I assent,

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HYLEETA LIBURD, O.B.E., M.H.
Deputy Governor-General
19th June 2024.

ISLAND OF NEVIS

No. 1 of 2024

AN ORDINANCE to amend the Nevis International Banking Ordinance Cap. 7.05 (N) and for matters related thereto and connected therewith.

[*Published 11th July 2024, Official Gazette No. 38 of 2024*.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Nevis Island Assembly and by the authority of the same, as follows:–

1. Short Title.

This Ordinance may be cited as the Nevis International Banking (Amendment) Ordinance, 2024.

2. Interpretation

In this Ordinance, the “Principal Ordinance” means the Nevis International Banking Ordinance, Cap. 7.05 (N).

3. Amendment of Section 2.

The Principal Ordinance is amended in section 2 as follows:

(a) by inserting the following new definitions in the correct alphabetical order:

“large exposure” means an exposure to an individual, counterparty or group of connected counterparties where that exposure is greater than or equal to 10% of the Licensee’s net capital base”

“risk-weighted asset” means the minimum amount of capital that a Licensee must hold to cover an unexpected loss arising out of the inherent risk of its assets”

(b) by deleting the definition “Senior Management” and replacing it as follows:

“Senior Management” means—

(a) a chief executive officer, chief operating officer, president, vice president, corporate secretary, director, treasurer, chief financial officer, chief accountant, chief auditor, chief investment officer, chief compliance officer or chief risk officer;

(b) any other individual designated as Senior Management by the Licensee's articles of incorporation or continuance, by-laws or other constituent document, or resolution of the directors; or

(c) any other individual who performs substantive functions similar to those performed by a person referred to in paragraph (a), as determined by the Regulator upon examination of the Licensee's organizational chart and position, description or job specifications.

4. Amendment of Section 8.

(1) Section 8 of the Principal Ordinance is amended as follows:

(a) in subsection (2) deleting the existing subsection in its entirety and replacing it as follows:

(2) A licence issued under this Ordinance is valid upon payment to the Administration of the prescribed licence fee and is valid until suspended or revoked.

(b) by adding the following new subsections (3), (4), (5) and (6) immediately after subsection (2) as follows:

(3) The prescribed licence fee shall be payable on or before 31st October of each year.

(4) Failure to pay the prescribed licence fee by 31st October shall incur a daily penalty of Five Hundred Dollars $500.00 for a maximum of 90 days from the date when it became due and payable.

(5) Failure to pay the annual fee 90 days from the due date as required under subsection (4) shall result in the suspension or revocation of the licence.

(6) A Licensee shall submit annually on or before the 31st October, such documentation as required under section 15 of this Ordinance.

5. Amendment of Section 9.

Section 9 of the Principal Ordinance is amended in subsection (1) paragraph (a) by deleting the words "*and have the word bank included as part of its name*".

6. Amendment of Section 12.

Section 12 of the Principal Ordinance is amended by deleting subsection (1) in its entirety and replacing it with the following:

(1) A Licensee shall maintain a reserve fund which is equivalent to 2% of its total deposits.

7. Amendment of Section 15.

Section 15 of the Principal Ordinance is amended as follows:

(a) in subsection (3) by deleting the subsection in its entirety and replacing it with the following new subsection:

(3) A licence issued under this Ordinance shall be valid until it is suspended or revoked".

(b) in subsection (6) paragraph (b) by adding the following new subparagraphs immediately after subparagraph (vii):

(viii) make any dividend payments, prior to the submission of audited financial statements, in respect of the financial period to which the dividend relates;

(ix) make any single investment or issue any single loan or guarantee in excess of 10% of its assets;

(x) make any investment in bonds which are below investment grade as determined by international rating agencies;

(xi) grant any loans to any director, Senior Management, associate or relative.

(c) by deleting the word "or" as it appears at the end of subparagraph (vi).

(d) by adding the following new subsections immediately after subsection (10):

(11) A Licensee shall, on or before 31st October, submit an annual assessment in the prescribed form accompanied by the non-refundable prescribed licence fee.

(12) A Licensee shall, in its annual assessment, provide all relevant information, confirming its operational status, as the Regulator shall require.

(13) Failure of a Licensee to submit an annual assessment by 31st October in accordance with subsection (11) shall result in the imposition of an administrative penalty in the sum of Twenty-Five Thousand Dollars ($25,000.00).

(14) Failure of a Licensee to submit the annual assessment within 90 days of the due date shall result in the suspension or revocation of its licence.

(e) by renumbering the existing subsection (11) as the new subsection (15).

8. Amendment of Section 20.

Section 20 of the Principal Ordinance is amended in subsection (1) by adding a new paragraph (g) following paragraph (f) as follows:

(g) without the approval of the Regulator, undertake or assume any large exposure.

9. Amendment of Section 22.

Section 22 of the Principal Ordinance is amended as follows:

(a) in subsection (5) by deleting subsection (5) in its entirety and replacing it as follows:

(5) A Licensee shall, before the appointment of a director or other Senior Management, apply to the Regulator for written approval of the appointment and no such appointment shall be made until written approval from the Regulator is granted.

(b) by inserting a new subsection (6) immediately after subsection (5) as follows:

(6) A Licensee who appoints a director or other Senior Management, without the written approval of the Regulator, shall be liable to an administrative penalty of Five Hundred Dollars ($500.00) per day.

10. Amendment of Section 34.

Section 34 of the Principal Ordinance is amended by adding the following new subsections immediately after subsection (6) as follows:

(7) A Licensee shall submit to the Regulator, the scope of the audit engagement between the Licensee and the auditor upon finalization, and in any event, no later than thirty (30) days before the commencement of the audit, in order for the Regulator to determine whether the auditor appointed under subsection (1) is satisfactory to the Regulator.

(8) If a Licensee fails to appoint an auditor satisfactory to the Regulator, within six (6) months of the Licensee's financial year end, then the Regulator shall, at the expense of the Licensee, appoint an auditor for the Licensee to conduct an audit in accordance with this section.

(9) Senior Management of the Licensee shall not be eligible for appointment as an auditor of the Licensee.

(10) A person appointed as an auditor of the Licensee under this Ordinance who, after that appointment, acquires any interest in the Licensee or becomes part of Senior Management of the Licensee shall immediately cease to be such auditor.

11. Amendment of Section 35.

Section 35 of the Principal Ordinance is amended as follows:

(a) in subsection (3) by inserting the words "suspend or" immediately before the word "revoke" in the first line; by inserting the words "suspension or" immediately before the word "revocation" in the third line and by inserting the words "suspension or" immediately after the word "the" in the last line.

(b) in subsection (4) by inserting the words "suspend or" immediately before the word "revoke" in that subsection.

(c) in subsection (6) by inserting the words "suspension or" immediately before word "revocation" in that subsection.

(d) in subsection (7) by inserting the words "suspended or" immediately before the word "revoked" in the first line and by inserting the words "suspension or" immediately before the word "revocation" in the second line.

(e) in subsection (8) by inserting the words "suspended or" immediately before the word "revoked" in that subsection.

(f) In subsection (9) by inserting the words “suspension or” immediately before the word “revocation” in that subsection.

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HONOURABLE MICHELLE SLACK-CLARKE
President

Passed by the Nevis Island Assembly this 18th day of June, 2024.

MYRA A WILLIAMS (MS)
Clerk of the Nevis Island Assembly

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