

## **COMMONWEALTH OF DOMINICA**

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**COMMONWEALTH OF DOMINICA**

Act No. 8 OF 2010

*I assent***N. J. O. LIVERPOOL**  
*President*13<sup>th</sup> May, 2010.**AN ACT TO REQUIRE THE LICENSING AND  
REGULATION OF MONEY SERVICES  
BUSINESSES AND TO MAKE PROVISION FOR  
RELATED MATTERS.**(Gazetted 20<sup>th</sup> May, 2010.)BE IT ENACTED by the Parliament of the Commonwealth of  
Dominica as follows:**PART I  
PRELIMINARY****1.** This Act may be cited as the -

Short title.

**MONEY SERVICES BUSINESS ACT, 2010.**

Interpretation.

**2. (1) In this Act -**

“affiliate” in relation to a licensee (“L”) means -

(a) a company which is or has at any relevant time been -

(i) a holding company or subsidiary of L;

(ii) a subsidiary of a holding company of L; or

(iii) a holding company of a holding company or a subsidiary of a subsidiary of L; or

(b) any company or firm over which L has control;

(c) any company or firm over which L and any person associated with L has control;

(d) any company or firm which has common ownership with L;

(e) any company or firm which has the same beneficial owner and share common management and interlinked businesses with L;

“applicant” means the person who applies for a license under section 6;

Act No. 18 of 2008.

“Authority” means the Financial Services Unit established under section 3 of the Financial Services Unit Act, 2008;

“Central Bank” means the Eastern Caribbean Central Bank established under Article 3 of the Eastern Caribbean Central Bank Agreement 1983;

“Court” means the High Court ;

Act No. 4 of 2009.

“designated licensee” means a licensee who has been designated as a funds transfer system under the Payment System Act, 2009;

“financial year” means, in relation to a licensee, a period of not more than twelve months for which the audited financial statements of a licensee is prepared in accordance with this Act;

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“franchise holder” means a person who enters into an agreement with a money services business provider and purchases the right to use its trademark and business model to do money services business;

“licence” means a Money Services Business Licence granted under section 6 (5)(a)(i);

“licensee” means a person holding a licence;

“Minister” means the Minister responsible for Finance;

“money services business” means -

- (a) the business of providing, as a primary business, any one or more of the following-
  - (i) transmission of money or monetary value in any form;
  - (ii) cheque cashing;
  - (iii) currency exchange;
  - (iv) the issuance, sale or redemption of money orders or traveller’s cheque;
  - (v) pay day advances; and
  - (vi) any other services the Minister may specify by Notice published in the *Gazette*; or
- (b) the business of operating as a franchise holder of any of the businesses mentioned in paragraph (a).

“net worth” means excess assets over liabilities as presented under international accounting standards subject to adjustment for non-admitted assets as determined by the Authority;

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“significant shareholder” means a person who either alone or with an affiliate or related or connected persons, is entitled to exercise or control ten percent or more of the voting power at any general meeting of the licensee or another company of which the licensee is a subsidiary;

Application of the Act.

**3.** (1) This Act does not apply to-

Act No. 16 of 2005.

(a) a person licensed under the Banking Act, 2005 unless the person is operating as agent or franchise holder of a money services business;

(b) the Central Bank;

Act No. 21 of 2001.

(c) an organisation licensed as a clearing agency under the Securities Act, 2001;

(d) an operator of a clearing house or funds transfer system.

Chap. 92:01.

(2) A money services business which is licensed under this Act is not required to be licensed under the Trade and Professional Licences Act.

(3) This Act does not apply to or affect the validity of any money services business transaction in existence at the date of commencement of this Act.

## PART II LICENCES

Requirement for licence.

**4.** (1) Subject to subsections (2) and (5) a person shall not carry on money services business in Dominica unless that person holds a licence.

(2) A person who immediately before the date of commencement of this Act was carrying on money services business, shall upon that date be deemed to be duly licensed under this Act for a period of six months, or such other period as the Minister approves and shall require a licence in order to carry on money services business after the expiry of that period.



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(3) A person holding funds which that person has obtained by conducting money services business without being in possession of a licence shall settle its obligation in accordance with Regulations made by the Minister.

(4) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

(5) The Minister may by Order exempt any person from the licence requirement contained in subsection (1) if -

- (a) that person is a local government body or agency;
- (b) the Minister thinks that the exemption would be beneficial to the economic needs of Dominica.

**5.** (1) There shall be several classes of licences as specified in Schedule 1 which may be applied for and granted subject to the provisions of this Act.

Classes of Licences.  
Schedule 1.

(2) A licence authorises the holder, for the period specified in the licence, to carry on money services business as follows and not otherwise -

- (a) a "Class A" licence permits the holder to carry on any or all of the following businesses -
  - (i) transmission of money or monetary value in any form;
  - (ii) the issuance, sale or redemption of money orders or traveller's cheques;
  - (iii) cheque cashing;
  - (iv) currency exchange;
- (b) a "Class B" licence permits the holder to carry on any or all of the following businesses -

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- (i) the issuance, sale or redemption of money orders or traveller's cheques;
  - (ii) cheque cashing;
  - (iii) currency exchange;
- (c) a "Class C" licence permits the holder to carry on the business of cheque cashing;
  - (d) a "Class D" licence permits the holder to carry on the business of currency exchange;
  - (e) a "Class E" licence permits the holder to carry on the business of pay day advances.

Application for licence, formalities and consideration.  
Schedule 2.  
Schedule 4.

**6.** (1) A person who wishes to obtain a money services business licence shall apply to the Minister and submit the documents and other information specified in Schedule 2 and pay the application fee specified in Schedule 4.

(2) In considering an application for a licence, the Minister shall request the Authority to conduct investigations that it considers necessary at the expense of the applicant, to ascertain -

Schedule 2.

- (a) the validity of the documents submitted in accordance with Schedule 2;
- (b) the financial condition and history of the applicant;
- (c) the nature of the business of the applicant;
- (d) the experience of the persons who are to constitute its management;
- (e) the source of initial capital;
- (f) whether the applicant is a fit and proper person to be licensed;
- (g) whether the applicant can fulfill the obligations of a licensee under this Act;
- (h) the convenience and needs of the community to be served by the granting of the licence.

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(i) any other matter that the Minister is required to consider when deciding on an application under this Act.

(3) In considering an application for a Class A or Class B licence, the Minister shall, in addition to the matters specified in subsection (2) take into consideration -

- (a) the adequacy of the capital structure; and
- (b) the earning prospects of the applicant.

(4) Within a reasonable time of its receipt of a request under subclause (2) the Authority shall make recommendations to the Minister.

