

No. 1 of 2023

**VIRGIN ISLANDS
VIRGIN ISLANDS DEPOSIT INSURANCE
(AMENDMENT) ACT, 2023
ARRANGEMENT OF SECTIONS**

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I ASSENT
(Sgd.) John Rankin CMG,
Governor.
10th March, 2023

VIRGIN ISLANDS

No. 1 of 2023

AN ACT TO AMEND THE VIRGIN ISLANDS DEPOSIT INSURANCE ACT, 2016, NO. 7 OF 2016.

[Gazetted 14th March, 2023]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title

1. This Act may be cited as the Virgin Islands Deposit Insurance (Amendment) Act, 2023.

Section 2 amended

2. The Virgin Islands Deposit Insurance Act, 2016, No. 7 of 2016 (hereinafter referred to as the Principal Act) is amended in section 2

(a) by inserting in subsection (1), the following definitions in its correct alphabetical order;

““competent authority” means an authority designated or performing functions as such under an enactment, and includes the Attorney General, Governor, Financial Investigation Agency, Financial Services Commission, International Tax Authority, the Virgin Islands Deposit Insurance Corporation and such other authority the Governor may, by an Order published in the *Gazette*, designate as a competent authority;

“relevant person” means a member institution, its holding company and its subsidiaries;

“resolution” in relation to a bank, and its holding company and subsidiaries which become insolvent, means the process for dealing with the bank, its holding company and subsidiaries, with a view to ensuring their orderly winding down by preparing and implementing a disposition plan, and includes liquidation and depositor reimbursement, transfer and sale

of assets and liabilities, establishment of a bridge bank and the write-down of debt or conversion of debt to equity, in accordance with this Act and its regulations;

“resolution proceedings” means the different procedures and resolution action taken applicable to relevant persons in resolution;

“subsidiary” has the meaning assigned to such term in Section 4 of the Insolvency Act, Revised Edition 2020; and

(b) by deleting subsection (2) and substituting with the following subsection:

“(2) For the purposes of this Act, a financial institution is in a state of financial distress if

- (a) there exists in relation to the institution any condition precedent to the exercise of the powers of the Financial Services Commission in the interest of and for the protection of depositors, to take such steps or apply such sanctions as authorised under the Banks and Trust Companies Act, Revised Edition 2020, the Financial Services Commission Act, Revised Edition 2020, or any other applicable enactment;
- (b) the institution has in the opinion of the Financial Services Commission or of the Corporation failed to satisfy prudential criteria and minimum solvency standards prescribed by or under the Banks and Trust Companies Act, Revised Edition 2020, the Financial Services Commission Act, Revised Edition 2020 or any other applicable enactment;
- (c) the institution is not likely to be able to pay its debts and there is no reasonable prospect that the financial institution will be able to do so without the Corporation’s assistance; or
- (d) proceedings have commenced in court for, a winding up against that institution or a resolution for a creditor’s voluntary winding up has been passed.”.

Section 3 amended

3. Section 3 of the principal Act is amended by inserting after subsection (1) the following new subsections:

“(1a) The principal office of the Corporation shall be in the City of Road Town, Tortola.

(1b) The Corporation may have additional offices at such other places as the Board of Directors may from time to time determine.”.

Section 4 amended

4. Section 4 of the principal Act is amended by
 - (a) in paragraph (a) by inserting after the word “depositors”, the words “of member institutions to the extent provided for in this Act and other applicable legislation”;
 - (b) in paragraph (c) by deleting the full stop at the end of the paragraph and substituting with a semi-colon;
 - (c) in paragraph (d) by deleting the full stop at the end of the paragraph and substituting with a semi-colon; and
 - (d) inserting after paragraph (d) the following new paragraphs:
 - “(e) pursue resolution planning and proceedings in a manner that ensures continuity of critical financial services, avoids unnecessary loss of value and minimises the exposure of the Corporation to loss; and
 - (f) insure the deposits of the member institutions to the extent provided for in this Act, any Regulations or any Orders and policies issued by the Corporation.”.

