

FINANCIAL STABILITY ACT, 2023

(Act 29 of 2023)

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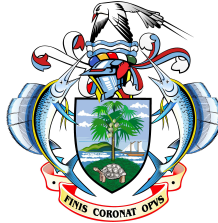
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FINANCIAL STABILITY ACT, 2023

(Act 29 of 2023)



I assent

A handwritten signature in black ink, appearing to read "Wavel".

Wavel Ramkalawan
President

19th December, 2023

AN ACT TO PROMOTE A STABLE FINANCIAL SYSTEM THROUGH THE CREATION OF A PUBLIC BODY CHARGED WITH FINANCIAL STABILITY OVERSIGHT AND TO PROVIDE FOR OTHER CONNECTED OR INCIDENTAL MATTERS.

ENACTED by the President and the National Assembly.

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Financial Stability Act, 2023.

Interpretation

2. In this Act, unless the context otherwise requires —

“Central Bank” means the Central Bank of Seychelles established under the Central Bank of Seychelles Act, Cap. 26;

“First Deputy Governor” means the First Deputy Governor of the Central Bank appointed under the Central Bank of Seychelles Act, Cap 26;

“Committee” means the Financial Stability Committee established under section 3;

“financial institution” means a person carrying on a financial services business or activity regulated under a law administered by the Central Bank or the Financial Services Authority;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020;

“financial market” includes the money market, the foreign exchange market, the capital market and the derivatives market within Seychelles;

“Financial Services Authority” means the Financial Services Authority established under the Financial Services Authority Act, 2013;

“financial stability” means a condition in which the financial system is able to adequately perform its financial intermediation role, whilst managing systemic risks effectively and remaining resilient to idiosyncratic and systemic shocks;

“financial system” means a system within Seychelles encompassing financial institutions, capital market intermediaries or participants, financial markets and payment systems;

“Governor” means the Governor of the Central Bank appointed under the Central Bank of Seychelles Act, Cap 26;

“member institution” means the institution from which a member is drawn pursuant to section 4;

“Minister” means the Minister responsible for finance and “Ministry” shall be accordingly construed;

“payment system” means the payment system under the National Payment Systems Act, 2014;

“risk to financial stability” means a risk which in the opinion of the Committee disrupts, or is likely to disrupt, the financial intermediation process, including the orderly functioning of the financial market or which affects, or is likely to affect public confidence in the financial or national payment system or the stability of the financial or national payment system.

PART 2 - FINANCIAL STABILITY COMMITTEE

Financial Stability Committee

3. There is constituted, for the purpose of financial stability oversight in Seychelles, a Committee known as the Financial Stability Committee.

Composition of Committee

4.(1) The Committee shall comprise the following members —

- (a) the Governor;
- (b) the First Deputy Governor and, in his or her absence, the Central Bank official responsible for bank regulation and supervision;
- (c) a senior official nominated by the Minister from the Ministry of Finance who —

- (i) bears the responsibility for financial matters; and
- (ii) holds a rank of a Principal Secretary or above;
- (d) the Chief Executive Officer of the Financial Services Authority; and
- (e) the Director of the Financial Intelligence Unit.

(2) The Governor shall be the Chairperson of the Committee and, in his or her absence, the First Deputy Governor shall assume chairmanship.

(3) Where the First Deputy Governor acts as Chairperson, the Central Bank official responsible for bank regulation and supervision shall, for the purpose of that meeting, play the role that the First Deputy Governor would have otherwise played.

Co-option of members

5.(1) The Committee may co-opt any person whom it deems has the relevant knowledge or experience in matters pertaining to financial stability to attend its meetings and take part in its deliberations.

(2) A person co-opted under subsection (1) shall not have a right to vote on matters deliberated on at that meeting.

Sub-committees

6.(1) The Committee may on such terms and conditions as it determines, constitute sub-committees to —

- (a) assist it on matters related to the functions of the Committee;
- (b) convene the meetings of the Committee as and when requested by the Chairperson;
- (c) record the minutes of the meeting of the Committee;
- (d) implement the decisions of the Committee; and

(e) uphold the legal requirements of the Committee's governing documents.

(2) The Committee shall, before assigning a person to a sub-committee, be satisfied that the person —

(a) is an employee of a member institution;

(b) displays expert skills and knowledge and has experience in a field related to the functions of the Committee; and

(c) exhibits probity and competence.

(3) A person shall not serve on a sub-committee or remain on a sub-committee under subsection (1) if he or she —

(a) has been convicted of an offence involving fraud, theft or dishonesty; or

(b) is involved in any activity which the members of the Committee, by a decision, deem could interfere with the exercise or performance of the person's functions as a member of the sub-committee.

