the Commission to make that determination;
 - (w) prescribing requirements in respect of the disclosure or furnishing of all documents, instruments or information required under or governed by this Act to the public or the Commission by regulated persons, public issuers or other market participants, including the use of electronic media;
 - (x) requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents, instruments or information required under or governed by this Act, including use of electronic media;

- (y) prescribing requirements in respect of the books, records and other documents required to be kept by regulated persons, public issuers and other market participants, including the form in which and the period for which the books, records and other documents are to be kept;
- (z) respecting the designation or recognition of any person or jurisdiction if advisable for the purposes of this Act;
- (aa) prescribing the conditions and circumstances under which a regulated person may outsource its duties, responsibilities and activities to another person;
- (ab) respecting the conduct of the Commission and its employees in relation to duties and responsibilities and discretionary powers under this Act, including the conduct of investigations, reviews and examinations and the conduct of hearings;
- (ac) prescribing the fees payable to the Commission, including those for filing, applications for registration or exemptions, issuance of or trades in securities, or in respect of audits or examinations made by the Commission, and in connection with the administration of this Act;
- (ad) providing for corporate governance requirements for regulated persons, public issuers and other market participants;
- (ae) prescribing requirements in respect of securities including determining when a contract or an instrument is or is not a security;
- (af) providing for exemptions from any of the requirements under this Act, the removal of exemptions from those requirements, or for varying those requirements, including prescribing circumstances and conditions for such actions; and
- (ag) specifying provisions of the regulations the contravention of any of which constitutes an offence.

(3) Regulations made under this Act may prescribe administrative penalties not exceeding one hundred thousand dollars for breaches committed thereunder.

(4) Notwithstanding anything contained in the Interpretation Act, any regulations made under this Act may provide that a contravention thereof shall be an offence punishable on indictment—

CAP. 1

- (a) in the case of an individual, to a fine of up to one hundred thousand dollars or to imprisonment for a term of four years, or to both; or
- (b) in the case of a body corporate, to a fine of up to five hundred thousand dollars.

Power to remove exemption contained in Commission regulation.

167. If the Commission considers it in the public interest to do so, the Commission may order that an exemption in a regulation made under section 166 does not apply to a person, trade or security, or a class of persons, trades or securities

Guidelines.

168. The Commission may publish guidelines regarding any provisions of this Act or the regulations made pursuant to this Act, provided that such guidelines shall not be taken as having the force of law.

Secrecy

169. An order under this Act shall have effect notwithstanding any provisions in any written law or any requirement imposed thereunder, any rule of law, any contract or any rule of professional conduct, that impose obligations as to secrecy or other restrictions upon the disclosure of information or material.

Privilege.

170.—(1) A person shall not be required under this Act to disclose information or to produce a document that the person would be entitled to refuse to disclose or produce on the grounds of legal professional privilege in court proceedings.

(2) For the purposes of this Act, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to the legal adviser—

- (a) by, or by a representative of, a client of the adviser in connection with the giving by the adviser of legal advice to the client;
- (b) by, or by a representative of, a person seeking legal advice from the adviser;
- (c) or by any person –
 - (i) in contemplation of, or in connection with, legal proceedings; and
 - (ii) for the purpose of those proceedings.

(3) No information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.

(4) A professional legal adviser who refuses to disclose, furnish or transmit any material that contains any privileged communication shall nevertheless be obliged to give the name and address, if he knows them, of the person to whom, or by or on behalf of whom, the privileged communication was made.

171. If the person in possession of any document required to be produced under this Act claims a lien on the document— Liens.

- (a) the requirement to produce the document shall not be affected by the lien;
- (b) no fees shall be payable for or in respect of the production; and
- (c) the production shall be without prejudice to the lien.

172.—(1) All documents or information required to be filed with, delivered to, or provided to the Commission shall be submitted to the Commission in the prescribed manner. Filing of documents and public availability.

(2) Subject to sub-section (3), the Commission—

- (a) shall make all documents or information required to be filed with it available for public inspection; and
- (b) may make all documents or information filed with it available to the public by posting such documents to the Internet website of the Commission.

(3) The Commission may hold in confidence all or part of a document or information referred to in sub-section (1), if it considers that—

- (a) a person whose information appears in the document or information would be unduly prejudiced by disclosure of the information; and
- (b) that person's privacy interest outweighs the public's interest in having the information disclosed.

(4) If a document or information is not expressly required to be filed, but is required to be delivered or provided to the Commission by this Act, the document or information shall not be disclosed under sub-section (2) unless the Commission determines that such disclosure is in the public interest.

173. The Commission may, by notice in writing, require the person furnishing any information to the Commission to verify the information by Verification.

oath or affirmation and the notice shall provide the person with a reasonable period of time to comply with this requirement.

Register as evidence.

174. If it is provided in this Act that a register be established and maintained or kept, or a book of accounts be kept, or a list be prepared or published, any entry in such register, book of account or list, or the production of any registration, notice or certificate issued under this Act shall be prima facie evidence of the contents thereof.