Section 7 amended

5. Section 7 of the principal Act is amended
 - (a) in subsection (1)
 - (i) in paragraph (h), by deleting the word “and” appearing directly after the semi-colon;
 - (ii) in paragraph (i), by deleting the full stop at the end of the paragraph and substituting the following “; and”
 - (iii) by inserting after paragraph (i) the following new paragraph:
 - “(j) to prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing, except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency; and
 - (k) to prescribe by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed”;
 - (b) in paragraphs (d) and (e) of subsection (2), by deleting the words “Accumulated Net Earnings of the Corporation” where they appear and substituting the words “the Receivership”; and
 - (c) by inserting after subsection (2) the following new subsection:
 - “(2a) Notwithstanding the powers and functions of the Corporation under subsections (1) and (2) the Board may

- (a) issue regulations on the terms and conditions for providing financial assistance to insured institutions in accordance to section 7(1)(d) of the Act;
- (b) determine the initial, annual and other premium paid by the member institutions;
- (c) determine and prescribe the manner in which the obligations and expenses of the Corporation shall be incurred and paid;
- (d) issue regulation for the proper management of the system for the insurance of deposits;
- (e) determine the maximum insurable deposit coverage amount in accordance with the regulations issued by the Cabinet to that effect;
- (f) determine the general conditions of such assets as may be acquired or disposed of by the Corporation;
- (g) inform the Commission when the Corporation forms the view that a member institution may be operating in such a manner that risks eroding the trust and confidence in the financial system or that is out of compliance with other legal requirements;
- (h) approve the Corporation's annual budget and the contracts into which the Corporation participates;
- (i) approve the Corporation's annual financial statements;
- (j) accept the appointment of the Corporation as receiver or liquidator;
- (k) approve the resolution plan whenever the Corporation is appointed receiver or liquidator;
- (l) present the Cabinet with recommendations to make regulations generally for giving effect to the provisions of the Act; and
- (m) approve entry into coordination and information sharing memoranda of understanding with foreign resolution and deposit insurance authorities.”.

Section 7A inserted

6. The principal Act is amended by inserting after section 7 the following section:

“Utilisation of the private sector

7A. In carrying out its responsibilities in the management and disposition of assets in its corporate capacity or as receiver of relevant persons, the Corporation may utilise the services of private persons, including real state and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, only if such services are available in the private sector locally or internationally and the Corporation determines utilisation of such services is the most practicable, efficient, and cost effective.”.

Section 9 amended

- 7.** Section 9 of the principal Act is amended
- (a) in subsections (3)(a) and (4) by deleting the figure “\$12,500,000” and substituting the figure “\$92,230,000”; and
 - (b) in subsection (5) by deleting the words “December 1, 2016” and substituting the words “December 1 of the current year”.

Section 10 amended

- 8.** Section 10 of the principal Act is amended by
- (a) renumbering the existing section as subsection (1);
 - (b) adding after subsection (1) as renumbered, the following new subsections:
 - “(2) The Board shall determine and issue the regulations and terms and conditions for the processes and procedures it is charged with, including for:
 - (a) providing financial assistance;
 - (b) determining initial, annual and other premium and fees to be paid by member institutions;
 - (c) how its obligations shall be incurred and paid for;
 - (d) membership to the deposit insurance system; and
 - (e) the adequacy of the level and scope of the deposit insurance coverage.
 - (3) The Board shall review the effectiveness of the regulations and terms and conditions for the processes it is charged with and update them accordingly from time to time.
 - (4) To perform its functions, the Board may establish such standing or special committees as it sees fit with the pertinent delegation of powers to perform their corresponding tasks.”

