The Financial Institutions Law

(The Pyidaungsu Hluttaw Law No. 20, 2016)

The 1st Waning of Pyatho, 1377 M.E.

(25th January, 2016)

The Pyidaungsu Hluttaw hereby enacts this Law.

Chapter I

Title and Definition

1. This Law shall be called the Financial Institutions Law.

2. The following expressions contained in this Law shall have the meanings as given hereunder:

(a) **State** means the Republic of the Union of Myanmar;

(b**) Financial Institution** means banks, non-bank financial institutions and scheduled institutions;

(c) **Bank** means an entity licensed by the Central Bank under this Law to carry out business of banking. In this expression, commercial bank, development bank and foreign bank branch licensed under this Law are also included;

(d) **Banking** means the commercial banking or development banking;

(e) **Entity** means the companies and State-owned Financial Institutions established under the Myanmar Companies Act or the Special Company Act;

(f) **Commercial Banking** means the following business activities:

(i) accepting various kinds of deposit;

(ii) paying and collecting cheques drawn or paid by customers;

(iii) providing credit facilities; and

(iv) banking prescribed and permitted by the Central Bank under section 52;

(g) **Commercial Bank** means a bank licensed by the Central Bank under this Law to carry out commercial banking;

(h) **Development Banking** means the business activities of accepting only fixed deposits exceeding the term of one year and financing of specific economic sectors on credits consistent with the term of the deposits or funds provided by the Government;

(i) **Development Bank** means a bank licensed by the Central Bank under this Law to carry out development banking;

(j) **Non-Bank Financial Institution** means financial institutions registered under section 20 to carry out one or more of the following business activities;

(i) finance company;

(ii) leasing business;

(iii) factoring business;

(iv) credit token business;

(v) money services business;

(vi) any other credit services prescribed by the Central Bank;

(k) **Holding Company** means a company that owns 51% and above shares of a bank and has the power to elect the majority of members of the board of directors of the bank or exercise a significant influence over the management, operations and policies of the bank;

(l) **Board of Directors** means the board of directors of a financial institution;

(m) **Bank Branch** means the main office for operation of a bank, a branch, a pay office, a sub-pay office, an agency and an office performed for only a limited period;

(n) **Business Day** means any calendar day other than Saturday, Sunday, public holiday and bank holiday;

(o) **Capital Funds** means:

(i) in the case of a bank established in Myanmar, its capital to be contributed to meet the capital adequacy ratio prescribed by the Central Bank, and the aggregate of reserve fund and paid-up capital published after the deduction of any loss of the bank;

(ii) in the case of a foreign bank branch licensed in Myanmar, its initial paid-up capital prescribed by the Central Bank and its capital to be contributed to meet the capital adequacy ratio prescribed by the Central Bank from time to time.

(p) **Central Bank** means the Central Bank of Myanmar established under the Central Bank of Myanmar Law;

(q) **Chief Executive** means a major authority who is responsible for the business activities and management of the financial institution. In this expression, a person who is in the direct employment of, or acting for or by arrangement with the financial institution is also included;

(r) **Company is the same** meaning as defined in the Myanmar Companies Act.

(s) **Subsidiary Company is the same** meaning as defined in the Myanmar Companies Act.

(t) **Credit Facility** means:

(i) financing funds or financial guarantees, granting advances, and other facilities to a customer by a financial institution; or

(ii) incurring liabilities by a financial institution on behalf of customers;

(u) **Credit Societies Business** means the business activity of engaging primarily in financing to individuals who are members for consumption, production or commerce in use of funds collected in member's accounts;

(v) **Credit Token Business** means the business activity of issuing a credit token by a credit card, debit card, charge card or stored value card and other card or other means prescribed by the Central Bank;

(w) **Credit Bureau** means an entity that gathers credit information and provides that information for individuals and companies by the sale of credit;

(x) **Deposit** means a sum of money to be repaid, either wholly or in part, on demand or at a time agreed by a person or an entity making the payment and a person receiving it;

(y**) Document** includes the following:

(i) any material expressed or described in any form;

(ii) any visual or sound recording in electronics, magnetism or mechanics recorded in still or moving image;

(z) **Employee** means an employee of the financial institution. This expression includes the persons temporarily transferred from another employer;

(z-1) **Factoring Business** means a business in which a financial institution purchases and collects any person's accounts receivable at a discount;

(z-2**) Fit and Proper** means criteria, by regulation, prescribed by the Central Bank for individuals involved under this Law. In this expression, the honest, integrity, diligence, competence, banking and business experience of an individual are included;

(z-3) **Finance Company** means a business engaging primarily in financing the purchase of goods or services with other funding other than deposits from the public;

(z-4) **Foreign Bank Branch** means a branch of a foreign bank licensed by the Central Bank to carry out banking in Myanmar;

(z-5) **Government** means the Union Government of the Republic of the Union of Myanmar;

(z-6) **Leasing Business** means a business of letting movable property for hire, regardless whether the letting is with or without an option to purchase the property. Subletting also includes in this expression;

(z-7) **Licence** means the permit issued by the Central Bank to carry out banking under this Law;

(aa) **Registration Certificate** means the permit issued by the Central Bank to non-bank financial institutions to carry out business under this Law;

(bb) **Ministry** means the Union Ministry of Finance1;

(cc) **Money** Services Business means the business of:

(i) money transmission;

(ii) making payments;

(iii) cashing cheques;

(iv) issuing and selling traveler's cheques or money orders;

(dd) **Officer in relation to a Financial Institution** includes the following:

(i) the chief executive, or deputy chief executive;

(ii) the chief financial officer;

(iii) other persons performing executive functions at the financial institution;

(ee) **Payment System** means any system or arrangement for the clearance or payment or transfer of funds or securities other than the following:

(i) an in-house payment system operated by a person for own administrative purposes;

(ii) other payment systems or arrangements prescribed by the Central Bank;

(ff) **Payment Mechanism** means any mechanism, whether tangible or intangible, that enables a person to obtain money, goods or services or to make payment;

(gg) **Place of Business** means an office or a branch of the respective Financial Institution;

(hh) Relative means spouse, brother or sister of an individual, brothers or sisters of the spouse of the individual, any lineal ascendant and descendant of the individual or spouse of the individual and his dependents; and any such relationship created through adoption;

(ii**) Related Party in relation to a Financial Institution** means:

(i) a person who has substantial interest in the financial institution or entitlement to the significant interest from the person in a financial institution;

(ii) a director or an officer of the financial institution or a body corporate that controls the financial institution;

(iii) a relative of a person contained in sub-clauses (i) and (ii);

(iv) an organization that is controlled by a person mentioned in subclauses (i) to (iii);

(v) a person who has been designated by the Central Bank as a related party because of its past or present interest in or relationship with the financial institution;

(jj) **Scheduled Institutions** means the following institutions established under any other law, but not under this Law, that provide financial services for a specific group or a community;

(i) Rural Development Bank;

(ii) Agricultural Bank;

(iii) Micro Finance Institutions licensed under the Microfinance Business Law;

(iv) Credit Societies;

(v) Postal Savings Bank;

(kk**) Securities** means securities as defined in the Securities Exchange Law;

(ll) **Substantial** Interest means ownership, directly or indirectly, of ten percent and above of the capital or of the voting rights of a financial institution, or control over directly or indirectly management of the financial institution, as prescribed by the Central Bank;

(mm) **Associate Company** means any other company held shares not less than twenty percent and not more than fifty percent of a company.

Chapter II

Objectives

3. The objectives of this Law are as follows:

(a) to enhance sustainable economic development of the Union;

(b) to develop the financial sector of the Union;

(c) to ensure that financial institutions with the Union carry out financial services activities in line with international standards;

(d) to enable the Central Bank effectively regulate and supervise financial institutions in accordance with international standards; and

(e) to protect the interest of the depositor and to maintain the stability, safety and soundness of the financial system.

Chapter III

Establishment

4. Financial institutions shall be established in accordance with the Myanmar Companies Act or the Special Company Act as a limited liability company. In the case of state-owned financial institutions, it shall be deemed as financial institutions established under this Law.

Chapter IV

General Duties and Powers of the Central Bank in relation to Financial Institutions

5. The duties and powers of the Central Bank in relation to financial institutions are as follows:

(a) granting licences;

(b) providing registration, approval and authorization;

(c) regulating and supervising on banks and non-bank financial institutions under this Law;

(d) having banks and non-bank financial institutions to comply with any orders, regulations, directives and guidelines issued under this Law;

(e) requiring banks and non-bank financial institutions to provide any information and submit periodical reports to the Central Bank;

(f) promoting, implementing and enforcing of consumer protection in the banking and payment system; and

(g) other powers conferred by this Law.

6. In implementing its duties under this Law, the Central Bank may:

(a) authorise its staff in accordance with stipulations;

(b) appoint any person who is not its staff to perform any functions, to exercise any powers, or to discharge any duties of the Central Bank, as determined by the board of directors.

7. In carrying out its duties under this Law, the Central Bank may:

(a) cooperate with regulators of financial institutions which are not governed by this Law and other domestic and international financial regulators and exchange information relating to banks or non-bank financial institutions;

(b) enter into memorandum of understanding and other suitable agreements with other financial regulators to ensure the safety and soundness of the financial system;

(c) cooperate with the respective foreign regulators, on the basis of reciprocity in ensuring timely exchanges of the required information in regulating and supervising foreign bank branches, and banks and non-bank financial institutions in which foreign banks or foreign investors have a substantial interest;

(d) enter into cooperative arrangements and shall provide for the confidential information received pursuant to the memorandum of understanding and other arrangements.

Chapter V

Licence

8. (a) Any person who desires to conduct banking business under this Law shall apply a licence to the Central Bank in the prescribed form together with the following documents:

(i) document that a proposed applicant is a company or an entity incorporated in the Union under the laws;

(ii) a copy of the memorandum of association and articles of association of the proposed applicant and any other document relating to its formation;

(iii) the proposed location of the principal place of business and the branch offices of the proposed bank;

(iv) copies of the audited balance sheets and profit and loss accounts of the applicant;

(v) the amounts of the authorized and paid capital of the proposed institution;

(vi) category of business and organizational set-up for the proposed institution;

(vii) the qualification and experience, and business or profession and the financial condition of owners of substantial interest in the proposed institution;

(viii) qualification and experience of the directors and chief executive of the proposed institution;

(ix) an authorization of the applicant permitting the Central Bank to carry out financial, criminal and professional background checks on the applicant, its directors and chief executive and affiliated persons;

(x) an authorization of the owners, directors and chief executive of the proposed institutions that permits the Central Bank to carry out financial, criminal and professional background checks on them and affiliated persons;

(xi) additional information as prescribed by the regulation of the Central Bank.

(b) State-owned banks established under any laws before the enactment of this Law shall reapply its licence in accordance with the provisions of section 176 of this Law.

9. A foreign bank shall establish its subsidiary or a branch and apply to get a licence for carrying out banking to the Central bank with the prescribed form. In addition to the documents listed in section 8 of this Law, the following documents shall be attached and submitted:

(a) a credit rating report prescribed an international credit rating agency;

(b) a statement of its capital position, its ranking by total assets and capital in its home country and the globe;

(c) a written undertaking of the foreign bank, to provide such funds to meet all its obligations relating to the business activities of its subsidiary or branch in the Union;

(d) a recommendation certificate of the bank regulator of the country where the foreign bank maintains its principal place of the business for the following particulars:

(i) the foreign bank has a valid licence to carry out banking in that country;

(ii) the foreign bank is authorized under the law of that country to establish a subsidiary or a branch in the Union;

(iii) no facts are found out that any director or officer of the foreign bank are not fit and proper.

10. (a) The Central Bank shall examine an application made under sections 8 and 9 and may permit the application for licence if the licensing requirements under this Law are met.

(b) The Central Bank shall reject an application if it is found that any of the following circumstances arises:

(i) being incomplete with licensing requirements under this Law;

(ii) finding false, misleading or inaccurate information contained in the application for a licence or any information attached and submitted in connection with this licence;

(iii) determining by the Central Bank that there are indications that the applicant is not likely to comply with the requirements under this Law or any other laws in Myanmar;

(iv) determining by the Central Bank that the influence on the applicant by any person who has a substantial interest in the proposed institution may impact the management of the applicant;

(v) determining by the Central Bank that the applicant is likely to connect with a group of persons that may impact the management of the applicant or hinder the Central Bank in the discharge of its regulatory and supervisory responsibilities;

(vi) determining by the Central Bank that the application for a licence of the applicant should be rejected under the current economic and financial situations of the Union.

11. The Central Bank shall:

(a) re-examine, in accordance with stipulations upon receiving a complete application and notify the issue or refusal of a licence not later than six months from the date of receipt to the applicant;

(b) return any incomplete application to fulfill the licensing requirements. Where the applicant does not provide the requirements within the stipulated period, the Central Bank shall notify in writing of the refusal to issue a licence to the applicant;

(c) stipulate the required terms and conditions upon the decision to accept the application. The Central Bank may change and amend any terms and conditions in case of any factors that may undermine the efficient and stable operation of the bank or the financial system or the interests of depositors;

(d) publish the list of banks licensed annually.

12. Any person who carries out the banking shall be consistent with the following particulars:

(a) being a company incorporated under the laws in Myanmar and receiving a valid licence issued by the Central Bank;

(b) being a subsidiary or branch of a foreign bank and receiving a valid licence issued by the Central Bank;

(c) being a person who is exempted under section 19.