Discretionary exemptions.

175.—(1) If the Commission considers it not prejudicial to the public interest to do so, the Commission may exempt a person, trade or security, or a class of persons, trades or securities, from a provision in Parts III, IV, V, VI, VII, VIII, IX, X, XI and XV of this Act.

(2) All exemptions granted under this Act shall be published by the Commission on its website.

Designation orders.

176.—(1) If the Commission considers it not prejudicial to the public interest to do so, the Commission may, without providing an opportunity to be heard, order that—

- (a) an issuer, or an issuer within a class of issuers, is not a public issuer or a mutual fund;
- (b) a person, or a person within a class of persons, is not a market participant or a marketplace; or
- (c) a right or obligation, or a right or obligation within a class of rights or obligations, is not a security.

(2) If the Commission considers it in the public interest to do so, the Commission may, without providing an opportunity to be heard, order that—

- (a) an issuer, or an issuer within a class of issuers, is a public issuer or a mutual fund; or
- (b) a person, or a person within a class of persons, is a market participant or a marketplace; or
- (c) a trade, or a trade within a class of trades, is a distribution.

Financial statement standards.

177. Every financial statement required under this Act, in addition to the being prepared in accordance with generally accepted accounting principles and audited in accordance with generally accepted auditing standards, shall be accompanied by an auditor's report that—

- (a) identifies all financial periods presented for which the auditor has issued an auditor's report;
- (b) refers to the former auditor's reports on a comparative period, if the person being audited has changed its auditor

and one or more of the comparative periods presented in the financial statements were audited by a different auditor; and

- (c) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

178. The Commission may impose terms, conditions, requirements and restrictions in any decision it makes, as the Commission deems fit.

Conditions on decisions.

179. The Commission, at any time by notice in writing, may vary any term, condition, requirement or restriction imposed in any Commission decision or may revoke a Commission decision as it deems fit.

Discretion to revoke or vary decision.

180.—(1) Every market participant shall—

Keeping of records.

- (a) make and keep such information and documents in such form and for such periods—

- (i) as are reasonably necessary in the conduct of its business and operations, including to document compliance with all requirements imposed by statute or regulation on the market participant; and

- (ii) as may be prescribed; and

- (b) file with or deliver to the Commission any prescribed document or report.

(2) The Commission may require a market participant to disseminate to the public any report filed with the Commission under paragraph (1)(b).

(3) In addition to sub-section (1), a registered marketplace shall keep a record of each trade executed through its facilities showing the time when it took place and any other prescribed information.

(4) A market participant shall deliver to the Commission a copy of, or an extract from, any information or document kept under this section upon receipt of a request from the Commission.

181.—(1) The Commission shall maintain a register that shall contain the prescribed information about current and former regulated persons, public issuers and any other person required to be registered with, recognized by or otherwise approved by the Commission under this Act.

Commission to keep register.

(2) The Commission may make the register available to the public on the prescribed terms.

Application of
companies laws

CAP. 250
CAP. 270.

Application of
the Exchange
Control
Regulations Act
CAP. 52.

Commission to
be a public
authority
CAP. 31.

Definitions.

Existing
unregistered
persons newly
subject to
registration
under the Act.

182. This Act shall have effect notwithstanding anything to the contrary in the Companies Act or the International Business Companies Act, and the provisions of those laws, in so far as they relate to regulated persons and public issuers, shall only have effect subject to the provisions of this Act.

183. The Exchange Control Regulations Act and regulations made thereunder shall not apply to any securities activity or transaction of a regulated person that is carried out or intended to be carried out in a currency other than Belize dollars provided that such regulated person's securities business is conducted exclusively with persons who are not residents of Belize.

184. The Commission shall be deemed to be a public authority for the purposes of the Public Authorities Protection Act.

PART XVIII

Transitional Provisions, Repeal and Consequential Amendments

185.—(1) In this Part—

“effective date” means the date when this Act comes into force;

“relevant period” means the period between the effective date and the transition date; and

“transition date” means the day that is the second anniversary of the effective date or such later date.

(2) Notwithstanding the definition of “transition date” in sub-section (1), the Commission may by Order declare a later date to be the transition date.

186.—(1) A person other than a person licensed by or subject to regulation by the Commission, who, on the effective date, is carrying a securities business in or from within Belize and was not previously required to be registered, licensed or otherwise authorized, shall be deemed not to contravene the obligation under Part IV of this Act to be registered during the relevant period, provided that before the transition date an application for registration has been made under this Act.

(2) A person other than a person licensed by or subject to regulation by the Commission, who, on the effective date, was acting as a marketplace and was not previously required to be registered, licensed or otherwise authorized, shall be deemed not to contravene the obligation under Part III

of this Act to be registered during the relevant period, provided that before the transition date an application for registration has been made under this Act.