(5) Within a reasonable time of his receipt of an application for a licence the Minister shall -

(a) if he is satisfied that an application under subsection (1) is in order and that the applicant is a fit and proper person to be licensed to conduct money services business and that it can fulfill the obligations of a licensee under this Act -

(i) approve the application and issue a licence to the applicant in the form set out in Schedule 3, subject to the applicant paying the licence fee specified in Schedule 4 and making the prescribed statutory deposit in accordance with section 8, and subject to such other terms, conditions and restrictions he considers necessary;

Schedule 3.

(ii) on issuing the licence to the applicant submit a copy of the licence to the Central Bank and recommend to the Central Bank that the licence be designated in accordance with section 11 of the Payment System Act 2009;  
or

Act No. 4 of 2009.

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(b) if he is of the opinion that it would be undesirable in the public interest to grant the licence or that the applicant is not a fit and proper person to be licensed to conduct money services business, he may refuse to grant the same and shall inform the applicant that he has refused to grant the licence.

(6) In considering whether an applicant is a fit and proper person to be licensed, the Minister -

(a) shall have regard to, in respect of each of its significant shareholders, directors, executive management and officers, their -

(i) financial status;

(ii) educational or other qualifications or experience having regard to the nature of the application;

(iii) ability to perform the proposed function efficiently, honestly and fairly; and

(iv) reputation, character, financial integrity and reliability; and

(b) may take into account any matter relating to any-

(i) person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;

(ii) person who will be acting as a principal or representative in relation to such business; and

(iii) significant shareholder, director or officer of the applicant, any other company or firm in the same group of companies or to any director or officer of any such company or firm.

(7) For the purposes of this section, the Minister may have regard to any information in his possession whether furnished by the applicant or not.

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(8) A licence is not transferable.

(9) The Minister may at any time vary or repeal the conditions or restrictions he imposed pursuant to subsection (5).

(10) The Minister may amend or replace Schedules 1, 2 and 4 by Order and the amendment or replacement shall be published in the *Gazette*. Schedules 1, 2 and 4.

**7.** An applicant shall forthwith give written notice to the Minister of - Alteration of facts disclosed in application.

- (a) any proposed alteration to; or
- (b) the occurrence of any event which it knows affects or may affect in a material respect,  
information supplied to the Minister in relation to the application, being a proposal or event made or occurring while the application is pending a decision by the Minister.

**8.** (1) A licensee shall maintain adequate capital in a form and based on a formula prescribed by an Order made by the Minister acting on the advice of the Authority. Adequacy of capital.

(2) (a) A licensee shall make a statutory deposit of a portion of the capital prescribed under subsection (1) with the Authority to be held in trust in an interest bearing account with a bank or other financial institution approved by the Authority for the benefit of holders of outstanding payment instruments, in the event that the licensee becomes bankrupt or for any other reason is unable to meet its contractual obligations to its customers;

(b) The statutory deposit shall be prescribed by the Minister by Order.

(3) A trust referred to in subsection (2) shall be created by trust deed.

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(4) The Authority shall retain the deposit for a period of at least six months after the licensee ceases money services business in Dominica subject to any Court order made in respect of the deposit.

(5) Where there is a deficiency in the capital prescribed, the Authority shall require the licensee to present a plan that is satisfactory to the Authority to reconstitute its capital within thirty days or such longer period as may be determined by the Authority.

(6) Where the licensee fails to -

(a) present a satisfactory plan pursuant to subsection (5); or

(b) implement a plan presented pursuant to subsection (5) the Authority shall make such recommendations as it considers necessary in accordance with section 38.

(7) The requirements of this section do not apply to the holder of a Class C, Class D or Class E licence.

(8) The Minister may by Order exempt any other licensee from the requirements of this section.

Period of licence and licence fee. Schedule 4.

**9.** (1) A licensee shall pay the annual licence fee specified in Schedule 4 according to the classification of his licence.

(2) A licence to carry on money services business is valid from the date of first issue to 31st December of that year and is renewable each year on payment on or before the 15<sup>th</sup> day of January of the prescribed annual licence fee.

(3) All licence fees paid under this Act are payable to the Accountant General and form part of the Consolidated Fund.

Authorisation of location and approval of new business premises.

**10.** (1) A licence authorises the licensee to carry on money services business in Dominica at the place of business designated in the licence and at such other place as the Minister may authorise in writing.

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(2) A licensee shall not open a new place of business or change the location of an existing place of business in Dominica without the prior approval of the Minister and a licensee shall not close an existing place of business in Dominica without having given thirty days prior written notice to the Minister.

(3) A licensee shall not open a place of business outside of Dominica without the prior written approval of the Minister.

(4) A licensee shall not close a place of business outside of Dominica without having given at least twenty-one days prior written notice to the Minister.

**11.** A licensee shall display or cause to be displayed and keep displayed a copy of the certificate of its licence in a conspicuous place in the public part of any place of business of the licensee.

Display of licence certificate.

**12.** The Minister shall not issue a licence to an applicant under a name which -

Restrictions of names likely to mislead.

- (a) is identical to that of any company, firm or business house, whether within Dominica or not, or that so nearly resembles that name as to be misleading;
- (b) falsely suggests, the patronage of or connection with some person or Minister, whether within Dominica or not;
- (c) falsely suggests that the money services business has a special status in relation to or derived from the Government, has the official backing of or acts on behalf of the Government or any department, branch, agency or organ of Government, or of any officer of Government or is recognised in Dominica as a national or central money services business.

Advertisement.

**13.** (1) A person, other than a licensee or entities exempted under section 3, shall not -

- (a) use any English or foreign words in the description or title under which the person carries on business within Dominica representing that the person is carrying on money services business;
- (b) make representations in any billhead, letter, letterhead, circular, paper, notice or advertisement or in any other manner that the person is carrying on money services business in Dominica; or
- (c) in any manner solicit or receive money from any person for the purpose of carrying on money services business in Dominica.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

Actions of fundamental change requiring approval.

**14.** A licensee shall not, unless it first obtains the approval of the Minister -

- (a) change its name;
- (b) change its principal office;
- (c) transfer the whole or any substantial part of its assets or liabilities in Dominica other than in the ordinary course of its business; or
- (d) enter into a merger or consolidation within Dominica.

Change directorship.

**15.** (1) A licensee shall, not less than forty-five days prior to the proposed date of appointment of a director or other senior officer -

- (a) submit to the Authority a completed personal questionnaire in Form B set out in Schedule 2 and

Schedule 2.



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the prescribed application form in respect of each proposed appointee; and

- (b) seek approval of the Authority for appointment of the proposed appointee as director or other senior officer.