13. Any bank holding a licence shall:

(a) comply with all terms and conditions in licence stipulated by the Central Bank;

(b) commence its operations within one year from the date of receipt of its licence;

(c) not carry out any other activities other than the activities permitted under this Law; and

(d) conspicuously display a copy of its licence at its work place and everywhere the business is carried out in Myanmar;

14. (a) The Central Bank shall prescribe different types of fee for licences issued for different business activities or classes or categories of banks.

(b) Every bank holding a licence shall pay the following fees not later than one month before the anniversary date of the issue of the licence:

(i) a licence fee upon being licensed;

(ii) a fee for opening an office in Myanmar other than the head office at the principal place of business;

(iii) an annual fee for the licence so issued for each offices, including the head office at the principal place of business.

15. The Central Bank may revoke a licence of the bank issued by it if any bank arises any of the following circumstances:

(a) failure, within the specified period, to deposit the minimum capital prescribed for banks;

(b) failure, within the specified period, to restore the minimum capital requirement lessen due to loss of business;

(c) violation of existing laws by a bank and failure, within the specified period, to comply with the terms and conditions of the Central Bank;

(d) liquidating voluntarily or involuntarily, or bankruptcy;

(e) extinguishing the original legal entity as a result of a merger, or division;

(f) satisfying by the Central Bank that the revocation of the licence may not affect the national interest and the interests of the depositors of the bank;

(g) providing information that is false or misleading in connection with its application for the licence by a bank;

(h) failure to commence permitted activities within one year from the date of receipt of the licence;

(i) failure to conduct permitted activities without sufficient reasons in three consecutive months in running business by a bank;

(j) performing permitted activities by detrimental means to the rights and interests of depositors by a bank;

(k) being likely to be detrimental effect on the national interest by permitting the licence to continue to operate;

(l) being likely to be detrimental effect on the stability of the financial system in Myanmar by permitting the licence to continue to operate;

(m) contravention of the Central Bank of Myanmar Law, this Law and regulations thereof by a bank;

(n) failure to comply with the orders and directives issued by the Central Bank by a bank;

(o) insolvency or being likely to be insolvent within a reasonable period of time by a bank;

(p) merger with any other bank without approval of the Central Bank by a bank;

(q) application to revoke a licence to the Central Bank by a bank that does not desire to carry on its business.

16. The Central Bank shall:

(a) decide on the revocation within 90 days from the date occurred circumstances under section 15;

(b) notify information relating to the decision made under sub-section (a), in writing, to the respective bank.

17. Where Central Banks decides to revoke a licence under sections 15 and 16, it shall publish the revocation of the licence.

18. Any bank seeking to alter its memorandum of association or articles of association shall obtain the prior written approval of the Central Bank.

19. (a) This Law shall not apply to the scheduled institutions.

(b) Notwithstanding anything contained in sub-section (a), the scheduled institutions shall apply to the whole or any part of this Law if the Ministry decides any of the following facts by the recommendation of the Central Bank:

(i) requiring for the interest of depositors or the public;

(ii) exceeding the amount of the total assets of the scheduled institutions, prescribed by the Central Bank in a regulation for the purposes of this section;

(iii) being likely to impact on the stability and soundness of the banking system or the financial system as a whole by the said institution;

(iv) operating for the purpose of avoiding being licensed or registered as a bank, or non-bank financial institution under this Law by the said institution.

(c) The Ministry shall publish an order to take effect the decision in sub-section (b).

(d) It shall not be necessary for the Ministry or the Central Bank to give an opportunity to the respective scheduled institution to make any representation before issuing the order.

(e) It shall be deemed that an order of the Ministry under sub-section (b) is an integral part of this Law and as one in this Law.

(f) The Ministry may issue the necessary regulations and the Central Bank may issue the necessary notifications, orders, directives and procedures in implementing the provisions in this section.

(g) Notwithstanding anything contained in any existing law or in any other existing law to establish the scheduled institution, the provisions of this section and any regulations or orders made hereunder shall have effect.

Chapter VI

Non-Bank Financial Institutions and Foreign Bank Representative Offices

20. (a) A person, who has established a company under the law, seeking to establish a non-bank financial institution shall, in accordance with stipulations, apply to the Central Bank for the registration certificate of the Central Bank.

(b) Persons carrying out non-bank financial institution before the enactment of this Law shall, in accordance with stipulations, apply to the Central Bank within six months of the effective date of this Law to obtain a registration certificate from the Central Bank if required to carry on non-bank financial institution.

21. The Central Bank shall issue the registration certificate to the applicant after scrutinizing it in accordance with the terms and conditions under section 20.

22. The Central Bank may stipulate necessary terms and conditions relating to the following matters:

(a) governance requirements;

(b) transparency and disclosure requirements;

(c) consumer protection;

(d) requirements of reports; and

(e) regulatory matters for non-bank financial institutions.

23. Non-bank financial institutions may engage in one or all of the following activities subject to any terms and conditions stipulated by the Central Bank:

(a) finance company;

(b) leasing business;

(c) factoring business;

(d) credit card business;

(e) money services business;

(f) any other credit services prescribed by the Central Bank;

(g) other activities permitted by the Central Bank from time to time.

24. A foreign financial institution seeking to set up a representative office in the Union in accordance with this Law shall apply to the Central Bank to obtain the registration certificate in accordance with stipulations.

25. The Central Bank may:

(a) grant or refuse to issue the registration certificate after scrutinizing it subject to terms and conditions upon the receipt of an application under section 24;

(b) stipulate necessary regulations and issue the registration certificate to the applicant if it allows opening the representative office of a foreign financial institution.

26. (a) A representative office holding a registration certificate shall carry out only business activities stipulated or business permitted by the Central Bank;

(b) No foreign financial institution shall, through its representative office, carry out any banking or non-bank financial institution business within the Union.

27. If the Central Bank issues the registration certificate, the respective non-bank financial institution and foreign financial institution shall:

(a) pay the prescribed fees to the Central Bank;

(b) submit the reports about information relating to its business or affairs as the period specified and requested by the Central Bank.

28. (a) If a non-bank financial institution or every representative office makes any amendment or alteration to any of its articles of association and memorandum of association, it shall, within three months, notify to the Central Bank;

(b) A director of the non-bank financial institution or the representative office shall, in accordance with the law, declare and approve the notification in sub-section (a).

29. (a) The Central Bank may, by an order published in the gazette, declare that any or all of the provisions of this Law shall apply generally to a non-bank financial institution, or a representative office, or to any class or category of a non-bank financial institution, a business or representative office, if it thinks necessary for any of the following matters:

(i) promotion of monetary stability and a sound financial structure;

(ii) supervision on the credit situation to the interest of the Union; or

(iii) protection of the public interest in respect of the business or activities carried out by the non-bank financial institution or the representative office.

(b) Where an order under sub-section (a) is published, the provisions of this Law concerning such non-bank financial institution, or representative office, or such class and category of non-bank financial institution or representative offices shall apply to such non-bank financial institution or representative offices, or to such class or category of non-bank financial institution or representative offices as those applied to the bank.

30. The Central Bank shall publish annually all lists of the non-bank financial institutions and representative offices mentioned in section 29.

Chapter VII

Restrictions on Acceptance and Solicitation of Deposits

31. Only persons having a valid licence granted by the Central Bank are entitled to carry out the business of accepting deposit.

32. A financial institution or person may carry out any of the following activities to accept deposit from any person within local or international after obtaining the prior written approval of the Central Bank:

(i) soliciting or accepting for the making of deposit;

(ii) entering into or offering to enter into any agreement with a view to the acceptance of deposit.

33. (a) If the Central Bank considers that any statement made in an advertisement issued by a bank is false, deceptive or misleading, it may, by notice in writing, direct the bank to do all or any of the following:

(i) cease the continued issue of the advertisement;

(ii) instructing to modify the advertisement in such manner as specified by the Central Bank;

(iii) display of amendment or withdrawal of all advertisement or all publication after withdrawing them as much as possible.

(b) The Central Bank may vary, amend or revoke any directive issued under sub-section (a).

Chapter VIII

Capital, Reserve Fund and Significant Ownership

34. (a) Banks shall hold their capital in the following manners:

(i) in the case of a bank incorporated in Myanmar, its paid-up capital is not less than twenty thousand millions kyats(twenty billion kyats);

(ii) in the case of a branch or subsidiary of a foreign bank, its paid-up capital is not less than the amount equivalent to seventy-five million US dollars.

(b) The paid-up capital in sub-section (a) may be increased from time to time as prescribed in regulations issued by the Central Bank.

(c) A bank shall maintain at all times, net capital funds unimpaired by losses, in such ratio as, in regulations, prescribed specified by the Central Bank.

(d) For the purposes of this Law, the initial capital funds of a bank shall be the paid-up capital.

(e) A bank seeking to reduce its share capital shall obtain the prior written approval of the Central Bank.

(f) A bank with a subsidiary shall calculate the capital on a consolidated basis and maintain the minimum capital adequacy ratio.

(g) For the purposes of this Law:

(i) Core Capital or Tier 1 Capital means fully paid ordinary shares, and perpetual non-cumulative preference shares, capital grants and disclosed reserves after deducting losses, goodwill, pre-operating expenses, prepaid expenses, deferred charges, leasehold rights and any other intangible assets in this year;

(ii) Supplementary Capital Or Tier 2 Capital means appropriation for general provisions which are created against possibility of future losses, presently unidentified losses, subordinated debts, cumulative and redeemable preferred stocks, and any other form of capital as may be prescribed from time to time by the Central Bank;

(iii) Total Capital means the sum of core capital and supplementary capital;

(iv) Total Risk Weighted Assets And Off-Balance Sheet Exposures means different categories of assets and off-balance sheet exposures adjusted in relation to the risks as means prescribed by the Central Bank.

35. (a) A bank shall maintain a reserve fund. Twenty five per cent of the net profits in every year shall be transferred to its reserve fund. Such transfer shall be made so long as the amount of the reserve fund is equal to one hundred per cent of its paid-up capital.

(b) Notwithstanding anything contained in sub-section (a), the Central Bank may, from time to time, stipulate a different portion of the net profits of each year, to be trans¬ferred to the reserve fund of a bank.

36. A bank shall hold a minimum, or minimum average amount of liquid assets at all times or for a period as, by regulation, prescribed by the Central Bank.

37. A bank shall maintain the minimum amount of assets at all times as by regulations stipulated by the Central Bank.

38. (a) A foreign bank shall maintain a minimum amount of capital stipulated for its bank branch. The amount shall be the same as the minimum amount of initial capital funds to be maintained if such foreign bank branch was established and licensed as a domestic bank.

(b) The stipulated capital to be maintained by a foreign bank for its branch shall be kept in the form and mean stipulated by the Central Bank.

39. A bank shall:

(a) make an advance provision for loans, advances and other assets before any profit or loss is declared;

(b) ensure that the advance provision for loans, advances and other assets made under sub-section (a) is adequate according to the regulations stipulated by the Central Bank.

Payment of Dividends

40. (a) A bank shall only pay dividends or make any form of distribution to its shareholders from its profits.

(b) No bank shall pay any dividend or make any form of distribution to its shareholders in the following situations:

(i) all its capitalized expenses, including tangible assets, preliminary expenses and other items of expenditure, which have not been completely written off yet;

(ii) being less the aggregate book value of its assets than the sum of the book values of its liabilities and the sum of capital funds;

(iii) the breach of any provision of this Law or a requirement imposed by this Law by the bank.

Prescription on Assets, Liabilities and Provisions

41. The Central bank may prescribe the following:

(a) different minimum amounts of assets to be held by different classes or categories of bank;

(b) assets and liabilities for different classes or categories of bank; and

(c) provisions to be held for different classes or categories of bank in relation to any provision of this Law.

Acquisition of Substantial Interests

42. (a) A person seeking the substantial interest of a bank shall apply to the Central Bank, attached to any other supporting and documents as stipulated by the Central Bank.

(b) The Central Bank shall authorize to check the background of the applicant and documents attached under sub-section (a). It may request any additional documents and information.

(c) The Central Bank may decide not to grant an approval if it is found that there is one or more of the following circumstances in an application made under sub-sections (a) and (b):

(i) the applicant of not being a fit and proper person;

(ii) one or more directors or executive officers of the entity of being not fit and proper persons, if the applicant is a legal entity;

(iii) having known by the Central Bank that the applicant's significantly influence on the bank may affect the management of the bank.

(d) The Central Bank shall have the power to approve or reject any application made under sub-section (a).

43. Any person who is a substantial shareholder of a bank shall apply to the Central Bank for an approval to continue to be the substantial shareholder within six months from the effective date of this Law. Where there is only an approval of the Central Bank, they continue to be the substantial shareholder.

44. Each bank shall submit an annual report of the names and addresses of shareholders having the substantial interest in the bank and the number of voting shares held by such persons to the Central Bank.

45. If one or more persons seeking to enter into any agreement or arrangement to acquire the substantial interest in a bank, they shall obtain the prior written approval of the Central Bank.

46. (a) The provisions of sections 43 and 45 shall not apply to the following:

(i) voting shares owned and acquired by a bank for the following matters:

(aa) shares for the repayment of credit to be obtained by the bank;

(bb) shares to be disposed the period within one year or more than one year, in exception, approved by the Central Bank under an underwriting arrangement;

(ii) voting shares of a bank held as an agent, trustee or custodian.

(b) Another bank which has acquired voting shares of a bank under sub-section (a) (i) (aa) shall inform the Central Bank its acquisition of such voting shares.

47. (a) Where the Central Bank finds that any person contravened the provisions of sections 42,43,44 and 45 or the stipulations made under section 50, it may take any of the following administrative means against him:

(i) prohibition on the transfer of, or the agreement or arrangement to transfer such shares in respect of any voting shares of the defaulting person;

(ii) prohibition on voting rights in respect of such shares;

(iii) prohibition on the issue of further shares or any offer made to shareholder;

(iv) prohibition on the payment by the bank on such shares except a liquidation;

(v) directing such person to sell, by public auction, the shares in respect of the defaulting person by the Central Bank.

