

SAINT LUCIA

No. 11 of 2010

ARRANGEMENT OF SECTIONS

SECTION

PART 1

PRELIMINARY

1. Short title
2. Interpretation
3. Application of the Act

PART 2

LICENCES

4. Requirement for licence
5. Classes of licences
6. Application for licence, formalities and consideration
7. Alteration of facts disclosed in application
8. Adequacy of capital
9. Period of licence and licence fee
10. Authorisation of location and approval of new business premises
11. Display of licence certificate
12. Restrictions on names likely to mislead
13. Advertisement
14. Actions of fundamental change requiring approval
15. Change in directorship

PART 3

AUDIT, INFORMATION AND EXAMINATION

16. Annual audit, report and publication of financial statements and results
17. Notice of termination of auditor's appointment
18. Accounting records and systems of business control
19. Returns
20. Extension of time for providing information
21. Retention of records
22. Examination by Authority
23. Confidential information
24. Exchange of information

PART 4

SEGREGATED ACCOUNTS,
BANKRUPTCY OR INSOLVENCY OF LICENSEE

25. Segregated accounts
26. Bankruptcy or insolvency of licensee
27. Utilisation of deposits, etc.

PART 5

ABANDONED PROPERTY

28. Abandoned property
29. Report, publication and disposal of abandoned property
30. Sale and handling of proceeds of sale of abandoned property
31. Claims on abandoned property
32. Penalties for failure to file abandoned property report

PART 6

ENFORCEMENT

33. Revocation and termination of licence
34. Suspension of licence
35. Persons carrying on money services business without a licence
36. Appointment of receiver
37. Authority may apply to court to preserve customers' interests
38. Powers of the Authority in respect of licensees
39. Transactions effected prior to suspension or revocation of licence
40. Powers and duties of the Authority
41. Criteria of prudent management
42. Management's duty of compliance with the requirements of the law
43. False or misleading information
44. Removal and disqualification of officers
45. Offences by officers of corporate bodies
46. General penalty

PART 7

IMMUNITIES, GUIDELINES AND REGULATIONS

47. Immunity
48. Prudential guidelines
49. Administration of this Act
50. Regulations

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

SCHEDULE 4

No. 11]

Money Services Business Act

[2010.

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

March 3, 2010.

SAINT LUCIA

No. 10 of 2010

AN ACT to provide for the licensing and regulation of money services businesses and to make provision for related matters.

[15th March, 2010]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same, as follows:

PART 1
PRELIMINARY

Short title

1. This Act may be cited as the Money Services Business Act 2010.

Interpretation

- 2.— (1) In this Act —

“affiliate” in relation to a licensee (“L”) means —

(a) a company which is or has at any relevant time been

(i) a holding company or subsidiary of L;

(ii) a subsidiary of a holding company of L; or

(iii) a holding company of a holding company or a subsidiary of a subsidiary of L; or

(b) any company or firm over which L has control;

(c) any company or firm over which L and any person associated with L has control;

(d) any company or firm which has common ownership with L;

(e) any company or firm which has the same beneficial owner and share common management and interlinked businesses with L;

“applicant” means the person applying for a licence under section 6;

“Authority” means the Financial Services Regulatory Authority established under the Financial Services Regulatory Authority Act;

“Central Bank” means the Eastern Caribbean Central Bank established under Article 3 of the Eastern Caribbean Central Bank Agreement 1983;

“clearing house” has the meaning given under the Payment System Act;

“Court” means the High Court of Justice established by the Supreme Court Order 1967;

“designated licensee” means a licensee who has been designated

- as a funds transfer system under the Payment System Act;
- “financial year” means, in relation to a licensee, a period of not more than twelve months for which the audited financial statements of a licensee is prepared in accordance with this Act;
- “funds transfer system” has the meaning given under the Payment System Act;
- “licence” means a licence issued under section 6 (4)(a)(i);
- “licensee” means a person holding a licence under this Act;
- “Minister” means the Minister responsible for Finance;
- “money services business” means —
- (a) the business of providing (as a primary business) any one or more of the following —
- (i) transmission of money or monetary value in any form;
 - (ii) cheque cashing;
 - (iii) currency exchange;
 - (iv) the issuance, sale or redemption of money orders or traveller’s cheques; and
 - (v) any other services the Minister may specify by Notice published in the *Gazette*; or
- (b) the business of operating as an agent or franchise holder of any of the businesses mentioned in paragraph (a);
- “net worth” means excess assets over liabilities as presented under international accounting standards subject to adjustment for non-admitted assets as determined by the Authority;
- “person” includes a body Corporate or an unincorporated body;
- “Regulations” means Regulations made under this Act;
- “significant shareholder” means a person who, either alone or with an affiliate or related or connected person, is entitled to exercise, or control ten percent or more of the voting power at any general meeting of the licensee or another company of which the licensee is a subsidiary.

Application of this Act

3.— (1) This Act does not apply to—

- (a) a person licensed under the Banking Act, No. 34 of 2006 or the

No. 11] *Money Services Business Act* [2010.

International Banks Act, Cap. 12.17 unless such person is operating as an agent or a franchise holder of a money services business;

- (b) the Central Bank;
- (c) an organisation licensed as a clearing agency under the Securities Act, Cap. 12.18;
- (d) an operator of a clearing house or funds transfer system under the Payment System Act.

(2) A money services business which is licensed under this Act is not required to be licensed under the Trade Licences Act, Cap. 13.04.

(3) This Act does not apply to or affect the validity of any money services business transaction in existence at the date of commencement of this Act.

PART 2 LICENCES

Requirement for licence

4.— (1) Subject to subsections (2) and (3) a person shall not carry on money services business in Saint Lucia unless that person holds a licence in accordance with this Act.

(2) A person who immediately before the date of commencement of this Act was carrying on money services business, shall upon that date be deemed to be duly licensed under this Act for a period of four months, or such other period as the Authority approves and shall require a licence in order to carry on money services business after the expiry of that period.

(3) A person holding funds which that person has obtained by conducting money services business without being in possession of a licence granted under this Act, shall settle his or her obligations in accordance with the Regulations.

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

Classes of licences

5. — (1) There are several classes of licences as specified in Schedule 1, which may be applied for and granted subject to the provisions of this Act.

(2) The several classes of licences issued under this Act authorize the holders, for the period specified in the licence, to carry on money services business as specified under this section and not otherwise a —

- (a) “Class A” licence permits a licensee to carry on any or all of the following businesses —
 - (i) transmission of money or monetary value in any form;
 - (ii) the issuance, sale or redemption of money orders or traveller’s cheques;
 - (iii) cheque cashing;
 - (iv) currency exchange;
- (b) “Class B” licence permits a licensee to carry on any or all of the following businesses —
 - (i) the issuance, sale or redemption of money orders or traveller’s cheques;
 - (ii) cheque cashing;
 - (iii) currency exchange;
- (c) “Class C” licence permits a licensee to carry on the business of cheque cashing;
- (d) “Class D” licence permits a licensee to carry on the business of currency exchange.

