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The following Bill which will be introduced in the National Assembly is published for general information.

*F. A. Narain,*  
Clerk of the National Assembly.



**GUYANA**

**BILL No. 8 of 1995**

**CO-OPERATIVE FINANCIAL INSTITUTIONS  
(AMENDMENT) BILL 1995**

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title and commencement.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 4 of the Principal Act.
4. Amendment of section 15 of the Principal Act.
5. Amendment of section 22 of the Principal Act.
6. Amendment of section 24 of the Principal Act.
7. Amendment of section 25 of the Principal Act.
8. Amendment of section 26 of the Principal Act.

9. Amendment of section 28 of the Principal Act.
10. Amendment of section 32 of the Principal Act.
11. Amendment of section 33 of the Principal Act.
12. Amendment of section 34 of the Principal Act.
13. Amendment of section 35 of the Principal Act.
14. Amendment of section 48 of the Principal Act.
15. Amendment of section 50 of the Principal Act.
16. Repeal and re-enactment of section 51 of the Principal Act.
17. Amendment of section 56 of the Principal Act.

A BILL  
Intituled

AN ACT to amend the law relating to the Co-operative Financial Institutions Act and to provide for matters connected therewith.

A.D. 1995 Enacted by the Parliament of Guyana:-

Short title  
and com-  
mencement.  
Cap. 75:01

1. This Act, which amends the Co-operative Financial Institutions Act, may be cited as the Co-operative Financial Institutions (Amendment) Act 1995, and shall come into operation on such date as the Minister may by order appoint.

Amendment  
of section 2  
of the  
Principal  
Act.

2. Section 2 of the Principal Act is hereby amended by the insertion of the following definitions in their appropriate alphabetical order:-

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1995

"(i) 'bank' has the same meaning as in section 2 of the Financial Institutions Act 1995;

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1995

(ii) 'the Bank' has the same meaning as in section 2 of the Bank of Guyana Act 1995;

(iii) 'licensed financial institution' means a financial institution or a company engaged in a banking or financial business to which a licence is granted under the Financial Institutions Act 1995 authorising the conduct of such business in Guyana;"

Amendment  
of section  
4 of the  
Principal  
Act.

3. Section 4 of the Principal Act is hereby amended by the insertion immediately after subsection (3) of the following subsection as subsection (4) -

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"(4) Notwithstanding the foregoing, the Administration shall not exercise any of the powers conferred on the Bank under the Financial Institutions Act 1995, the Bank of

Guyana Act 1995 or any other law with respect to the licensing, regulation, inspection or supervision of licensed financial institutions."

Amendment of section 15 of the Principal Act.

4. Section 15 of the Principal Act is hereby amended in the following respects -

- (a) by the repeal of subsection (11) and the substitution therefor of the following subsection as subsection (11) -

"(11) The Minister, by order establishing a financial institution under this section or by a subsequent order hereunder, may exclude or modify the application of this Act, other than sections 4, 51 and 56, in relation to the financial institution in respect of any particular matter:

Provided that nothing in this Act shall in any way authorise the Minister or the Administration to exclude or modify the application of the Financial Institutions Act 1995 or the Bank of Guyana Act 1995 to any licensed financial institution, except in so far as this Act, the Financial Institutions Act 1995 or the Bank of Guyana Act 1995 specifically confer such authority by language to that effect and not merely by implication.";

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- (b) by the insertion immediately after subsection (12), of the following subsection as subsection (13) -

"(13) Any financial institution which is conducting a banking or financial business, as defined in section 2 of the Financial Institutions Act 1995, on the date on which that Act comes into force, or which is established by order under this section made after such date, shall comply in all respects with the provisions of the Financial Institutions Act 1995 and the Bank of Guyana Act 1995 applicable to licensed financial institutions, in such manner and to such extent as such Act shall provide."

5. Section 22(2) of the Principal Act is hereby amended by the insertion after the word "Minister" of the words "or as authorised by

Amendment of section 22 of the Principal Act. No. 1 of 1995

the Financial Institutions Act 1995 or other applicable laws".

Amendment  
of section 24  
of the Prin-  
cipal Act.  
No. 1 of 1995

6. Section 24(1) of the Principal Act is hereby amended by the insertion after the word "Act" of the words ", the Financial Institutions Act 1995 or other applicable laws".