Section 15 amended

- 9.** Section 15 of the principal Act is amended in subsection (1)
- (a) in paragraph (a), by deleting the word “and” appearing directly after the semi-colon;

- (b) in paragraph (b), by deleting the full stop at the end of the paragraph and substituting with a semi-colon; and
- (c) by inserting after paragraph (b) the following new paragraphs:
 - “(c) be entitled to require member institutions and their holding companies and subsidiaries, either directly or through the Financial Services Commission, the reports of condition necessary for the Corporation to properly determine their resolvability and develop their orderly resolution planning; and
 - (d) enter into coordination and information sharing memoranda of understanding with foreign resolution and deposit insurance authorities and such information may only be shared if the Corporation is satisfied that such information is to be treated as confidential by the recipient and after consultation with the Commission.”.

Section 15A inserted

10. The principal Act is amended by inserting after section 15 the following new section:

“Annual meetings between the Cabinet and the Board

15A. (1) The Cabinet and the Board shall in each year meet to discuss issues relating to

- (a) the operation, management and performance of the Corporation;
- (b) the initiatives and future direction of the Corporation;
- (c) Government policy with respect to the deposit insurance system;
- (d) developments in the international markets and current international initiatives on regulatory and legal measures which may affect the Deposit Insurance System; and
- (e) such other matters as either party may consider essential for strengthening the role of the Corporation and enhancing the Deposit Insurance System.

(2) The meeting referred to in subsection (1) shall be arranged by the Minister in consultation with the Chairperson and the Chief Executive Officer.”.

Sections 17A, 17B and 17C inserted

11. The principal Act is amended by inserting after section 17 the following new sections:

“Appointment of Corporation as receiver or liquidator

17A. (1) Pursuant to section 7(2)(c), the Corporation may accept appointment as receiver or liquidator of a relevant person, at the discretion of the Financial Services Commission or the Court, and the Corporation may accept such appointment.

(2) Notwithstanding any other provision in any other enactment, the Corporation may appoint itself receiver or liquidator of any relevant person whenever one or more of the grounds specified in subsection (3) exists.

(3) The grounds for appointing a conservator or receiver, which may be the Corporation for any relevant person are as follows:

- (a) Assets insufficient for obligations - The relevant person’s assets are less than the relevant person’s obligations to its creditors and others, including members or shareholders of the institution;
- (b) Substantial dissipation - Substantial dissipation of assets or earnings due to
 - (i) any violation of any statute or regulations; or
 - (ii) any unsafe or unsound practice.
- (c) Unsafe or unsound condition - An unsafe or unsound condition to transact business;
- (d) Cease and Desist Orders - Any willful violation of a cease-and-desist order which has become final;
- (e) Concealment - Any concealment of the relevant person’s books, papers, records, or assets, or any refusal to submit the relevant person’s books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the Financial Services Commission;
- (f) Inability to meet obligations - The relevant person is likely to be unable to pay its obligations or, in the case of a member institution, meet its depositors' demands in the normal course of business;
- (g) Losses - The relevant person has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the relevant person to become adequately capitalised as required by the Financial Services Commission without the Corporation’s financial assistance;
- (h) Violations of Law - Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to
 - (i) cause insolvency or substantial dissipation of assets or earnings;
 - (ii) weaken the relevant person’s condition; or

- (iii) otherwise seriously prejudice the interests of the relevant person's depositors or the deposit insurance fund;
 - (i) Consent - The relevant person, by resolution of its board of directors or its shareholders or members, consents to the appointment;
 - (j) Termination of the deposit insurance policy by the Corporation;
 - (k) Undercapitalisation - The relevant person is undercapitalised and
 - (i) has no reasonable prospect of becoming adequately capitalised in accordance to the BTCA;
 - (ii) fails to become adequately capitalised when required to do so by the Financial Services Commission;
 - (iii) fails to submit a capital restoration plan acceptable to the Financial Services Commission within the time prescribed by the Commission; or
 - (iv) materially fails to implement a capital restoration plan submitted and accepted under by the Commission;
 - (l) The relevant person
 - (i) is critically undercapitalised; or
 - (ii) otherwise has substantially insufficient capital; and
 - (m) Money Laundering offense - The Attorney General notifies the competent authority or the Corporation in writing that the relevant person has been found guilty of a criminal offence under the corresponding enactment of the Virgin Islands.
- (4) The Corporation may, as receiver,
- (a) by regulations, provide for the exercise of any function by any member or stockholder, director, or officer of any member institution for which the Corporation has been appointed receiver;
 - (b) merge the relevant person with another member institution or otherwise or transfer any asset or liability of the relevant person without any approval, assignment or consent for such a transfer;
 - (c) pay all valid obligations of the relevant person in accordance with the prescription and obligation in accordance with this Act and its regulations;
 - (d) determine claims in accordance with the requirements of this Act and its regulations;