(2) Upon receipt of the completed personal questionnaire and the application form the Authority shall conduct an investigation at the expense of the applicant to determine whether the proposed appointee satisfies the fit and proper criteria specified in section 6(6).

(3) Within forty-five days of the receipt of the completed personal questionnaire and the prescribed application form the Authority shall -

- (a) approve the appointment of the proposed appointee to the proposed post and notify the licensee; or
- (b) inform the licensee that the proposed appointee does not satisfy the fit and proper criteria and refuse approval for appointment of the proposed appointee to the proposed post.

(4) Where the Authority fails to notify the licensee of its decision within forty five days of its receipt of the documents required under subsection (1) the appointment of the proposed appointee as director or other senior officer is deemed to be approved.

(5) Notwithstanding subsection (1), where prior notification of the appointment of a proposed appointee as director or senior officer of a licensee is not possible, the licensee -

- (a) may appoint the proposed appointee as director or other senior officer, as the case may be, conditional on the approval of the Authority in accordance with subsection (3); and

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(b) shall within five days of the appointment submit to the Authority the documents required under subsection (1) and a letter specifying the reasons for the appointment of the proposed appointee without prior approval.

(6) The Authority shall notify the Minister of any decision taken under this section.

### PART III AUDIT, INFORMATION AND EXAMINATION

Annual audit, report and publication of financial statements and results.

**16.** (1) A licensee shall appoint annually an auditor who shall be a chartered accountant, a certified public accountant, a member of the Institute of Chartered Accountants of the Eastern Caribbean or some other professionally qualified accountant, satisfactory to the Authority whose duties -

(a) shall be to examine the books and records of the licensee and to make a report on its annual financial statements and financial position; and

(b) include all or any of the following duties as may from time to time be imposed on the auditor by the licensee at the request of the Authority

(i) to submit such additional information in relation to the audit of the licensee as the Authority considers necessary;

(ii) to carry out any other examination or establish any procedure in any particular case;

(iii) to submit a report on any of the matters referred to in sub-paragraphs (i) and (ii);

(iv) to submit a report on the financial and accounting systems and risk management controls of the licensee;

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(v) to provide an opinion on whether suitable measures to counter money laundering and to combat the financing of terrorism have been adopted by the licensee and are being implemented in accordance with applicable laws.

(2) A licensee shall, within three months of the end of the financial year, forward the audited financial statements referred to in subsection (1) to the Authority unless prior written approval for an extension of time has been granted by the Authority.

(3) The audited financial statements referred to in subsection (1) shall cover a period of not more than eighteen months beginning on the date the licensee was incorporated, or if the licensee has previously prepared audited financial statements, beginning at the end of the period covered by the most recent audited financial statements.

(4) A designated licensee shall submit audited financial statements annually to the Central Bank in accordance with the Payment System Act, 2009 and shall submit a copy of such audited financial statements to the Authority.

Act No. 4 of 2009.

(5) A licensee shall remunerate the auditor in respect of the discharge by the auditor of all or any of the duties set out in subsection (1).

(6) If, in the course of the performance of an auditor's duties, an auditor is satisfied that -

(a) there has been a serious breach of or non-compliance with this Act or any regulations, notice, order, guidelines or directions issued under this Act;

(b) there is evidence -

(i) that a criminal offence involving fraud or other dishonesty may have been committed; or

S.R.O. No. 14 of 2001.

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(ii) of any suspicious transaction as defined in the Money Laundering (Prevention) Regulations 2001,

the auditor shall immediately report the matter to the licensee and the Authority.

(7) The Authority may request copies of reports submitted to the licensee by both its internal and external auditors.

(8) An auditor shall report to the Authority any matter it is required to report on any licensee to any investigative, regulatory or other institution, simultaneously with its report to that institution.

(9) If a licensee fails to appoint an auditor satisfactory to the Authority, the Authority may appoint an auditor for the licensee and the Authority shall determine the remuneration of the auditor so appointed which the licensee shall pay.

(10) The Authority may appoint an auditor to conduct an independent audit of a licensee, in accordance with the instructions of the Authority, and to report the findings or results to the Authority.

(11) Where the appointment of an auditor under subsection (10) is necessitated by the failure of an auditor appointed under subsection (1) to comply with a request made under that subsection the licensee shall -

(a) meet the expenses of the audit; and

(b) comply with any request for information necessary for the performance of duties under subsection (1) and a licensee who fails to comply with a request commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

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(12) An auditor shall not be liable for breach of any duty solely by reason of compliance with subsection (1), (6) or (8) or any other request for information by the Authority.

(13) (a) A person who has an interest in a licensee otherwise than as a depositor or who is a director, manager, secretary, employee or agent of a licensee is not eligible for appointment as auditor of the licensee.

(b) A person who, after being appointed auditor of a licensee, acquires an interest in the licensee, or becomes director, manager, secretary, employee or agent of such licensee shall immediately cease to be auditor of the licensee.

(14) The Minister may by Order -

(a) exempt any licensee or any class of licensee from the audit requirement in subsection (1);

(b) waive the audit requirement in subsection (1) in respect of any licensee or any class of licensee;

(c) require that the Authority conduct an ad hoc audit of any licensee or any class of licensee in respect of which the audit requirement is waived or lifted under paragraphs (a), and (b).

(15) The Authority may assess a licensee for the reasonable expenses of conducting any ad hoc audit ordered by the Minister under paragraph (c) of subsection (14) and the licensee shall meet those expenses.

**17.** A licensee shall notify the Authority in writing of its intention to terminate the appointment of its auditor, or not to reappoint its auditor for a new term and state the reasons for its decision in the notification.

Notice of termination of auditor's appointment.

Accounting records and systems of business control.

**18.** (1) A licensee shall, in accordance with this section, in respect of its money services business:

- (a) keep accounting records; and
- (b) establish and maintain systems -
  - (i) of internal control and record keeping; and
  - (ii) for inspection and report.

(2) The systems of control, inspection and report must ensure that the money services business is so conducted and its records so kept that -

- (a) the information necessary to enable the directors and the business to discharge their duties and functions is sufficiently accurate, and is available with sufficient regularity or as needed and with sufficient promptness, for those purposes; and
- (b) the information obtained by or furnished to the Authority under or for the purposes of this Act is sufficiently accurate for the purpose for which it is obtained or furnished.

(3) A licensee shall institute procedures to ensure that its accounting records and systems of business control comply with the requirements of the Money Laundering (Prevention) Act, 2000.

Act No. 20 of 2000.

Returns.

**19.** (1) The holder of a Class A or Class B licence, shall, in the format provided by the Authority, file quarterly returns with the Authority within fifteen days of the end of a quarter, along with a written declaration that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(2) The holder of a Class C, Class D or Class E licence shall, within fifteen days of the end of the financial year, file an annual return with the Authority along with a written declaration

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that the information set out in the application for the licence remains correct and gives a full and fair picture of its money services business.