(3) The Minister may amend Schedule 1 by Order published in the *Gazette*.

Application for licence, formalities and considerations

6.— (1) In order to obtain a licence as a money services business, a person shall apply in writing to the Authority and submit the documents and other information as specified in Schedule 2 and pay the application fee prescribed in Schedule 4.

(2) In considering an application for a licence, the Authority shall conduct such investigation as the Authority deems necessary to ascertain —

- (a) the validity of the documents submitted in accordance with

Schedule 2;

- (b) the financial condition and history of the applicant;
- (c) the nature of the business of the applicant;
- (d) the experience of the persons who are to constitute the applicant's management;
- (e) the source of initial capital; and
- (f) the convenience and needs of the community to be served by the granting of the licence.

(3) In considering an application for a Class A or Class B licence, the Authority shall, in addition to the matters specified in subsection (2), take into consideration —

- (a) the adequacy of capital structure; and
- (b) the earning prospects of the applicant.

(4) Within a reasonable time of receiving an application for a licence the Authority shall:

- (a) if the Authority is satisfied that an application under subsection (1) is in order and that the applicant is a fit and proper person to be licensed to conduct money services business and that the applicant can fulfil the obligations of a licensee under this Act:
 - (i) approve the application and issue a licence to the applicant in the form set out in Schedule 3, subject to the applicant paying the prescribed licence fee set out in Schedule 4 and making the prescribed statutory deposit in accordance with section 8, and subject to such other terms, conditions and restrictions the Authority considers necessary;
 - (ii) on issuing the licence to the applicant, submit a copy of the licence to the Central Bank and recommend to the Central Bank that the licensee be designated in accordance with section 11 of the Payment System Act; or
- (b) if the Authority is of the opinion that it would be undesirable in the public interest to grant the licence or that the applicant is not a fit and proper person to be licensed to conduct money services business, the Authority may refuse to grant the licence and shall inform the applicant of the refusal to grant the licence.

(5) In considering whether an applicant is a fit and proper person to

be licensed, the Authority —

- (a) shall have regard to, in respect of each of the applicant's significant shareholders, directors, executive management and officers —
 - (i) the person's financial status;
 - (ii) the person's educational or other qualifications or experience having regard to the nature of the person's application;
 - (iii) the person's ability to perform the proposed function efficiently, honestly and fairly; and
 - (iv) the person's reputation, character, financial integrity and reliability; and
- (b) may take into account any matter relating to —
 - (i) any person who is or is to be employed by, or associated with the applicant for the purposes of the business to which the application relates;
 - (ii) any person who will be acting as a principal or representative in relation to such business; and
 - (iii) any significant shareholder, director or officer of the applicant, any other company or firm in the same group of companies, or to any director or officer of any such company or firm.

(6) For the purposes of this section, the Authority may have regard to any information in the Authority's possession whether furnished by the applicant or not.

(7) A licence to carry on money services business under this Act is not transferable.

(8) The Authority may, at any time, vary the conditions or restriction imposed by the Authority pursuant to subsection (4).

(9) The Minister may amend Schedules 2, 3 and 4 by Order published in the *Gazette*.

Alteration of facts disclosed in application

7. An applicant shall immediately give written notice to the Authority of —

- (a) any proposed alteration to, or
- (b) the occurrence of any event which the applicant knows affects or may affect in a material respect,

information supplied to the Authority in relation to the application, being a proposal or event made or occurring while the application is awaiting a decision by the Authority.

Adequacy of capital

8.— (1) A licensee shall maintain adequate capital in such form and based on such formula as the Minister may by Order prescribe.

(2) A licensee shall make a statutory deposit of a portion of the prescribed capital referred to in subsection (1) with the Authority to be held in trust in an interest bearing account with a bank or other financial institution approved by the Authority for the benefit of holders of outstanding payment instruments, in the event that the licensee becomes bankrupt or for any other reason, is unable to meet its contractual obligations to its customers.

(3) The Authority shall create a trust referred to in subsection (2) by trust deed.

(4) The Authority shall retain the deposit for a period of at least six months after the licensee ceases money services business in Saint Lucia subject to any court order made in respect of the deposit.

(5) Where there is a deficiency in the prescribed capital, the Authority shall require the licensee to present a plan that is satisfactory to the Authority to reconstitute the capital of the licensee within thirty days or such longer period as may be determined by the Authority.

(6) Where the licensee —

- (a) fails to present a satisfactory plan pursuant to subsection (5); or
- (b) fails to implement a plan presented pursuant to subsection (5) the Authority shall take such remedial action as the Authority deems necessary in accordance with section 38.

(7) The requirements of this section does not apply to a licensee of a Class C or Class D licence.

Period of licence and licence fee

9.— (1) Every licensee shall pay the prescribed annual licence fee according to the classification of the licence set out in Schedule 4.

(2) A licence to carry on money services business is valid from the date of first issue to the 31st December of that year and is renewable each year on payment on or before the 15th day of January of the prescribed annual licence fee.

(3) All licence fees paid under this Act are payable to the Accountant General and form part of the Consolidated Fund.

Authorisation of location and approval of new business premises

10.— (1) A licence granted under this Act authorises the licensee to carry on money services business in Saint Lucia at the place of business designated in the licence and at such other place as the Authority may authorise in writing.

(2) A licensee shall not open a new place of business or change the location of an existing place of business in Saint Lucia without the prior approval of the Authority and a licensee shall not close an existing place of business in Saint Lucia without having given thirty days prior written notification to the Authority.

(3) A licensee shall not open a place of business elsewhere than in Saint Lucia without the prior written approval of the Authority.

(4) A licensee shall not close a place of business outside of Saint Lucia without having given twenty-one days prior written notification to the Authority.

Display of licence certificate

11. A licensee shall display a copy of the licence granted to the licensee under this Act in a conspicuous place in the public part of any place of business of the licensee.

Restrictions on names likely to mislead

12.— (1) A licensee shall not hold a licence under a name which —

- (a) is identical to that of any company, firm or business house, whether within Saint Lucia or not, or that so nearly resembles that name as to be misleading;
- (b) falsely suggests, the patronage of or connection with some person or Minister, whether within Saint Lucia or not;
- (c) falsely suggests, that the money services business has a special status in relation to or derived from the Government, has the official backing of or acts on behalf of the Government or any department, branch, agency or organ of Government, or of any officer of Government or is recognised in Saint Lucia as a national or central money services business.

(2) The Authority may refuse to grant a licence to or shall revoke the licence of a person who contravenes subsection (1).