- (e) under its own discretion and to the extent funds are available, pay creditor claims which are allowed by the receiver, approved by the Corporation pursuant to a final determination, or determined by the final judgment of the Court in such manner and amounts as are authorised under this Act;
- (f) place the relevant person in liquidation and proceed to realise upon the assets of the relevant person, having due regard for the order of priority of claims as it may be prescribed to be the treatment in resolution proceedings in accordance with this Act and its regulations.

(5) In addition to the powers conferred and the duties related to the exercise of such powers imposed by the Insolvency Act to any receiver or liquidator appointed under any enactment for a relevant person, the Corporation, as receiver or liquidator pursuant to its appointment shall have the powers conferred and the duties imposed by this Act on the Corporation as receiver or liquidator.

(6) When acting as receiver or liquidator, the Corporation shall not be subject to the direction or supervision of any other agency in the exercise of its rights, powers, and privileges.

Payment of Claims

17B. Any amounts realised from the liquidation or other resolution proceeding of any relevant person by any receiver appointed for such institution shall be distributed to pay claims, other than secured claims to the extent of any such security in the following order of priority:

- (a) administrative expenses of the receiver;
- (b) any deposit liability of the institution;
- (c) any other general or senior liability of the institution, which is not a liability described in paragraph (c) or (d);
- (d) any obligation subordinated to depositors or general creditors, which is not an obligation described in paragraph (e); or
- (e) any obligation to shareholders or members arising as a result of their status as shareholders or members, including any depository institution holding company or any shareholder or creditor of such company.

Legal, Judicial action or proceedings

17C. (1) Upon the appointment of the Corporation as receiver in respect with a relevant person, all legal or judicial action or proceedings for which the relevant person is or becomes a party for the period determined by the Corporation shall not exceed 180 days from the appointment.

(2) No attachment or execution may be issued by any court upon assets in the possession of the Corporation as receiver.

(3) Except for financial redress, when determined as final by the Court, no court shall have jurisdiction over

- (a) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any relevant person for which the Corporation has been appointed receiver, including assets which the Corporation may acquire from itself as such receiver; or
- (b) any claim relating to any act or omission of such institution or the Corporation as receiver.”.

Section 18 amended

12. Section 18 of the principal Act is amended

- (a) by deleting the subsection number “(1)” after 18;
- (b) in paragraphs (c) and (d) by deleting the words “insured institution” where they appear and substituting the words “relevant person.”

Sections 20A and 20B inserted

13. The principal Act is amended by inserting after section 20 the following new sections:

“Deposit of Funds

20A. All uninvested funds of the Corporation, except those which the Corporation require for its regular operations, shall be deposited in an account proposed by the Chief Executive Officer and authorised by the Board.

Checking Accounts in Banks

20B. (1) Subject to applicable provisions of law, the Chief Executive Officer or such other persons as he or she may from time to time duly authorise by written designation shall establish such checking accounts in banks duly licensed by the Commission or by the proper authorities in other jurisdictions as may from time to time be necessary.

(2) No other bank account shall be established on behalf of the Corporation without the prior approval of the Chief Executive Officer.”.

