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## **Act No.13 of 1993**

### **An Act made to amend the Banking Companies Act, 1991**

Whereas it is expedient to amend the Banking Companies Act, 1991 (Act No.14 of 1991) for the purposes hereinafter appearing;

Now, therefore, it is enacted as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Bank Company (Amendment) Act, 1993.

(2) It shall be deemed to have come into force on the 19th April, 1993/6th Vaishakh, 1400, respectively.

**2. Amendment of section 5 of Act No.14 of 1991.-** In section 5 of the Bank Company Act, 1991 (Act No.14 of 1991), heretoafter referred to as the said Act,-

- a) in clause a), the numbers and bracket "13 (4)" shall be substituted for the numbers and bracket "13 (3)";
- b) clause g) "debtor" includes also any person, company or organisation taking advantage of financial opportunities on the basis of shared win and loss, purchase or lease, or in any other way";
- c) for sub-clause (1) of clause i) the following sub-clause (1) shall be substituted, namely- "(1) any person, company or organisation having deposited money on the basis of (shared) win and loss, or".

**3. Amendment of section 7 of Act No.14 of 1991.-** For the word "modareka" in clauses g) and i) of sub-section (1) of section 7 of the said Act the word "mudaraba" shall be substituted in both places.

**4. Amendment of section 13 of Act No.14 of 1991.-** In section 13 of the said Act,-

- a) in the marginal note, the words "reserve fund" shall be substituted for the word "reserves";
- b) for sub-section (1) the following sub-section (1) shall be substituted and shall be deemed to have always been substituted, namely:-  
"(1) Unless it has paid-up capital and a reserve fund of such aggregate value as is required by this section,-

- a) no existing bank company shall, after the expiry of two years from the commencement of this Act, carry on business in Bangladesh; and

b) no bank company other than those referred to in clause a) shall, after the commencement of this Act, commence its business:

Provided that the Bangladesh Bank may, if it thinks fit in any particular case, extend the period referred to in this sub-section by a further period not exceeding one year."

c) in sub-section (2),-

- i) the words "reserve fund" shall be substituted for the word "reserves";
- ii) in the first provision, the words "reserve fund" shall be substituted for the word "reserves";
- iii) in the second provision, the word "market" shall be abolished;

d) in sub-section (3),-

- i) for the words "the amount of paid-up capital and reserves of all banks (except new banks and special banks) shall not be less than one hundred million Takas" shall be substituted the words "the amount of paid-up capital and of the reserve fund of all banks incorporated in Bangladesh (except new banks and special banks) shall not be less than two hundred million Takas";
- ii) in the provision, for the word "reserves" the words "reserve fund" shall be substituted;

e) in sub-section (4), for the words and the comma "the amount of (its paid-up capital and) reserves shall not, at the close of any working day of such company be less than one hundred million Takas" shall be substituted the words "the amount of (its paid-up capital and of its reserve) fund shall not at the close of any working day of such company be less than one hundred million Takas";

f) in sub-section (6), for the word "reserves" the words "reserve fund" shall be substituted;

g) in sub-section (7), for the word "reserves" the words "reserve fund" shall be substituted.

**5. Insertion of a new section 14A in Act No.14 of 1991.-** After section 14 of the said Act the following new section 14A shall be inserted, namely:-

**"14A. Restriction on the buying of shares of a bank, etc. .-** (1) The shares of a bank shall not be concentrated among the members of one and the same family and the members of a family shall not, individually, jointly or both, buy more than five percent of the shares of a bank.

(2) Whoever buys shares of a bank shall at the time of the purchase submit an affidavit to the effect that he does not buy the shares as the agent of another person or under another's name and that he didn't buy previously any shares under another's name."

**6. Amendment of section 15 of Act No.14 of 1991.-** The words and comma "and no managing director

or chief executive officer appointed in this way shall be removed from his office, acquitted or dismissed without the previous approval of the Bangladesh Bank" in sub-section (4) of section 15 of the said Act shall be omitted.

**7. Omission of section 16 of Act No.14 of 1991.-** Section 16 of the said Act shall be omitted.

**8. Amendment of section 20 of Act No.14 of 1991.-** In section 20 of the said Act-

a) for the word "dayamuktakarana" in the marginal note substituted the word "dayayuktakarana" shall be substituted; (substitution of "dayayuktakarana" for the misprinted "dayamuktakarana") and

b) for the word "dayamukta", twice mentioned, the word "dayayukta" shall be substituted in both places.(substitution of "dayayukta" for the misprinted "dayamukta")

**9. Amendment of section 21 of Act No.14 of 1991.-** In section 21 of the said Act-

a) for the word "dayamuktakarana" in the marginal note the word "dayayuktakarana" shall be substituted;(substitution of "dayayuktakarana" for the misprinted "dayamuktakarana")

b) for the word "dayamukta" in sub-section (1) and (2), twice mentioned, the word "dayayukta" shall be substituted in both places. (substitution of "dayayukta" for the misprinted "dayamukta")

**10. Amendment of section 22 of Act No.14 of 1991.-** In section 22 of the said Act-

a) for the words "of its temporary and demand deposits as (discharged and) reserved capital" in clause a) of sub-section (1) shall be substituted the words "of its demand liabilities and temporary liabilities as (discharged and reserved) fund";

b) for the word "adequate" in sub-section (2), twice mentioned, shall in both places be substituted the words "(provision) of sufficient reserves".