(3) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

Advertisement

13.— (1) A person, other than a licensee or an entity to which this Act does not apply under section 3, shall not —

- (a) use any English or foreign words in the description or title under which the person carries on business within Saint Lucia, representing that the person is carrying on money services business;
- (b) make any representation in any billhead, letter, letterhead, circular, paper, notice or advertisement or in any other manner that the person is carrying on money services business within Saint Lucia; or
- (c) in any manner solicit or receive money from any person for the purpose of carrying on money services business within Saint Lucia.

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

Actions of fundamental change requiring approval

14. Unless the approval of the Authority is first obtained a licensee shall not —

- (a) change the name of the licensee;
- (b) change the principal office of the licensee;
- (c) transfer the whole or any substantial part of the licensee's assets or liabilities in Saint Lucia other than in the ordinary course of the business of the licensee; or
- (d) enter into a merger or consolidation within Saint Lucia.

Change in directorship

15. — (1) A licensee shall, no less than forty-five days prior to the proposed date of appointment of a director or other senior officer:

- (a) submit to the Authority a completed Form B in Schedule 2 and the prescribed application form in respect of each proposed appointee; and
- (b) obtain approval of the Authority for appointment of the proposed appointee as director or other senior officer.

(2) Upon receipt of the completed Form B in Schedule 2 and the prescribed application form, the Authority shall conduct an investigation to determine whether the proposed appointee satisfies the fit and proper criteria established in section 6 (5).

(3) Within forty-five days of the receipt of the completed Form B in Schedule 2 and the prescribed application form the Authority shall —

- (a) approve the appointment of the proposed appointee to the proposed post and notify the licensee in writing; or
 - (b) inform the licensee in writing that the proposed appointee does not satisfy the fit and proper criteria, and refuse approval for appointment of the proposed appointee to the proposed post.
- (4) Notwithstanding subsection (1), where prior notification of the

appointment of a proposed appointee as director or other senior officer of a licensee is not possible, the licensee —

- (a) may appoint the proposed appointee as director or other senior officer as the case may be, conditional on the approval of the Authority in accordance with subsection (3); and
- (b) shall within five days of such appointment submit to the Authority the forms prescribed under subsection (1) and a letter specifying the reasons for the appointment of the proposed appointee without prior approval.

PART 3

AUDIT, INFORMATION AND EXAMINATION

Annual audit, report and publication of financial statements and results

16.— (1) A licensee shall appoint annually an auditor who be a chartered accountant, a certified public accountant, a member of the Institute of Chartered Accountants of the Eastern Caribbean or some other professionally qualified accountant, satisfactory to the Authority whose duties shall —

- (a) be to examine the books and records and to make a report on the annual financial statements and financial position of the licensee; and
- (b) include all or any of the following duties as may from time to time be imposed on the auditor by the licensee at the request of the Authority to —
 - (i) submit such additional information in relation to the audit of the licensee as the Authority considers necessary;
 - (ii) carry out any other examination or establish any procedure in any particular case;
 - (iii) submit a report on any of the matters referred to in subparagraphs (i) and (ii);
 - (iv) submit a report on the financial and accounting systems and risk management controls of the licensee;
 - (v) provide an opinion on whether suitable measures to counter money laundering and to combat the financing of terrorism have been adopted by the licensee and are being implemented in accordance with the applicable laws.

(2) A licensee shall within three months of the end of the financial

year, forward the audited financial statements referred to in subsection (1) to the Authority unless prior written approval for an extension has been granted by the Authority.

(3) The licensee shall in audited financial statements referred to in subsection (1) cover a period of not more than eighteen months beginning on the date the licensee was incorporated, or, if the licensee has previously prepared audited financial statements beginning at the end of the period covered by the most recent audited financial statements.

(4) A designated licensee shall submit audited financial statements annually to the Central Bank in accordance with the provisions of the Payment System Act and shall submit a copy of such audited financial statements to the Authority.

(5) A licensee shall remunerate the auditor in respect of the discharge by the auditor of all or any of the duties set out in subsection (1).

(6) If in the course of the performance of an auditor's duties an auditor is satisfied that —

- (a) there has been a serious breach of or non-compliance with the provisions of this Act or any regulations, notice, order, guidelines or directions issued under this Act;
- (b) there is evidence —
 - (i) that a criminal offence involving fraud or other dishonesty may have been committed; or
 - (ii) of any suspicious transaction in accordance with the Money Laundering (Prevention) Act, Cap. 12.20, the auditor shall immediately report the matter to the licensee and the Authority.

(7) The Authority may request copies of reports submitted to the licensee by both the internal and external auditors of the licensee.

(8) An auditor shall report to the Authority any matter the auditor is required to report on any licensee to any investigative, regulatory or other institution, simultaneously with the report to that institution.

(9) A licensee who fails to secure compliance with a request under

subsection (1) (b) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars for each such failure.

(10) If a licensee fails to appoint an auditor satisfactory to the Authority, the Authority may appoint an auditor for such licensee and the remuneration of the auditor so appointed shall be determined by the Authority and paid by the licensee.

(11) The Authority may appoint an auditor to conduct an independent audit of a licensee, in accordance with the instructions of the Authority, and to report the findings or results to the Authority.

(12) An auditor shall not be liable for breach of any duty solely by reason of compliance with the provisions of subsections (1), (6) or (8), of this section or any other request for information by the Authority.

(13) A person having an interest in any licensee otherwise than as a depositor, director, manager, secretary, or an employee or agent of a licensee shall be eligible for appointment as auditor for the licensee.

(14) A person, appointed as auditor who, after an appointment, acquires any interest in a licensee, or become a director, manager, secretary, or an employee or agent of a licensee shall immediately cease to be such auditor.

(15) The Minister may by Order published in the *Gazette*—

- (a) exempt any licensee or any class of licensee from the audit requirement contained in subsection (1);
- (b) waive the audit requirement contained in subsection (1) in respect of any licensee or any class of licensee;
- (c) require that the Authority conduct an *ad hoc* audit of any licensee or any class of licensee in respect of which the audit requirement is waived or lifted under paragraphs (a) and (b) of this subsection.

(16) The Authority may assess a licensee for the reasonable expenses of conducting any *ad hoc* audit ordered by the Minister under paragraph (c) of subsection (15).

Notice of termination of auditor's appointment

17. A licensee shall notify the Authority in writing of the licensee's intention to terminate the appointment of an auditor, or not to reappoint an auditor for a new term, and shall state the reasons for the decision in the notification.

Accounting records and systems of business control

18.— (1) A licensee shall in accordance with this section, in respect of its money services business —

- (a) keep accounting records; and
- (b) establish and maintain systems
 - (i) of internal control and record keeping, and
 - (ii) for inspection and report.

(2) The licensee shall ensure that systems of control, inspection and reporting and recording of the money services business is so conducted that —

- (a) the information necessary to enable the directors to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or as needed and with sufficient promptness; and
- (b) the information obtained by or furnished to the Authority under or for the purposes of this Act, is sufficiently accurate for the purpose for which the information is obtained or furnished.