(3) A designated licensee shall submit a copy of its returns to the Central Bank within the stipulated time.

(4) A licensee who fails to file the returns within the time specified in subsections (1) or (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

**20.** At the request of a licensee, the Authority may extend, from time to time, any period within which the licensee is, in accordance with this Act, obliged to furnish any document or information.

Extension of time for providing information.

**21.** (1) A licensee shall retain for a period of at least seven years from the date of creation of each particular record, all records created and obtained by them, including records of each transaction executed by them, records of each outstanding transaction, bank reconciliation records and bank statements received during the course of operation and administration of its money services business.

Retention of records.

(2) The retention of records under subsection (1) may be effected by electronic means.

**22.** (1) The Authority, shall examine or cause an examination to be made of each licensee from time to time or whenever in its judgment an examination is necessary or expedient in order to determine that such licensee is in a sound financial condition and there has been compliance with the requirements of this Act in the conduct of its business.

Examination by Authority.

(2) For the purpose of determining the condition of a licensee and its compliance with this Act, the Authority may at any time examine or cause an examination to be made of any affiliate

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of the licensee in Dominica to the same extent that an examination may be made of the licensee.

(3) The Authority may assess a licensee for the reasonable expenses of conducting an examination under subsections (1) and (2).

(4) The Authority shall forward copies of balance sheets, statements and reports on the results of any examination to the licensee.

(5) A licensee who refuses to make available for examination any books, accounts and records, having been requested to do so by the Authority commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Confidential information.

**23.** A person who has acquired knowledge in his capacity as director, manager, secretary, officer, employee or agent of any licensee or as its auditor or receiver or official liquidator or as director, officer, employee or agent of the Authority, shall not disclose to any person or governmental authority the identity, assets, liabilities, transactions or other information in respect of a customer of the licensee except -

- (a) with the written authorisation of the customer or of his heirs or legal personal representatives; or
- (b) for the purpose of the performance of his duties within the scope of his employment in conformity with this Act; or
- (c) when lawfully required to make disclosure by any Court of competent jurisdiction in Dominica
- (d) under any law of Dominica.



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24. Notwithstanding section 23, the Authority may -

Exchange of information.

- (a) share any information received or any report prepared by it in the performance of its duties under this Act, with the Central Bank or any foreign authority responsible for the supervision or regulation of affiliates of a licensee, or for maintaining the integrity of the financial system; or
- (b) provide access, to any officer of the Central Bank or a foreign authority responsible for the supervision or regulation of affiliates of a licensee, in order to assess the safety and soundness of an affiliate;

on a reciprocal basis, and subject to -

- (i) an agreement of confidentiality and a Memorandum of Understanding between the Authority and the Central Bank or such authorities; and
- (ii) any law on the protection of confidential information.

#### **PART IV SEGREGATED ACCOUNTS, BANKRUPTCY OR INSOLVENCY OF LICENSEE**

25. (1) On receipt of funds from a customer a licensee shall immediately and irrevocably segregate the amount intended for transmission or delivery to the payee customer exclusively for the purpose of the proper payment of the funds in due course to the payee customer.

Segregated accounts.

(2) Any funds which are not delivered or transmitted to the payee customer by or on behalf of the licensee shall be a first charge on the assets of a bankrupt or otherwise insolvent licensee and shall be -

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- (a) re-paid to the payor customer; or  
(b) paid to the payee customer;

by the licensee, receiver, liquidator or administrator out of the segregated account into which it was placed.

Bankruptcy or  
insolvency of licensee.

**26.** (1) A licensee shall, as soon as reasonably practicable after bankruptcy or insolvency proceedings are instituted, notify the Authority of the institution of the proceedings.

(2) A licensee does not contravene subsection (1) if it took reasonable steps to comply with that subsection.

(3) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars

Utilisation of deposits,  
etc.  
Chap. 9:90.  
Act No. 21 of 1994.

**27.** (1) Notwithstanding anything to the contrary in the Bankruptcy Act or the Companies Act 1994, funds delivered to a licensee by or on behalf of a customer, prior to the issue of any bankruptcy, winding-up or receivership order against that licensee shall be utilised by the licensee, receiver or liquidator solely to discharge the licensee's contractual obligations to the customer.

(2) Notwithstanding anything to the contrary in the Bankruptcy Act or the Companies Act, if a licensee goes into bankruptcy, receivership or is wound up, a written agreement between the licensee and a customer is binding upon the liquidator, receiver or administrator in respect of any payment or settlement obligation.

(3) A person who contravenes the provisions of this section commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars.

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**PART V**  
**ABANDONED PROPERTY**

**28.** (1) Subject to subsection (2) the following items which are held or owing by a licensee are presumed to be abandoned-

Abandoned property.

- (a) any funds paid in Dominica toward the purchase of shares or other interests in a licensee, together with any interest or dividend, but excluding any lawful charges;
- (b) any sum payable on written instruments issued in Dominica on which a licensee is directly liable or;
- (c) any sum delivered to the licensee for transmittal to a person in Dominica or in another jurisdiction for and on behalf of a payee.

(2) The items enumerated in subsection (1) shall not be presumed to be abandoned if the owner has, within two years of the date of deposit, payment of funds or issuance of instruments, as the case may be -

- (a) corresponded in writing with the licensee concerning the items; or
- (b) otherwise indicated an interest in the items as evidenced by a memorandum concerning them written by the licensee.

**29.** (1) A licensee who holds any of the items enumerated in section 28 shall within ninety days after the end of its financial year report such holdings to the Authority, and subsequently pay or deliver to the Authority all property presumed to be abandoned listed in the report in accordance with Regulations made by the Minister.

Report, publication and disposal of abandoned property.

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(2) Upon paying or delivering the property identified in subsection (1) into the custody of the Authority a licensee is relieved of all liability to the extent of the value of the property for any claim in that respect.

(3) Within thirty days after the end of its financial year but before the filing of the report to the Authority required by subsection (1), a licensee shall publish in the *Gazette* and a newspaper circulating in Dominica the name of the owner and particulars concerning the property and shall mail a notice to the owner at his last known address containing particulars concerning the property.

Sale and handling of proceeds of sale of abandoned property.

**30.** (1) A licensee may sell at a public sale all property, other than money presumed to be abandoned after the expiration of sixty days from the later date of publication or mailing required by section 29(3) following the advertisement of the sale as the Minister may authorise.

(2) A purchaser shall receive title to the property free from all claims of the owner or prior holder and from all persons claiming through or under him.