(3) If the person applies for registration during the relevant period, the deemed non-contravention continues until the date that the application for registration is granted or refused by the Commission or is withdrawn by the applicant.

(4) The exemptions in this section do not apply to persons that commence securities business subject to registration under this Act after the effective date.

187.—(1) A person that was licensed as an administrator or manager of a mutual fund under the Mutual Funds Act on the effective date shall be deemed not to contravene the obligation under Part IV of this Act to be registered during the relevant period, provided that before the transition date an application for registration has been made under this Act.

Administrators and managers licensed under the Mutual Funds Act. CAP. 268.

(2) If the person applies for registration during the relevant period, the deemed non-contravention continues until the date that the application for registration is granted or refused by the Commission or is withdrawn by the applicant.

188.—(1) A mutual fund that was licensed or recognised under the Mutual Funds Act on the effective date is deemed not to contravene an obligation under Part IV or an obligation under Part XI to be registered or recognized during the relevant period, provided that before the transition date an application has been made under this Act for registration or recognition.

Existing mutual funds under the Mutual Funds Act. CAP. 268.

(2) If the mutual fund applies for registration or recognition during the relevant period, the deemed non-contravention continues until the date that the application for registration is granted or refused by the Commission or is withdrawn by the applicant.

189. A company that, immediately before the effective date, was incorporated under Belize law and was not a private company as defined in this Act, shall be deemed not to be in breach of its obligations as a public issuer during the relevant period if, before the transition date, the company—

Existing public companies newly subject to public issuer obligations.

- (a) has filed with the Commission—
 - (i) its latest audited annual financial statements;
 - (ii) any prospectus, statement in lieu of a prospectus, or similar document filed under the Companies Act or any other law for any offering of securities by that company; and

- (iii) such other documents as may be prescribed; or
- (b) has filed a prospectus with the Commission for which a receipt has been issued under Part VII.

Offence. **190.** A person that contravenes an obligation under this Part commits an offence and is liable on indictment in accordance with section 154.

Interim financial statement requirements for public issuers. **191.** The obligations on a public issuer to prepare and file interim financial statements with the Commission under section 70 and to send interim financial statements to the issuer's security holders under section 72 shall not take effect until the issuer's first financial year that begins after the transition date.

Insider reporting obligations. **192.** The reporting obligations on insiders of public issuers under Part XV of the Act shall take effect on the transition date.

Amendment of Schedule I. **193.** The Commission may, by Order, amend Schedule I.

Repeal. CAP. 268. **194.** The Mutual Funds Act is repealed

Consequential amendments. **195.** The statutes specified in Column 1 of the Table in Schedule II are amended to the extent specified in Column 2 of that Schedule.

Commencement. **196.**—(1) This Act shall come into force on a date appointed by the Minister, by Order published in the *Gazette*.

(2) An Order under sub-section (1) may appoint different dates for the commencement of different provisions of this Act.

SCHEDULE I*[sections 3 and 35]***Part 1****Shares**

1. Any of the following securities –
 - (a) shares and stock of any kind in the share capital of a company;
 - (b) interests in a limited partnership established under the Limited Liability Partnerships Act; or
 - (c) equity interests in a mutual fund.

CAP. 258.

Instruments creating or acknowledging indebtedness

2. Debentures, debenture stocks, loan stocks, bonds, certificates of deposit and any other instrument creating or acknowledging indebtedness other than –
 - (a) any instrument acknowledging or creating indebtedness for, or for money borrowed to defray, the consideration payable under a contract for the supply of goods or services;
 - (b) a cheque, promissory note or other bill of exchange;
 - (c) a bankers draft or a letter of credit;
 - (d) a deposit note, or statement showing a balance in a current, deposit or savings account with a bank or credit union;
 - (e) by reason of any financial obligation contained in it,
 - (i) a lease or other disposition of property;
 - (ii) a contract of insurance; or
 - (iii) an instrument creating or acknowledging indebtedness and creating security for that indebtedness over land.

Instruments giving entitlements to securities

3. Warrants and other instruments entitling the holder to subscribe for securities falling within paragraph 1 or 2.

Certificates representing certain securities

4. Certificates or other instruments that confer contractual or proprietary rights –
 - (a) in respect of any security falling in paragraphs 1, 2 or 3 being a security held by a person other than the person on whom the rights are conferred by the certificate or instrument; and
 - (b) the transfer of which may be effected without the consent of that person.

Options

5. Options to acquire or dispose of –
 - (a) a security falling in any other section of this Part;
 - (b) any currency;
 - (c) any precious metal; or

- (d) an option to acquire or dispose of a security falling within this paragraph by virtue of sub-paragraph (a), (b) or (c) above.