(b) The Central Bank shall, as soon as practicable, send the directive made under sub-section (a) to the defaulting person and publish it in an appropriate manner.

(c) Any defaulting person against whom a directive has been made under sub-section (a) may, within fourteen days from the date of the receipt of the directive, apply in writing to the Central Bank for a revocation or a modification of the order.

(d) The Central Bank may, after scrutinizing the application made under sub-section (c), confirm or revoke, or amend the directive.

(e) The Central Bank may direct as may be necessary to take effect any directive made under sub-section (a) to the directors or officers of a bank.

Merger of banks

48. (a) Only if the prior written approval of the Central Bank is obtained, banks may carry out the following:

(i) acquiring the business or a substantial part of the business of another bank by a bank or selling all or a substantial part of its own business;

(ii) amalgamation or merger of a bank with another bank;

(iii) acquiring the business or a substantial part of the business of a bank in the Union by a foreign bank or selling all or a substantial part of its own business in the Union;

(iv) changing control of a bank or its holding company.

(b) An application for the prior written approval of the Central Bank in sub-section (a) shall be submitted to the Central Bank together with a copy of the proposed agreement and other relevant information and documents.

(c) The Central Bank may request the applicant or any other person to provide any additional information and documents, if necessary, after receiving an application.

(d) The Central Bank may approve or refuse the application in accordance with the provisions in this section. It may make necessary amendments, or impose condi¬tions in approving the application.

(e) In relation to sub-section (a) (iv), the term "control" includes the following:

(i) the ability to influence, whether directly or indirectly, the composition of the board of directors of a company or any other legal entity;

(ii) holding directly or indirectly twenty per cent or over twenty per cent of the aggregate voting power of a company or an entity through companies, subsidiaries or a holding company or individual ownership.

49. (a) Where the Central Bank has granted approval to an application in respect of a prior written approval under section 48, the institution whose business is to be transferred (transferor) and transferee may submit a joint application to the High Court of the Region or State concerned to issue an order as may be required to have effect on the agreement.

(b) On hearing the application under subsection (a), the respective High Court of the Region or State may pass an order in the terms applied for as it thinks just and proper under the circumstances of the case and modify or vary such order.

(c) The transferee shall publish the order of the respective High Court of the Region or State, made under sub-section (b).

(d) The transferor shall submit a certified copy of such order together with a certified copy of the agreement or arrangement approved by the Central Bank within thirty days from the date of passing the order of the respective High Court of the Region or State under sub-section (b):

(i) to the Registrar of Companies; and

(ii) to the respective registrar or authority (if any), dealing with any movable property, or movable property transferred pursuant to the order.

(e) Where the respective High Court of the Region or State, under sub-section (a), by order, vests any alienated land, or any share or the interest in such land to the transferee, it send immediately a copy of the order to the Land Administrator take effect the provisions of this section after passing the order.

(f) An order of the respective High Court of the Region or State under sub-section (b) may relate to any property or business of the transferor outside the Union. If related, where there are any reciprocal arrangements relating to enforcement of judgments between the Union and the country in which such

property or business exist, it shall carry out as the arrangement. Where there are no such arrangements, it shall carry out in accordance with the law applicable to such country.

Restriction on Maximum Shareholding

50. The Central Bank may stipulate the following:

(a) the maximum percentage of the voting shares of a bank that may be held by any person; and

(b) the maximum percentage of shareholding under sub-section (a) with respect to any class of company, entity or individual.

Chapter IX

Permitted Business Activities of Banking

51. A bank may carry out the business activities permitted by this Law subject to the provisions of its memorandum of association and articles of association, and to the conditions and restrictions on its licence.

52. A commercial bank may carry out any or all of the following business activities, subject to any conditions in the licence:

(a) acceptance of deposits;

(b) lending business;

(c) leasing business;

(d) factoring business;

(e) money services business;

(f) credit token business;

(g) foreign exchange business;

(h) issuing and administering payment instruments such as credit cards, travellers' cheques and bankers' drafts (payment orders);

(i) issuing guarantees and commitments;

(j) trading of money market instruments such as cheques, bills and certificates of deposit, foreign exchange, currency forward and spot contracts, swaps and exchange and interest-rate instruments, and transferable securities for own account or for account of customers;

(k) providing advice for corporations;

(l) money broking;

(m) portfolio management and advice;

(n) trustee services;

(o) credit reference services;

(p) e- banking;

(q) mobile banking;

(r) safe custody services;

(s) development banking;

(t) mortgage financing;

(u) other banking activities determined by the Central Bank.

53. A bank may establish a separate incorporated subsidiary and engage in the following business:

(a) insurance business;

(b) securities broking business;

(c) any activity related to banking as permitted by the Central Bank.

54. A development bank may engage in any or all of the following activities subject to any conditions in the licence:

(a) providing long-term finance;

(b) issuing guarantees and commitments;

(c) other activities prescribed by the Central Bank.

55. Subsidiaries of a bank shall be subject to supervision of the Central bank to the same extent as the bank. The Central Bank may require any information of such bank and its subsidiary to report separately and jointly in respect of reporting to the Central Bank.

56. No bank shall engage, whether on its own account or on a commission basis, in wholesale or retail trade, including import and export trade, except the following matters:

(a) selling securities in possession of the bank;

(b) purchasing or selling gold or foreign currency by the bank.

57. No bank shall purchase or acquire, by any other means, immovable properties exceeding a portion of its capital funds prescribed by the Central Bank except the following matters:

(a) acquiring for the purpose of performing its banking or of providing housing or other entitlements for its staff;

(b) accepting any immovable properties as security for a loan.

Requirements for credit facilities

58. (a) A bank shall ensure the following:

(i) adequate internal policies, practices and procedures for granting credit facilities, making investments and the management of the loan and investment portfolio;

(ii) adequate policies, practices and procedures for evaluating the quality of assets and the loans loss provisions and the adequacy of loan loss reserves.

(b) A director, chief executive or officer of a bank shall grant any credit facility in any agreement between the bank and creditors within any credit limit stipulated on creditors.

(c) A bank shall submit the following to the Central Bank:

(i) any information relating to its policies and procedures for granting any credit facility;

(ii) a report on the limit of an amount or the terms and conditions imposed on a director, chief executive or officers of the bank in relation to granting credit facilities.

(d) The Central Bank may modify the policies or procedures of the credit facilities submitted by the respective bank, if required.

Large Exposures

59. (a) A bank shall not lend on financial exposure more than twenty per cent of the core capital of the bank to any person or a single counterparty or group of connected counterparties. Such restriction shall not apply to the exposure related to the Government policy by the State-owned banks.

(b) The limit in subsection (a) shall not apply to transactions among banks unless otherwise stipulated by the Central Bank.

(c) The Central Bank may stipulate additional limits for secured, unsecured or partially secured financial exposure of a bank.

(d) A bank shall, in accordance with the stipulations, report to the Central Bank, the particulars of each large financial exposure.

(e) The Central Bank may, as necessary, stipulate the group of connected counterparties, aggregate exposure, additional limits and other requirements.

(f) For the purpose of this section, "financial exposure" means a credit facility given by a bank to any person or representative of any person. In this expression, direct or indirect financial liabilities to a bank by a customer, including loans, advances, overdrafts, lease financing, acceptances, guarantees,

letters of credit, performance bonds, foreign exchange contracts and any off-balance sheet credit facility are also included.

Restrictions on Investments

60. (a) No bank shall acquire or hold shares of any following company or business:

(i) a company or business that is not a public company and that does not meet the criteria prescribed by the Central Bank;

(ii) a company or business carrying out the type of business that is ineligible declared by the Central Bank.

(b) If a bank acquires or holds shares in any other company or business, it is entitled to purchase only not more than ten per cent of capital funds of the bank.

61. (a) A bank may acquire or hold shares in any other bank or business as follows:

(i) shares up to a value of five per cent of the capital funds of such bank in any other bank;

(ii) shares up to a value of five per cent of the capital funds of that company or business in any business carrying out a non-bank financial institution business or company;

(b) The restriction in sub-section (b)of section 60 shall not involve the following:

(i) holding or acquiring any shares of any company or business by the bank under an underwriting or sub-underwriting contract for a period not exceeding seven working days, or such further period approved by the Central Bank;

(ii) holding or acquiring shares of a subsidiary company or shares approved by the Central Bank under chapters XIV and XV of this Law in other banks;

(iii) if there is any holding or acquiring shares in the course of the satisfaction of any debt due to the bank, such acquisition or holding is declared in writing to the Central Bank and is disposed of within two years from the date of acquisition;

(c) Any bank acquiring or holding shares under this section shall keep a register of those shares to be inspected by the respective authority from time to time;

(d) For the purposes of this section, the Central Bank may, by regulations, stipulate the following:

(i) an acquisition of or holding shares in a business by a bank;

(ii) the aggregate value of all shares and the nature and maximum value of shares from any person, that may be acquired or held by a bank;

(e) Where a bank contravened the provisions of this section or any regulations, the Central Bank may carry out the following:

(i) prohibiting that bank from increasing the amount of shares in the company or business; and

(ii) directing that bank to decrease the amount of its shares in the company or business within a specified period and to have the specified limit.

62. The provisions of sections 60 and 61 shall not apply to foreign banks and their branches.

63. (a) No bank shall grant credit for the acquisition of its own shares or for the purchase of debt securities which the bank has an unconditional or contingent liability.

(b) No bank shall grant the credit against the security of its own shares or shares of a company that has the substantial interest in the bank.

(c) The provisions in sub-sections (a) and (b) shall not apply to granting credit facility secured by its own shares for a plan to finance the purchase of shares of the bank by an employee from the respective bank. The sum of the amounts of funds so provided shall not exceed five per cent of the paid-up capital of the bank.

Lending to related parties

64. (a) No bank shall grant any credit facility to its directors, managers or shareholders holding more than five per cent of the voting shares of the bank.

(b) No bank shall enter, directly or indirectly, into any transaction with a related party in relation to financial institution on the terms and conditions that are less favourable to the bank than the terms and conditions of the market.

(c) A bank shall enter into a transaction with a related party only if there are following circumstances:

(i) such transaction has been already approved by the votes of not less than two thirds of the number of its directors other than any director concerned with that matter at a meeting of the board of directors of the bank;

(ii) such transaction is secured by collateral.

(d) No bank shall grant any credit facility exceeding the amount stipulated by the Central Bank to a related party.

(e) The Central Bank may stipulate the following:

(i) the principal amount of any credit facility;

(ii) the aggregate outstanding principal amount for all credit facility or any class of credit facility to any corporation related to a bank or any member of its corporation.

(f) All credit to a related party shall be disclosed in the accounts for current financial year and for each subsequent financial year till such credit facility has been settled in full.

(g) If a bank finds out that a related party breaches the terms and conditions of this section, it shall mention the defaulting person and report promptly to the Central Bank.

(h) If a bank does not administer the breach of the terms and conditions in this section, the Central Bank may issue a directive within thirty days, to secure repayment of all amounts due, or impose the conditions as may be necessary.

(i) The credit facility provided in this section shall not apply to a director or officer who is an employee of the bank if the credit facility is granted under the scheme applicable to the employees.

65. The Central Bank may, by regulation, set the maximum foreign currency exposure for banks in a foreign currency or different types of foreign currencies.

66. (a) The Central Bank shall issue regulations in details in accordance with the provisions of this Law to stipulate the prudential requirements for banks.

(b) In issuing prudential requirements, the Central Bank may specify them for all banks or for any classes of banks, based on the differences in the purpose, nature and size, and the financial resources, of such banks.

(c) Any bank that fails to comply with the requirements prescribed under this section shall pay a fine to the Central Bank at the rate stipulated in a regulation of the Central Bank within the specified period.

Records for Transactions and Commitments

67. (a) Banks shall file the pertinent documents for every transaction and commitments of the institution. Such file shall be the documents admissible as evidence in a court of law.

(b) The Central Bank may, in a regulation, stipulate the terms and conditions on record keeping and record retention, including the following:

(i) the types of documents;

(ii) the setting and manner of retention;

(iii) the duration of retention;

(iv) other required documents applied to this section.

Reporting Money Laundering and Suspicious Transactions

68. The Central Bank shall stipulate procedures to be followed by the financial institutions in respect of reporting requirements under the Anti-money Laundering Law, the Counter Terrorism Law and laws enacted by the Pyidaungsu Hluttaw.

Control of Establishment of Subsidiaries or Acquisition of their Asset

69. A bank shall obtain the prior approval of the Central Bank for the following:

(a) establishment of subsidiaries or acquisition of their asset within local or international;

(b) establishment of any office within local or international.

Establishment of correspondent banking relationship

70. (a) A bank is entitled to establish correspondent banking relationship with any bank outside the Union.

(b) The Central Bank may stipulate regulations for the establishment of correspondent banking relationship with financial institution outside Myanmar.

Financial Services and Consumer Protection

71. (a) The Central Bank shall be responsible to promote consumer protection on financial services and financial capability of the bank.

(b) For the purposes of implementing the responsibility under sub-section (a), the Central Bank shall carry out the following:

(i) to plan and implement a strategy for consumer protection on financial services in the Union;

(ii) to coordinate consumer protection measures in cooperation with other financial sector regulators;

(iii) to receive necessary information from other financial institutions and financial sector regulators;

(iv) to issue directives for the financial sectors in areas that are not supervised by the other financial sector regulators and vacant sectors;

(v) to promote dispute resolution system outside the court to deal with disputes between financial institution and its customers;

(vi) to promote and consolidate research and data collection for the consumer on financial services;

(vii) to create a financial literacy network of substantial stakeholders;

(viii) to inform constantly the activities and issues in the area of consumer protection on financial services to the Government and the public.