(3) A licensee shall deposit with the Authority the proceeds of the sale of property in accordance with subsection (1) less all reasonable costs incurred by it in connection with the sale, mailing of notices, and service as it considers appropriate to assure the prompt payment of claims which may subsequently be made and approved by the Minister.

(4) Any property remaining unsold shall be delivered to the Authority and shall be disposed of by the Authority in such manner as the Minister may direct.

Claims on abandoned property.

**31.** (1) Any person claiming an interest in any property which has been paid to, or delivered into the custody of the Authority or in the proceeds from the sale of the property may file a claim, with the Authority and, after the person is given a hearing the decision of which shall be communicated to the claimant and made a public record, the Authority may deliver up the property or make payment.

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(2) Any person aggrieved by a decision of the Authority may commence an action in the Court to establish his claim within thirty days following the decision of the Authority.

**32.** (1) A licensee shall not willfully fail to file the report or to pay or deliver property presumed to be abandoned into the custody of the Authority in accordance with section 29(1) or 30(4).

Penalties for failure to file abandoned property report.

(2) A licensee who contravenes subsection (1) commits an offence, and it and each of its directors shall be liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

## PART VI ENFORCEMENT.

**33.** (1) The Minister may, after consultation with the Authority, revoke any licence if a licensee -

Revocation and termination of licence.

- (a) fails to commence operations within a period of 3 months following the granting of the licence;
- (b) fails to comply with the conditions or restrictions of its licence;
- (c) is in breach of any of the provisions of this Act which is applicable thereto;
- (d) ceases to carry on money services business in Dominica for a period in excess of ten months;
- (e) is conducting its affairs in a manner detrimental to the public interest or to the interest of its customers;
- (f) goes into liquidation is wound up or otherwise dissolved;

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(g) is operating under a name restricted under section 12; or

(h) by reason of any other circumstances, is no longer a fit and proper person to hold a licence.

(2) The Minister shall terminate a licence at the request of the licensee.

(3) Before revoking a licence under subsection (1), the Minister shall give the licensee notice in writing of his intention to do so, specifying therein the grounds upon which he proposes to make the revocation and shall require the licensee to submit to him within a specified period being not less than thirty days, a statement of objection to the making of the revocation and thereafter, the Minister shall give the licensee notice in writing of his decision.

(4) Notice under subsection (3) shall be served at the licensee's last known address and may be published in the *Gazette* or in any local newspaper.

(5) If a licensee is aggrieved by any decision made under subsection (1), the licensee may appeal to the Court within fourteen days of the date of service of notice under subsection (4) of its decision, setting out the grounds of the appeal, and the Court may revoke or confirm the decision.

(6) Where a licence has been revoked, the Minister shall, as soon as possible thereafter cause a notice of the revocation to be published in the *Gazette* and a newspaper circulating in Dominica and cause such other steps to be taken as are considered necessary to inform the public of the revocation.

Suspension of licence.

**34.** (1) The Minister may, after consultation with the Authority-

(a) as a matter of urgency for the protection of the public, or

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(b) as a result of any investigation under this Act or Regulations made under this Act,

suspend a licence for a period, or until the happening of an event, as the Minister considers appropriate.

(2) A person whose licence is suspended shall be notified accordingly by the Minister and shall, for the purpose of this Act, be deemed not to be licensed from the date of notification of suspension.

(3) Notice under subsection (2) shall be served at the licensee's last known address and may be published in the Gazette or in any local newspaper.

(4) If a licensee is aggrieved by a decision made under subsection (1), the licensee may appeal to the Court within fourteen days of service under subsection (3), setting out the grounds of such appeal, and the Court may revoke or confirm the said decision.

**35.** (1) If the Authority has reasonable cause to suspect that -

(a) a person is carrying on money services business without a licence; and

(b) evidence of contravention of section 4(1) may be found on any premises in Dominica,

the Authority may, after consultation with the Minister, lay information on oath.

(2) Upon filing of the information in subsection (1), the Magistrate, may by warrant authorise an officer of the Authority named in the warrant to enter and search the premises with a police officer and seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash as may be found on the premises relating to the conduct of money services business, to ascertain whether the person is carrying on money services business without a licence.

Persons carrying money services business without a licence.

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(3) A warrant may authorise -

- (a) the Authority to detain the books, accounts, records, vouchers and other documents, cheques, securities, and any cash for a period not exceeding thirty days;
- (b) the officer to make copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash;
- (c) the Authority to retain copies of the books, accounts, records, vouchers and other documents, cheques, securities and any cash.

(4) A person authorised by a warrant to search any premises may -

- (a) seize any books, accounts, records, vouchers and other documents, cheques, securities and any cash found in the -
  - (i) premises; or
  - (ii) possession of any person described in paragraph (b),

if he has reasonable grounds for believing that any of those books, accounts, records, vouchers and other documents, cheques, securities and any cash relate to the conduct of money services business on those premises;

(b) search every person who -

- (i) is found in those premises; or
- (ii) has recently left or is about to enter those premises;



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whom he has reasonable grounds to believe is in possession of any books, accounts, records, vouchers and other documents, cheques, securities and any cash in respect of the conduct of money services business on those premises.

(5) In pursuance of a warrant issued under this section, an officer shall not search a person of the opposite sex.

(6) A person who is authorised by a warrant to enter any premises may, if necessary, use reasonable force to enter the premises.

(7) A person who obstructs the Authority or any other person in the exercise of any powers conferred under this section commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of six months or both such fine and imprisonment.

**36.** (1) Without prejudice to section 4(1), where a person is found under section 35(1) to be conducting money services business without a licence, the Authority may, after consultation with the Minister, apply to the Court for appointment of a receiver to liquidate the business.

Appointment of receiver.

(2) Before applying for the appointment of a receiver under subsection (1), the Authority shall give the person concerned notice in writing of its intention to do so and shall require the person to comply with this Act within a specified period being not less than thirty days and thereafter the Authority shall advise the person of its decision .

**37.** (1) The Authority may, after consultation with the Minister, in a case where a licensee, or a person who has at any time been a licensee, is being wound up voluntarily, apply to the Court to request that action be taken to preserve the interest of the licensee's customers or creditors if the Authority considers that the winding up is not being conducted in their best interest and the Court shall make any order it considers appropriate.

Authority may apply to Court to preserve customers' interest.

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(2) If it appears to the Authority that there are reasonable grounds for suspecting that an offence against this Act has been or is being committed by any person, the Authority may, with the approval of the Court, take any action it considers necessary, in the interest of the person's customers or creditors, to preserve any assets held by that person.

Powers of the Minister  
in respect of licencees.