Futures

- 6.(1) Rights under a contract for the sale of a commodity or property of any other description under which delivery is to be made at a future date and at a price agreed upon when the contract is made, other than a contract made for commercial and not investment purposes.
 - (2) A contract is to be regarded as made for investment purposes if it is made or traded on a securities exchange, or is made otherwise than on a securities exchange but is expressed to be as traded on such an exchange or on the same terms as those on which an equivalent contract would be made on such an exchange.
 - (3) A contract not falling within sub-paragraph (2) is to be regarded as made for commercial purposes if under the terms of the contract delivery is to be made within seven days.
 - (4) The following are indications that a contract not falling within sub-paragraph (2) or (3) is made for commercial purposes and the absence of them is an indication that it is made for investment purposes -
 - (a) one or more of the parties is a producer of the commodity or other property or uses it in his business; or
 - (b) the seller delivers or intends to deliver the property or the purchaser takes or intends to take delivery of it.
 - (5) It is an indication that a contract is made for commercial purposes that the prices, the lot, the delivery date or other terms are determined by the parties for the purposes of the particular contract and not by reference (or not solely by reference) to regularly published prices, to standard lots or delivery dates or to standard terms.
 - (6) The following are indications that a contract is made for investment purposes –
 - (a) it is expressed to be as traded on a securities exchange;
 - (b) performance of the contract is ensured by a securities exchange or a clearing house; or
 - (c) there are arrangements for the payment or provision of margin.
 - (7) For the purposes of sub-paragraph (1), a price is to be taken to be agreed on when a contract is made –
 - (a) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract; or
 - (b) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery.

Contracts for differences

- 7.(1) Rights under –
 - (a) a contract for differences; or

- (b) any other contract the purpose or intended purpose of which is to secure a profit or avoid a loss by reference to fluctuations in –
 - (i) the value or price of property of any description; or
 - (ii) an index or other factor designated for that purpose in that contract;
- (2) Sub-paragraph (1) does not include rights under a contract –
 - (a) if the parties intend that the profit is to be secured or the loss is to be avoided by one or more of the parties taking delivery of any property to which the contract relates; or
 - (b) under which money is received by way of deposit on terms that any interest or other return to be paid on the sum deposited will be calculated by reference to fluctuations in an index or other factor.

Rights and Interests in Securities

8. Rights to and interests in any security falling within any of the preceding sections of this Part.

Foreign Exchange Contracts

9. A foreign exchange contract when carried out in connection with a transaction in securities that is not –
 - (a) an option; or
 - (b) a contract to exchange one currency for another that is to be settled immediately.

Prescribed Securities

10. Anything prescribed by the regulations to be a security for the purposes of this Act.

Part 2 - Securities activities

The following activities are securities activities subject to registration under Part IV when carried on in the course of business for the purposes of this Act –

1. Trading in securities

- (a) buying, selling, subscribing for or underwriting securities as an agent; or
- (b) buying, selling, subscribing for or underwriting securities as principal where the person entering into that transaction –
 - (i) holds himself out as willing, as principal, to buy, sell or subscribe for securities of the kind to which the transaction relates at prices determined by him generally and continuously rather than in respect of each particular transaction;
 - (ii) holds himself out as engaging in the business of underwriting securities of the kind to which the transaction relates; or
 - (iii) regularly solicits members of the public with the purpose of inducing them, as principals or agents, to buy, sell, subscribe for or underwrite securities and such transaction is entered into as a result of such person having solicited members of the public in that manner.

- (c) For the purposes of this section, "members of the public" means any person other than a person –
- (i) referred to in paragraphs 1, 2, or 3 of Part 4;
 - (ii) regulated by the Commission;
 - (iii) regulated by a recognised overseas regulatory authority; or
 - (iv) as prescribed.

2. Arranging transactions in securities

Making arrangements with a view to –

- (a) another person (whether as a principal or an agent) buying, selling, subscribing for or underwriting securities; or
- (b) a person, who participates in the arrangements, buying, selling, subscribing for or underwriting securities.

3. Managing securities

Managing securities belonging to another person in circumstances involving the exercise of discretion, including acting as a manager of a mutual fund.

4. Providing investment advice

Advising a person on securities, including acting as the investment adviser of a mutual fund, if the advice is –

- (a) given to the person in his capacity as an investor or potential investor or in his capacity as agent for an investor or a potential investor; and
- (b) advice on the merits of his doing any of the following (whether as principal or agent) –
 - (i) buying, selling, subscribing for or underwriting a particular security; or
 - (ii) exercising any right conferred by a security to buy, sell, subscribe for, or underwrite a security.

5. Providing custodial services with respect to securities

Acting as custodian or depository of assets belonging to another person, including acting as a custodian or trustee of a mutual fund, where –

- (a) those assets include securities falling within paragraphs 1 to 6 of Part 1 of this Schedule; or
- (b) the custodial or depository arrangements are such that those assets may include securities specified in sub-paragraph (a) of this section and the arrangements have at any time been held out as arrangements under which securities would be safeguarded.

6. Providing administration services with respect to securities

Administering or arranging for the administration of assets belonging to another person, including acting as an administrator, registrar or transfer agent of a mutual fund, where

- (a) those assets include securities falling within paragraphs 1 to 6 of Part 1 of this Schedule; or
- (b) the administration arrangements are such that those assets may include securities specified in sub-paragraph (a) of this section and the arrangements have at any time been held out as being arrangements under which securities would be administered.

