BELIZE

BANKS AND FINANCIAL INSTITUTIONS ACT
CHAPTER 263

REVISED EDITION 2003
SHOWING THE SUBSIDIARY LAWS AS AT 31ST OCTOBER, 2003

This is a revised edition of the Subsidiary Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2000.

ARRANGEMENT OF SUBSIDIARY LAWS
BELIZE

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CHAPTER 263

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CHAPTER 263

BANKS AND FINANCIAL INSTITUTIONS ACT
(COMMENCEMENT) ORDER

[30th December, 1995]

1. This Order may be cited as the
BANKS AND FINANCIAL INSTITUTIONS ACT
(COMMENCEMENT) ORDER.

2. In exercise of the powers conferred upon me by section 86 of the
Banks and Financial Institutions Act (No. 13 of 1995) and all other
powers thereunto me enabling, I, MANUEL ESQUIVEL, Minister
of Finance, do hereby appoint the 1st day of January, 1996, as the
day on which the said Act shall come into force.

MADE this 28th day of December, 1995.

(MANUEL ESQUIVEL)
Minister of Finance
1. This Order may be cited as the

BANKS AND FINANCIAL INSTITUTIONS (CENTURY NATIONAL BUILDING SOCIETY OF BELIZE) ORDER.

2. It is hereby ordered that sections 29, 30, 31 and 32 of Part VI, and all the provisions of Part VII, of the Banks and Financial Institutions Act shall apply to “CENTURY NATIONAL BUILDING SOCIETY OF BELIZE”, registered under the Building Societies Act.

3. This Order shall come into force on signature.

MADE this 29th day of July, 1996.

(MANUEL ESQUIVEL)
Minister of Finance
CHAPTER 263

BANKS AND FINANCIAL INSTITUTIONS ACT (APPLICATION TO BUILDING SOCIETIES) ORDER

[10th June, 2000.]

Short title. 1. This Order may be cited as the

BANKS AND FINANCIAL INSTITUTIONS ACT (APPLICATION TO BUILDING SOCIETIES) ORDER.

Application to Building Societies. 2. It is hereby ordered that all the provisions of Part VI (Returns, Accounts and Audit) and Part VII (Examination and Audit) of the Banks and Financial Institutions Act, shall apply to building societies registered under the Building Societies Act.

MADE by the Minister responsible for banks and financial institutions this 2nd day of June, 2000.

(RALPH FONSECA)
Minister responsible for Banks and Financial Institutions
CHAPTER 263

BANKS AND FINANCIAL INSTITUTIONS
(UNIT TRUSTS) REGULATIONS

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CHAPTER 263

BANKS AND FINANCIAL INSTITUTIONS (UNIT TRUSTS) REGULATIONS

[9th November, 2002.]

1. These Regulations may be cited as the BANKS AND FINANCIAL INSTITUTIONS (UNIT TRUSTS) REGULATIONS.

2. In these Regulations:-

“scheme” includes a fund;

“unit trust” includes any type of collective investment scheme.

3. A financial institution which intends to carry on the business of a unit trust shall satisfy the Central Bank-

(a) that the promoter is of sound reputation and that the administration will be conducted by persons who have sufficient expertise to administer the unit trust;

(b) that the persons undertaking the administration of the unit trust are fit and proper persons of integrity.

4. A financial institution which intends to offer units to the public shall furnish the Central Bank with the following information:

(a) the trust instrument or memorandum and articles
of association (as applicable);

(b) the investment objectives and policies which shall include particulars regarding the establishment of any unit scheme;

(c) the pricing of the units, such as to determine the manner in which the manager’s prices for units on a sale and a purchase and the yield from the units are to be respectively calculated, and, for entitling the holder of any units to require the manager to purchase them at a price calculated accordingly;

(d) the basis for valuing the fund;

(e) the policy on distributions, withdrawals and reinvestment;

(f) particulars regarding the management of the fund;

(g) particulars on the trustee of and custodian services for the fund;

(h) expenses of the fund; and

(i) financial resources of the financial institution and its parent organisation (if any).

5. (1) A financial institution offering units to the public shall provide investors or potential investors with a prospectus which contains at a minimum the information set out in regulation 4 above. The Central Bank may require the financial institution to provide additional information in the prospectus.

(2) The information contained in a prospectus shall not be misleading

Requirement for prospectus.
and shall be such that it will enable investors to make informed decisions.