**38.** (1) The Authority may make a recommendation to the Minister to take one or more of the measures set out in subsection (2) if it is of the opinion that -

- (a) a licensee is or appears likely to become unable to meet its obligations as they fall due;
- (b) a licensee is carrying on business in a manner detrimental to the public interest or the interest of its customers or creditors;
- (c) a licensee has contravened this Act;
- (d) a licensee has failed to comply with a condition of its licence;
- (e) there has been or is, on the part of a licensee or its director, a failure to satisfy any one or more of the criteria of prudent management set out in section 41;
- (f) a licensee, director, manager, secretary or other officer concerned in the management of a licensee refuses to cooperate with the Authority in the performance of its functions under section 40;
- (g) a licensee is carrying on business in an unlawful manner;
- (h) a licensee has failed to maintain the prescribed capital; or
- (i) is violating any law, regulation or guideline to which the licensee or person is subject.

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(2) Without prejudice to sections 33 and 34, the measures that the Minister may take in pursuance of subsection (1) are as follows-

- (a) impose conditions, or further conditions, as the case may be, upon the licence and amend or revoke any of the conditions;
- (b) require the suspension or removal of a director or officer of the licensee;
- (c) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of its affairs and to report to the Authority within three months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require;
- (d) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall have all the powers of a person appointed as a receiver or manager under the Bankruptcy Act, who shall report to the Authority within three months of the date of his appointment, or any extension of appointment and at such intervals as the Authority may require.
- (e) require a licensee, to take, refrain from, or discontinue any action as the Authority considers necessary;
- (f) revoke the licence.

Chap. 9:90.

(3) The Minister may, on receipt of a report under subsection (2) -

- (a) revoke the appointment of the person appointed under subsection 2(c) or (d);
- (b) extend the period of appointment of a person appointed under subsection 2 (c) or (d);

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(c) subject to any conditions that the Minister may impose, allow the licensee to reorganise its affairs in a manner approved by the Minister; or

(d) revoke the licence.

(4) The Minister shall comply with the procedures established in subsections (3), (4), (5) and (6) of section 33 if it decides to revoke a licence pursuant to subsections 2(f) and 3(d).

(5) If a licensee is aggrieved by any decision made under subsection (2), the licensee may appeal to the Court within fourteen days of the decision, setting out the grounds of the appeal, and the Court may revoke or confirm the decision.

Transactions effected prior to suspension or revocation of licence.

**39.** The suspension or revocation of a licence under this Act does not void or affect any agreement, transaction or arrangement relating to a provision of money services business entered into by the licensee before the suspension or revocation of the licence and does not affect any right, obligation, or liability arising under any such agreement, transaction or arrangement.

Powers and duties of the Authority.

**40.** (1) The Authority shall ensure the proper administration of this Act and without limiting the generality of the foregoing, shall -

(a) maintain a general review of money services business practice in Dominica;

(b) whenever it thinks fit, examine the affairs or business of any licensee carrying on business in Dominica for the purpose of satisfying itself that this Act has been or is being complied with and that the licensee is in a sound financial position and is managing its business in a prudent manner;

(c) assist in the investigation of any offence against the laws of Dominica which it has reasonable grounds to believe has or may have been committed by a licensee or by any of its directors or officers in their capacity as directors or officers;

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(d) examine -

(i) returns furnished to it under section 19; and

(ii) audited financial statements forwarded to it under section 16, and report on them to the Minister whenever it thinks fit;

(e) require or perform consolidated supervision of affiliates whenever it thinks fit; and

(f) cooperate with and facilitate the Central Bank in consolidated supervision of designated licensees.

(2) In the performance of its functions under this Act the Authority is entitled at all reasonable times to-

(a) have access to the premises, books, records, vouchers, documents, cash and securities of any licensee;

(b) remove and make copies of any books, records, vouchers and documents found on the premises of a licensee;

(c) request the information, matter or thing from any person who it has reasonable grounds to believe is carrying on money services business without a licence; and

(d) call upon the manager of the licensee or any similar person, or an officer designated by either of them, for any information or explanation, the Authority may require for the purpose of enabling it to perform its functions under this Act; and information requested under this subsection shall be provided in any form as the Authority may require.

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(3) A person who fails to comply with a requirement under subsection (2) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

Criteria of prudent management.

**41.** (1) For the purpose of section 40(1)(b), the criteria of prudent management are as follows-

- (a) maintenance of -
  - (i) adequate reserves and other capital resources in amounts which may be prescribed by the Minister;
  - (ii) adequate assets in liquid form in amounts which may be prescribed by the Minister;
  - (iii) a system for managing and containing risks to the net worth of the licensee's business and risks to its net income, whether arising from fluctuations in interest or exchange rates or from other factors;
  - (iv) the requisite accounting records;
  - (v) systems of internal control and record keeping; and
  - (vi) systems for inspection and report;
- (b) management conducted with prudence and integrity by a sufficient number of persons, having regard to the range and scale of the business, who are fit and proper to be directors or, as the case may be, officers of the licensee in accordance with the criteria established under section 6(6); and
- (c) conduct of the licensee's business with adequate professional skills.

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**42.** A director, manager, secretary or other officer concerned in the management of a licensee who fails to take all reasonable steps to secure compliance by the licensee with the requirements of this Act commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Management's duty of compliance with the requirements of the law.

**43.** A licensee, director or an officer of a licensee who knowingly supplies false or misleading information to the Minister or the Authority commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years or both such fine and imprisonment.

False or misleading information.

**44.** (1) A person who is a director, manager or other officer concerned with the management of a licensee shall cease to hold office upon -

Removal and disqualification of officers.

- (a) notification by its management team of a finding by two-thirds of its members of his permanent incapacity or serious neglect of, or misconduct in, office;
- (b) his being declared bankrupt or compounding with, or suspending payment to, his creditors;
- (c) his conviction in a court of law of any offence involving fraud or dishonesty;
- (d) his being sentenced for an offence involving a term of imprisonment of or exceeding six months or in default of a payment of a fine;
- (e) his being deemed not to be a fit and proper person in accordance with the criteria established under 6(6).

(2) A person who has been a director of, or directly or indirectly concerned in the management of a licensee, the licence of which has been revoked shall not, without the approval of the

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Authority, act or continue to act as a director, or be directly or indirectly concerned in the management of any licensee.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Offences by officers of corporate bodies.

**45.** (1) Where an offence under this Act has been committed by a body of persons which is -

- (a) a body corporate, society or other body of persons, every person who at the time of the commission of the offence was a director, manager, secretary or other officer of the body corporate, society or other body of persons as well as that body corporate, society or other body of persons commits the offence;
- (b) a partnership or firm, every partner of the partnership or firm as well as that partnership or firm commits an offence,

and is liable to be proceeded against and punished accordingly.