(3) A licensee shall institute procedures to ensure that the accounting records and systems of control comply with the requirements of the Money Laundering (Prevention) Act, Cap. 12.20.

Returns

19.— (1) A licensee who holds a Class A or Class B licence, shall, in the form provided by the Authority, file quarterly returns with the Authority within fifteen days of the end of a quarter, along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of money services business of the licensee.

(2) A licensee who holds a Class C or Class D licence must, within fifteen days of the end of the financial year of the licensee, file an annual return with the Authority along with a written declaration that

the information set out in the application for the licence remains correct and gives a full and fair picture of the licensee's money services business.

(3) A designated licensee shall submit a copy of the returns to the Central Bank within the stipulated time.

(4) A licensee who fails to file the returns within the time stipulated in subsections (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

Extension of time for providing information

20. At the request of a licensee, the Authority may extend, from time to time, any period within which such licensee is, in accordance with the provisions of this Act, obliged to furnish any document or information.

Retention of records

21.— (1) A licensee shall retain for a period of at least seven years from the date of creation of each particular record, all records created and obtained by the licensee, in particular records of each transaction executed by the licensee, records of each outstanding transaction, bank reconciliation records and bank statements received during the course of operation and administration of the money services business of the licensee.

(2) The retention of records under subsection (1) may be effected by electronic means.

Examination by Authority

22. — (1) The Authority, shall examine or cause an examination to be made of each licensee from time to time or whenever in the judgment of the Authority such examination is necessary or expedient in order to determine that such licensee is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of the business of the licensee.

(2) For the purpose of determining the condition of a licensee and compliance by the licensee with this Act, the Authority may at any time examine or cause an examination to be made of any affiliate of the licensee in Saint Lucia to the same extent that an examination may be made of the licensee.

(3) The Authority may assess a licensee for the reasonable expenses of conducting an examination under subsections (1) and (2).

(4) The Authority shall forward copies of balance sheets, statements and reports on the results of any examination to the licensee.

(5) A licensee refusing to make available for examination any books, accounts and records having been requested to do so by the Authority, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Confidential information

23. A person who has acquired knowledge in his or her capacity as director, manager, secretary, officer, employee or agent of a licensee or as the auditor or receiver or official liquidator of a licensee or as director, officer, employee or agent of the Authority, shall not disclose to any person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a customer of the licensee except —

- (a) with the written authorisation of the customer or of his or her heirs or legal personal representatives; or
- (b) for the purpose of the performance of his or her duties within the scope of his or her employment in conformity with the provisions of this Act; or
- (c) when lawfully required to make disclosure by any court of competent jurisdiction within Saint Lucia; or
- (d) under the provisions of any law in force in Saint Lucia.

Exchange of information

24. —(1) Notwithstanding section 23, on the basis of reciprocity and a memorandum of understanding and an agreement for confidentiality, the Authority may —

- (a) share any information received or any report prepared by it in the performance of its duties under this Act, with the Central Bank or any foreign authority responsible for the supervision or regulation of affiliates of a licensee, or for maintaining the integrity of the financial system; or
- (b) provide access, to any officer of the Central Bank or a foreign authority responsible for the supervision or regulation of affiliates

of a licensee in order to assess the safety and soundness of an affiliate.

PART 4
SEGREGATED ACCOUNTS,
BANKRUPTCY OR INSOLVENCY OF LICENSEE

Segregated Accounts

25. — (1) A licensee on receipt of funds from a customer shall immediately and irrevocably segregate the amount intended for transmission or delivery to the payee customer exclusively for the purpose of the proper payment of the funds in due course to the payee customer.

(2) Any funds which are not delivered or transmitted to the payee customer by or on behalf of the licensee is a charge on the assets of a bankrupt or otherwise insolvent licensee and shall be —

(a) re-paid to the payor customer; or

(b) paid to the payee customer;

by the licensee, receiver, liquidator or administrator out of the segregated account to which the funds placed or was deemed to have been placed.

Bankruptcy or insolvency of licensee

26.— (1) A licensee shall notify the Authority as soon as practicable of declaration of bankruptcy and of intention to commence insolvency proceedings.

(2) A licensee does not contravene subsection (1) if the licensee took reasonable steps to comply with that subsection (1).

(3) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

Utilisation of deposits, etc

27.— (1) Despite anything to the contrary in the the Commercial Code, Cap. 244 Title IX or the Companies Act, Cap. 13.01, any funds delivered to a licensee by or on behalf of a customer, prior to the issue of any bankruptcy, winding-up or receivership order against that licensee shall be utilised by the licensee, receiver or liquidator solely to discharge the licensee's contractual obligations to the customer.

(2) Notwithstanding anything contained in the Commercial Code, Cap. 244, Title IX or the Companies Act, Cap. 13.01, if a licensee goes into bankruptcy, receivership or is wound up, any provision contained in a written agreement between the licensee and a customer is binding upon the liquidator, receiver or administrator in respect of any payment or settlement obligation.

(3) A licensee, receiver, administrator or liquidator who contravenes the provisions of subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

PART 5

ABANDONED PROPERTY

Abandoned Property

28. — (1) Subject to subsection (2) the following items which are held or owing by a licensee are presumed to be abandoned—

- (a) any funds paid in Saint Lucia toward the purchase of shares or other interests in a licensee, together with any interest or dividend, but excluding any lawful charges;
- (b) any sum payable on written instruments issued in Saint Lucia on which a licensee is directly liable; or
- (c) any sum delivered to the licensee for transmittal to a person in Saint Lucia or in another jurisdiction for and on behalf of a payee.

(2) The items enumerated in subsection (1) are not to be presumed to be abandoned if the owner has, within two years of the date of deposit, payment of funds or issuance of instruments, as the case may be —

- (a) corresponded in writing with the licensee concerning the items; or
- (b) otherwise indicated an interest in the items as evidenced by a

memorandum concerning the items written by a licensee.

Report, publication and disposal of abandoned property

29. — (1) A licensee who holds any of the items enumerated in section 28 shall within ninety days after the end of the financial year of the licensee report such holdings to the Authority, and subsequently pay or deliver to the Authority all property presumed to be abandoned listed in the report in accordance with the Regulations.

(2) Upon paying or delivering such property identified in subsection (1) into the custody of the Authority a licensee is relieved of all liability to the extent of the value of the property for any claim in that respect.

(3) Within thirty days after the end of the financial year of the licensee but before the filing of the report to the Authority required by subsection (1), a licensee shall publish in the *Gazette* and at least one newspaper in general and weekly circulation in Saint Lucia the name of the owner and particulars concerning the property and shall mail a notice to the owner at the owner's last known address containing particulars concerning the property.