(3) The Central Bank may require the financial institution to vary any part of the prospectus which in the opinion of the Central Bank may mislead prospective investors.

6. (1) The sales and promotional material of the fund, and its prospectus if any, shall disclose any commissions, charges, fees, or compensation payable to the manager, and the manner in which such expenses are charged to the fund.

(2) The sales and promotional material shall also state that the investment in the fund is at the sole risk of the investor and that payments of capital and interest are entirely dependent on the gains or losses derived from the securities and other assets comprising the fund from time to time.

7. (1) A fund shall disclose when investments are made in companies in which the managers of the fund may have an interest.

(2) The financial institution shall include in a prominent place in the prospectus a statement to the effect that the Central Bank accepts no responsibility whatsoever in connection with the management of the fund.

8. (1) Funds shall be operated in a prudent manner, and in any event in such a manner as to pose minimal risk to the safety and soundness of investments comprising the funds.

(2) Financial institutions shall ensure that they receive the best possible investment advice based on the most up-to-date and accurate information and forecasts of market conditions, especially in respect of any portion of the portfolio invested abroad.

9. In respect of a unit scheme, a licensee shall provide information to the public on the following:
(a) the initial minimum investment and face value of each unit;

(b) the procedure for determining the value at which the units may be sold or purchased from time to time by the trust;

(c) requirements for and the holding of or dealings with units by any parent or guardian on behalf of a minor;

(d) particulars with respect to the persons to whom, the time at which, and the manner in which any payments in respect of a unit shall be made by the trust;

(e) the conditions subject to which a unit holder may transfer the unit;

(f) details of issue of a unit certificate representing the units sold to a purchaser.

10. The procedure for disposing of units by sale or repurchase shall require the licensee to state:

(a) that at any time during the operation of this scheme it shall repurchase units from unit holders and where a unit holder makes an application for the repurchase of his units;

(b) that the unit holder shall sign a statement of renunciation;

(c) that where a repurchase is requested for only some of the units comprised in the certificate, the licensee...
may issue a new certificate for the balance of units held by the unit holder;

(d) the manner in which payment for the units repurchased by the trust shall be made;

(e) that before a unit certificate is exchanged the unit holder shall surrender to the trust the unit certificate to be exchanged.

11. Where a certificate has been lost, stolen, destroyed, mutilated or defaced, the licensee may issue to the unit holder a new certificate in replacement thereof but the applicant shall furnish to the licensee satisfactory evidence of the loss, theft, destruction, mutilation or defacement of the original unit certificate and such form of indemnity as the licensee may require.

12. A licensee, in respect of any unit scheme, shall keep under the control and supervision of the trustee a register of unit holders which shall state:

(a) the name, address, date of birth and account number of a unit holder;

(b) the number and purchase price of units held by a unit holder;

(c) the name and address of any nominee or beneficiary;

(d) the agent’s reference number;

(e) the serial numbers of unit certificates;

(f) the date on which the unit holder was entered on the register;
sufficient reference to identify whether the units were acquired by purchase, by transfer or otherwise; and

the documentation of power of attorney, grant of probate, letters of administration, other legal notices and bank mandate instructions.

13. Any change of name or address on the part of any unit holder shall forthwith be notified in writing to the licensee which shall alter the register and in the case of a change of name shall issue a new unit certificate to the unit holder after recalling the original certificate.

14. Where payment of any sum of money becomes due on or in respect of any unit held on behalf of a minor, such payment shall, subject to the terms and conditions of the unit scheme, be made to the parent or guardian as the case may be who holds the said unit.

15. (1) A financial institution which carries on the business of unit trusts shall publish in a newspaper of general circulation in Belize at least once every six months a statement of its assets and liabilities and a statement of net income.

(2) Financial statements of the company and of every unit scheme audited by a qualified accountant registered the Institute of Chartered Accountants of Belize or any other internationally recognised accounting body shall be published in a newspaper of general circulation in Belize within four months of the close of each financial year of the unit trust and copies these statements shall be kept at all offices where investments are solicited and shall be made available to current and prospectus investors on demand.

16. (1) The auditor may, in relation to such accounts, examine a director or any other officer or employee of the company, and shall be entitled to require from the Chief Executive Officer or other officers or employees of the

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company such information and explanation as he may think necessary to assist
him in the performance of his duties.

