



ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

BANKING ACT

R.S.A. c. B11

Showing the Law as at 15 December 2008

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

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Revised Regulations of Anguilla: B11-1

BANKING ACT (R.S.A. c. B11)**ABANDONED PROPERTY REGULATIONS**

Note: These Regulations are enabled under section 61(1) of the Banking Act, R.S.A. c. B11.

Definition

1. In these Regulations—

“Act” means the Banking Act;

“Form” means a form set out in the Schedule.

Report on abandoned property

2. The report to the Central Bank by a financial institution holding any property presumed to be abandoned under section 58 shall be in Form 1.

Delivery of abandoned property

3. All property presumed to be abandoned and listed in a report referred to in section 2 shall be paid or delivered to the Central Bank together with Form 2.

Acknowledgement of abandoned property

4. The Central Bank on receipt of the abandoned property listed in a report referred to in section 3 shall issue an acknowledgement of abandoned property in Form 3.

Guidelines for abandoned property

5. Every financial institution shall adhere to such guidelines as the Central Bank may from time to time issue for the purposes of these Regulations.

Citation

6. These Regulations may be cited as the Abandoned Property Regulations, Revised Regulations of Anguilla B11-1.

FORM 3

(Section 4)

ACKNOWLEDGMENT OF ABANDONED PROPERTY

We acknowledge that (*financial institution*)of
 (*address*)has this (*date*) deposited with us Report
 No. of and has paid/delivered to us all property presumed
 to be abandoned and listed in the Report and we have received the same on the expressed conditions that we
 shall not be under any liability in respect of any misdescription or omission whether due to any negligence or
 wilful default on the part of (*financial institution*) or any
 of its officials or not in respect of the said Report.

Dated

.....
 (Signature of Authorised Signatory
 on behalf of Central Bank)

Revised Regulations of Anguilla: B11-2

BANKING ACT (R.S.A. c. B11)

BANKING (ASSIGNED CAPITAL) REGULATIONS

Note: These Regulations are enabled under the definition of “assigned capital” in section 1 of the Banking Act, R.S.A. c. B11.

Undertaking relating to the maintenance of assigned capital

1. Every foreign financial institution shall produce to the Central Bank an undertaking in writing in the Form set out in the Schedule that an amount—

(a) equivalent to its net assets; or

(b) which supplements the amount required to be equivalent to its net assets;

which is not less than 5% of its liabilities, has been attributed or pledged as assigned capital.

Citation

2. These Regulations may be cited as the Banking (Assigned Capital) Regulations, Revised Regulations of Anguilla B11-2.

SCHEDULE

(Section 1)

LETTER OF COMFORT

We [Bank A] are the direct parent company of [Bank B] (hereinafter referred to as “our Branches”) which are incorporated in and conduct banking business at in

We have set aside the amount specified in the Schedule to this letter in respect of each of our Branches, which is equivalent to or supplements the amount which is required to be kept as assigned capital by each of our Branches during the term of the Banking Business Licence, in accordance with Part 2 of the Banking Act and the Banking (Assigned Capital) Regulations.

We will maintain the amount specified in the Schedule to this letter in respect of each of our Branches in accordance with the law.

Regardless of this, we confirm to you that we accept ultimate responsibility for the maintenance of the required amount of assigned capital by our Branches in any further way should this ever be required.

It is understood that the amount specified in the Schedule to this Letter of Comfort will be reviewed at the end of each year in consultation with the Eastern Caribbean Central Bank in light of the balance sheet of our Branches.

We will confirm annually any revision of the amounts specified in the Schedule to this Letter of Comfort.

This Letter of Comfort applies to each of our Branches and is valid during the term of the respective Banking Business Licence.

Dated this day of, 20.....

Authorised Officer:

Witness:

Address:

Occupation:

Revised Regulations of Anguilla: B11-3

BANKING ACT (R.S.A. c. B11)

DISCLOSURES IN STATEMENTS OF ACCOUNTS REGULATIONS

Note: These Regulations are enabled under section 34 of the Banking Act, R.S.A. c. B11.

Disclosure to be made in statement of accounts

1. Every statement of accounts prepared by a financial institution under section 19 of the Banking Act shall make, in addition to any other disclosures, the disclosures set out in the Schedule in relation to the assets, liabilities, capital and profit and loss account of the financial institution and shall include the additional information set out in Part 5 of the Schedule.

Citation

2. These Regulations may be cited as the Disclosures in Statements of Accounts Regulations, Revised Regulations of Anguilla B11-3.

SCHEDULE

(Section 1)

PART 1

ASSETS

1. Cash and short term funds (in detail).
2. Statutory reserves in accordance with the Banking Act.
3. Loans and Advances.
4. Provision or reserve for loan loss.
5. Bad and doubtful loans written off in the past 3 financial years together with recoveries effected.
6. Investments categorized as—
 - (a) Government securities;
 - (b) quoted investments;
 - (c) unquoted investments;
 - (d) investments in associated companies.
7. Goodwill and/or formation of preliminary expenses treated as assets stating period over which these are to be written off against profits.