(c) The Central Bank may issue regulations necessary to take effect sub-sections (a) and (b).

Anti-Competitive practices

72. No bank shall carry out the following:

(a) entering into contracts or agreements or adopting practices of any kind which would secure them a position of dominance in the financial markets;

(b) engaging in manipulative practices in order to obtain an unfair advantage for itself or for third parties.

Chapter X

Board of Directors and Chief Executive

73. (a) Every bank shall constitute a board of directors comprising not less than five who have been elected by the general meeting of the shareholders of the bank.

(b) Although the number of directors required to constitute the quorum at the meeting of the board of directors of a bank is present, the meeting shall be valid if at least one independent non-executive director is present at the meeting.

(c) The provisions of this section shall not apply to foreign bank branches.

74. (a) The board of directors shall exercise and perform the functions to be performed, assigned by the general meeting of shareholders, and all powers to be exercised and all functions to be performed by the bank under this Law.

(b) The board of directors shall impose necessary bye-laws in order to systematically perform the functions under sub-section (a).

(c) The responsibilities of the board of directors shall include the overseeing the management affairs of the bank and the following:

(i) adopting and reviewing a comprehensive risk management process;

(ii) establishing and reviewing the system and procedures of risk management and control;

(iii) adopting policies for organizational arrangements for delegating authority and responsibility;

(iv) adopting internal practices and procedures to promote ethical and professional standards;

(v) adopting and reviewing the system of internal controls of the bank;

(vi) ensuring the compliance with this Law and rules, directives, and guidelines issued by the bank.

Power to form Committee

75. (a) The board of directors may form one or more committees and subcommittees for specific purposes, including the following committees:

(i) the risk management committee;

(ii) the credit committee;

(iii) the remuneration committee;

(iv) the audit committee;

(v) the assets and liability management committee.

(b) The functions, powers and working procedure of a committee and subcommittee formed under sub-section (a) and the remuneration or allowances to be paid to its members shall be prescribed by the board of directors.

76. (a) If a person is a fit and proper person and not prohibited under this Law to hold office, such person may be eligible to be appointed, elected or nominated as a director, chief executive or manager of a bank.

(b) In determining whether or not a person is a fit and proper person for holding office under this Law, the matters as may be prescribed by the Central Bank and the following matters shall be taken into consideration:

(i) the academic qualifications or professional qualifications or the effective experience in finance and banking, administration or business or any relevant sector;

(ii) such person who is or has been investigated in relation to fraud, dishonesty or any other improper conduct by any regulatory body, professional association established in local or international or any other body established by the Law;

(iii) whether the person has been convicted by any court of law within local or international in respect of the financial management;

(iv) whether the person has been declared as a bankrupt within local or international;

(v) whether the person fails to comply with any judgment or order of any court of law within local or international, including the repayment of a debt;

(vi) whether the person has been declared by any court within local or international, or government medical board in the Union to be of unsound mind;

(vii) whether the person has been removed or suspended from serving as a director or officer in any financial institution or institution formed under the law in local or international by a regulatory action or the Central Bank;

(viii) whether or not the person has been a substantial shareholder, director, chief executive of any financial institution in the Union or elsewhere whose license has been suspended or cancelled.

(c) Without prejudice to subsection (b), a director, chief executive or manager of a bank shall not simultaneously hold office as a director or officer of another bank or financial institutions, except where such other institution is a subsidiary or a holding company of the bank.

(d) No person shall be nominated, appointed and elected as a director of a bank before 30 days after the bank has delivered the written notice of the intention to appoint the director of the bank to the Central bank.

(e) The bank shall deliver the written notice form prescribed by the Central Bank attached with the relevant documents and information requested by the Central Bank.

(f) The Central Bank has authorization under this Law to carry out any such background checks after it considers appropriate to ensure any of the matters referred to in sub-sections (b), (c) and (d).

Appointment of Chief Executive and Conditions of Services

77. (a) The board of directors shall appoint a chief executive of the bank subject to this Law and the memorandum of association and articles of association.

(b) No person shall be nominated or appointed as a chief executive of a bank unless the bank complies with section 76(d).

(c) The Central Bank may approve or disapprove the proposed appointment of the bank within 30 days from the date of receipt of the notice of the intention to appoint the chief executive.

(d) Any person dissatisfied by a notice of disapproval by the Central Bank under sub-section (c) may, within 15 days of the date of receipt of the notice, appeal to the Central Bank.

(e) On receipt of a notice of appeal under sub-section (d), the Central Bank may, within 30 days from the date of receipt, either confirm the nomination or appointment or may reject the appeal.

(f) The decision of the Central Bank shall be valid.

Disqualification and Removal of Directors and Officers from Office

78. (a) A person shall be ineligible to the office of a director or chief executive if any person is met with any of the following matters:

(i) the person who is not a fit and proper person to continue to hold office;

(ii) the person who has been appointed, elected or nominated without duly notified to the Central Bank under section 76(d);

(iii) the person whose nomination or appointment has been disapproved by the Central Bank under section 77(c);

(iv) the person who is ineligible and permanently incapable of performing functions of the bank;

(v) the person who has otherwise acted in a way that is manifestly opposed to the objectives of the bank and interests of its depositors.

(b) A bank shall remove the director or the chief executive within 15 days of becoming aware of that one of its directors or chief executive is ineligible to hold office and shall deliver the notice to the Central Bank.

(c) Where the Central Bank finds that any bank directors or chief executive who is ineligible to continue to hold office under subsection (a), the Central Bank may:

(i) direct the bank in writing to remove such person from the office within specified period; and

(ii) notify in writing the person who has been removed from the office, with a copy of such directive.

(d) The bank shall notify such person of his removal from office within the period specified in the directive and shall inform to the shareholders of the bank as necessary. The bank shall also inform such removal to the registrar of the Companies.

(e) The removal of the director or officer in accordance with the directions under subsection (c) shall take effect from the date of receipt of the notification of removal of the office, notwithstanding anything contained in the provisions of any other existing law or the memorandum of association and articles of association of the bank.

(f) A bank which fails to comply with any directive under sub-section (c) (i) within the specified period and any director or officer who has been served with a notice under subsection (c) (ii) and who continues to act as a director or officer, shall be guilty of an offence under this Law.

(g) If any bank is dissatisfied by the removal of a director or officer from the office of that bank under sub-section (c), the person concerned may appeal to the Central Bank. In that case, the procedures provided for under section 77(d) and (e) shall apply.

Disclosure of Interests

79. (a) Every director and officer shall disclose any substantial financial and commercial interest in full, directly or indirectly, owned by themselves or any relatives, to the board of directors of the bank.

(b) The disclosure in sub-section (a) shall be made firstly when the person is appointed as a director, a chief executive or a manager of the bank and then annually thereafter.

(c) Whenever a director or an officer obtains a further interest, they shall disclose the interest in the meeting of the board of directors. Provided that, they shall not attend any deliberation or vote to decide on such matters.

Liability of Directors and Officers

80. (a) In addition to any liabilities stipulated under this law or any other Law, any director, chief executive or officer of a bank shall be liable for any loss or damage sustained by the bank and any other depositor of the bank as a result of his gross negligence or willful misconduct in the performance of his duties.

(b) Where the gross negligence or willful misconduct of the person who has been vested by the person in this section causes loss or damage, such person shall be liable to pay jointly or individually for such negligence or misconduct;

(c) Under this section, actions to recover damages from the director or officer shall be commenced within three years after the occurrence of the negligence or misconduct.

Duty to Maintain Secrecy

81. (a) A bank shall keep secret the information relating to the account, record, and transaction of its customers.

(b) No directors, officers or employees of any bank shall provide for or otherwise disclose customer information to any person.

(c) No person who obtains any information or document disclosed in contravention of sub-section (a) to a person for knowledge, shall disclose the same to any other person.

Exceptions to Duty of Secrecy

82. (a) The provisions of section 81 shall not apply to the disclosure of customer information in the following matters:

(i) the disclosure to the Central Bank, or any director, officer or employee of the Central Bank, or to any person appointed under this law for the exercise of the powers and duties of the Central Bank;

(ii) the disclosure to any person authorized in writing by the Central Bank to obtain the information from the bank and rendering professional services to the Central Bank;

(iii) the permission given in writing by the bank customer or his representative for disclosure;

(iv) a case which the customer is declared bankrupt or, if the customer is the company of being or having being wound up within local or international;

(v) the information required by commercial transaction and being for assessing the creditworthiness of the customer;

(vi) the information required for any criminal proceedings or any civil proceedings relating to the performance of activities between a bank and its customer or his guarantor or between the bank and two or more parties making adverse claims for money in a customer's account;

(vii) the disclosure in accordance with the order of a court of law under the law;

(viii) the disclosure solely in connection with the conduct of internal audit or the performance of risk management of the bank;

(ix) the disclosure to credit information department licensed by the Central Bank;

(x) the disclosure solely in connection with the functions of outsourcing institution when the bank has outsourcing institution carry out its operational functions;

(xi) the disclosure in relation to the merger or proposed merger of the bank with other licensed financial institutions;

(xii) the disclosure relating to the transfer or proposed transfer of the business of the bank to another bank;

(xiii) the disclosure solely in connection with the restructuring, transfer or sale of a bank under chapters XIV and XV; and

(xiv) the disclosure made under the Anti-money Laundering Law and the Anti-terrorism Law and informing the data;

(b) In any civil proceedings under sub-section (a) (vi) or (vii) , where any information or document is to be disclosed in relation to a customer's account, such civil proceedings shall, by order of the court of law or by order on the application of a party in the proceedings , be heard in camera. In such case, the information or document shall be kept secret between the court and the parties thereto. And, no party shall disclose such information or document to another person.

(c) Unless the court otherwise orders, no person shall publish the name, address or photograph of any parties, or any information likely to lead to the identification of the parties to such civil proceedings referred to in sub-section (b).

Further Exception to Duty of Secrecy

83. Notwithstanding anything contained in any other section, the Central Bank may:

(a) publish information obtained from the banks in a consolidated form as it considers fit for the public interest;

(b) share the information on a confidential basis, with financial supervisory and regulatory agencies, from local and international, if the information is used only for the effective supervision of the financial institutions.

Chapter XI

Accounting, Auditing and Financial Statements

Accounts and Financial Reporting

84. (a) The bank shall, in accordance with internationally accepted accounting standards, carry out the adequate maintenance of the accounts and the preparation of periodic financial statements to reflect its operations and financial condition by regulation, stipulated by the Central Bank.

(b) It shall be deemed that compliance with such regulations is in compliance with the accounting standards stipulated under any other law or any law.

(c) Without limiting the general provisions of sub-section (a), each branch of foreign bank shall maintain separate account books, accounts and records. In addition, it shall prepare financial statements, including profit and loss accounts to reflect clearly the assets, liabilities, income and expenses of the branch of foreign bank, segregated from the other books, accounts, records and financial statements belong to the foreign bank.

Audit Committee

85. (a) Every bank requires to set up an audit committee.

(b) The general meeting of shareholders of the bank shall form the audit committee consisting of three members. The term of the audit committee is four years.

(c) Any member of the board of directors shall lead the audit committee. The members of the management shall not serve in the audit committee.

(d) The audit committee shall :

(i) establish appropriate accounting procedures and accounting controls for the bank and supervise whether to comply with such procedures. It shall audit the bank accounts and records;

(ii) monitor whether to comply with the laws and regulations relating to the bank, and report to the board of directors thereon;

(iii) deliver opinions on any matters submitted to the board of directors if requested ;

(e) The audit committee shall hold the meeting once every three months and whenever called by the board of directors, the committee shall attend it.

Balance Sheet and Profit and Loss Account

86. (a) Every bank shall prepare the following matters at the end of each financial year:

(i) a balance sheet at the last working days of such financial year;

(ii) a profit and loss account for such financial year;

(iii) other financial statements required by the Central Bank.

(b) The balance sheets and profit and loss accounts of a bank shall reflect its operations and financial condition of the said institutions and its subsidiaries, on an individual and on a consolidated basis.

(c) Every bank shall deliver the financial statements to the Central Bank within three months after the end of the financial year.

(d) Every bank shall publish its audited financial statement for such financial year by any manner permitted by the Central Bank.

(e) The audited financial statement shall be exhibited in a conspicuous place of each branch of the bank.

(f) The bank shall prepare the form stipulated by the Central bank for the balance sheet and profit and loss account. The bank shall carry out the certification of the balance sheet and the disclosure of information according to the stipulation of the Central Bank.

(g) Where it is found that a disclosure statement published by a bank under sub-section (f) does not contain required information or is otherwise false or misleading, the Central Bank may deliver the notice to the bank to carry out the following matters:

(i) to state the omitted information in a disclosure statement;

(ii) to publish a disclosure statement that does not contain false or misleading information;

(iii) to take corrective action as stipulated by the Central Bank in the notice.

Periodic Reports to Central Bank

87. (a) Every bank shall prepare and report the periodic financial reports to the Central Bank.

(b) Each report required under sub-section (a) shall be:

(i) submitted with a form and within the period, prescribed by the Central Bank;

(ii) certified by the chief executive and the chief financial officer of the bank.

(c) Reports of licensed foreign bank branches shall include their assets, liabilities, incomes, expenses, administrations and operations.

(d) Failure to submit any report required by this section is an offence under this Law.

External Auditors

88. (a) Each bank shall be liable to appoint suitable external auditor by holding the general meeting of the bank for auditing its accounts.