Part 3 – Excluded activities

The activities specified in this Part are excluded from securities activities subject to registration under Part IV of the Act in the following circumstances –

1. Trading in securities

(1) Securities evidencing indebtedness:

Where a person as principal or agent accepts, transfers or becomes party to (otherwise than as a debtor or surety) an instrument creating or acknowledging indebtedness in respect of any loan, credit, guarantee or other similar financial accommodation or assurance which such person or his principal has made, granted or provided.

(2) Issuing, redeeming or repurchasing own securities:

Where a company, partnership or trust issues, redeems or repurchases any of its securities falling within paragraphs 1 to 3 of Part 1.

(3) Risk management:

Where a person buys, sells, subscribes for or underwrites securities and –

- (a) the transaction relates to securities falling within paragraphs 5, 6(1), 7 or 9 of Part 1;
- (b) none of the parties to the transaction are individuals;
- (c) the sole or main purpose for which the person concerned enters into the transaction (either by itself or in combination with other such transactions) is to limit the extent to which a relevant business will be affected by any identifiable risk arising otherwise than as a result of the carrying on of any activities specified in Part 2 and which is not excluded by virtue of this Part; and
- (d) the relevant business is a business other than securities business carried on by–
 - (i) the person entering into the transaction;
 - (ii) a company within the same group of companies as such person; or
 - (iii) another person who is or is proposing to become a participator in a joint enterprise with such person.

(4) Sale of goods or supply of services:

Where a person buys, sells, subscribes for or underwrites securities for the purposes of or in connection with the sale of goods or supply of services or a related sale or supply by a supplier to a customer and the supplier is acting –

- (a) as a principal; or
- (b) as an agent,

provided that the supplier –

- (i) does not hold himself out generally as engaging in the buying, selling, subscribing for or underwriting of securities; or
- (ii) does not regularly solicit members of the public to buy, sell, subscribe for or underwrite securities.

(5) Incidental activity:

Where a person trades in securities as agent if -

- (a) the trading is undertaken in the course of carrying on any profession or business that does not otherwise constitute securities business;
- (b) the trading may reasonably regarded as a necessary part of other services provided in the course of carrying on that profession or business; and
- (c) the person acting as agent –
 - (i) is not separately remunerated otherwise than as part of any remuneration received in respect of such other services; and
 - (ii) does not hold himself out generally as providing the service of trading as agent.

(6) Employee schemes:

Where an employer buys, sells, subscribes for or underwrites securities in connection with the operation of a share or pension scheme for the benefit of employees or former employees, or of their spouses, widows, widowers or children or step-children under the age of eighteen.

(7) Application of proprietary assets:

Where a company, partnership or trust, acting as principal and trading only on its own behalf buys, sells or subscribes for securities by applying its proprietary assets, otherwise than as described in paragraph 1 (b) of Part 2.

2. Arranging transactions in securities

(1) Arranging own transactions:

Where a person makes arrangements for a transaction that that person enters into or will be entered into as principal or as agent for some other person.

(2) Incidental activities:

Where a person makes arrangements in securities if –

- (a) the arrangements are made in the course of carrying on any profession or business that does not otherwise constitute securities business;
- (b) the arrangements may reasonably regarded as a necessary part of other services provided in the course of carrying on that profession or business; and
- (c) the person making the arrangements -
 - (i) is not separately remunerated otherwise than as part of any remuneration received in respect of such other services; and
 - (ii) does not hold himself out generally as providing the service of arranging transactions in securities.

(3) Enabling parties to communicate:

Where a person makes arrangements to provide the means by which one party to a transaction (or potential transaction) is able to communicate with other parties to the transaction or potential transaction.

(4) Arrangements in connection with securities evidencing indebtedness:

Where a person makes arrangements in respect of a transaction referred to in paragraph 1(1) of this Part.

(5) Provision of finance:

Where a person makes arrangements for the sole purpose of providing finance to enable a person, as principal or agent, to buy, sell, subscribe for or underwrite securities.

(6) Introducing:

Where a person makes arrangements to introduce a person to another person and –

- (a) the person to whom introductions are to be made is a person referred to in Part 4; and
- (b) the introduction is made with a view to the provision of independent advice or the independent exercise of discretion in relation to securities generally or in relation to any class of securities to which the arrangements relate.

(7) Arrangements for the issue, redemption or re-purchase of its own securities:

Where a person makes arrangements in respect of a transaction referred to in paragraph 1 (2) of this Part.

(8) Sale of goods or supply of services:

Where a supplier makes arrangements made for, or with a view to, a transaction that is to be entered into by a customer for the purposes of or in connection with the sale of goods or supply of services or a related sale or supply.