Amendment  
of section 25  
of the Prin-  
cipal Act.  
No. 1 of 1995

7. Section 25(1) of the Principal Act is hereby amended by the insertion after the word "Act" of the words ", the Financial Institutions Act 1995 or other applicable laws".

Amendment  
of section 26  
of the Principal  
Act.

8. Section 26 of the Principal Act is hereby amended in the following respects -

- (a) by the insertion after subsection (5) of the following subsection as subsection (5A) -

"(5A) In addition to the requirements of the preceding subsections, a director of a financial institution which is a licensed financial institution shall make such disclosures and take such actions with respect to any loans, contracts or arrangements in which he has an interest as may be required under the Financial Institutions Act 1995.";

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- (b) in subsection (7), by the substitution for the words "five hundred dollars " of the words "two hundred thousand dollars and to such other penalties as may be prescribed under any other law".

Amendment  
of section 29  
of the Prin-  
cipal Act.

9. Section 28(1) of the Principal Act is hereby amended by the insertion of the following words before the full stop at the end -

"and notwithstanding the foregoing, the authorised capital of a financial institution which is a licensed financial institution shall at no time be less than the minimum capital required under the Financial Institutions Act 1995 for such financial institution".

Amendment  
of section 32  
of the Prin-  
cipal Act.

10. Section 32 of the Principal Act is hereby amended by the insertion after subsection (3), of the following subsection as subsection (3A) -

"(3A) With respect to the guarantee of any authorised borrowings of a financial institution

which is a licensed financial institution, the Minister, prior to the giving of a guarantee under subsection (1), also shall consult with the Bank as to whether the giving of such guarantee is necessary and appropriate for the protection of depositors and the promotion of the objectives of the Financial Institutions Act 1995 and the Bank of Guyana Act 1995."

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11. Section 33 of the Principal Act is hereby amended by re-numbering it as subsection (1) thereof and by the insertion after the said subsection, as so re-numbered, of the following subsection as subsection (2) -

Amendment  
of section 33  
of the Prin-  
cipal Act.

"(2) Notwithstanding subsection (1), investments made by a financial institution which is a licensed financial institution shall be subject to such limitations on investments in securities as may be provided under the Financial Institutions Act 1995."

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12. Section 34(1) of the Principal Act is hereby amended by the insertion after the word "impose" of the words", and as otherwise permitted by the Financial Institutions Act 1995 or by any other law".

Amendment  
of section 34  
of the Prin-  
cipal Act.  
No. 1 of 1995

13. Section 35 of the Principal Act is hereby amended by the insertion after the word "institution" of the words", to the extent permitted under any other law,".

Amendment  
of section 35  
of the Prin-  
cipal Act.

14. Section 48 of the Principal Act is hereby amended in the following respects -

Amendment  
of section 48  
of the Prin-  
cipal Act.

- (a) in subsection (8), by the substitution for the words "fifty dollars or, in default of payment, to imprisonment for one month" of the words "ten thousand dollars or, in default of payment to imprisonment for three months";
- (b) by the insertion after subsection (9), of the following subsection as subsection (10) -

"(10) Subject to the provision of section 33 of the Financial Administration and Audit Act (which mandates the audit of public corporations and certain other corporate bodies by the Auditor General), a financial institution which is a licensed financial institution shall be audited by an auditor qualified in accordance with the Financial Institutions Act

Cap. 73:01

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and who, in satisfaction of the requirements of section (3), performs such reviews and makes reports as are required under the Financial Institutions Act 1995 in respect of licensed institutions. Such auditor shall exercise in any other functions and powers otherwise conferred on him, the functions and powers provided in sections (5), (6) and (7)."

Amendment of section 50 of the Principal Act.

15. Section 50 of the Principal Act is hereby amended by the insertion, after subsection (1), of the following subsection as subsection (1A) -

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"(1A) Notwithstanding any requirement of the Financial Institutions Act 1995 to the contrary, the provisions of this section shall apply with full force and effect to a financial institution which is a licensed financial institution."

Repeal and re-enactment of section 51 of the Principal Act.

16. Section 51 of the Principal Act is hereby repealed and the following section substituted therefor -

\*Application of certain enactments to licensed financial institution.