(b) Banks shall replace their external auditors at least once every five years and not appoint the same auditor for more than three consecutive times or the period prescribed by the Central Bank.

(c) Each bank shall, promptly after appointing external auditors, inform the names, business address, qualifications and experience of the auditors to the Central Bank.

(d) It shall be presumed that external auditor is suitable, unless the Central Bank has given a written notice with the rationale that the external auditor employed by the bank is not suitable. The bank shall promptly replace its external auditor when receiving that notice.

(e) Only fit and proper person shall be appointed as auditors of the bank. No related parties and employees of a bank shall be appointed as external auditors for that bank.

(f) If any person appointed as external auditor, after such appointment, becomes a related person or employee of the bank, the bank shall immediately terminate the external auditor.

(g) If a bank fails to appoint external auditors under sub-section (a), the Central Bank shall have the power to appoint external auditors for such bank to carry out the functions stipulated under section 89 at the expense of the bank.

(h) The external auditor appointed by a bank under sub-section (a) or (e) shall have a power to inspect and access all books, accounts and vouchers and documents of the bank at all times, which he considers necessary for the performance of his duties. And he shall have a power to request such information and explanations as he thinks necessary for the performance his duties as auditor from the directors and officers of the bank.

(i) The Central Bank may issue the criteria for external auditors and regulations on relevant matters.

89. (a) The audit shall prepare audit reports completely within three months after the end of the financial year and its report shall be contained the following statements:

(i) in their opinion whether the balance sheet and profit and loss account are full and fair and properly drawn up;

(ii) whether they express completely and correctly the statement of affairs of the bank;

(iii) whether the information obtained from the officers or agents of such bank is satisfactory;

(iv) other relevant matters as may be stipulated by the Central Bank.

(b) The report of the auditors made for banks in accordance with sub-section (a) together with the report of the board of directors of the bank at the annual general meeting of their shareholders shall be read out.

(c) Upon the completion of the audit report of the auditors made under sub-section (a), the audit report shall be transferred together with the auditors' management letter to the Central Bank not later than three months after the end of the financial year.

(d) Where the Central Bank thinks that the audited financial statements do not express a true and correct statement of affairs of the bank or that the auditors' report or management letter are unsatisfactory, it may order the bank to appoint a further external auditor and to submit a fresh report at the expense of the bank.

(e) In the performance of his duties as an auditor of the bank, if he finds the following matters, the auditor shall immediately report the matter to the Central Bank:

(i) a breach or non-compliance of the provisions of this Law or committing cheating or dishonesty;

(ii) losses occurred by the fifty percent reduction of the capital funds of the bank;

(iii) being unsystematic, including irregularities that jeopardize the security of the creditors;

(iv) being unable to confirm that the claims of creditors are still paid by the assets.

90. (a) The external auditor shall submit the audit report to the bank concerned and the Central Bank.

(b) When submitting the audit report under sub-section (a) to the Central Bank, the external auditor shall attach the documents stipulated by the Central Bank in another reports relating to the audit of the bank to the said report.

Chapter XII

Supervision and Inspection

On-Site Examinations to Each Bank

91. (a) The Central Bank shall make an on-site examination to each bank at least once in two years.

(b) The Central Bank may:

(i) perform any on-site examination to a bank jointly with other persons.

(ii) appoint and authorize any chartered accountant or firm of chartered accountants to examine the account of a bank.

(c) Any examiner may act lawfully in the following matters:

(i) requesting any director, officer, employee or auditor of a bank under examination to furnish all information relating to the affairs of the bank, as necessary;

(ii) requesting of any director, officer, employee or auditor of a bank to produce any documents, cash, securities and other assets of the bank under examination in its possession or custody for inspection;

(iii) requesting the following matters, in the case of finding evidence of mismanagement by a bank under examination:

(aa) to submit the accounts of the bank for the audit by an auditor authorized by the Central Bank;

(bb) to furnish to the auditor necessary information for examination;

(cc) to submit any documents, cash, securities and other assets in possession of the bank or its official for the audit by the auditor.

(d) Every director, officer, employee and auditor of the bank under examination shall comply with and carry out requirements under section 91.

(e) Where the Central Bank requires to determine whether a bank carries on business in a manner detrimental to its present or future depositors, it may request and deliver the notice to any person concerned to obtain information relating to the bank.

(f) Unless a person is prohibited by an order of the court of law to furnish the information to the Central Bank, under sub-section (e), the person shall submit as requested by the Central Bank.

(g) For the purpose of ascertaining the true condition of the affairs of a bank under examination, the Central Bank may examine the business of any of the following company relating to its institution for the inspection under section 91:

(i) a holding company or subsidiary company of the bank under examination;

(ii) a subsidiary company of a holding company of the bank under examination;

(iii) an associate company of the bank under examination.

(h) Any person shall comply with any requirements under section 91 or any requirements imposed on him by the Central Bank under section 91 without the failure.

Inspections made by Foreign Banks

92. (a) A foreign bank may, in accordance with the conditions prescribed by the Central Bank inspect its company branch and bank branch established in the Union after obtaining the approval of the Central Bank.

(b) The relevant foreign bank shall submit to the Central Bank a copy of the inspection report prepared by it after inspection under sub-section (a).

Chapter XIII

Corrective Action and Resolution Measures for Banks

Responsibility of Central Bank relating to Compliance by Banks

93. It is the accountability and responsibility of the Central Bank to systematically monitor all banks to comply with all applicable criteria, standards, rules and provisions of this Law.

Corrective Actions on the Banks

94. (a) The Central Bank may lay down a corrective action plan in the following conditions:

(i) informing to the Central Bank by a bank that it is insolvent, that it is likely to become unable to pay its obligations, that it is likely to be unable to pay a material extent out of repayment or that it is about to suspend payment to any extent;

(ii) If the Central Bank finds the following conditions in the bank after an inspection under section 91 or otherwise, the Central Bank shall deliver the notice to that bank:

(aa) performing the business in a manner detrimental to the interests of its depositors, creditors or the public;

(bb) not paying its financial obligations, though they fall due;

(cc) being likely to become unable to meet all financial obligations or any of its payments to a material extent, or to suspend payment to any extent;

(dd) having contravened any provision of this Law, any condition of its licence, or any provision of other existing Law, notwithstanding any prosecution in respect thereof;

(ee) having obtained its licence on the ground of false or fraudulent statements in the application of licence;

(ff) performing the detrimental to the interests of the bank or its depositors by any director, chief executive or officer of a bank;

(gg) hindrance in supervising the bank by the Central Bank by moving operation and books or records of the bank, all or a significant part of the administration abroad without the prior consent of the Central Bank;

(hh) failure to carry out any directive given to it by the Central Bank;

(ii) failure to meet the Central Bank standards relating to asset quality management, earnings, liquidity or sensitivity to market risk;

(jj) failure to meet or being in danger of failing to meet any capital requirements in this Law or any regulation of the Central Bank;

(kk) engaging in procedures and operations that could pose risks to the depositors of the banking system in whole or in part;

(ll) being insolvent and the value of total assets which is less than the value of total liabilities;

(mm) facing legal action taken by a custodian, receiver or liquidator under the Insolvency Act or any law that provides for the relief of debtors;

(nn) having engaged in for criminal activities or been used for criminal activities and being unable to prevent measures adequate to prevent them;

(oo) being one or more foreign bank in the process of voluntary liquidation, or having been cancelled the licence to carry on banking in the country of its principal place of business;

(pp) determining by the Central Bank that the bank may materially impair the ability of the bank to meet its obligations or the bank is inappropriate to continue its operations;

(qq) having occurred losses in its banking operation for three consecutive financial years.

(b) Notwithstanding anything in sub-section (a), where the Central Bank determines that the giving of a warning notice under section 95 would jeopardize the interest of depositors or creditors, the Central Bank may proceed to take any of the corrective actions under section 96 without giving a warning notice.

Warning Notice issued by the Central Bank

95. (a) Where the Central Bank determines that it is found that there are the circumstances in section 94 in respect of a bank, it shall issue a warning notice to the bank.

(b) The bank shall, within two weeks of being served the notice by the Central Bank, submit to the Central Bank its plan of action to perform the weaknesses or the delay specified in the notice.

(c) In a plan of action to be made in sub-section (b):

(i) the details of remedial measures for the occurred weaknesses or the delay in the bank shall be submitted;

(ii) the approval by the board of directors of the bank concerned shall be included;

(iii) the timeframe shall be specified for the action plan fulfills the weakness or delay;

(iv) the explanation for a mechanism to be implemented for remedial measures shall be included.

(d) In submitting a plan of action to the Central Bank, the bank shall submit such updates or other required reports to the Central Bank.

(e) If a bank fails to submit a plan of action within the specified time or if the Central Bank determines that the plan of action is inadequate, or if the bank fails to implement the plan submitted, the Central Bank shall take any corrective actions stipulated in section 96 against the bank.

Power of the Central Bank to take Corrective Actions for Banks

96. (a) The Central Bank may take one or more of the following actions against a bank to which a notice has been issued under section 95(a) or a bank which involves in any one or more of the provision in section 94:

(i) warning or prohibiting the bank from entering into any particular transaction or class of transactions;

(ii) directing the bank to cease or desist from contravention of law, or unsafe or unsound practice;

(iii) directing the bank to take appropriate action directed by the Central Bank;

(iv) The Central Bank shall have the power to do the following matters during or after any inspection of a bank under section 91:

(aa) directing the bank to call a meeting of its board of directors for the purpose of considering any matter relating to the bank;

(bb) discussing of an officer in charge of a bank with the Central Bank for any such matters;

(cc) directing the board of directors of the bank to give in writing to any officer specified by the Central Bank all notices of and other communications relating to any meeting of the board of directors and the committee;

(dd) appointing and assigning one or more of the officers of the Central Bank to observe the operations of the bank or its officers or its branches and operation reports ;

(ee) directing the bank to make administrative changes within such period specified by the Central Bank, in respect of the declared matters of the bank during or by the inspection;

(v) directing the bank to increase its paid-up capital either through the issue of new shares or a call on the unpaid portion of the issued capital;

(vi) directing the bank to maintain higher capital adequacy ratio or liquidity ratio or place more other restrictions or conditions on the business performed by the bank;

(vii) suspending the whole or part of the business of the bank;

(viii) suspending the whole or part of the shareholders' rights, including voting rights, and prohibiting the distribution of profits or other withdrawals by shareholders of the bank;

(ix) suspending or permanently prohibiting, any director, chief executive, or officer of the bank from office or performance;

(x) restricting the powers of any director, chief executive, officer and employee of the bank;

(xi) limiting the entitlement to be paid, including management fees and bonuses, to directors and senior officers of the bank;

(xii) prohibiting or imposing limitations on the acceptance of deposits and lending the loan, granting of loans in advances or making of investments by the bank;

(xiii) directing the bank to enhance its governance, internal controls and risk management systems;

(xiv) directing to downsize the operations of the bank, to restrict the expansion of branches or banks in local or international or to close branches or offices of the bank;

(xv) enhancing the estimate for non-qualifying assets;

(xvi) prohibit principal or interest payments on the loan lent by the shareholders of the bank;

(xvii) other than State-owned bank, removal of any director, chief executive or officer of the bank from office, by order, by the Central Bank, and if State-owned bank, notifying an authority concerned to take necessary action on them;

(xviii) the dismissal of the board of directors and in control of the bank, and operating its business by appointment of "administrator", as the Central Bank thinks fit to manage the bank, by order, by the Central Bank;

(xix) having the bank apply for de-listing from any stock exchange on which it is listed, by order, by the Central Bank;

(b) The bank shall be given a reasonable opportunity to make representation to the Central Bank in respect of the proposed order for the director, chief executive, or officer under sub-section (a)(ix)(xvii) to be removed from office. Provided that, if the Central Bank finds the credible evidence that any delay

in making an order under sub-section (a)(ix)(xvii) and (xviii) would be detrimental to the interest of the bank, its depositors , creditors or the public, it may issue the summons to the bank immediately. Then, the Central Bank shall give the banks opportunity to present its dissatisfaction.

(c) Where the Central Bank reviews that the dissatisfaction is correct, it may confirm, amend, replace or revoke the issued order subject to certain conditions.

(d) Unless the Central Bank issue further order for extension, the order issued under sub-section (a) (xviii) shall not exceed two years' tenure.

(e) The Central Bank shall provide an initial report to the Government as soon as practicable after the control of a bank has been taken over by an Administrator appointed under sub-section (a) (xviii) and a yearly report thereafter.

(f) The Central Bank may, by order at any time, revoke an order under sub-section (a) (xviii). In such order, directives, attachment, annex or natural consequences are included as the Central Bank thinks necessary.

(g) If any chief executive or officer of the bank is removed from office under sub-section (a) (xvii), he shall terminate to hold the office from the date set out in the order and shall not thereafter engage in that bank in any manner whether directly or indirectly.

(h) Notwithstanding anything contained in any contract of employment, the removal of any director, chief executive or officer under sub-section (a) (xvii) shall be lawful and valid. Any person so removed from the office shall not be entitled to claim any compensation for the removal of office.

(i) The provisions of this section shall apply to the branch of a foreign bank.

(j) It shall be deemed that all assets, liabilities, acts and omissions of the foreign bank and other activities relating to the business of any of that foreign bank and its branch are as a single entity in applying the provisions of this chapter.

(k) For the purposes of this Chapter, the capital and value of assets of a bank shall be determined in accordance with standards and procedures stipulated in the regulations issued by the Central Bank.

Chapter XIV

Administratorship

Appointment of an Administrator

97. (a) Administrators shall, by order, be appointed by the Central Bank under section 96 (a)(xviii).