**11. Amendment of section 23 of Act No.14 of 1991.-** In section 23 of the said Act-

a) for the words "(No banking company incorporated in Bangladesh, except) new banks" in sub-section (1) shall be substituted the words and comma "Notwithstanding anything contained in any other Act or in any memorandum of association of a company, (no banking company incorporated in Bangladesh, except) new banks" and after clause a) of the said sub-section the following new clauses shall be inserted, namely:-

"aa) a director of an insurance company;

aaa) an auditor of the external accounts, a legal advisor or a person employed in any other way in a remunerated function of the said banking company or an adviser of the said banking company;

aaaa) an adviser of any other banking company;"

b) after sub-section (1) shall be inserted the following new sub-section, namely:-

"(1A) Where a person who shouldn't be a director in accordance with the provisions of sub-section (1) holds the office of a director of a banking company, the Bangladesh Bank shall remove the person concerned from the office of director:

Provided that a director shall, before being dismissed, be given reasonable opportunity to show cause:

Provided further that the Bangladesh Bank shall perform all measures under this sub-section within no more than three months after having been informed that such person as mentioned above is a director of a banking company."

**12. Amendment of section 24 of Act No.14 of 1991.-** For the words (and the comma) "is not less than" in sub-section (1) of section 24 of the said Act the words "is less than" shall be substituted.

**13. Amendment of section 25 of Act No.14 of 1991.-** For the words "talabi day" (demand liabilities) in sub-section (1) of section 25 of the said Act the words "cahibamatra day" (demand liabilities) shall be substituted.

**14. Amendment of section 27 of Act No.14 of 1991.-** In section 27 of the said Act-

a) for the words "son and daughter" in the Explanation of sub-section (2) the words and commas "son, daughter, brother, sister, brother-in-law, sister-in-law, sister's husband, father-in-law, mother-in-law, daughter-in-law and son-in-law" shall be substituted;

b) for the full stop at the end of clause b) of sub-section (3) a colon shall be substituted, and thereafter the following provision shall be inserted, namely:-

Provided that the Bangladesh Bank may not permit that benefits of more than 100 per cent of the total capital of a banking company be given, directly or indirectly, to any person or institution or to institutions under one and the same ownership or in the possession of one and the same family."

c) for the words "every banking company" in sub-section (4) the words "the managing director of every banking company" shall be substituted.

**15. Amendment of section 29 of Act No.14 of 1991.-** For clause e) of sub-section (2) of the said Act the following clause e) shall be substituted, namely:-

"e) the securities for advances and the margin requirement; and".

**16. Amendment of section 39 of Act No.14 of 1991.-** After clause b) of sub-section (3) of the said Act

the following new clause bb) shall be inserted, namely:-

bb) whether or not it is satisfactory to pay off advances or debts in excess of the amounts fixed from time to time by the Bangladesh Bank;".

**17. Insertion of a new section after section 39 of Act No.14 of 1991.-** After section 39 of the said Act the following new section shall be inserted, namely:-

**39A. Special Audit.-** (1) If the Bangladesh Bank, on consideration of an audit report under section 39 or an inspection report under section 44 or on the basis of an report received in any other way, has sufficient reason to be satisfied that it is necessary to audit the activities of, or any special part of the activities of, any banking company, it may cause a special audit of the activities of, or any part of the activities of, such banking company by any person referred to in sub-section (1) of section 39.

(2) During a special audit under sub-section (1), the banking company concerned shall render such assistance to the auditor as may be required.";

**18. Amendment of section 49 of Act No.14 of 1991.-** For the word "vyavastha" (arrangement) in clause b) of sub-section (1) of section 49 of the said Act the word "vyavasa" (business) shall be substituted.

**19. Amendment of section 51 of Act No.14 of 1991.-** For the numbers and brackets "32 (1)" in section 51 of the said Act the numbers and brackets "31 (1)" shall be substituted.

**20. Amendment of section 52 of Act No.14 of 1991.-** For the numbers and brackets "32 (1)" in sub-section (1) of section 52 of the said Act the numbers and brackets "31 (1)" shall be substituted.

**21. Amendment of section 70 of Act No.14 of 1991.-** For the word "Ordinance" in section 70 of the said Act the word "Act" shall be substituted.

**22. Amendment of section 77 of Act No.14 of 1991.-** For the words "including the establishment" in sub-section (2) of section 77 the words "including the suspension" shall be substituted.

**23. Amendment of section 96 of Act No.14 of 1991.-** For the word "degree" in sub-section (2) of section 96 of the said Act the word "decree" shall be substituted.

**24. Amendment of section 109 of Act No.14 of 1991.-** After sub-section (8) of section 109 of the said Act the following sub-sections (9) and (10) shall be inserted, namely:-

"(9) If anybody has committed an offence punishable in accordance with the provisions of sub-section (3), (4), (5), (6) and (7), the Bangladesh Bank may give him opportunity to show cause why the Bangladesh Bank should not proceed against him and punish him with a fine and the Bangladesh Bank may, if it is not satisfied with his explanation or if he

has not furnished an explanation, punish him with a fine of any amount which does not exceed the highest amount fixed by the said bank.

(10) If, within fourteen days after the imposition of a fine under sub-section (9), the person concerned has paid the fine, no further legal proceeding for the offence committed by him under the sub-sections referred to in the said sub-section shall be taken against him; but if he fails to pay the fine within such period, the Bangladesh Bank shall file at a court a suit against the person concerned for the offence committed by him."

**25. Repeal and savings.-** (1) The Banking Company (Amendment) Ordinance, 1993 (Ordinance No.1, 1993) stands herewith repealed.

(2) Notwithstanding such repeal, all actions done or all measures taken under the said Act as amended by the repealed Ordinance shall be deemed to have been done or taken under the said Act as amended by this Act.

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