(2) The auditor shall make a report to the Board of Directors
upon the annual balance sheet and accounts examined by him, and in every
such report he shall state whether in his opinion, the balance sheet is a full and
fair balance sheet containing all necessary particulars and properly drawn up
so as to exhibit a true and fair view of the state of affairs of the company and
every unit scheme, and where he has called for any information from the Board
or any officer or other employees of the company, whether it has been given
and whether it is satisfactory.

Duty of Board.

17. (1) Not later than six months after the date upon which the financial
year of the company ends, the Board shall convene an annual general meeting
and at such meeting the Board shall receive the audited balance sheet and
accounts and the report of the auditor and shall deal with such other business
as it thinks fit for which notice must be given. The notice shall be given at least
one month before the date fixed for the meeting.

(2) The auditor shall attend the annual general meeting and shall
provide the Board with all explanations in connection with matters arising out
of his report as may be required by the Board.

Duty to supply
information to
Central Bank.

18. (1) A financial institution shall furnish the Central Bank with the
following information in respect of every unit scheme:

(a) name and address of the scheme;

(b) the name, address, place of birth and citizenship
of each of the managers, administrators,
investment advisers and custodians;

(c) the educational and professional qualifications of
each of the functionaries mentioned in paragraph
(b) above;

(d) details of business, occupation or employment of each of the functionaries mentioned in paragraph (b) above;

(e) two personal references for each of the officers mentioned in paragraph (b) above;

(f) a statement as to whether the scheme is now or has been registered, licensed, recognised or authorised under any law or regulations relating to mutual funds, collective investment schemes or securities in any other country or jurisdiction;

(g) a statement and explanation as to whether the promoter or any of its officers mentioned in paragraph (b) above have been the subject of:

(i) a refusal of an application for registration, licence, recognition or authorisation, or

(ii) a suspension, cancellation or revocation of registration, licence, recognition or authorisation;

by any authority in any country or jurisdiction.

(h) a statement and explanation on any judgment rendered or any suit, action or proceedings pending against any officer of the scheme or of any of its functionaries listed in paragraph (b) above, in civil proceedings in any court or tribunal in any country
or jurisdiction which has been or is based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct.

(i) A statement whether any of the functionaries mentioned in paragraph (b) above have been:

(1) declared bankrupt or been party to bankruptcy or insolvency proceedings; or

(2) subject to proceedings relating to winding-up, dissolution or creditor’s arrangement; or

(3) subject to proceedings relating to receivership or creditor’s compromise, in any country or jurisdiction.

(2) A statement whether any of the functionaries listed in paragraph (b) above has been or is being charged, indicted or convicted in any country or jurisdiction for an offence in any criminal or civil proceedings relating to fraud or theft arising out of dealing in mutual funds, collective investment schemes or securities.

(3) A licensee shall provide an affidavit to the Central Bank in the form set out in the Schedule to these Regulations.

Income and growth funds.

19. In respect of income and growth funds, financial institutions shall have customers sign a form on subscription, indicating that the investment is subject to risk that may cause the value of the investment to fluctuate and that when the investment is realised, the value may be lower or higher than the amount originally subscribed by the investor.

Duty to keep business separate.

20. Where a licensee which also carries on banking business or financial business uses its premises for the sale of subscriptions to the fund, the licensee...
shall ensure as far as practicable that the sale of subscriptions to funds shall be made physically separate and distinct from the general banking area, and staff involved in traditional banking shall not seek to offer investment advice.

21. With respect to a unit scheme, a licensee shall maintain a reserve fund for each mutual fund equal to five per centum of the total mutual fund. [Reserve fund.]

22. Any licensee or other person who contravenes the provisions of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in addition, to a fine of five hundred dollars for every day the offence continues. [Penalty.]

23. These Regulations shall come into force the 11th day of November, 2002. [Commencement.]

MADE by the Central Bank of Belize this 4th day of November, 2002.

(J. M. AUIL)
Governor
Central Bank of Belize

APPROVED by the Minister responsible for Finance this 7th day of November, 2002.

(SAID W. MUSA)
Minister of Finance
SCHEDULE (REG. 18)

AFFIDAVIT

I, ............................................. of .................................................................(address), in my capacity as director/trustee, *acting for and on behalf of .................... the applicant herein, do depose and hereby certify under oath that the statements provided to the Central Bank in respect of the .............................................. are true, correct and complete to the best of my knowledge, information and belief.