8. Fixed assets (to be shown separately from current assets).
9. For each item in the balance sheet, the corresponding amount shown in the last annual balance sheet.

PART 2

LIABILITIES

1. Total deposits by categories.
2. Current account and other borrowings.
3. Dividends.
4. Taxation.
5. Contingent liabilities stating the aggregate of losses incurred over the last 3 years.
6. Other liabilities.

PART 3

CAPITAL

1. Authorized, issued and paid-up or assigned capital, giving particulars of the categories of the share capital.
2. Capital issued and paid-up for consideration other than cash.
3. Arrears of fixed cumulative dividends on the bank shares (calls in arrears should also be shown).
4. Share premium.
5. Shares issued at discount (amounts to be shown).
6. Capital redemption reserve.
7. Capital reserves stating the derivation.
8. Capital obligation, namely, debentures, capital notes, and other long-term borrowings by whatever name called.
9. Percentage maximum shareholding by any person or group of related persons.

PART 4

PROFIT AND LOSS ACCOUNT

1. Current operating earnings—
 - (a) interest on loans, advances and discounts;
 - (b) amount of income from investments detailing the attractable category of investments;
 - (c) exchange, commission and service charges;
 - (d) other current operating earnings.

2. Current operating expenses—
 - (a) interest on deposits—
 - (i) on savings accounts, and
 - (ii) other interest bearing deposits;
 - (b) remuneration to employees;
 - (c) directors' emoluments and other associated expenses;
 - (d) amount of provision for depreciation, renewals and in value of fixed assets;
 - (e) allowance for losses and bad debts;
 - (f) management fees and head office expenses;
 - (g) interest on debenture and other fixed loans;
 - (h) discount on shares issued; and
 - (i) other current operating expenses.
3. Net before taxes.
4. Income tax on profits.
5. Net operating earnings.
6. Gross dividends on profits—
 - (a) payable locally;
 - (b) payable overseas.
7. Net retained profit or losses.

PART 5

ADDITIONAL INFORMATION

1. A list of affiliated companies such as—
 - (a) holding company of the bank;
 - (b) parent body of the bank (branches of foreign banks or wholly owned subsidiary);
 - (c) subsidiary companies; and
 - (d) any company or person holding more than one-half in nominal value of equity share or stock.
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Revised Regulations of Anguilla: B11-4

BANKING ACT (R.S.A. c. B11)

LICENCE FEE REGULATIONS

Note: These Regulations are enabled under section 11(1) of the Banking Act, R.S.A. c. B11.

Annual licence fee

1. The annual licence fee prescribed for a financial institution is \$100,000.

Citation

2. These Regulations may be cited as the Licence Fee Regulations, Revised Regulations of Anguilla B11-4.
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Revised Regulations of Anguilla: B11-5

BANKING ACT (R.S.A. c. B11)

NATIONAL BANK OF ANGUILLA
OFFSHORE BANKING BUSINESS VESTING ORDER

Note: These Regulations are enabled under section 65(3) of the Banking Act, R.S.A. c. B11.

Interpretation

1. In these Regulations, unless the context otherwise requires—

“Act” means the Banking Act;

“Agreement” means the Memorandum of Agreement between the Bank and the Private Banking and Trust relating to the offshore banking business of the Bank made in Anguilla on the 1st day of April 2005;

“Bank” means the National Bank of Anguilla Limited, a company incorporated under the Companies Act, Cap 335, Laws of Anguilla and continued under the Companies Act, R.S.A. c. C65 and which has its registered office in the Conrad W. Fleming Corporate Building situate at 5 St. Mary’s Road in The Valley in the island of Anguilla;

“Minister” means the Minister responsible for finance;

“offshore banking business”, in relation to the Bank, means the assets, property, rights, liabilities and obligations comprised in the offshore banking business of the Bank as at the completion of transactions on the day immediately before the commencement of these Regulations as such assets, property, rights, liabilities and obligations are more particularly described in paragraphs 2.1, 2.2, 2.3, 2.4 and 2.5 of Article 1 of the Agreement;

“Private Banking and Trust” means the National Bank of Anguilla (Private Banking and Trust) Limited, a company licensed under the Trust Companies and Offshore Banking Act and which is located in Anguilla and is a wholly-owned subsidiary of the Bank.

Vesting of offshore banking business of the Bank

2. Subject to provisions of Part 7 of the Act and the Agreement, the offshore banking business of the Bank as notified in writing to the Minister by the parties to the Agreement is hereby transferred to and vested in the Private Banking and Trust by virtue of this section and without further assurance.

Exemption from stamp duties

3. Pursuant to section 67 of the Act, the transfer to and vesting in the Private Banking and Trust of the offshore banking business of the Bank by these Regulations are hereby exempted from the payment of stamp duties under the Stamp Act.

Citation

4. These Regulations may be cited as the National Bank of Anguilla Offshore Banking Business Vesting Order, Revised Regulations of Anguilla B11-5.