(9) Employee schemes:

Where a person makes arrangements in connection with the operation by an employer of a share or pension scheme for the benefit of employees or former employees, or of their spouse, widows, widowers or children or step-children under the age of eighteen.

3. Managing securities

Sale of goods or supply of services

Where a person manages securities that are or are to be managed for the purposes of or in connection with the sale of goods or supply of services or a related sale or supply by a supplier to a customer.

4. Providing investment advice

(1) Sale of goods or supply of services:

Where a supplier gives advice to his customer with respect to securities for the purposes of or in connection with the sale of goods or supply of services or a related disposal or supply.

(2) Publications:

Where a person gives advice in any communications media and –

- (a) the principal purpose of the publication, taken as a whole including the advertisements, is not to induce persons to buy, sell, subscribe for or underwrite particular securities; or
- (b) the person responsible does not derive any direct benefit from any such purchase, disposal, subscription or underwriting.

(3) Incidental activities:

Where a person gives advice on securities if –

- (a) the advice is given in the course of carrying on any profession or business that does not otherwise constitute securities business;
- (b) the advice may reasonably be regarded as a necessary part of other services provided in the course of carrying on that profession or business; and
- (c) the person making the arrangements
 - (i) is not separately remunerated otherwise than as part of any remuneration received in respect of such other services; and
 - (ii) does not hold himself out generally as providing the service of giving advice on securities.

Part 4 - Excluded persons

The persons specified in this Part are excluded from the obligation to be registered under Part IV of the Act in the following circumstances:

1. A company carrying on securities business exclusively for one or more affiliate.
2. A person participating in a joint enterprise (and, where that person is a company, any other affiliate) with a person carrying on the securities business where the activities constituting such securities business are to be carried on for the purposes of or in connection with that joint enterprise. For the purposes of this paragraph “joint enterprise” means an enterprise into which two or more persons enter for commercial reasons related to a business, other than securities business, carried on by them.
3. The following persons –
 - (a) a registered marketplace;
 - (b) the Commission;
 - (c) the Government of Belize;
 - (d) the Central Bank of Belize; or
 - (e) the Financial Services Commission.
4. A person carrying on securities business only in the course of acting in any of the following capacities –
 - (a) director;
 - (b) partner;
 - (c) liquidator (including a provisional liquidator);
 - (d) trustee in bankruptcy;
 - (e) receiver of an estate or company;
 - (f) executor or administrator of an estate; or

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- (g) a trustee acting together with co-trustees in their capacity as such, or acting for a beneficiary under the trust, provided that in each case such person –
- (i) is not separately remunerated for any of the activities which constitute the carrying on of securities business otherwise than as part of any remuneration the person receives for acting in that capacity; and
 - (ii) does not hold himself out as carrying on securities business other than as a necessary or incidental part of performing functions in that capacity, or
 - (iii) is acting on behalf of a company, partnership or trust that is otherwise registered or exempted from registration under this Act.

DRAFT

SCHEDULE II*[section 195]*

Statute to be Amended	Extent of Amendment														
Companies Act, Chapter 250 of the Laws of Belize	<p>Section 2(1) of the Companies Act is amended by inserting the following definition of “beneficial owner”:</p> <p>“beneficial owner” has the meaning as such term is defined in the Securities Industry Act;</p> <p>Section 122(1)(b) of the Companies Act is amended by replacing the word “members” wherever occurring therein with the phrase “beneficial owners”.</p>														
Domestic Banks and Financial Institutions Act, No. 11 of 2012	<p>The First Schedule to the Domestic Banks and Financial Institutions Act, No. 11 of 2012 is repealed and replaced with the following—</p> <p style="text-align: center;">“FIRST SCHEDULE (Section 2)</p> <p>Financial Business</p> <table border="1" data-bbox="581 1024 1279 1791"> <thead> <tr> <th data-bbox="581 1024 906 1056">CLASS</th> <th data-bbox="906 1024 1279 1056">ACTIVITIES</th> </tr> </thead> <tbody> <tr> <td data-bbox="581 1056 906 1270">1. Finance House or Finance Company</td> <td data-bbox="906 1056 1279 1270">Financing of Hire Purchase and Instalment Credit, Financing Accounts Receivables, Trade and Inventory Financing, Factoring, Block Discounting and Lease Financing</td> </tr> <tr> <td data-bbox="581 1270 906 1333">2. Leasing Corporation</td> <td data-bbox="906 1270 1279 1333">Lease financing</td> </tr> <tr> <td data-bbox="581 1333 906 1518">3. Merchant Bank</td> <td data-bbox="906 1333 1279 1518">Loan syndication Acceptance credit Project financing Lease financing Foreign exchange dealing Inter-Bank financing</td> </tr> <tr> <td data-bbox="581 1518 906 1581">4. Mortgage Institutions</td> <td data-bbox="906 1518 1279 1581">Mortgage lending</td> </tr> <tr> <td data-bbox="581 1581 906 1766">5. Debit or Credit Card Business</td> <td data-bbox="906 1581 1279 1766">Issuing payment, credit or debit card and, in cooperation with such others including other financial institutions, operating a payment, credit or charge card plan.</td> </tr> <tr> <td data-bbox="581 1766 906 1791">6. Trust Corporation</td> <td data-bbox="906 1766 1279 1791">Performing duties of</td> </tr> </tbody> </table>	CLASS	ACTIVITIES	1. Finance House or Finance Company	Financing of Hire Purchase and Instalment Credit, Financing Accounts Receivables, Trade and Inventory Financing, Factoring, Block Discounting and Lease Financing	2. Leasing Corporation	Lease financing	3. Merchant Bank	Loan syndication Acceptance credit Project financing Lease financing Foreign exchange dealing Inter-Bank financing	4. Mortgage Institutions	Mortgage lending	5. Debit or Credit Card Business	Issuing payment, credit or debit card and, in cooperation with such others including other financial institutions, operating a payment, credit or charge card plan.	6. Trust Corporation	Performing duties of
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6. Trust Corporation	Performing duties of														