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51(1) Except as otherwise specifically provided in this Act or in any other law by language to such effect and not merely by implication, the Financial Institutions Act 1995 and the Bank of Guyana Act 1995 shall apply with full force and effect, as provided in such Acts, to financial institutions which are licensed financial institutions.

Cap. 91:02

(2) With respect to financial institutions other than licensed financial institutions, the Minister may by order made under section 15 establishing a financial institution or reconstituting an institution mentioned in section 61(1), or in any subsequent order made under section 15, apply the provision of the law for the time being relating to companies, the Insurance Act, or any other law in whole or in part, to such financial institutions, and in such manner and to such extent as shall be provided in such order".

Amendment of section 56 of the Principal Act.

17. Section 56 of the Principal Act is hereby amended by the insertion, after subsection (2), of the following subsections as subsections (3) and (4) -

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"(3) Any dissolution pursuant to this section of a financial institution shall be treated as a voluntary winding up of such institution under the the Financial Institutions Act 1995.

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(4) Nothing in this section shall in any way impair or restrict the authority of the Bank under the Financial Institutions Act 1995 or the Bank of Guyana Act 1995 to exercise those powers conferred on the Bank thereunder with respect to any class class of licensed financial institutions, including financial institutions created under this Act."

### EXPLANATORY MEMORANDUM

This Bill makes certain amendments to the Co-operative Financial Institutions Act, Cap. 75:01, primarily for the purpose of clarifying the applicability of the Financial Institutions Act 1995 and the Bank of Guyana Act 1995 to co-operative financial institutions established under the Co-operative Financial Institutions Act if such institutions are engaged in a banking or financial business in Guyana. In order to promote one of the major purposes of the Financial Institutions Act 1995, namely, the expansion of regulatory authority over all significant classes of depositary or other financial institutions in Guyana, certain relatively minor, but important, amendments in the Co-operative Financial Institutions Act have been made.

Clause 3 amends section 4 of the Co-operative Financial Institutions Act to vest the exercise of regulatory and supervisory authority over co-operative financial institutions solely on the Bank of Guyana.

Clause 4 repeals and re-enacts section 15(11) of the Act to exclude the authority of the Minister to modify the application of the Financial Institutions Act 1995 and the Bank of Guyana Act 1995 to a licensed financial institution and by the insertion of a new section 15(13) provides that every co-operative financial institution conducting a banking or financial business shall comply in all respects with the latter two Acts, in such manner and to such extent as those Acts provide.

Clauses 5, 6 and 7 amend sections 22, 24 and 25, respectively, of the Act which sections impose confidentiality obligations on officers and directors (section 22), permit the co-operative institutions to make rules (section 24) and generally protect directors from liability for acts undertaken in good faith (section 25). Each of these sections is amended to limit their applicability by the Financial Institutions Act 1995 and the Bank of Guyana Act 1995.

Clause 9 amends section 28 to provided that the authorised capital of a licensed financial institution shall be no less than the minimum capital required under section 7 of the Financial Institutions Act 1995.

Clause 10 amends section 32 of the Act which requires the Minister, in the exercise of his power to guarantee the debt obligations of co-operative institutions, to do so after prior consultation with the Bank of Guyana in the case of any guarantee in respect of such an institution which is licensed under the Financial Institutions Act 1995.

Clause 11 amends section 33 of the Act to provide that, notwithstanding the provisions of the said Act, co-operative institutions which are licensed financial institutions under the Financial Institutions Act 1995 must comply with the investment limitations prescribed in the Financial Institutions Act 1995.

Clause 14 amends section 48 of the Act to increase the penalties for violations of this section and specify that a co-operative institution which is a licensed financial institution under the Financial Institutions Act 1995 must comply with the auditor qualification and review requirements specified therein.

Clause 15 amends section 50 of the Act to continue the application and precedence of the said Act's reserve requirements over those contained in the Financial Institutions Act 1995.

Clause 16 amends section 51 of the Act to provide that the Financial Institutions Act 1995 and the Bank of Guyana Act 1995 shall apply with full force and effect to co-operative institutions which are licensed under the Financial Institutions Act 1995, except as otherwise specifically provided by law.

Clause 17 amends section 56 of the act to specify that any dissolution of a financial institution licensed under the Financial Institutions Act 1995 shall be governed by the provisions of the Financial Institutions Act 1995.

*A. Ally,*  
Senior Minister of Finance.