Section 23 amended

14. Section 23 of the principal Act is amended by deleting subsection (2)(b) and substituting with the following:

- “(b) such information and documentation pertaining to matters under section 25(4);

Section 25 amended

15. Section 25 of the principal Act is amended by inserting after subsection (3) the following new subsection:

“(4) In determining the issuance and continuity of a policy of deposit insurance, the Corporation shall give consideration to

- (i) the financial history and condition of the financial institution;
- (ii) the adequacy of its capital structure;
- (iii) its future earnings prospects;
- (iv) the general character and fitness of its management;
- (v) the risk presented to the Deposit Insurance Fund;
- (vi) the convenience and needs of the community to be served by the branch;
- (vii) whether or not its corporate powers, insofar as they will be exercised through the financial institution, are consistent with the purposes of this Act; and
- (viii) the probable adequacy and reliability of information supplied and to be supplied by the financial institution to the Corporation to enable it to carry out its functions under this Act.”.

Section 27 amended

16. Section 27 of the principal Act is amended by inserting after subsection (13) the following new subsections:

“(14) Moneys comprising the Fund may only be used for the purpose of reimbursing insured deposits and, in accordance with the rules to be prescribed, financial assistance to member institutions in financial distress.

(15) The Corporation shall only extend financial assistance to a member institution in distress against security.”

Section 28 amended

17. Section 28 of the principal Act is amended by deleting subsection (3) and substituting with the following:

“(3) The annual premium payable by each member of the Corporation under subsection (1) shall be based on a percentage of total deposits held by that member during the 12 months preceding the calendar year for which the premium is payable, on the basis of

- (a) a flat rate as may be prescribed by regulations; or
- (b) a risk adjusted rate in accordance with the rules to be prescribed by regulations.”.

Section 30 amended

18. Section 30 of the principal Act is amended in subsection (1)(a) by deleting the words “3 months” and substituting the words “30 days”.

Section 31 amended

19. Section 31 of the principal Act is amended

- (a) in subsection (1) by repealing paragraphs (b), (c), (d) and (e);
- (b) in subsection (5) by deleting the words “to a maximum of one hundred thousand dollars” and substituting the words “for no more than the coverage amount as prescribed in regulations.”;
- (c) in subsection (13) by deleting the words “ranks *pari passu* with other unsecured creditors” and substituting the words “takes the place of depositors in their order of priority of claims”.

Section 40 amended

20. Section 40 of the principal Act is amended by inserting after subsection (2) the following new subsection:

“(3) In the absence of the Chief Executive Officer, the Board may authorise one of the other Officers of the Corporation to perform the duties, functions and responsibilities of the Chief Executive Officer.”.

Section 41 amended

21. Section 41 of the principal Act is amended in subsection (1)

- (a) by deleting paragraph (a) and substituting with the following:
 - “(a) be accountable to the Board for the exercise of his or her powers and the performance of his duties and be responsible to the Board for the daily administration of the Corporation and supervision of the staff of the Corporation;
- (b) by inserting after paragraphs (d) the following new paragraphs
 - “(e) manage and direct the daily executive and administrative functions and operations of the Corporation and shall otherwise have the general powers and duties usually vested in the office of the Chief Executive Officer of a corporation; and
 - (f) be responsible for providing oversight over the direction and operations of each of the Corporation’s various offices but may from time to time, as appropriate and in accordance with applicable law, designate other officers of the Corporation to be responsible for providing such oversight with respect to one or more offices of the Corporation.”.

Section 43 amended

22. Section 43 of the principal Act is amended by inserting after subsection (1) the following new subsections:

“(1A) The Corporation shall establish and maintain such schemes or make such other arrangements as it thinks fit for the payment of pensions and other benefits in respect of its officers and employees.

(1B) The Chief Executive Officer shall, with the approval of the Board, issue the policies and conditions for the participation of officers and employees of the Corporation in the scheme or such other arrangement referred to in subsection (10).”.