Sworn before me

..............................................................................................................
Justice of the Peace or Notary Public

..............................................................................................................
Name and signature of deponent

..............................................................................................................
In the city of ......................this

............... day of ......................

*Delete as appropriate
1. These Regulations may be cited as the

   BANKS AND FINANCIAL INSTITUTIONS (FEES) REGULATIONS.

2. The following fees are hereby prescribed for banks and financial institutions:

   A. INITIAL LICENCE FEE

      For banks                     -$25,000.00
      For financial institutions    -$10,000.00

   B. ANNUAL LICENCE FEE

      For banks                     -$25,000.00
      For financial institutions    -$10,000.00

MADE by the Central Bank of Belize this 3rd day of January, 1996.

(KEITH ARNOLD)
Governor and Chairman
Central Bank of Belize
APPROVED by the Minister of Finance this 4th day of January, 1996.

(MANUEL ESQUIVEL)
Minister of Finance
PART I

Banks and Financial Institutions (Capital Requirements) Regulations

1. These Regulations may be cited as the Banks and Financial Institutions (Capital Requirements) Regulations.

2. In these Regulations, unless the context otherwise requires:

   “Act” means the Banks and Financial Institutions Act;

   “Primary or Tier I Capital” includes:

   (a) allotted, called up and fully paid and outstanding common share capital or assigned capital, as the case may be including any amounts which may be paid in excess of the par or stated value of the shares;

   (b) fully paid perpetual non-cumulative preference shares and related surplus. These are preferred shares which:
Banks and Financial Institutions

(i) do not have a maturity date;

(ii) can be converted at the issuing bank’s option into common shares;

(iii) cannot be redeemed at the option of the shareholders;

(iv) give the issuer the legal right to eliminate preferred dividends;

(v) have no other provisions that will require future redemption of the issue;

(c) the statutory reserve fund maintained under Section 11 of the Act;

(d) any other disclosed reserves created or increased by appropriation of retained earnings and which are not ascribed to specific assets or potential loss;

(e) published retained earnings of prior years; and

(f) any other capital element or portion thereof as the Central Bank may declare by notice in the Gazette to be eligible for inclusion under this section for purposes of computing the required minimum proportions;

Less:

(g) good will and any other intangible assets, except such intangible assets which are readily marketable and have identifiable and consistent streams of cash flows which, in the determination of the Central Bank, may be included in capital under such terms and conditions as
the Central Bank may specify; and

(h) all losses irrespective of whether or not they have been published;

“Secondary or Tier II capital” includes

(a) general provisions for losses on loans or other assets which are not ascribed to specific loans or other assets, subject to a limit of 1.25% of the aggregate of risk weighted assets. Provision for losses on specific loans or other assets, or for any specific purposes are not eligible for inclusion in secondary capital;

(b) fixed asset revaluation reserves arising from a formal independent revaluation of the financial institution’s real estate property but limited to one revaluation every five year period and to not more than 25% of primary capital;

(c) hybrid debt capital instruments; that is, instruments that combine characteristics of equity capital and of debt such as perpetual cumulative preference shares, long-term preference shares maturing in not less than ten years, perpetual subordinated debt and mandatory convertible debt instruments. They should meet the following requirements:-

(i) they should be fully paid, unsecured, unencumbered, and subordinated to the claims of depositors and general creditors;

(ii) they should not be redeemable at the discretion of the holder;
(iii) they should be available to absorb losses;

(iv) service obligations attached to the instrument should be deferrable;

(v) they should not be used as security for any loan granted by the bank;

(d) conventional unsecured subordinated debt instruments with a minimum remaining term to maturity of not less than ten years and limited life preference shares redeemable in not less than ten years at the discretion of the issuer. Such instruments are limited to a maximum of 50% of primary capital and should meet the following requirements:-

(i) they should be subordinated to the claims of both depositors and general creditors;

(ii) early repayment of such instruments should be at the option of the borrower only;

(iii) such instruments should have a specific waiver of the right of offset against any amount owing to the bank by the holders.

PART II

Capital Requirements

3. Any bank which does not meet the Risk-based Capital requirements at any time during the transition period set out in Section 4(a) below shall be required to maintain primary capital equivalent to not less than five per centum of its total deposit liabilities.
4. All banks shall be required to maintain total capital (primary capital plus secondary capital) as follows:

\[(a)\] total capital shall not be less than seven percent (7%) of total risk-weighted assets by the end of 1996, of which not less than three and one half percent (3.5%) must be primary capital;

\[(b)\] total capital shall not be less than eight percent (8%) of total risk-weighted assets by the end of 1997, of which not less than four percent (4%) must be primary capital;

\[(c)\] total capital shall not be less than nine percent (9%) of total risk-weighted assets by the end of 1998, of which not less than four and one half percent (4.5%) must be primary capital.