(b) For the purposes of subsection (a), the person to be appointed as an administrator is fit and proper and qualified for a bank.

(c) When an administrator becomes ineligible to serve, the Central Bank shall replace and appoint an appropriate administrator at any time for the continuation.

(d) An administrator shall be appointed for a term not exceeding twenty-four months as stipulated in the appointment of an administrator. Such term may be extended once for another period not exceeding twenty-four months.

(e) The administrator shall carry out his duties assigned by the Central Bank and receive remuneration from the Central Bank.

(f) The bank required to appoint the administrator shall incur all costs of the Central Bank, including the salary of the administrator for the appointment of the administrator.

(g) The Central Bank shall, by order, appoint an administrator or extension of the appointment and it shall express the rationale of it.

Review of Appointment of Administrator

98. (a) The board of directors of the bank on behalf of the institution may submit the objection in writing to the Central Bank on the appointment of the administrator within five business days from the date of the decision of the appointment.

(b) If no such objection is submitted within the five business days, the bank shall be deemed to have consented to the appointment of the administrator.

(c) Upon the timely receipt of such objection, the Central Bank may review the appointment of the administrator and decide either to confirm or terminate the appointment by giving the rationale in writing for its decision.

(d) The decision made under sub-section (c) shall be final and conclusive. Then, the Central Bank shall deliver promptly the decision to the chairman of the board of directors of the bank.

(e) If the appointment of the administrator is terminated, the administrator shall immediately return the control of the bank and its assets, books and records to the authorized manager of the bank.

Effect of Taking Control

99. (a) Upon the appointment of an administrator by the Central Bank, directors, a chief executive and officers of the institution shall submit the every affairs including property, business and recognized audit

statement of the bank to the administrator. Then, they shall provide the administrator with all requirements to carry on the business and affairs of the bank.

(b) The administrator shall perform the control of the business and all matters in respect of the bank. He shall carry out the business and all matters of the bank with the name of the bank and on behalf of the bank until the prescribed period in the order of the appointment of the administrator or until the order is not revoked.

(c) Throughout the order is in force, the authority and power exercisable by the bank and its directors under the existing law or otherwise, the power of the bank and the power of institution, its directors and shareholders under the constituent documents or memorandum of the association and articles of the association of the bank, shall be vested in to the administrator.

(d) Throughout the order is in force, no director, chief executive or officer of a bank shall, either directly or indirectly, engage in any activity in relation to the bank, except as the case assigned by or authorized by the administrator.

(e) Any director, chief executive or officer of the bank shall not be entitled to enjoy the remuneration, except that which is approved in writing by the administrator.

Remedial Actions taken by the Administrator

100. Notwithstanding any provisions of the Myanmar Companies Act and Special Companies Act or any other existing Law, an administrator shall, with the approval of the Central Bank, carry out any one or more of the following functions for the purpose of carrying out the rehabilitation of a bank:

(a) suspending, termination and winding up any part of the bank's activities in local or international;

(b) selling the assets of the bank to any other bank or entity formed under the law by the terms and conditions prescribed by the Central Bank;

(c) suspension the employment of any officers or employee or replacement of any officers and employee of the bank;

(d) if the officers or employees in sub-section (c) are from State-owned Banks, notifying the authority concerned to take necessary action;

(e) making such arrangements as the administrator considers necessary for the merger of the bank with another bank;

(f) reorganizing the bank by increasing its capital and selling shares to new shareholders and reconstituting the board of directors of the bank;

(g) reconstructing the bank in any such manner as the administrator considers to be in the interest of depositors and reorganizing the bank or its management including the closing down of unviable business ;

(h) carry out any other matters approved by the Central Bank to rehabilitate the bank.

Report of the Administrator

101. (a) The administrator of the bank shall prepare and submit to the Central Bank a report on the financial condition and future prospects of the institution during the period the administrator has been appointed by the Central Bank.

(b) The administrator shall state an assessment of the amount of assets likely to be realized in a liquidation of the bank in the report.

(c) The report shall be accompanied costs and profits in performing a following proposed action plan:

(i) arrangement of return to the bank in compliance with carrying out an action plan;

(ii) arrangement for rehabilitation of the bank under chapter XV of the Law;

(iii) arrangement of a voluntary liquidation under chapter XVII of the Law ;

(iv) arrangement for revocation of the licence and liquidation of the bank; and

(v) commencement of insolvency proceedings by the bank.

Termination of Administrator

102. (a) The appointment of an administrator shall be terminated at the earlier period out of the following period:

(i) the date of completion of the term specified in the appointment of the administrator and extension thereof;

(ii) the date on which the Central Bank decides to terminate;

(iii) the date on which the court decides to terminate;

(b) The administrator shall prepare and submit a final report of the administrator to the Central Bank within twenty business days from the termination of the appointment.

103. During the administratorship, the Central Bank may provide financial support by prescribing the condition and lending money to the financial institution concerned to provide for any temporary liquidity support.

Chapter XV

Rehabilitation of Bank

Action Taken by the Central Bank

104. (a) The Central Bank shall, within one year of placing a bank under the control of an administrator, audit or have the accounts of the bank audited.

(b) Based on the report of the administrator and the auditor, the Central Bank may take any of the following actions with regard to a bank:

(i) exemption of the suspension of the board of directors of the bank under section 96(a)(xviii) and having the board of directors operate the suspended business of the bank;

(ii) directing to hold the general meeting to elect the new board of directors after the dismissal of the board of directors;

(iii) performing a capital reduction exercise and amending and stipulating any portion of the value of the shares which is not specified as assets;

(iv) dilution the participation of the existing shareholders by selling shares with the value, as required, determined by the Central Bank;

(v) filing an application for the liquidation of the bank in the High Court of the Region or State concerned.

(c) According to the powers conferred by the Central Bank of Myanmar law, without prejudice to the powers under section 96 or sub-section (b):

(i) the Central Bank shall publish the following matters.

(aa) The Central bank may direct any shareholders of the bank to transfer the shares owned by him or to sell to a fit and proper person;

(bb) The Central bank may have the bank transfer all or part of any assets and liabilities of the bank to another bank or financial institution according to the conditions stipulated by the Central Bank;

(cc) The Central bank may transfer all or part of the assets and liabilities of the bank to another bank or financial institution, as may be considered appropriate by the Central Bank in accordance with section 107.

(ii) After obtaining the approval of the Pyidaungsu Hluttaw through Union Government, the Central bank is entitled to carry out the following matters:

(aa) purchase of any shares of the bank with the funds of the Union Budget to control the business of the bank;

(bb) providing soft loans to the bank, financed by the Union budget to ensure stability of the bank and the financial system as a whole;

(cc) establishing a new bank to be capitalized by the Union budget to acquire the assets and liabilities of the bank;

(d) In deciding on the appropriate action to be taken under sub-sections (b) or (c), the Central Bank shall have taken into consideration earnestly to the latest audit report of the bank and any report submitted by the administrator;

(e) No action under sub-section (b) or (c) shall be taken unless the bank has been given a reasonable opportunity to present its dissatisfaction. Provided that, if the Central Bank thinks that any delay generally impact the bank, its depositors, or the public, the action may be taken immediately after giving the opportunity to represent the dissatisfaction as soon as possible.

(f) the action of the Central bank as a consequence of representations of dissatisfaction may be confirmed, amended, commuted, altered , replaced or revoked in stipulations of the conditions.

(g) The Central Bank may, for the purposes of this section, give information relating to the bank to any potential person who owns or acquire the bank. Provided that, the person shall keep such information secret. Such information shall be used solely for the purpose of the acquisition of the bank.

Rights of Shareholder

105. (a) For the purposes of this chapter, only the representative of the bank owner shall have the right to represent his dissatisfaction on the action taken by the Central Bank to the Central Bank.

(b) Any following person may carry out as a representative of the owner:

(i) the person appointed as the representative of the bank by a majority vote of the owners of the bank;

(ii) the person holding the office of chairman of the board of directors of the bank or his authorized representative.

(c) If the owners of the bank seek to object under section 104(b) and (c), they may submit objections to the Central Bank within 14 days from the date of the receipt of the notification.

(d) If the Central Bank does not receive the objection at the specified time, it shall be deemed that the owner have consented to the decision.

(e) If the Central Bank shall accept the objection within 14 days, it shall review the objection, and may confirm, amend, or revoke its order as appropriate. In doing so, it shall state the rationales for its decision.

(f) The decision of the Central Bank shall be delivered immediately to the representative of the bank owners.

(g) All action taken by the Central Bank shall remain in force and effect in so far as the decision is not revoked by the Central Bank.

(h) The confirmation, amendment, or revocation of the order issued by the Central bank shall be final and conclusive.

Capital Reduction And Cancellation of Shares

106. (a) After publishing that the paid up capital of a bank has been lost or is unrepresented by available assets, the Central Bank may, through an application to the High Court of the Region or State concerned, reduce the capital of the bank by canceling such portion of the lost paid-up capital or the unrepresented assets.

(b) Where the assets or liabilities of the bank have been transferred to another person under section 104(c) (i) (bb) (cc), the Central Bank shall, after publishing it, apply to the High Court of the Region or State concerned. The Central Bank may cancel the capital of the residual share of the bank by order or decision of the High Court of the Region or State.

(c) Where the Central Bank issues an order under sub-section (a) to reduce the capital of share of a bank, if the shareholders shall not make the payment within 90 days from the date of the issuance, the Central Bank may apply to the High Court of the Region or State concerned for the cancellation of such shares for which payment has not been made.

(d) Where the capital of share of a bank is reduced under sub-section (a), or any of its shares is cancelled under sub-section (b), the Central Bank may request the bank to apply the Registry Office of the Company for the change of the constituent documents or memorandum of association and article of association of the bank.

Vested Assets and Liabilities

107. The Central Bank shall, by order, publish such vesting or transferring all or part of the assets and liabilities of a bank transferred under section 104 to another financial institution. The order shall be final and conclusive.

108. The person who obtains the vested right shall be consistent with the following facts:

(a) being capable of determining the credible reasons with the interests of the depositors and creditors of the transferor institution or the public interest in obtaining the vested assets and liabilities of the bank relating to an order issued under section 107;

(b) being capable of carrying on by the transferee institution, in a competent manner, the banking and

(c) making the agreement by the transferee institution to comply with the terms and conditions stipulated by the Central Bank relating to the use of vested assets and the settlement of any existing liabilities.

Effect of Vesting Order

109. (a) With effect from the relevant date in the vested order issued under section 107 :

(i) in acquiring all rights transferred to the vested assets and all vested assets, it shall be deemed that the transferee institution have acquired the vested assets, notwithstanding it is not accomplished;

(ii) all entries in relevant official register books of vested assets or vested liabilities shall be changed by replacing the name of the transferee institution. Provided that, notwithstanding there is no any change of name, the change shall affect on assets or liabilities under the vested orders to transferee institution and have the entitlement;

(iii) the transferee institution shall comply with the terms and conditions in the order issued by the Central Bank under this Law or the Myanmar Companies Act or the Special Company Act. Such institution shall give the agreement in writing to comply with it;

(iv) the licence issued to the transferee institution shall ,as required, be modified in accordance with the vested order so that the vested entitlement has effect on the business of such transferee institution;

(v) if all assets and liabilities of the transferor institution are vested in to the transferee institution, the Central Bank shall cancel the licence of the transferor institution.

(b) Unless otherwise specified by the Central Bank in the vesting order issued under section 107, the following shall affect commencing from the relevant date:

(i) it shall be deemed that all contracts, deeds, bonds, agreements , powers of attorney , grants of legal representation and other instruments relating to the assets or liabilities vested to the transferee institution have been transferred and vested from the date of agreement with transferor institution;

(ii) it shall be deemed that all actions and proceedings instituted by or against the transferor institution on the date before the transfer relating to the vested assets or liabilities of the transferee

institution are as actions and proceedings instituted by or against the transferee institution and shall be affected.

(c) For the purposes of this section,

(i) 'relevant date' means the date on which the vesting order is published;

(ii) "Official Registries" means a registry of interests, ownership and transfers established under the Law of the Union according to the record of the assets for the properties whether movable or immovable of individuals and bodies corporate in the Union.

Taxes and Duties

110. Exemption of duties and taxes may be applied to the ministry under this chapter in the Law relating to any transfer of the assets or liabilities.

Moratorium on Concession of the Bank

111. (a) In addition to the powers in this chapter, the Central Bank may, if it considers necessary for the interest of the bank, protection of the saving and interest of depositors or stability of the financial system, by order, publish the following:

(i) prohibiting the bank from carrying on all or parts of its banking in the order;

(ii) prohibiting the bank from performing any functions connected with all or part of its banking in the order;

(iii) suspension of the licence granted to the bank under this Law for such period prohibited under sub-section (i) or (ii) to be affected;

(iv) in order to affect the provisions of sub-sections, stipulating the incidental impact and consequential matters, including taking into the control or custody of the properties, books, and documents of the bank by the Central Bank.

(b) An order under sub-section (a) may, from time to time, be modified, altered, or replaced. Where it is impracticable or unjust to do so, a further order under sub-section (a) may be issued.

(c) The Central Bank may withdraw an order made under sub-section (a) and a further order under sub-section (b). And the Central Bank may, if it thinks necessary, place and issue necessary directives or consequential nature in such order.

Chapter XVI

Rehabilitation of Non-Bank Financial Institutions and Scheduled Institutions

112. Non-bank financial institutions and scheduled institutions may be rehabilitated in accordance with the procedures.

Chapter XVII

Liquidation of Banks and Prior Approval for Voluntary Winding-up and Liquidation of Bank

113. (a) No person shall, without the written approval of the Central Bank, petition for the voluntary winding up and the liquidation of an incumbent bank to be liquidated to the High Court of the Region or State.

