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2012, No. 12

An Act to amend the Financial Supervisory Commission Act 2003 and the Financial Transactions Reporting Act 2004.

(3 July 2012)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. **Title** – This Act is the Financial Legislation Amendment Act 2012.
2. **Commencement** – This Act comes into force on the day after the date on which it receives the Royal assent.

PART 1

FINANCIAL SUPERVISORY COMMISSION ACT 2003 AMENDED

3. **Principal Act amended** – This Part amends the Financial Supervisory Commission Act 2003.
4. **Interpretation** – Section 2 is amended by omitting the definition of “licensed financial institution” and substituting the following definition –

“licensed financial institution” means –
 (a) a licensee under the Banking Act 2011:

- (b) a trustee company under the Trustee Companies Act 1981-82;
 - (c) a licensed insurer under the Insurance Act 2008;
 - (d) a licensee under the Money-changing and Remittance Businesses Act 2009”.
5. Section 35(4) repealed – Section 35(4) is repealed.
6. Section 36 repealed – Section 36 is repealed.
7. First Schedule amended – The First Schedule is amended by –
- (a) omitting “Banking Act 2003” and substituting “Banking Act 2011”; and
 - (b) adding the following items –
 - “Part 4 of the Financial Transactions Reporting Act 2004
 - “Limited Liability Companies Act 2008
 - “Money-changing and Remittance Businesses Act 2009
 - “Digital Registers Act 2011”.

PART 2

FINANCIAL TRANSACTIONS REPORTING ACT 2004 AMENDED

8. Principal Act amended – This Part amends the Financial Transactions Reporting Act 2004.
9. New section 19A inserted – The following section is inserted after the Part 4 heading –
- “19A. Meaning of Board – In this Part, “Board” means the Board of the Financial Supervisory Commission appointed under the Financial Supervisory Commission Act 2003.”
10. New section 21 substituted – Section 21 is repealed and the following section is substituted –
- “21. Board to appoint Head – The Board must appoint the Head on the terms and conditions the Board thinks fit.”
11. New section 24 substituted – Section 24 is repealed and the following section is substituted –
- “24. Head to hold no other office – (1) The Head must not be –
- (a) a member of Parliament; or
 - (b) a person employed in the service of the Crown or of an agency of the Crown; or
 - (c) a director, officer, or employee of a reporting institution; or

- (d) a person who is in any way involved or interested in the ownership, control, or management of a reporting institution.
- (2) The Head must not hold any other office, or take on any other occupation, unless the Head has obtained the prior written approval of the Board.”
12. Removal or suspension from office – Section 25 is amended by omitting “Minister” in both places where it appears and substituting “Board” in each case.
13. New section 34A inserted – The following section is inserted after section 34
- “34A. FIU’s assets and liabilities vest in the Financial Supervisory Commission – (1) All of the assets and liabilities of the FIU are transferred to, and vest in, the Commission without further authority than this section.
- (2) The Commission has all powers necessary to take possession of, recover, and deal with the FIU’s assets and to discharge the FIU’s liabilities.
- (3) This section applies with effect from the date on which the Financial Legislation Amendment Act 2012 comes into force.
- (4) In this section, “Commission” means the Financial Supervisory Commission established by the Financial Supervisory Commission Act 2003.”
14. Act to prevail if conflict with other specified Acts – Section 36 is amended by repealing paragraph (d) and substituting the following paragraph:
- “(d) Banking Act 2011;”
15. Transitional – Section 41(2) and (3) is repealed.

This Act is administered by the Financial Supervisory Commission