

**SAMOA**

## Arrangement of Provisions

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**2001, No. 3****AN ACT to amend the Financial Institutions Act 1996.***[24<sup>th</sup> January 2001]*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:-

**1. Short title and commencement-**(1) This Act may be cited as the Financial Institutions Amendment Act 2001 and is to be read together with and is deemed to be part of the Financial Institutions Act 1996 (“the principal Act”).

(2) This Act shall come into force on the day on which it is assented to by the Head of State.

**2. Definitions of financial services and Non-Bank Person or Institution-**(1) Section 2 of the principal Act is amended by inserting the following definitions:

“Financial services” means any service that consists of providing a financial product and includes but is not limited to securities, credit, credit contracts, future contracts, foreign exchange contracts, insurance, superannuation, investments, investment advice, control of investments and management of investments:

“Non-Bank Person or Institution” means any person or body (whether incorporated or unincorporated) which provides financial services to the public and which is included in the Second Schedule.

**3. Existing Financial Institutions** - Section 5 of the principal Act is amended as follows -

- (a) By adding the word “First” in subsection (1)(a) before the word “Schedule”;
- (b) By adding the word “First” in subsection (2) before the word “Schedule”.

**4. Restrictions on lending and other activities** - Section 12 of the principal Act is amended by -

- (a) Deleting from paragraph (a) of subsection (1) the words:

“...any advance, credit facility or guarantee which in total is at any time more than 25 percent of the sum of the issued capital and published reserves of the licensed financial institution unless”

- (b) Inserting after the words “...the same person...” in paragraph (a) of subsection (1) the following phrase:

“...any risk exposures which are in total at any time more than 25 percent of the total capital of the licensed financial institution as determined by the Central Bank from the prudential statements unless...”

**5. Application of Prudential Supervision to Non-Bank Persons or Institutions** - Part II of the principal Act is amended by inserting Part IIA as follows -

**PART IIA**  
**APPLICATION OF PRUDENTIAL SUPERVISION TO**  
**NON-BANK PERSONS OR INSTITUTIONS**

**30A. Extension of prudential supervision to Non-Bank Persons or Institutions-**(1) The Central Bank in accordance with this Part of the Act may extend its prudential supervision to non-bank persons or institutions as listed in the Second Schedule.

(2) Any person or institution which provides financial services to the public may by order of the Minister be added to or deleted from the Second Schedule.

(3) The Minister shall consult with the Governor of the Central Bank before making any order under this section.

(4) The prudential supervision which may be imposed by the Central Bank may include but is not limited to the measures provided in Part II of the Act.

(5) Any order made under subsection (2) shall be published in the Savali or the Gazette.

(6) For the purposes of this Part the term “licensed financial institutional” shall include Non-Bank Persons or Institutions.

**30B. Enforcement of Prudential Supervision Measures for Non-Bank Persons or Institutions-**(1) Any person who –

(a) Fails to submit or wilfully delays the submission of any required return or information requested by the Central Bank;

(b) Fails to comply with any prudential supervision measures imposed by the Central Bank in respect of that person or institution;  
commits an offence and shall be liable on conviction to a fine not exceeding 40 penalty units or to a term of imprisonment not exceeding one year or to both.

(2) Any person who –

- (a) Makes a false or misleading statement in any document required to be submitted to the Central Bank;
  - (b) Omits an entry or alters, conceals or destroys an entry in any document required to be submitted to the Central Bank;
  - (c) Wilfully obstructs any officer of the Central Bank engaged in his duties in respect of prudential supervision of the person or institution;
- commits an offence and shall be liable on conviction to a fine not exceeding 40 penalty units or to a term of imprisonment not exceeding one year or to both.

**6. Prohibition on disclosure** - Section 24 of the principal Act is amended by the addition of the following subsection:

“(2A) This section shall apply to any statement or return or information provided by a Non-Bank Person or Institution as if it was a licensed financial institution.”

**7. Schedule** - The Schedule to the principal Act is amended as follows –

- (a) By inserting the word “First” before the word Schedule;
- (b) By inserting the following schedule as follows:

Second Schedule

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