Section 44A inserted

23. The principal Act is amended by inserting after section 44 the following new section:

“Claims for Indemnification

44A. (1) If a present or former member of the Board, or officer, employee or agent of the Corporation claims indemnification against costs, charges and expenses incurred in respect of an action or proceeding to which he or she is a party, the Corporation will pay the same on behalf of or reimburse the person as and when incurred, or if so requests, make one or more advances to the individual or for his or her account in order to pay such costs, charges and expenses, provided that

- (a) in the opinion of the Board, there is no substantial reason to doubt that the person is entitled to be indemnified; and
- (b) the person agrees that the Corporation shall be entitled to any costs, charges and expenses which the person recovers from any other person.

(2) The Corporation shall establish a policy setting out the circumstances under which such a person, if at all, would qualify for an advance or funding with regard to such costs, charges and expenses.”.

Schedule amended

24. The Schedule to the principal Act is amended

- (a) in paragraph 1
 - (i) by inserting after subparagraph (1) the following new subparagraph:

“(1a) pursuant to paragraph (1)(b) in appointing a nominee, the Managing Director of the Financial Services Commission shall ensure that the person to be appointed is fit and proper and complies with the same conditions as required by the other appointed directors in this Act and Regulations.”;
 - (ii) by deleting subparagraph (2) and substituting with the following:

“(2) In appointing persons under subsection (1)(c) the Minister shall ensure that persons to be appointed are fit and proper and have relevant knowledge, experience and expertise which could aid in the Corporation in the performance of its functions, including but not limited to expertise in the following areas:

- (a) banking;
- (b) commerce;
- (c) finance;
- (d) accounting;
- (e) insurance; or
- (f) law.”;

(b) in paragraph 2 by inserting after subparagraph (c) the following subparagraphs:

“(d) is an undischarged bankrupt or has compounded with his or her creditors; or

(e) has, after being previously appointed as a member of the Board been removed in accordance with paragraph 5.”;

(c) by inserting after paragraph 2 the following new paragraph:

“**2a.** (1) In relation to appointment of directors of the Board, each appointed director shall continue to serve in office after the expiration of his or her term until a successor has been appointed.

(2) A director who has been appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall serve only for the remainder of the predecessor’s term.”;

(d) by inserting after paragraph 5 the following new paragraphs:

“**Secretary to the Board**

5a. (1) There shall be appointed a Secretary to the Board.

(2) The Secretary shall perform such duties as are required of him or her under this Act or by virtue of his or her office or as may be required by the Board, and may include the duty to

- (a) prepare and maintain a full record of the proceedings of the Board;
- (b) receive, collate and disseminate all relevant papers (including minutes of meetings) for decision or consideration of the Board, to all members;
- (c) in consultation with the Chairperson, prepare an agenda of the meetings of the Board which must be disseminated along with the papers referred to under subparagraph (b);

- (d) maintain on such periodic basis as the Board determines from time to time a log of matters on which further action may be required and to follow through with the necessary action by liaising with the relevant person and to report back to the Board;
 - (e) subject to the limitations of confidentiality (and the oath of fidelity and secrecy), communicate directly, on behalf of the Board, with any person on such matter as may concern a decision or work of the Board;
 - (f) in consultation with the Chairperson, prepare and submit to the Board a draft report on the activities of the Board at the end of each quarter;
 - (g) bring to the attention of the Board any matter that requires new or further action on the part of the Board, including matters that had been previously considered by the Board; and
 - (h) perform such other duties as the Board may, from time to time, determine.”;
- (e) by deleting paragraph 6 and substituting with the following paragraph:

“Meetings of the Board

6. (1) The Board shall hold regular meetings, not less than once every 3 months, giving a 7 days’ notice to each member of the Board by the Secretary in such manner as the Chairperson may direct.

(2) Special meetings of the Board may be called by the Chairperson or, upon the written request of any 2 members of the Board, by the Secretary.