Sale and handling of proceeds of sale of abandoned property

30.— (1) A licensee may sell at public sale all property other than money presumed to be abandoned after the expiration of sixty days from the later date of publication or mailing required by section 29(3) following such advertisement of the sale as approved by the Authority.

(2) A purchaser shall receive title to the property free from all claims of the owner or prior holder and from all persons claiming through or under him or her.

(3) A licensee shall deposit with the Authority the proceeds of the sale of property in accordance with subsection (1) less all reasonable costs incurred by the licensee in connection with the sale, mailing of notices, and service as the licensee may deem appropriate to assure the prompt payment of claims which may subsequently be made and approved by the Minister.

(4) Any property remaining unsold shall be delivered to the Authority and shall be disposed of by the Authority in such manner as the Minister may direct.

Claims on abandoned property

31. — (1) Any person claiming an interest in any property which has been paid to, or delivered into the custody of the Authority or in the proceeds from the sale may file a claim with the Authority and, after an appropriate hearing, the decision of which shall be communicated to the claimant and made a public record, the Authority may deliver up the property or make payment.

(2) Any person aggrieved by a decision of the Authority may commence an action in the High Court to establish his or her claim within thirty days following the decision of the Authority.

Penalties for failure to file abandoned property report

32. — (1) A licensee shall not wilfully fail to file the report or to pay or deliver property presumed to be abandoned into the custody of the Authority in accordance with section 29 (1) or 30 (4).

(2) A licensee who contravenes subsection (1) commits an offence, is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both.

PART 6
ENFORCEMENT

Revocation and termination of licence

33.— (1) The Authority may revoke any licence to carry on money services business in Saint Lucia if the licensee—

- (a) fails to commence operations within a period of three (3) months following the granting of the licence; or
- (b) fails to comply with the conditions or restrictions of the licence; or
- (c) is in breach of any of the provisions of this Act; or
- (d) ceases to carry on money services business in Saint Lucia for a period exceeding ten months; or
- (e) is conducting its affairs in a manner detrimental to the public interest or to the interest of customers; or
- (f) goes into liquidation or is wound up or otherwise dissolved; or

(g) by reason of any other circumstances, is no longer a fit and proper person to hold a licence.

(2) The Authority shall terminate a licence at the request of the licensee.

(3) Before revoking a licence under subsection (1), the Authority shall give the licensee concerned notice in writing of the Authority's intention to do so, specifying the grounds upon which the Authority proposes to make the revocation and shall require the licensee to submit to the Authority within a specified period being not less than thirty days, a statement of objections to the making of the revocation and thereafter, the Authority shall give the licensee notice in writing of its decision.

(4) The Authority shall serve a notice under subsection (3) by leaving it at the licensee's last known address and shall be published in the *Gazette* or in at least two newspapers in general and at least weekly circulation in Saint Lucia.

(5) If any licensee is aggrieved by any decision made under subsection (1), that licensee may appeal to the High Court within fourteen days of service of the notice of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the decision.

(6) Where a licence to carry on money services business in Saint Lucia has been revoked, the Authority shall, as soon as possible after the revocation cause a notice of the revocation to be published in the *Gazette* and a newspaper circulating in Saint Lucia and cause such other steps to be taken as are deemed to be necessary to inform the public of the revocation.

Suspension of licence

34.— (1) The Authority may, if the Authority thinks it necessary —

- (a) as a matter of urgency for the protection of the public, or
- (b) as a result of any investigation under this Act or Regulations made under this Act;

suspend a licence granted under this Act for such period, or until the happening of an event, as the Authority considers appropriate.

(2) The Authority shall give notice in writing to a licensee whose licence is suspended under this Act and a licensee shall, for the purpose of this Act, be deemed not to be licensed from the date of notification of

suspension.

(3) The Authority shall serve a notice under subsection (2) by leaving it at the licensee's last known address and publishing the notice in the *Gazette* and in at least two newspapers in general and at least weekly circulation in Saint Lucia.

(4) If any licensee is aggrieved by any decision made under subsection (1), that licensee may appeal to the High Court within fourteen days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the said decision.

Persons carrying on money services business without a licence

35. — (1) If the Authority has reasonable cause to suspect that —

- (a) any person is carrying on money services business without a licence granted under this Act; and
- (b) evidence of contravention of section 4(1) is to be found on any premises in Saint Lucia, the Authority may lay information on oath before a Magistrate with regard to its suspicions.

(2) Upon filing of the information in subsection (1), the Magistrate, may by warrant authorise an officer of the Authority named in such warrant to enter and search such premises with a police officer and seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash as may be found on the premises relating to the conduct of money services business, to ascertain whether the person is carrying on money services business without a licence.

(3) Any such warrant may authorise —

- (a) the Authority to detain the books, accounts, records, vouchers and other documents, cheques, securities and any cash for a period not exceeding thirty days;
- (b) the officer to make copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash; and
- (c) the Authority to retain copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash.

(4) The person authorised by a warrant to search any premises may

—

- (a) seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash found —
 - (i) in the premises; or
 - (ii) in the possession of any person described in paragraph (b) of this subsection;
- (b) search every person who —
 - (i) is found on the premises; or
 - (ii) has recently left or is about to enter the premises;

if he or she has reasonable grounds for believing that any books, accounts, records, vouchers and other documents, cheques, securities and any cash in respect of the conduct of money services business is on the premises.

(5) Pursuant to any warrant issued under this section, a person must not be searched by an officer of the opposite sex.

(6) Where under this section a person has the power to enter any premises, the person may, if necessary, use reasonable force to enter the premises.

(7) A person who obstructs the Authority or any other person in the exercise of any powers conferred under this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding six months or both.

Appointment of receiver

36.— (1) Without prejudice to section 4(1), where a person is found under section 35 (1) to be conducting money services business without a licence, the Authority may apply to the court for appointment of a receiver to liquidate the business.

(2) Before applying for the appointment of a receiver under subsection (1), the Authority shall give the person concerned notice in writing of the Authority's intention to do so and shall require the person to comply with the requirements of this Act within a specified period being not less than thirty days and the Authority shall advise the person of

the Authority's decision.

Authority may apply to Court to preserve customers' interests

37.— (1) The Authority may, in a case where a licensee, or a person who has at any time been a licensee, is being wound up voluntarily, apply to the Court if the Authority considers that the winding up is not being conducted in the best interests of the licensee's customers or creditors, and the Court shall make any order it considers appropriate.

(2) If it appears to the Authority that there are reasonable grounds for suspecting that an offence against this Act has been or is being committed by any person, the Authority may, with the approval of the court, take any action the Authority considers necessary, in the interest of the person's customers or creditors, to preserve any assets held by that person.