(b) The Central Bank shall not grant an approval under sub-section (a) unless it is satisfied the following facts:

(i) the liquidating bank that is solvent and repay its depositors and creditors without delay;

(ii) the winding-up and liquidation of the incumbent bank to be liquidated, which has been approved by an affirmative vote representing not less than three fourths of the outstanding shareholders entitled to vote at a meeting of the shareholders of the banking.

(c) the winding-up or liquidation of a domestic licensed bank being a State-owned entity without the approval of the government; liquidation of a branch in the Union of a foreign financial institution without the written request by the administrator of the foreign financial institution.

Conditions for Voluntary Winding -up and Liquidation

114. (a) Before the Central Bank grants an approval yet under sub-sections (b) and (c) of section 113, the incumbent bank seeking to wind-up or voluntary liquidation shall complete the following:

(i) the deposits in the bank shall be repaid to its depositors;

(ii) all financial liability or obligations incurred under this Law shall be repaid and all funds and other property held by it in a fiduciary capacity shall be returned.

(b) In addition to the requirements in sub-section (a), a liquidating bank shall:

(i) have wound- up all operating businesses;

(ii) shall have wound-up all businesses to be liquidated and exercise only such powers necessary to effect an orderly liquidation.

(c) The Central Bank may request for reports, documents and other information, including its winding-up and liquidation plan related to the person seeking the approval and the liquidating bank.

(d) The Central Bank may issue such directives to any person seeking the approval of the Central Bank and the liquidating bank to ensure that the requirements in subsection (a) are met.

(e) If the liquidating bank is unable to meet the requirements of section 113 and this section, the Central Bank shall appoint an administrator under section 97 of this Law.

Notice of Voluntary Liquidation

115. (a) The liquidating bank shall deliver a notice of the winding-up or voluntary liquidation as follows:

(i) to send to the Registrar of Companies within fourteen days from the date of the receipt of the approval from the Central Bank under section 113;

(ii) to send to all depositors and other creditors and persons otherwise entitled to receive the funds and property held by such bank as a fiduciary, lessor of a safe deposit box or bailee;

(iii) to deliver the notice to the debtors of the bank to repay their debt with the quickest way;

(iv) to publish once in the widely circulated newspapers in the Union;

(v) to display the notice in a conspicuous place at its principal place of business of banking and each of its other offices.

(b) The Central Bank shall stipulate the information to be included in the notice referred to in sub-section (a).

(c) The Central Bank may exempt the liquidating bank from sending a notice under sub-section (a) (ii) to any person where the Central Bank finds the following facts:

(i) being impracticable to do so;

(ii) the person who has otherwise had adequate notice of the winding up and liquidation.

Rights of Creditors

116. (a) The approval to go into winding-up or voluntary liquidation shall not prejudice the rights of a depositor or other creditor of a liquidating bank for payment in full of any claim, or the rights of an owner of funds or other property held by the bank.

(b) All lawful claims shall be paid promptly and all funds or other property held by the liquidating bank shall be returned to their rightful owners within the maximum period prescribed by the Central Bank.

Cancellation of Licence and Distribution of Assets

117. (a) After the completion of the winding-up and liquidation, the liquidating bank shall prepare and submit to the Central Bank an audited statement of accounts and a report of liquidation, including an opinion of an external auditor confirmed and accepted by the bank.

(b) The opinion of the auditor submitted under sub-section (a) shall include the following:

(i) the statement of account of having been drawn up fully and correctly;

(ii) the report of winding up or liquidation that is properly expressed in the statement of the liquidation of the liquidating bank fully and fairly;

(iii) in the request of the explanation or information from the liquidating bank by the external auditor, the received explanation or information of being accurately expressed;

(iv) compliance with the directions of the Central Bank in performing the winding up and voluntary liquidation.

(c) Where the Central Bank thinks that all obligations to be fulfilled by the liquidating bank referred to in section 114 are based on documents submitted under sub-section (a):

(i) the Central Bank shall cancel the licence of the liquidating bank and notify to the bank the cancellation under the provisions of section 115 of this Law;

(ii) the bank shall distribute its assets among its rightful owners in proportion to their respective rights.

(d) The liquidating bank shall not distribute its assets under sub-section c(ii) before performing the following matters:

(i) the transfer of a sufficient funds to the Central Bank to provide any claim in dispute relating to the funds or other property to be paid or returned under the decision of the court of Law;

(ii) the transfer of the funds to the Central Bank, which are payable to all depositors, other creditors or persons who have not claimed such funds yet;

(iii) in respect of the compliance of section 152, being unable to distribute the money and other property by the liquidating bank to the said person under sub-section(c) (ii);

(e) In the voluntary liquidation, all costs, charges, and expenses incurred from the assets of the bank shall be paid as the priority.

(f) On receipt from the liquidating bank of a notice of approval of the audited statement of accounts and, the liquidating bank shall publish the report of liquidation submitted under sub-section (a).

(g) the name of the bank shall be removed from the list of the company from the registrar of the company upon the publication of such notice of the approval under sub-section (f).

(h) The bank shall have been dissolved legally from the date of the notice in subsection (f).

(i) The dissolution of a bank under sub-section (g) shall not affect the liabilities under this Law or any existing Law of any owner, director, chief executive or another officer of the bank and that liability shall continue to be enforced the bank has not been dissolved.

Compulsory liquidation

118. The Central Bank has a bank wound-up or liquidated compulsorily, if any of the following grounds occurs:

(a) not paying off its due financial obligations by the bank ;

(b) determining by the Central Bank that the capital of the bank is less than one-half of the minimum capital to be maintained by the bank under this Law;

(c) determining by the Central Bank that the value of the assets of the bank is less than the value of the debts or that the bank is insolvent;

(d) recommendation of the Administrator appointed under section 97 to liquidate the bank.

Representative of the Bank Owners in Liquidation Proceedings

119. In liquidation proceedings, the following persons may perform as the representative of the bank owners:

(a) the person holding the chairman of the board of directors of the bank or his duly authorized representative, unless another person is appointed as their representative by the owners of the bank for a domestic bank not being a State-owned bank;

(b) the person duly authorized by the Government or that bank for a State-owned bank;

(c) the chief executive officer or his assistant for a subsidiary or a branch of a foreign bank.

Petition for commencing liquidation

120. The Central Bank may petition to the High Court of the Region or State concerned to commence liquidation against a bank.

Rejection of Petition

121. If a petition for commencing liquidation against a bank involves any of the following grounds, the High Court of the Region or State may reject:

(a) not including the grounds concerning section 118(a);

(b) the petition is not accompanied by the required documents for commencement of the liquidation;

(c) any document or other evidence accompanied with the application submitted to the High Court of the Region or State is obviously wrong or inaccurate and not accompanying the evidences and document in the application to be fulfilled the requirements under the law;

(d) the bank owners' representative may submit that the bank may get the sufficient reserved fund as the capital fund immediately with the approval of the Central Bank;

(e) where the petition is for a State-owned domestic bank, the Government provides a written guarantee for the due payment of all liabilities of the bank;

(f) the petition may not fulfil any other requirement of the law.

Appointment of Liquidator

122. The High Court of the Region or State concerned shall, by its decision to commence liquidation against a bank, appoint the Central Bank or a person or persons nominated by the Central Bank as the liquidator.

Negotiated Settlement

123. (a) In liquidation, the liquidator for a bank may, with the prior approval of the Central Bank, carry out negotiated settlement of claims of any creditor or debtor of the bank.

(b) No opposition, review or appeal is against the settlement.

Priority of Payments

124. The assets of a bank shall be distributed among its creditors under the following order of priority:

(a) secured debt (guaranteed debt);

(b) all costs and expenses in insolvency proceedings;

(c) claims with regard to deposits that are not in the form of debt securities;

(d) liabilities of the bank on account of Administration, rehabilitation and list of any liabilities due and owing to the Central Bank;

(e) national and local taxes due for a period of not more than one year before the date of the liquidation decision;

(f) salary payments to employees of the bank not including the salaries of members of the board of directors so far the date of the decision to carry out liquidation proceedings;

(g) claims of unsecured creditors;

(h) any other claims not including from sub-section (a) to (f).

Cross-Border Insolvency

125. (a) In order to get the equal access of local resident and non-resident creditors from the total assets of a bank in liquidation engaged in cross-border activities:

(i) if a liquidating bank has a branch in a foreign country, the bank shall cooperate with the authorities of that country;

(ii) if a creditor of a liquidating bank has received partial payment on his claims in a foreign country, he shall present the balance of his claims for payment together with costs incurred in the liquidation proceedings to the respective High Court of the Region or State;

(iii) the respective High Court of the Region or State may decide the extent to which foreign bank branch can pay the debts fully in foreign in liquidation proceedings commenced by the respective High Court of the Region or State with regards to their foreign bank branch in Myanmar;

(iv) if a foreign bank branch is in liquidation in the country where its principal place of business is located, the respective High Court of the Region or State may, by the request of the foreign financial institution, authorize to transfer such assets of the foreign bank branch in Myanmar to the liquidator in that country, as the foreign bank branch may give advices for the interest of the depositors and creditors of that foreign bank branch in Myanmar.

(b) Claims of non-local resident creditors of a foreign bank branch, the set-off or netting of obligations shall not be carried out and a foreign bank shall not otherwise be participated in liquidation proceedings.

(c) The rights of creditors shall not be limited in acquiring the foreign assets for the claims of foreign bank branch's creditors who own that bank branch in the liquidation of foreign bank branch in Myanmar.

126. The Central Bank may stipulate the following:

(a) processes and procedures for liquidation;

(b) duties and powers of liquidator;

(c) finality of payment, clearing and settlement systems;

(d) set-off and netting;

(e) processes for distribution;

(f) liquidation proceeding relating to foreign bank branch;

(g) termination of liquidation.

127. (a) The provisions of the Myanmar Companies Act, the Special Companies Act and any Law relating to insolvency of companies shall not apply to a bank, unless otherwise prescribed in this chapter.

(b) The liquidator shall only apply and submit any petition relating to the final order for a bank and the appointment of a custodian to the High Court of the Region or State concerned.

Chapter XVIII

E-money, E-banking and Mobile Banking

128. **"E-money"** means financial value which can be claimed on the card issuer under any of the following ways:

(a) an e-device stored the financial value, including a card;

(b) the amount of money to be issued not more than the financial value received;

(c) acceptance as means of payment by other persons, including the card issuer.

Restrictions for issue of E-Money and Credit Token

129. (a) No person shall issue e-money or credit token to the public, unless such person accord with any of the following facts:

(i) being a bank; or

(ii) being a financial institution that has been registered by the Central Bank for that purpose.

(b) E-money and credit token may be issued under a written contract between the issuer and the receiver of e-money or credit token that clearly states the period of validity of the e-money or credit token and the terms and conditions for redemption of any e-money or credit token issued under the contract.

Supervision on E-Money and Credit Token

130. The Central Bank may:

(a) stipulate conditions and requirements for obtaining registration from the Central Bank and the circumstances in which such registration shall or may be revoked by the Central Bank before a person may issue e-money or credit token to the public;

(b) stipulate the supervisory requirements, including the financial safety, accounting and reporting of e-money users;

(c) issue the contractual conditions, arrangements and payment procedures between the issuer and receiver of the e-money or credit token:

(d) stipulate regulations on issuers of e-money or credit token to inspect e-money business easily.

131. Any issuer of e-money or credit token who contravenes a provision of this Law or regulations thereof shall be guilty of an offence under this Law.

E- Banking Services

132. (a) The Central Bank may permit the formation and establishment of systems and procedures for electronic banking services, including internet banking services, mobile banking and other forms of electronic banking in the Union.

(b) The Central Bank may issue the regulations and guidelines necessary for the following:

(i) to lessen and eliminate the systemic and other risks that could threaten the stability of financial market or undermine confidence in the payment system;

(ii) to encourage and urge the institutions for providing awareness and protection of the rights and responsibilities of the persons who communicate and carry out with the bank;

(iii) to develop the effective and low risk payment and financial services to users and business through e-services;

(iv) to be able to follow and carry out the standards of e-banking services by the institutions;

(v) to stipulate conditions and processes for establishing of e-banking services.

Chapter XIX

Supervision on Payment and Settlement System

Payment System Policy

133. (a) The Central Bank has the power to formulate, adopt and monitor the implementation of a payment policy of the Union.

(b) In promoting safety and efficiency of the payment system, the Central Bank shall cooperate with Central Banks or equivalent entities of other countries and other local or international authorities concerned.

Powers of the Central Bank

134. The Central Bank has the powers to carry out the following:

(a) to carry out regulation stipulating, supervising and monitoring for payment and settlement systems;

(b) to carry out for the settlement of government securities in government securities accounts maintained at the Central Bank;

(c) to carry out regulation stipulating, supervising and monitoring for the provider of financial service and issuers of other form of payment contract to the public;

(d) to carry out the electronic presentment of cheques.

135. In establishment, operation, organization, promotion and participation of business to be easy, the Central Bank may make necessary establishment, operation, organization, promotion, participation or giving assistance to the business. The Central Bank may issue the required regulations and supervise such business.

(a) liquidation and payment system or other arrangements for the payment or currency exchange by domestic or foreign currencies;

(b) any system for the liquidation of government securities and other arrangements for the exchange of government securities;

(c) making and exchanging the liquidation and payment from one currency to another currency or the system for exchanging and buying the government securities from one currency to another currency or other arrangements;

136. (a) In order to facilitate the clearing of cheques and other mechanisms, including electronic means used as means of payment, the Central Bank may, in cooperation with financial institutions, establish the clearing houses in necessary places.