(3) The Chairperson may convene a special meeting without advanced notice if the Chairperson forms the opinion that the matter demands such a special meeting.

(4) The Board shall hold its meetings at the principal office of the Corporation in the city of Tortola, unless otherwise determined by the Chairperson.

(5) A meeting of the Board shall be conducted either by physical presence or through the use of conference-call telephone or similar communications equipment, by means of which all persons participating in any such meeting can simultaneously speak to and hear each other.

(6) Any member of the Board who participates in a meeting conducted through the use of such equipment shall be deemed present.

(7) Decisions taken by the Board of Directors at meetings shall be recorded in the minutes of the proceedings of the Board.

(8) The Board may transact business without a meeting of the members of the Board of Directors by the circulation of written items to all members of the Board for their consideration and decision.

(9) Three directors shall constitute a quorum.

(10) The decisions of the Board shall be by a majority of votes and the Chairperson (or other person presiding over the meeting) shall have both an original and a casting vote.”;

(f) by inserting after paragraph 9 the following paragraphs:

“Establishment of standing or special committees

9a. (1) The Board may establish such standing or special committees as it considers necessary or expedient for the performance of its mandate and make the appointments and determine the terms of reference and activities for the committees as the Board may, from time to time, decide.

(2) Any committee established by the Board of Directors may meet at stated times or at such times as the chairperson of the committee or the Chairperson shall direct through notice given by the Executive Director to all members of the committee who can be contacted after a reasonable effort and in sufficient time to permit their attendance.

(3) The Board of Directors may set length of term for members of Committees established by the Board.

(4) A majority of the members of a committee shall constitute a quorum for the transaction of business and in every case the affirmative vote of a majority of all of the members present at a duly convened meeting of a committee shall be necessary for any action to be taken by the committee.

(5) A committee may transact business by the circulation of written items to all members of the committee who can be contacted after a reasonable effort and in sufficient time to permit action where a majority of the members participate either by written vote or by telephone vote in the disposition of each item of business.

Appointment of agents and steps to continue essential functions

9b. (1) The Board may appoint any agent, within or outside the Virgin Islands, as it considers necessary or expedient, to perform any act on behalf of the Corporation.

(2) The Board shall take appropriate steps to ensure the Corporation’s ability to continue essential functions in the event a sudden and usually unforeseen situation poses an immediate threat to life, causes serious damage to property, or adversely affects a Corporate mission and renders the Board temporarily unable to perform its normal management functions.

Audit Committee

9c. (1) The Board shall establish an Audit Committee comprised of 3 members of the Board.

(2) The Audit Committee shall be chaired by one of its members, as chosen by the Board, and such member shall be a person with financial knowledge and expertise.

(3) A vice-chairman may be appointed to the Audit Committee, who will chair the Audit Committee in the absence of the chairman of the Audit Committee.

(4) The auditor of the Corporation shall be provided with notice of meetings of the Audit Committee at the same time and in the same manner as its members.

Rules and Policy Committee

9d. (1) In accordance with section 7(2)(b) of the Act, the Rules and Policy Committee shall determine recommendations for the Corporation to make to the Financial Services Commission for action to be taken in accordance with the Financial Services Commission Act, Revised Edition 2020, in respect of any member institution which appears to the Corporation to be in financial distress.

(2) The Rules and Policy Committee, for the purpose of the performance of the Corporations objectives and functions under this Act, shall propose to the Board policies and regulations as to the criteria, procedures and mechanisms for the Corporation to do anything and enter into any transaction which, in the opinion of the Corporation, is necessary or incidental to its functions.

(3) In particular, for the role of the Corporation as the Resolution Authority, the Rules and Policy Committee shall propose to the Board amendments or rules to be prescribed for the Corporation to carry out its functions when acting as receiver or liquidator of any member institution, or of its holding company or subsidiary which becomes insolvent.”.

Passed by the House of Assembly this 2nd day of March , 2023.

(Sgd.) Corine N. George-Massicote,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.