Powers of the Authority in respect of licensees

38. (1) Whenever the Authority is of the opinion that —

- (a) a licensee is or appears likely to become unable to meet the licensee's obligations as the obligation's become due;
- (b) a licensee is carrying on business in a manner detrimental to the public interest or the interest of customers or creditors;
- (c) a licensee has contravened this Act;
- (d) a licensee has failed to comply with a condition of a licence;
- (e) there has been or is, on the part of a licensee or its directors, a failure to satisfy any one or more of the criteria of prudent management set out in section 41;
- (f) a licensee, director, manager, secretary or other officer concerned in the management of a licensee refuses to cooperate with the Authority in the performance of the Authority's functions under section 40;
- (g) a licensee is carrying on business in an unlawful manner;
- (h) a licensee has failed to maintain the prescribed capital; or
- (i) is violating any law, regulation or guideline to which the licensee or person is subject;

the Authority may take one or more of the measures set out in subsection (2).

(2) Without prejudice to sections 33 and 34, the measures that the

Authority may take in pursuance of subsection (1) are as follows:

- (a) impose conditions, or further conditions, as the case may be, upon the licence and may amend any of the conditions;
- (b) require the suspension or removal of a director or officer of the licensee;
- (c) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of the affairs of the licensee and to report to the Authority within three months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require;
- (d) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall have all the powers of a person appointed as a receiver under the Commercial Code, Cap. 244 of the Revised Edition of the Laws of Saint Lucia 1957 who shall report to the Authority within three months of the date of the appointment, or any extension of appointment and at such intervals as the Authority may require;
- (e) require a licensee, to take, refrain from or discontinue any action as the Authority considers necessary;
- (f) revoke the licence.

(3) The Authority may, on receipt of a report under subsection (2)

- (a) revoke the appointment of the person appointed under subsection (2)(c) or (d);
- (b) extend the period of appointment of a person appointed under subsection (2) (c) or (d);
- (c) subject to any conditions that the Authority may impose, allow the licensee to reorganise its affairs of the licensee in a manner approved by the Authority; or,
- (d) revoke the licence.

(4) The Authority shall comply with the procedures established in subsections (3), (4), (5) and (6) of section 33 if it decides to revoke a licence pursuant to subsections 2(f) and 3(d).

(5) If any licensee is aggrieved by any decision made under

subsection (2), that licensee may appeal to the High Court within fourteen days of such decision, setting out the grounds of such appeal, and the High Court may revoke or confirm the decision.

Transactions effected prior to suspension or revocation of licence

39. The suspension or revocation of a licence under this Act does not void or affect any agreement, transaction or arrangement relating to a provision of money services business entered into by the licensee before the suspension or revocation of the licence and does not affect any right, obligation, or liability arising under any such agreement, transaction or arrangement.

Powers and duties of the Authority

40.— (1) The Authority shall ensure the proper administration of this Act.

(2) Without limiting the generality of subsection (1) the Authority shall:

- (a) maintain a general review of money services business practice in Saint Lucia;
 - (b) whenever the Authority thinks fit, examine the affairs or business of any licensee carrying on business within Saint Lucia for the purpose of satisfying itself that this Act has been or is being complied with and that the licensee is in a sound financial position and is managing the business of the licensee in a prudent manner;
 - (c) assist in the investigation of any offence against the laws in force in Saint Lucia which the Authority has reasonable grounds to believe has or may have been committed by a licensee or by any of the directors or officers of the licensee;
 - (d) examine-
 - (i) returns furnished to the Authority under section 19, and
 - (ii) audited financial statements forwarded to it under section 16, and report on the audited financial statements to the Minister whenever it thinks fit;
 - (e) require or perform consolidated supervision of affiliates whenever the Authority thinks fit; and
 - (f) cooperate with and facilitate the Central Bank in consolidated supervision of designated licensees.
- (3) In the performance of the Authority's functions under this Act

the Authority is entitled at all reasonable times to —

- (a) have access to the premises, books, records, vouchers, documents, cash and securities of any licensee;
- (b) remove and make copies of any books, records, vouchers and documents found on the premises of a licensee;
- (c) request the information, matter or thing from any person who it has reasonable grounds to believe is carrying on money services business in contravention of section 4(1); and
- (d) call upon the manager of the licensee or any similar person, or an officer designated by either of them, for any information or explanation, the Authority may require for the purpose of enabling the Authority to perform its functions under this Act.

(4) Information requested under subsection (3) (c) shall be provided by the licensee in such form as the Authority may require.

(5) A person who fails to comply with a requirement by the Authority under subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both.

Criteria of prudent management

41.— (1) For the purpose of section 40(1)(b), the criteria for managing business in a prudent manner are as follows —

- (a) maintenance of
 - (i) adequate reserves and other capital resources in amounts which may be prescribed in the Regulations;
 - (ii) adequate assets in liquid form in amounts which may be prescribed in the Regulations;
 - (iii) a system for managing and containing risks to the net worth of the licensee's business and risks to the licensee's net income, whether arising from fluctuations in interest or exchange rates or from other factors;
 - (iv) the requisite accounting records;
 - (v) systems of internal control and record keeping; and
 - (vi) systems for inspection and report;
- (b) management conducted with prudence and integrity by a

sufficient number of persons, having regard to the range and scale of the business, who are fit and proper to be directors or, as the case may be, officers of the licensee in accordance with the criteria established under section 6(5); and

- (c) conduct of the licensee's business with adequate professional skill.

Management's duty of compliance with the requirements of the law

42. A director, manager, secretary or other officer concerned in the management of a licensee who fails to take all reasonable steps to secure compliance by the licensee with the requirements of this Act commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

False or misleading information

43. A licensee, director or an officer of a licensee who knowingly or willfully supplies false or misleading information to the Authority commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

Removal and disqualification of officers

44.—(1) Any person who is a director, manager or other officer concerned with the management of a licensee shall cease to hold office upon —

- (a) notification by the management team of the licensee of a finding by two-thirds of the management team of the licensee members of his or her permanent incapacity or serious neglect of, or misconduct in, office; or
- (b) the person being declared bankrupt or compounding with, or suspending payment to, his creditors; or
- (c) the person being conviction in a court of law of any offence involving fraud or dishonesty; or
- (d) the person being sentenced for an offence involving a term of imprisonment of or exceeding six months or in default of a payment of a fine; or
- (e) the person being deemed not to be fit and proper person in

accordance with the criteria established under section 6(5).

(2) A person who has been a director of, or directly or indirectly concerned in the management of a licensee, the licence of which has been revoked, shall not without the approval of the Authority, act or continue to act as a director, or be directly or indirectly concerned in the management of any licensee.

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

Offences by officers of corporate bodies

45.— (1) Where an offence under this Act has been committed by a body of persons which is —

(a) a body corporate, society or other body of persons, every person who at the time of the commission of the offence was a director, manager, secretary or other officer of the body corporate, society or other body of persons as well as that body corporate, society or other body of persons commits the offence;

(b) a partnership or firm, every partner of the partnership or firm as well as that partnership or firm commits the offence, and is liable to be proceeded against and punished accordingly.