	<p>professional trustee, executor or administrator and attorney other than an international trustee licensed under the Financial Services Commission Act”.</p>
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<p>International Banking Act, Cap 267</p>	<p>Section 3 of the International Banking Act, Cap. 267 is amended by repealing section 3 and substituting the following-</p> <p>“3.– (1) “international banking” or “international banking business” means–</p> <ul style="list-style-type: none"> (a) receiving, borrowing or taking up foreign money exclusively from non-residents at interest or otherwise on current account, savings account, term deposit or other similar account and which according and subject to arrangement is repayable on the cheque, draft, order, authority or similar instrument of the customer, and investing the foreign money so received by lending, giving credit or otherwise exclusively to non-residents; or (b) carrying on exclusively with non-residents such other activities as are customarily related or ancillary to international banking. <p>(2) Notwithstanding sub-section (1), international banking and international banking business shall not include securities activities/businesses subject to registration under the Securities Industry Act, 2021.”</p>
<p>International Business Companies Act, Cap. 270</p>	<p>Section 2(1) of the International Business Companies is amended by deleting the definition of “collective investment scheme” and replacing it with the following-</p> <p>““collective investment scheme” means a company, partnership, unit trust or other entity registered or recognized under the Securities Industry Act, 2021 that is incorporated, formed or organised under the laws of Belize or the laws of any other country, that –</p> <ul style="list-style-type: none"> (a) collects and pools investor funds for the purpose of collective investment in securities and other permitted assets, with the aim of spreading investment risks and enabling investors in the mutual fund to share the profits or gains from the acquisition, holding, management or disposal of investments on a proportionate basis;

	<p>(b) does not invest for the purpose of being actively involved in the management of any issuer in which it invests; and</p> <p>(c) includes a company, partnership, unit trust or other legal entity of a class or description prescribed to be a mutual fund,</p> <p>but does not include a person licensed as a bank or insurance company under the laws of Belize or another country or a person of a class or description prescribed not to be a mutual fund;”.</p>
<p>International Financial Services Commission Act, Cap 272</p>	<p>The International Financial Services Commission Act, CAP 272 of the Laws of Belize, as amended, (hereinafter referred to as “the principal Act”) shall be amended as follows:</p> <p>The principal Act is amended–</p> <p>(a) in section 1 by deleting the word “International” occurring therein; and</p> <p>(b) other than the amendment referred to in paragraph (a), by deleting the term “International Financial Services Commission” wherever it occurs and substituting the term “Financial Services Commission”.</p> <p>Section 2 of the principal Act is amended in the definition of “international financial services” by inserting, immediately after the words “International Banking Act, Cap. 276”, the words “or registered under the Securities Industry Act”.</p> <p>Section 8 of the principal Act is amended by inserting the following new subsection immediately subsection (3) thereof:</p> <p>“(4) The Commission may terminate the appointment of the Director General if the Commission is satisfied that the person–</p> <p>(a) has become bankrupt or made arrangements with his creditors;</p> <p>(b) is incapacitated by physical or mental illness;</p> <p>(c) has been, in Belize or in any other jurisdiction, convicted of a criminal offence involving fraud or dishonesty, or found liable in a civil or regulatory action for activities involving fraud or dishonesty; or</p> <p>(d) is otherwise unable or unfit to discharge the functions of the position to which that person was appointed.”</p>