5. The risk-weighting classifications shall be as follows:

\[(1)\] 0%

\[(a)\] local and foreign currency cash holdings;

\[(b)\] deposits on account with the Central Bank;

\[(c)\] claims on Central Government and securities issued or guaranteed by Central Government or claims fully secured by Central Government securities or guarantees;

\[(d)\] claims fully secured by cash on deposit at the reporting bank.

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**General Risk-based Capital Requirements.**

Risk-weighting Classifications: 0%, 10%, 20%, 50%, 100%.
(2) 10%

(a) claims on other banks in Belize;

(b) cash items in the process of collection;

(c) claims on well-capitalized banks and financial institutions outside Belize.

(3) 20%

(a) claims on domestic public sector entities, excluding Central Government, and loans guaranteed by such entities;

(b) claims on local governments, statutory boards and other public sector entities in CARICOM and other foreign countries and loans to these entities, all guaranteed by the Central Government of such entities or countries;

(c) claims on CARICOM and other foreign Central Banks and Central Governments of other foreign countries and other obligations fully guaranteed by these entities;

(d) claims on multilateral Development banks such as the International Bank for Reconstruction and Development, the Inter-American Development Bank, Caribbean Development Bank, and the European Investment Bank and claims fully guaranteed or collateralized by securities issued by such banks.

(4) 50%

loans fully secured by first priority charges on residential property that is or will be occupied by the borrower or owner.
(5) 100%

(a) claims on private sector enterprises;

(b) claims on commercial companies owned by the public;

(c) premises, plant and equipment, and other fixed assets;

(d) other investments (including non-consolidated investment participation in other companies);

(e) equity capital investments issued by other banks (unless deducted from capital, goodwill and other intangible assets);

(f) all other assets.

6. The values of off-balanced sheet items shall be multiplied by the applicable credit conversion factors with the result to be multiplied by the applicable risk weights under section 5 above. The credit conversion factors shall be as follows:-

(1) **0% credit conversion factor:**

  commitments and contingencies with an original maturity of up to one year, or which can be unconditionally cancelled at any time.

(2) **20% credit conversion factor:**

  short term, self-liquidating, trade-related contingencies (such as documentary letters of credit collateralized by the underlying shipments).
(3) **50% credit conversion factor:**

(a) transaction-related contingencies (e.g., performance bonds, bid bonds, warranties and standby letters of credit related to particular transactions);

(b) other commitments (e.g. formal standby facilities and credit lines) with an original maturity of over one year.

(4) **100% credit conversion factor:**

(a) direct credit substitutes, including general guarantees of indebtedness (including standby letters of credit serving as financial guarantees for loans and securities);

(b) sale and repurchase agreements, and asset sales with recourse, where the credit risk remains with the bank;

(c) forward asset purchase; forward deposits, uncalled partly paid shares and securities, including commitments with certain draw down.

7. Every bank shall submit to the Central Bank a report in such form as may be specified by the Central Bank from time to time showing the calculation of the risk-weighted capital ratio.

8. Every bank shall submit to the Central Bank on the specified report no later than fifteen working days after the end of the quarter to which it relates, information relating to its risk-weighted capital ratio. Such information shall be as at the end of the quarter of a bank’s own financial year. Reporting shall commence as at the end of the quarter following the quarter during which these Regulations come into force.

9. (1) Banks which fully meet the prescribed ratios under section 4 of these Regulations shall be classified as “adequately capitalized”.
(2) Any bank which fails to meet the prescribed ratios under section 4 of these Regulations shall be considered as “under-capitalized” and shall be subject to supervisory or other regulatory action as determined by the Central Bank in accordance with section 36 of the Act or any other authority provided thereunder.

10. These Regulations shall come into force with effect from 3rd day of February, 1996.

MADE by the Central Bank of Belize this 19th day of January, 1996.

(KEITH ARNOLD)
Governor and Chairman
Central Bank of Belize

APPROVED by the Minister of Finance this 2nd day of February, 1996.

(MANUEL ESQUIVEL)
Minister of Finance