(2) A person referred to in subsection (1) shall not be convicted of an offence under that subsection where the person proves, that—

(a) the act constituting the offence took place without his or her knowledge or consent; or

(b) the person exercised all due diligence to prevent the commission of the offence.

PART VII

IMMUNITIES, REGULATIONS AND GUIDELINES

Immunity

46. Neither the Authority nor an employee of the Authority shall be liable for anything done or omitted in the discharge or purported discharge of its functions under this Act unless it is shown that the act or

omission was in bad faith.

Prudential guidelines

47.— (1) The Authority in administering the provisions of this Act may issue prudential guidelines and related orders.

(2) Without limiting the generality of subsection (1) the Authority may issue prudential guidelines and related orders respecting —

- (a) policies, practices and procedures for evaluating the quality of assets,
- (b) policies, procedures and systems for identifying, monitoring and controlling transfer risk, market risk, operational risk and such other risks as the Authority shall specify;
- (c) corporate governance;
- (d) auditors;
- (e) procedures to be adopted by licensees and the Authority; and
- (f) anti-money laundering and combating the financing of terrorism matters.

Administration of this Act

49. — (1) Despite the provisions of this Act, the Minister shall be responsible for the carrying out of the statutory duties and exercising the statutory powers created under this Act.

(2) Notwithstanding subsection (1), the Minister shall carry out the statutory duties and exercise the statutory powers created under this Act upon the recommendation of the Director of International Financial Services.

(3) When the Authority is established, the Authority shall undertake its functions created by this Act.

Regulations

50. — (1) The Minister may make Regulations for giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make Regulations respecting —

- (a) the form and content of advertising by licensees;

- (b) registers and records to be kept under this Act;
- (c) forms to be used by licensees;
- (d) fees payable under this Act; and
- (e) abandoned property.

SCHEDULE 1

(Section 5)

Classes of Licences

<u>Class of Licence</u>	<u>Description of Licence</u>
Class A	Transmission of money or monetary value in any form Issuance, sale or redemption of money orders or traveller's cheques Cheque cashing Currency exchange
Class B	Issuance, sale or redemption of money orders or traveller's cheques Cheque cashing Currency exchange
Class C	Cheque Cashing
Class D	Currency Exchange

SCHEDULE 2

PART 1*(Section 6)***INFORMATION TO BE CONTAINED IN AND TO
ACCOMPANY AN APPLICATION FOR THE GRANT
OF A LICENCE**

1. The name and address of the applicant.
2. The type of money services business the applicant proposes to conduct.
3. The source and quantum of funds for initial capital or acquisition of the money services business.
4. The address of the principal office of the applicant and of the registered office of the applicant if different.
5. If the applicant is a corporation, limited liability company, partnership or other entity the applicant must provide –
 - (a) the certificate of incorporation or formation and a copy of the memorandum and articles of association, Act, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a declaration made by one of the applicant's directors or partners or its secretary; and
 - (b) a brief description of the structure or organisation of the applicant including any parent or subsidiary of the applicant.
6. The name and address of each person who –
 - (a) owns or controls the money services business;
 - (b) is a director or officer of the money services business;
 - (c) is an agent of the applicant;
 - (d) otherwise participates in the conduct of the affairs of the money services business.
7. The following information is also required from the named persons in Item 6 and each significant shareholder –
 - (a) legal name and any alias and residential address;
 - (b) occupation over the previous five years and business address;

- (c) date of birth;
 - (d) citizenship;
 - (e) National Insurance Number;
 - (f) passport number;
 - (g) two character references, a police or other certificate satisfactory to the Authority that the person has not been convicted of a serious crime or any offence involving dishonesty.
8. The name and address of any depository institution at which a transaction account is maintained for the purposes of the money services business.
9. Where appropriate a statement in writing in a form acceptable to the Authority from —
- (a) the body responsible for the administration of the laws relating to money services businesses and the supervision of the businesses in the country in which the applicant; or
 - (b) its parent company is incorporated;
- that the body has no objection to the application being made.
10. If the applicant is a corporation, limited liability company, partnership or other entity, the following information is required where applicable —
- (a) the annual accounts for the two year period immediately preceding the date of the application, of each significant shareholder which is a body corporate, together with similar accounts for the parent body, if any, of each of the bodies corporate or the annual accounts for the current year, in the case of a body corporate which is in existence for less than two years;
 - (b) two or more references verifying the good financial standing of each significant shareholder who is a natural person;
 - (c) the name and address of proposed auditor in accordance with section 16 of the Act;
 - (d) confirmation letter from auditor;
 - (e) a statement giving the date for the drawing up of the annual

accounts of the applicant;

- (f) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of the applicant parent body, if any, that the parent company concurs in the making of the application;
- (g) three business references of which at least one shall be from a bank;
- (h) a detailed business plan, containing details of the current money services business activities, if any, of the applicant and the proposed activities of the applicant if the licence applied for is granted, including:
 - (i) the reasons for applying for the licence;
 - (ii) the business aims of the applicant in respect of the money services business and potential client base of the applicant;
 - (iii) a detailed statement setting out the proposed initial assets and proposed assets and expected liabilities of the applicant at the end of each of the two years next succeeding the date of such grant together with an estimate of expected income;
 - (iv) particulars of its management structure and personnel of the applicant;
 - (v) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each company constitutes an asset of the applicant;
 - (vi) a chart showing the relationship to the subsidiaries and affiliates and any holding company of the applicant; and
 - (vii) a brief description of each of its subsidiaries and affiliates;
 - (viii) details of the identified economic needs that the applicant intends to meet, growth prospects in that service area over the next five years, the exact nature and source of capital financing to be made available to the company for start-up and ongoing operations;
- (i) details of the applicant's proposals for establishing and maintaining, in respect of the money services business, systems of control, inspection and report, if the licence applied for is granted;

No. 11] *Money Services Business Act* [2010.

- (j) in the case of a company incorporated outside the Saint Lucia, the name and address of the supervisory or regulatory authority responsible for the supervision of each of the applicant's agents operating outside the Saint Lucia.
11. If the applicant is an agent or a franchise holder the contract and any other documents relating to the operation of the franchise.
12. General requirements –
- (a) the applicant must submit a description of any money services business, other than that which is the subject of the application, previously or currently engaged in by the applicant;
 - (b) the applicant must submit completed copies of a Personal Questionnaire in Part 2 for each executive officer, director and significant shareholder.
13. Any other information requested by the Authority.