Functions of Committee

7. The Committee shall *inter alia* —

(a) monitor risks and vulnerabilities to the financial system;

(b) devise the country's financial stability policy strategy;

(c) provide policy guidance to a specific member for consideration in the institution from which he or she is drawn or upon request by the Cabinet of Ministers;

(d) collect information and statistical data from members and other bodies that the Committee deems relevant to the furtherance of financial stability;

- (e) identify and assess risks to financial stability;
- (f) monitor domestic and international financial regulatory developments;
- (g) recommend improvements in areas that enhance the integrity, efficiency, competitiveness, solvency and liquidity of financial institutions and the financial market;
- (h) facilitate information sharing and coordination amongst its members regarding the content of and manner in which the following is to be carried out in each member institution —
 - (i) financial policy development;
 - (ii) assessments;
 - (iii) examinations;
 - (iv) reporting requirements; and
 - (v) enforcement actions;
- (i) identify general priorities and principles which the member institutions are encouraged to prioritise;
- (j) identify and mitigate gaps identified in skills, expertise, directives, legislation and practices; and
- (k) promote the development of effective crisis management and the implementation of a coordinated response to financial crises.

Powers of Committee

8. The Committee may —

- (a) based on its decision, issue formal recommendations to any member institution; and

- (b) perform acts necessary in the lawful exercise of its powers under this section or in the performance of its functions under this Act.

Meetings of Committee

9.(1) The Committee shall observe such rules of procedure in regard to its business transactions at its meetings as the Chairperson determines.

(2) The Committee shall meet at such time and place as the Chairperson determines, provided that a meeting is held every three months.

(3) In a meeting of the Committee, all members or their representatives nominated pursuant to section 9 (6) shall constitute a quorum.

(4) A decision of the Committee shall be taken by the majority of the votes of the members.

(5) Where both the Governor and First Deputy Governor are unavailable to chair a meeting, the meeting shall not take place.

(6) Where a member specified in section 4(1) (c) to (e) is unable to attend a meeting of the Committee, that person shall nominate a representative who shall —

- (a) be of appropriate seniority to fill the vacancy during such meeting; and

- (b) be given the same voting rights as the member.

(7) A member of the Committee or the representative of a member who attends and participates in a meeting through electronic means shall be deemed to be present at that meeting.

(8) A sub-committee so constituted shall keep minutes of the proceedings of every meeting of the Committee.

Formal recommendations of Committee

10.(1) Where the Committee issues a formal recommendation pursuant to section 8 (a), the member drawn from that member institution to which the recommendation applies shall, within 30 days, notify the Committee as to how the member institution intends to implement that recommendation and, on a regular basis, inform the Committee of its implementation progress.

(2) Where the Committee makes a recommendation which a member institution does not intend to implement, that member institution shall provide the Committee with detailed reasons as to why it will not implement that recommendation.

(3) A failure to implement a recommendation issued by the Committee shall be disclosed in the report prepared pursuant to section 11 unless such disclosure negatively affects the work of the Committee.

PART 3 - ADMINISTRATIVE PROVISIONS

Reports

11.(1) The Committee shall, not later than six months after the end of each financial year, submit to the President and the National Assembly a report which shall include the following information —

- (a) a summary of its activities and of the recommendations issued pursuant to section 8 (a) of the Committee throughout the preceding financial year; and
- (b) the gaps identified in skills, expertise, directives, legislation and practices which may negatively affect financial stability.

(2) Where the Committee considers it necessary and in the public interest, the Committee may publish in media outlets determined by it, ad-hoc reports on any matter relevant to financial stability.

(3) A report specified in subsections (1) and (2) shall be published in a manner that can reasonably be expected to bring the report to the attention of the public.

Confidentiality

12.(1) A person required to fulfil an obligation or to exercise power under this Act shall —

- (a) observe and preserve the confidentiality of all matters relating to that function or power and such confidentiality shall subsist after the termination of his or her term of office or, where the circumstances so warrant, after the lapsing of his or her mandate; and
- (b) not disclose to any other person confidential information which has been obtained in the exercise or performance of his or her powers or functions under this Act, except if a disclosure of such information —
 - (i) is necessary for the purpose of the exercise or performance of his or her powers or functions under this Act; or
 - (ii) is required by order of a court of law.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine of level 4 on the standard scale or to imprisonment of a term not exceeding 5 years or to both.

Misuse of information

13.(1) A person required to fulfil an obligation or to exercise power under this Act shall not use information obtained under this Act for personal gain or benefit, or for the gain or benefit of another person.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of level 4 on the standard scale or to imprisonment of a term not exceeding 5 years or to both.

Delivery of documents and information

14.(1) A person who ceases to be a member of the Committee or a sub-committee shall deliver to the Chairperson any correspondence, document, information, datum or property belonging to the Committee or acquired for the purpose of carrying out a mandate for the Committee or sub-committee which remains in his or her possession or under his or her control.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of level 3 on the standard scale or to imprisonment of a term not exceeding 2 years or to both.

PART 4 - MISCELLANEOUS

Funds of Committee

15.(1) The funds of the Committee shall comprise monies donated from each member institution from funds allocated to them pursuant to their respective constitutive Acts.

(2) The Central Bank of Seychelles shall be bestowed a financial power of Attorney only to the extent that the Central Bank holds, on behalf of the Committee, the funds of the Committee.

(3) The manner in which the monies shall be spent shall be decided by the Committee.

(4) Monies received pursuant to subsection (1) shall be used for the purposes of the Committee.

Regulations

16. The Minister may make Regulations for carrying into effect the provisions of this Act.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 11th December, 2023.



Mrs. Tania Isaac
Clerk to the National Assembly