(2) No person referred to in subsection (1) shall be convicted of an offence under that subsection if he proves, that -

- (a) the act constituting the offence took place without his knowledge or consent; or
- (b) he exercised all due diligence to prevent the commission of the offence.

General penalty.

**46.** A person who contravenes any provision or requirement of this Act for which no offence is specifically created or penalty provided commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term of two years or to both such fine and imprisonment.



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**PART VII  
IMMUNITIES , REGULATIONS AND GUIDELINES.**

**47.** The Minister or an employee of the Authority shall not be liable for anything done or omitted in the discharge or purported discharge of their functions under this Act unless it is shown that the act or omission was in bad faith.

Immunity.

**48.** (1) In administering the provisions of this Act, the Authority may in consultation with the Minister issue prudential guidelines and related orders and without limiting the generality of the foregoing may issue prudential guidelines and related orders respecting -

Prudential guidelines.

- (a) policies, practices and procedures for evaluating the quality of assets;
- (b) policies, procedures and systems for identifying, monitoring and controlling transfer risk, market risk, operational risk; and such other risks as the Authority shall specify;
- (c) corporate governance;
- (d) auditors;
- (e) procedures to be adopted by licensees and the Authority; and
- (f) anti-money laundering and combating the financing of terrorism .

**49.** The Minister may make Regulations for giving effect to the provisions of this Act, and without limiting the generality of the foregoing, may make Regulations respecting -

Regulations.

- (a) the form and content of advertising by licensees;
- (b) registers and records to be kept under this Act;
- (c) forms to be used by licensees; and
- (d) fees payable under this Act;
- (e) agents of licencees.

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**SCHEDULE 1**

Section 5

<b><u>Class of Licence</u></b>	<b><u>Description of Licence</u></b>
Class A	Money Transmission
Class B	Issuance, Sale and Redemption of Payment Instrument
Class C	Cheque Cashing
Class D	Currency Exchange
Class E	Pay day advances

**SCHEDULE 2**

Section 6

**FORM A****INFORMATION CONTAINED IN AND TO  
ACCOMPANY AN APPLICATION FOR A LICENCE**

1. The name and address of the money services business in respect of which the licence is sought.
2. The name and address of the applicant.
3. The type of money services business the applicant proposes to conduct.
4. The source and quantum of funds for initial capital or acquisition of the money services business.
5. The address of the principal office of the applicant and of its registered office, if different.

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6. If the applicant is a corporation, limited liability company, partnership or other entity the applicant must -
- (a) specify the date and place of incorporation or formation and submit a copy of the memorandum and articles of association, Act, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a declaration made by one of its directors or partners or its secretary; and
  - (b) provide a brief description of the structure or organisation of the applicant including any parent or subsidiary of the applicant.
7. The name and address of each person who-
- (a) owns or controls the money services business;
  - (b) is a director or officer of the money services business;
  - (c) is an agent of the applicant;
  - (d) otherwise participates in the conduct of the affairs of the money services business.
8. The following information is also required from the named persons in Item 7 and each significant shareholder -
- (a) legal name and any alias and residential address;
  - (b) occupation (over the previous five years) and business address;
  - (c) date of birth
  - (d) citizenship;
  - (e) social security or NIS number;
  - (f) passport number;
  - (g) two (2) character references, a police or other certificate satisfactory to the Minister that the person has not been convicted of a serious crime or any offence involving dishonesty.

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9. The name and address of any depository institution at which a transaction account is maintained for the purposes of the money services business.
  10. Where appropriate a statement in writing in a form acceptable to the Minister from the body responsible for the administration of the laws relating to money services businesses and the supervision of the businesses in the country in which the applicant or its parent company is incorporated that the body has no objection to the application being made.
  11. If the applicant is a company the following information is required where applicable -
    - (a) the annual accounts for the two year period immediately preceding the date of the application, of each significant shareholder which is a body corporate, together with similar accounts for the parent body, if any, of each of the bodies corporate or the annual accounts for the current year, in the case of a body corporate which is in existence for less than two years;
    - (b) two or more references verifying the good financial standing of each significant shareholder who is a natural person;
    - (c) the name and address of its proposed auditor;
    - (d) a statement giving the date for the drawing up of the annual accounts of the applicant;
    - (e) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of its parent body, if any, that they concur in the making of the application;
    - (f) three business references of which at least one shall be from a bank;

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- (g) a detailed business plan, containing details of the current money services business activities, if any, of the applicant and its proposed activities if the licence applied for is granted, including -
- (i) the reasons for applying for the licence;
  - (ii) the business aims of the applicant in respect of the money services business and its potential client base;
  - (iii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the two years next succeeding the date of such grant together with an estimate of expected income;
  - (iv) particulars of its management structure and personnel;
  - (v) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each company constitutes an asset of the applicant;
  - (vi) a chart showing the relationship to its subsidiaries and affiliates and any holding company; and
  - (vii) a brief description of each of its subsidiaries and affiliates;
  - (viii) details of the identified economic needs that the applicant intends to meet growth prospects in that service area over the next five years, the exact nature and source of capital financing to be made available to the company for start-up and ongoing operations;
  - (h) details of the applicant's proposals for establishing and maintaining, in respect of the money services

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business, systems of control, inspection and report, if the licence applied for is granted;

(i) in the case of a company incorporated outside the State, the name and address of the supervisory or regulatory authority responsible for the supervision of each of the applicant's agents operating outside the State.

12. If the applicant is a franchise holder, the contract and any other documents relating to the operation of the franchise.
13. General requirements -
  - (a) the applicant must submit a description of any money services business, other than that which is the subject of the application, previously or currently engaged in by the applicant;
  - (b) the applicant must submit completed copies of a Personal Questionnaire for each executive officer, director and significant shareholder;
  - (c) the applicant must submit copies of the applicant's audited financial statements.
14. Any other information requested by the Minister.

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**FORM B****PERSONAL QUESTIONNAIRE****Fit and Proper Test****PART A**

NAME: \_\_\_\_\_

PREVIOUS NAME (IF ANY): \_\_\_\_\_

ALIASES: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_

CITIZENSHIP: \_\_\_\_\_

PLACE OF BIRTH: \_\_\_\_\_

SOCIAL SECURITY or NIS NUMBER: \_\_\_\_\_

PASSPORT NUMBER: \_\_\_\_\_

ADDRESS (Home &amp; Business): \_\_\_\_\_

OCCUPATION: \_\_\_\_\_

1. Have you at any time been charged or convicted of any offence by a criminal or military court ? (excluding minor Road Traffic offences). If so, please give details of charge, and if convicted, the date of conviction and full particulars of the offence and the penalty imposed.