PART 2
PERSONAL QUESTIONNAIRE

[Fit and Proper Test]

PART A

NAME: _____

PREVIOUS NAMES (IF ANY): _____

ALIASES: _____ DATE OF BIRTH: _____

CITIZENSHIP: _____

PLACE OF BIRTH _____

NATIONAL INSURANCE NUMBER: _____

PASSPORT NUMBER: _____

ADDRESS (Home & Business): _____

OCCUPATION: _____

1. Have you at any time been charged or convicted of any offence by a civil, criminal or military court? (excluding minor Road Traffic offences). If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

2. Have you ever been the subject of investigation/disciplinary procedures, censured, disciplined by any professional body to which you belong or have belonged? If so, give particulars.

3. Have you ever been refused entry to any profession or vocation? If so, give particulars.

-
4. Have you ever been dismissed or requested to resign from any office or employment?
If so, give particulars.
-
-
5. Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of -
- (a) any regulatory authority?
 - (b) any officially appointed enquiry?
 - (c) any other established body concerned with the regulation of a relevant activity (as described in the glossary at the end of this form) ?
If so, give particulars.
-
-
6. In connection with the formation or management of any corporation, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation or any member of the corporation? If so, give particulars.
-
-
7. In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.
-

8. Have you ever –
- (a) been adjudged bankrupt by a court in any jurisdiction?
 - (b) had a receiving order made against you?
 - (c) had your estate sequestrated?
 - (d) entered into a deed of arrangement, or other composition or arrangement with your creditors?
If so, give particulars.
-
-

9. Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?
-
-

10. Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity* who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.
-
-

11. Will you be actively engaged in the business or the entity to which this application relates and devote the major portion of your time to it?
-
-

* “relevant activity” means:

- (a) banking, finance, insurance, money-lending, money management, debt-financing, hire purchase financing, leasing or other financial activities;

- (b) dealing in securities;
- (c) providing investment or financial advice and management.

PART B

RELATED OR OTHER INTEREST

1. Are you a director of any company, partnership, corporate body or any other business organisation engaged in money services business? If so, state –
 - (a) name of company/corporated body/etc.;
 - (b) nature of business;
 - (c) date of commencement of directorship;
 - (d) whether or not employed on service contract (e.g. managing directorship) in any case.

2. Have you been a director of a deposit taking institution, credit extending institution, other financial service provider, any other limited company or corporation other than those stated in the previous questions? If so, state –
 - (a) name of company/corporation;
 - (b) nature of business;
 - (c) date of commencement of directorship;
 - (d) date of cessation of directorship.

3. Are you or have you been engaged –
 - (a) in partnership?; or
 - (b) in business as a principal on your own account?
 If so, give particulars.

4. Are you a beneficial owner of any controlling interest in any unlisted private or public company? If so, give particulars.

5. Have you ever been a director of, or directly concerned with the management of a bank or other financial institution –
- (a) that has been wound up by a court?
 - (b) the licence of which has been revoked?
 - (c) which has been placed in receivership?
 - (d) which has entered into a composition with its creditors?
 - (e) whose business had been adjudged to have been conducted imprudently or fraudulently?
 - (f) which has failed to meet the solvency requirements prescribed by law?
- If so, give particulars.
-
-

6. Have you ever been a director, or been directly concerned with the management or conduct of affairs of any company which has gone into liquidation, whilst you were, or within one year of your being a director, or so concerned? If so, give details of the circumstances including the following –
- (a) name of company;
 - (b) name of liquidator;
 - (c) address of liquidator.
7. Have you ever been concerned with the management or conduct of affairs of any corporation which, by reason of any matter relating to a time when you were so concerned, has been censured or disciplined by –
- (a) any regulatory authority?
 - (b) any official appointed enquiry?
 - (c) any other body concerned with regulation of a relevant activity?
- If so, give particulars.
-
-

- 8. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount sixty or more days in arrears? If so, state the following –
 - (a) form
 - (b) amount
 - (c) source
 - (d) maturity date

- 9. Has any person, firm or company guaranteed the indebtedness? If so, give particulars (see previous question).

- 10. Are you at present guaranteeing the debts and obligations of any third parties? If so, give particulars.

I make this Declaration conscientiously believing the same to be true, accurate, fair, to the best of my knowledge and belief and in accordance with the Statutory Declaration Act, and that I am aware that if there is any statements in this Declaration which is false, or which I know to be false or do not believe to be true, I am liable to imprisonment.

Delared before me

at this day of

Declarant

Notary Royal

.....
Signature

.....

PART C**Notes to applicants for Personal Questionnaire****AUDITED FINANCIAL STATEMENTS**

1. If the applicant is a business that was in existence and operating prior to the date of application, copies of audited financial statements (balance sheet, profit and loss, auditor's report and notes to accounts) for the five consecutive years immediately preceding its application, except however that where such applicant has been functioning for less than five years, a copy of its audited financial statements for each year it has been in operation shall be sufficient.
2. Where item 1 is not applicable the opening balance sheet, (audited).
3. Operating projections for the proposed licensee's first five years of business. This should include balance sheet, income statement and cash flow projections prepared in an acceptable accounting format. Details of any financial or economic assumptions on which these projections are based should be clearly indicated.
4. Where the applicant is a subsidiary or affiliate of another company, submit in addition to item 1 or 2, audited financial statements of the parent company and its consolidated accounts where applicable.

GLOSSARY

"corporation" means a body corporate, incorporated in Saint Lucia or elsewhere;

No. 11] *Money Services Business Act* [2010.

SCHEDULE 3

(Section 6)

FORM OF LICENCE

[COUNTRY]

MONEY SERVICES BUSINESS ACT

LICENCE

No.

.....is licensed under the Money Services Business Act, to carry on the business of [Class A: Transmission of money or monetary value in any form; Issuance, sale or redemption of money orders or traveller’s cheques; Cheque cashing; Currency exchange; Class B: Issuance, sale or redemption of money orders or traveller’s cheques; Cheque cashing; Currency exchange; Class C: Cheque cashing; Class D: Currency exchange]* within the State subject to the following conditions/restrictions:

.....
.....
.....
.....

The licensee shall forthwith notify the Authority of any change in the information supplied in the application for this licence.

.....

Granted this day of , []at [address].

Authority

* *Delete as necessary*

SCHEDULE 4**[sections 6 and 9]****FEES**

Class of Licence	Description of	Fees		
		Application Fee \$	Annual Licence Fee \$	
			Main Agent	Sub Agent
Class A	Transmission of money or monetary value in any form Issuance, sale or redemption of money orders or traveller's cheques; Cheque cashing; Currency exchange	100	5,000	500
Class B	Issuance, sale or redemption of money orders or traveller's cheques Cheque cashing Currency exchange	100	3,000	300
Class C	Cheque Cashing	100	2,000	200
Class D	Currency Exchange	100	2,000	200

No. 11] *Money Services Business Act* [2010.

Passed in the House of Assembly this 9th day of February, 2010.

ROSEMARIE HUSBANDS-MATHURIN,
Speaker of the House.

Passed in the Senate this 16th day of February, 2010.

GAIL V. PHILIP,
President of the Senate.