	<p>Section 9 of the principal Act is repealed.</p> <p>Section 10 of the principal Act is amended in the marginal note by deleting the word “junior”.</p> <p>Section 12 of the principal Act is amended—</p> <p>(a) in sub-section (2) by—</p> <p>(i) repealing paragraph (a) and replacing it with the following—</p> <p>“(a) four members who have been awarded degrees or professional qualifications and have a minimum of five years post-graduation experience in law, finance, business, economics, accounting, securities, investment or management and have demonstrated substantial knowledge of the securities industry of which two members have been recommended by the Belize International Financial Services Association.”; and</p> <p>(ii) repealing sub-paragraphs (g) and (h); and</p> <p>(b) by inserting the following new sub-sections immediately after sub-section (5)—</p> <p>“(6) A member of the Commission shall be a fit and proper person.</p> <p>(7) No person shall be appointed a member of the Commission if that person—</p> <p>(a) is bankrupt or has made arrangements with the person’s creditors;</p> <p>(b) is incapacitated by physical or mental illness; or</p> <p>(c) has been, in Belize or in any other jurisdiction, convicted of a criminal offence involving fraud or dishonesty, or found liable in a civil or regulatory action for activities involving fraud or dishonesty.</p> <p>(8) Members of the Commission shall be paid such remuneration and allowances as the Minister may determine from time to time.”</p> <p>Section 15 of the principal Act is amended by inserting the following new subsections immediately sub-section (3)—</p> <p>“(4) In carrying out the member's duties and activities, the member shall act honestly, fairly, with integrity, and in the best</p>
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	<p>interests of the Commission.</p> <p>(5) For the purposes of this section, a member shall be deemed to have an interest in a matter if the member, a family member of the member or the member's spouse, or the member's nominee, is a security holder or partner in, or an officer or director of, a person having an interest or being involved in a matter before the Commission.”</p> <p>Section 22 of the principal Act is repealed.</p> <p>Section 29(1) of the principal Act is repealed and replaced with the following–</p> <p>“29.–(1) Any person who for the purpose of obtaining a licence under this Act gives false, untrue or misleading information or fails to disclose material facts or circumstances, commits an offence and shall be liable on indictment to the penalty of–</p> <p>(a) in the case of a company, a fine of five hundred thousand dollars;</p> <p>(b) in the case of a natural person, a fine of one hundred thousand dollars or to imprisonment for a term not exceeding four years or to both such fine and imprisonment, and in addition, the licence granted to such person may be revoked by the Commission.”.</p>
<p>Money Laundering and Terrorism Prevention Act, Cap. 104</p>	<p>(1) Section 2(1) of the Money Laundering and Terrorism Prevention Act is amended by deleting the definition of “collective investment scheme” and replacing it with:</p> <p>““collective investment scheme” means a company, partnership, unit trust or other entity prescribed under the Securities Industry Act, 2021 that is incorporated, formed or organised under the laws of Belize or the laws of any other country, that –</p> <p>(a) collects and pools investor funds for the purpose of collective investment in securities and other permitted assets, with the aim of spreading investment risks and enabling investors in the mutual fund to share the profits or gains from the acquisition, holding, management or disposal of investments on a proportionate basis;</p> <p>(b) does not invest for the purpose of being actively involved in the management of any issuer in which it invests; and</p>

	<p>(c) includes a company, partnership, unit trust or other legal entity of a class or description prescribed to be a mutual fund,</p> <p>but does not include a person licensed as a bank or insurance company under the laws of Belize or another country or a person of a class or description prescribed not to be a mutual fund;”.</p> <p>(2) The First Schedule to the Money Laundering and Terrorism Prevention Act is amended by–</p> <p>(g) deleting paragraph 9 and replacing it with:</p> <p>“9. Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities, commodity futures trading and any other instruments defined as securities in the Securities Industry Act, 2021.”;</p> <p>(h) deleting paragraph 23 and replacing it with the following:</p> <p>“Unit trusts and other mutual funds as defined in the Securities Industry Act, 2021.”; and</p> <p>(i) adding the following as paragraph 34-</p> <p>“34. Engaging in securities business as defined in the Securities Industry Act, 2021.”.</p> <p>(2) The Third Schedule to the Money Laundering and Terrorism Prevention Act is amended by–</p> <p>(a) deleting Row 9 and replacing it with the following:</p> <table border="1" data-bbox="691 1413 1279 1774"> <tr> <td data-bbox="691 1413 768 1774">“9.</td> <td data-bbox="768 1413 1044 1774">Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities,</td> <td data-bbox="1044 1413 1279 1774">Financial Services Commission</td> </tr> </table>	“9.	Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities,	Financial Services Commission
“9.	Trading for own account or for account of customers in money market instruments (such as cheques, bills, certificates of deposit, derivatives), foreign exchange, financial futures and options, exchange and interest rate instruments, transferable securities,	Financial Services Commission		

		commodity futures trading and any other instruments defined as securities in the Securities Industry Act, 2021.”	
	(b)	deleting the words “Central Bank of Belize” in the third column of rows 11, 12, 13, 14, 15 and 16 and substituting the words “Financial Services Commission of Belize”;	
	(c)	by deleting Row 24 and replacing it with the following:	
		“24. Unit trusts and other mutual funds as defined in the Securities Industry Act, 2021	Financial Services Commission”;
	(d)	by inserting the following new row after row 32-	
		“33. Engaging in securities business as defined in the Securities Industry Act, 2021	Financial Services Commission”.