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2. Have you ever been the subject of investigation, disciplinary procedure, censured, disciplined by any professional body

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to which you belong or have belonged? If so, give particulars.

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3. Have you ever been refused entry to any profession or vocation? If so, give particulars.

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4. Have you ever been dismissed or requested to resign from any office of employment? If so, give particulars.

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5. Have you ever been censured, disciplined by, or made the subject of a court order at the instigation of any -

- (a) regulatory authority?
- (b) officially appointed enquiry?
  
- (c) other established body concerned with the regulation of a relevant activity (as described in the glossary at the end of this form)? If so, give particulars.

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6. In connection with the formation or management of any corporation, have you been adjudged by a court civilly or criminally liable for any fraud, misfeasance or other misconduct towards that corporation or any member of the corporation? If so, give particulars.

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7. In connection with the formation or management of any corporation have you been disqualified by a court from being a director or from acting in the management or conduct of the affairs of any corporation? If so, give particulars.

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8. Have you ever -  
(a) been adjudged bankrupt by a court in any jurisdiction?  
(b) had a receiving order made against you?  
(c) entered into a deed of arrangement, or other composition or arrangement with your creditors?

If so, give particulars.

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9. Has a bankruptcy petition ever been served on you? If pending, give details of the circumstances and if not pending, how was the matter resolved?

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10. Have you, your company or your employer, previously dealt on a regular basis with any person carrying on a relevant activity (as described in the glossary at the end of this form) who has, to your knowledge at any time, indicated that he is unwilling to effect further transactions with you, your company or your employer, by reason of any act or omission by you? If so, give particulars.

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11. Will you be actively engaged in the business of the entity to which this application relates and devote the major portion of your time to it?

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**PART B  
RELATED OR OTHER INTEREST**

1. Are you a director of any company, partnership, corporate body or any other business organisation engaged in money services business? If so, state -
- (a) name of company/corporate/etc.;
  - (b) nature of business;
  - (c) date of commencement of directorship;
  - (d) whether or not employed on service contract (e.g. managing directorship) in any case.
2. Have you been a director of a deposit taking institution, credit extending institution, other financial service provider, any other limited company or corporation other than those stated in the previous questions? If so, state -
- (a) name of company/corporation;
  - (b) nature of business;

- 
- (c) date of commencement of directorship;
  - (d) date of cessation of directorship;

3. Are you or have you been engaged -

- (a) in partnership; or
- (b) in business as a principal on your own account?

If so, give particulars.

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4. Are you a beneficial owner of any controlling interest in any unlisted private or public company? If so, give particulars.

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5. Have you ever been a director, or directly concerned with the management of a bank or other financial institution -

- (a) that has been wound up by a court?
- (b) the licence of which has been revoked?
- (c) which has been placed in receivership?
- (d) which has entered into a composition with its creditors?
- (e) whose business has been adjudged to have been conducted imprudently or fraudulently?
- (f) which has failed to meet the solvency requirements prescribed by law?

If so, give particulars.

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6. Have you ever been a director, or been directly concerned with the management or conduct of affairs of any company which has gone into liquidation, whilst you were, or within one year of you being a director, or so concerned? If so, give details of the circumstances including the following -

- (a) name of company;
- (b) name of liquidator;
- (c) address of liquidator.

7. Have you ever been concerned with the management or conduct of affairs of any corporation which, by reason of any matter relating to a time when you were so concerned, has been censured or disciplined by -

- (a) any regulatory authority?
- (b) any official appointed enquiry?
- (c) any other body concerned with regulation of a relevant activity?

If so, give particulars.

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8. Do you (in your personal capacity or through any entity controlled by you) have outstanding debt of any amount sixty or more days in arrears? If so, state the following -

- (a) form
- (b) amount
- (c) source
- (d) maturity date

- 9. Has any person, firm or company guaranteed the indebtedness? If so, give particulars (see previous question).
- 10. Are you at present guaranteeing the debts and obligations of any third parties? If so, give particulars.

I ..... certify that all the statements contained in this questionnaire are true, accurate and fair to the best of my knowledge and belief.

.....  
Signature

**AUDITED FINANCIAL STATEMENTS**

- 1. If the applicant is a business that was in existence and operating prior to the date of the application, copies of audited financial statements (balance sheet, profit and loss, auditor's report and notes to accounts) for five consecutive years immediately preceding its application, except however that where such applicant has been functioning for less than five years, a copy of its audited financial statements for each year it has been in operation shall be sufficient.
- 2. Where item 1 is not applicable the opening balance sheet, (audited).
- 3. Operating projections for the proposed licensee's first five years of business. This should include balance sheet, income statement and cash flow projections prepared in an acceptable account format. Details of any financial or economic assumptions on which these projects are based should be clearly indicated.

- 
4. If the applicant is a subsidiary or affiliate of another company, submit in addition to item 1 or 2, audited financial statements of the parent company and all other “connected” companies.

#### GLOSSARY

“connected” in relation to a company means two or more companies or groups of companies with interests which are so interrelated that they should be considered as a single unit;

“corporation” means a body corporate, incorporated in Dominica or elsewhere;

“relevant activity” means-

- (a) banking, finance, insurance, money-lending, money management, debt-financing, hire purchase financing, leasing or other financial activities;
- (b) dealing in securities;
- (c) providing investment or financial advice and management.

SCHEDULE 3

Section 6

FORM OF LICENCE

COMMONWEALTH OF DOMINICA

MONEY SERVICES ACT, 2010

(No. of 2010)

LICENCE

No.

..... is licensed under the Money Services Business Act, 2010 to carry on the business [money transmission/ issuance, sale and redemption of payment instruments/cheque cashing/currency exchange]\* within the State subject to the following conditions -

.....  
.....  
.....

The licensee shall forthwith notify the Minister of any change in the information supplied in the application for this licence.

.....

Granted this day of , at [address]

Minister

**SCHEDULE 4**

Sections 6 and 9

**FEEES**

<b>Class of Licence</b>	<b>Description of Licence</b>	<b>Application License Fee EC\$</b>	<b>Annual License Fee EC\$</b>
Class A	Money Transmission	2,500.00	5,000.00
Class B	Issuance, Sale and Redemption of Payment Instruments	2,500.00	5,000.00
Class C	Cheque Cashing	2,500.00	5,000.00
Class D	Currency Exchange	2,500.00	5,000.00
Class E	Pay day advances	2,500.00	5,000.00

Passed in the House of Assembly this 29<sup>th</sup> day of April, 2010.

**MARIA ROLLE (MISS)**

*Clerk of the House of Assembly (Ag.)*

**DOMINICA**

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