(b) The Central Bank has the power to perform, as the conditions stipulated by itself, all or part of the following activities in relation to a clearing and settlement system and its clearing house:

(i) participation as a central counterparty, including a loss sharing mechanism;

(ii) acting as a custodian of financial assets, or settlement agent, or both;

(iii) accepting and paying interest on deposits from a clearing house, a participant or a central counterparty;

(iv) management of intraday liquidity to the participants.

Validity of Netting Agreements

137. Where the Central Bank or financial institution is a party to a netting agreement, the Central Bank or the financial institution shall enforce the agreement.

138. **"Payment service provider"** includes money service providers, payment instrument issuers and payment and settlement system operators.

Legality of Settlement Rules

139. (a) The participants of the clearing house and the central counterparty shall follow the settlement rules.

(b) The rights and remedies of a participant, a clearing house, a central counterparty or the Central Bank, with respect to collateral as security for a payment or the performance of an obligation incurred in a designated clearing and settlement system, shall not be affected by insolvency proceeding as well as rights and remedies with respect to any stay provision and collateral to be exercised by the creditor.

Electronic Presentment of Cheques

140. (a) A cheque may be presented by electronically to the bank for payment to be withdrawn by the truncated cheque.

(b) In making the electronic presentment of a cheque under sub-section (a), a bank may perform in whole or in part through a third party service provider, including another bank or the clearing house. It shall be deemed that such service provider is as an agent of the bank.

(c) It shall be recognized that the cheque image or truncated cheque is equivalent to paper cheque presented to any court of law.

(d) Once the transfer of funds takes place on a cheque image or truncated cheque, the original cheque may not be negotiable again.

141. The Central Bank may, as may be necessary, prescribe regulations on dishonored cheque, retention of cheque image and physical cheque, system on electronic presentment and implementation of the provisions of this chapter.

Chapter XX

Credit Information

Powers of the Central Bank relating to Credit Information Department

142. (a) In addition to section 75 of the Central Bank of Myanmar Law, the provisions of this chapter shall apply to matters relating to credit information.

(b) The Central Bank may establish or authorize the establishment of a credit information department designed to collect and distribute information on the record credit payment of the customers of all banks, non-bank financial institutions and other financial institutions in the Union.

(c) The Central Bank may instruct any credit institution and any other entities engaged in the extension of credit to report the required information under the credit reference system that refers to being a person who deserves to pay the credit.

(d) Banks, non-bank financial institutions and other entities shall ensure the veracity of information submitted to the credit information department.

Supervision on Private Credit Information Departments

143. (a) The Central Bank shall issue the licence to establish the private credit information departments that can assess information of banks, non-bank financial institutions and scheduled institutions, and have the authority to supervise them.

(b) No person shall establish and perform a private credit information department without a licence issued by the Central Bank.

144. The Central Bank may obtain the necessary information from a credit information department.

Chapter XXI

Power of Exemption, Recovery of Fees, Bank Holidays and Judicial Review

Recovery and Collection of fees, expenses, etc.

145. (a) The Central Bank shall have the right to recover and collect the following as a debt from the bank concerned:

(i) the amount of any fee payable under section 14(b);

(ii) any fee and expense payable by the bank to one of the following persons:

(aa) an appointed auditor;

(bb) an administrator appointed under section 96(a) (xviii);

(iii) any financial punishment payable by the bank under this Law.

(b) An action to recover any financial punishment to be recovered under this section shall not be exceeded than 6 years from the date of action.

Declaration of Bank's holidays

146. (a) The Central Bank may, at any time, publish a day or days as a bank holiday or holidays.

(b) No bank in the Union shall perform the business without the approval of the Central Bank on the declared day as a bank holiday under sub-section (a).

147. (a) Any court having jurisdiction of a litigation in relation to the Central Bank shall consider the following relating to the litigation initiated by the Central Bank, any person appointed employee or agent of the Central Bank to act on its behalf, at the hearing before the court:

(i) whether the Central Bank is in excess of authority under its Law;

(ii) whether the procedures followed in determining by the Central Bank are inconsistent with the procedures prescribed under this Law;

(iii) whether the notification, or the rules and regulation published by the Central Bank are consistent with this Law;

(iv) whether the decision of the Central Bank is manifestly contrary with the provisions of this Law or the Central Bank of Myanmar Law.

(b) Notwithstanding anything in any other law, any taking action of the Central Bank shall continue to affect without suspension or restriction during the period of any legal action to any person, or other judicial proceedings in respect of right to appeal and further appeal or filing appeal shall be conducted.

(c) If any court revises the action taken by the Central Bank and gives any relief, the compensation shall be made only in monetary form.

(d) Any action or litigation against the Central Bank or any person referred to subsection (a) shall be sued initially at the only High Court of the Region or State concerned which has jurisdiction.

Exemption from Stamp Duties for Some Transfers

148. If a bank or any of its subsidiary companies desires to obtain exemptions under the existing laws on stamp duty or tax, it shall apply to the ministry for the transfer of shares and assets, and the sale or disposal of the shares and assets of the bank under section 107 with the approval of the Central Bank.

Chapter XXII

Electronic Evidence

Evidence of Authentication of Electronic Documents

149. Notwithstanding the provisions of the Evidence Act, any person seeking to admit an electronic document as evidence has the burden of proof for its authenticity by evidence that the electronic document may support the finding.

Evidential Ways for Electronic Documents

150. (a) The electronic document which are consistent with one of the following ways may be accepted as the best way for the evidence:

(i) proof of integrity of the electronic documents system in which the electronic document was recorded or stored;

(ii) presumption of having been proved concretely.

(b) Notwithstanding anything in sub-section (a),if the printout from the printing machine is made as manifestly or properly as a recorded or stored documentation in case that adverse evidence may not be presented, the such printout of electronic document may be satisfied and accepted as the best way for evidence.

Recognition of the Accuracy of Electronic Document

151. In case that adverse evidence may not be presented, the accuracy of the recorded or stored electronic documents system may be proved by any of the following documentary evidence:

(a) proof that the computer system or the other similar instruments used in the electronic document system operates properly or although it is operated irregularly, the systems do not damage the accuracy of the electronic document and have no evidence which causes the doubt.

(b) being the electronic document recorded or stored by the adverse person to the person who desires to admit the electronic document.

(c) being the recorded or stored electronic document by a person in his usual and ordinary course of business though the record or storage of the electronic document is not under the supervision of the person who desires to establish such document.

Criteria to be considered

152. (a) For the purpose of determining whether or not electronic document is admissible as evidence under any rule of law, the court may accept as evidence by presenting the nature and purpose of the electronic document, having related to the enterprise, business or endeavor used or recorded or stored the electronic document, and any standard of method, the procedure, usage or practice to be recorded or stored the electronic document.

(b) The information expressed by electronic document includes data, texts, sounds, codes, computer programs, software or the databases in the computer ready to be used.

Chapter XXIII

Particulars of Unclaimed Moneys or Dormant Accounts

153. (a) The bank shall submit to the Central Bank the particulars of the unclaimed account for more than seven years to it within the first month of each financial year.

(b) The Central Bank may, if it thinks necessary, issue guidelines for dormant accounts and account unclaimed by the owner.

Chapter XXIV

Administrative Action

154. The Central Bank may impose the following administrative actions on the financial institutions, its members of board of directors, executive officers, shareholders, administrators, managers and staff who violate any of the provisions of this Law or any regulation, order, directive, procedure thereof:

(a) warning;

(b) fine;

(c) orders, including restricting the operations of financial institutions;

(d) temporary suspension or termination from duties within the financial institutions.

155. (a) Under section 154, any person imposed the penalty may appeal to the board of directors of the Central Bank within thirty days from the date of being imposed penalty.

(b) The decision of the board of directors of the Central Bank on the appeal under sub-section (a) shall be final and conclusive.

156. The administrative punishments under this Law shall not preclude taking criminal action or civil action.

157. The person who was imposed on the administrative punishment under section 154 shall compensate immediately to the aggrieved financial institution or person for any damages.

Chapter XXV

Prohibitions

158. No person shall establish and perform as the bank without having a licence.

159. No person shall establish and perform as non-bank financial institution without having a licence issued by the Central Bank.

160. No person shall submit fraudulently any fact relating to an application for licence to the Central Bank.

161. No person shall use the words such as “bank”, “commercial bank”, “development bank”, “banker”, or “banking” in his business name without having a licence or prior written approval of the Central Bank except the following institutions:

(a) any association of bank;

(b) an association which usage is established under law or international agreement;

(c) the representative or office of a foreign bank;

(d) any institution acting on behalf of the Government which carries on banking;

(e) any person, by notification, exempted by the Central Bank.

162. No foreign financial institutions shall establish the representative office unless it has a registration certificate issued by the Central Bank.

163. No person shall perform acceptance of deposit without having licence.

164. No person shall use the expressions "finance company", "leasing business", "factoring business ", "credit token", "money services business " or any expression which means such words, unless he has a registration certificate or prior written approval issued by the Central Bank.

165. No financial institution or person shall, without the written approval of the Central Bank, make personal meeting, persuasion, execution of an agreement or offering to contract for the making of deposit from any person in local or international.

166. No financial institution shall express and advertise fraudulently in relation to its business.

167. No licensee shall transfer its licence to another person to carry out his business.

168. No licensee shall make any of the following without having the prior written approval of the Central Bank:

(a) selling all or a substantial part of its own business of banking;

(b) purchasing all or a substantial part of the business of another bank;

(c) cooperation with any other bank;

(d) purchasing all or a substantial part of the business of a banking in Myanmar by a foreign bank;

(e) selling all or a substantial part of the banking in Myanmar by a foreign bank.

169. No person who issues e-money or credit token shall contravene any provision of this Law or regulations thereof.

170. No private credit information department shall contravene any consumer protection regulations or fail to furnish correct information of credit required under the credit reference system.

Chapter XXVI

Offences and Punishments

171. Any person who contravenes any prohibition of sections 158, 159, 160, 162, 163, 167 and 168 of this Law shall, on conviction, be punished with imprisonment for a term which may extend from minimum two years to not exceeding than five years and shall also be fined not exceeding than five hundred million kyats.

172. Any person who contravenes any prohibition of sections161, 164, 165, 166, 169 and 170 of this Law shall, on conviction, be punished with imprisonment for a term not exceeding two years and shall be fined one hundred million kyats.

173. (a) The Chairperson of the Central Bank may, with the written approval of the public prosecutor, propose to compromise the cases during the specified time by accepting the amount not exceeding than 50 percent of the fine, including (if any) the daily fine at the case which the occasional suspect of an offence under any provision of this Law or the regulation thereof commits the offence continuously.

(b) Any proposal under sub-section (a) may be made at any time after committing the offence. In addition, prosecution for the offence may be made at any time if the amount of money in the proposal is not paid during the time specified or extended by the chairperson of the Central Bank.

(c) No prosecution shall be instituted in relation to the offence if it receives the amount of money under sub-section (a).

(d) Nothing in this section shall authorize to compromise any repeated offence.

(e) Any fine to be paid to the Central Bank in accordance with the provisions of sub-section (a) shall be paid by a lump sum payment.

174. Whoever abets, attempts, or conspires in the commission of any offence under this Law shall be liable to the punishment provided in this Law for such offence.

Chapter XXVII

Miscellaneous

175. If any provision in this Law conflicts with the provisions of the Myanmar Companies Act and the Special Companies Act, the provision of this Law shall prevail.

176. The bank whose licence has been issued under the law repealed by this Law shall surrender its licence to the Central Bank within six months from the effective date of this Law. The Central Bank shall, in accordance with the stipulations, issue new licence under section 11 of this Law to the surrendered banks.

177. The bank shall, on the effective date of this Law, provide to the Central Bank with a list of shareholders, ultimate beneficial owners and their other information on their owners for each owner of any substantial property, in detail as requested by the Central Bank within one year from the effective date of this Law.

178. Unless all the activities of the Central Bank under the law repealed by this Law, are contrary to this Law, those activities, if expressly revised or revoked by it, continue to be enforced.

179. The rules, regulations, orders, directives, notifications and procedures issued under the law repealed by this Law may prevail in so far as they are not contrary to this Law.

180. It shall, if there is compliant with the provision of this Law, be deemed as if the activities, which are the nearest and existing before the effective date of this Law, relating to an application for licence agreement, any approval or any other matter or an appeal submitted, under the law repealed by this Law, by an individual to the Central Bank, are made under such provision. If there is contrary to this Law, it shall be deemed that all those matters are void on the effective date of this Law.

181. It shall be deemed as if the contracts legally executed and all the transaction of dealings and all business legally done by a licensee and the bank account holder, other performer, debtor, creditor, or other persons under the law repealed by this Law are made in accordance with this Law. Similarly, it shall be deemed that any right or liability under such transactions and any business, which is the nearest and existing before the effective date of this Law continue to be valid.

182. Offences in this Law are prescribed as cognizable offences.

183. (a) No criminal or civil action shall be taken against a person who carries out in good faith assignment under this Law in implementing the provisions of this Law.

(b) If a person who performs under the assignment of the Central Bank is prosecuted, the Central Bank shall incur the costs to defend such prosecution.

184. In implementing the provisions of this Law, the Central Bank may issue necessary regulations and bye-laws, notifications, orders, directives and procedures.

185. The Financial Institutions of Myanmar Law (The SLORC Law No.16/90) is hereby repealed by this Law.

I hereby sign this Law under the Constitution of the Republic of the Union of Myanmar.

(sd) Thein Sein
President
The Republic of the Union of Myanmar