

# **The Central Bank of Somalia Act Law no. 130 of 22 April 2012**

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## **Part I Preliminary**

### **1. Short Title**

This Act may be cited as the Central Bank of Somalia Act, 2011

### **2. Interpretation**

In this Act, except where the context otherwise requires:

'Bank' means the Central Bank of Somalia (or Somali name equivalent) established under Article 3;

'bank' means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, banking business licensed by the Bank within the meaning of the Financial Institutions Act, whether in Somalia or elsewhere;

'Board' means the Board of Directors of the Bank appointed under Part IV;

'Clearing' means the process of transmitting, reconciling and confirming payments prior to settlement, including the netting of payments and the establishment of net positions for settlement;

'Convertible' in relation to any exchange, means exchange which is freely negotiable and transferable in international exchange markets;

'Currency' means the currency of Somalia or foreign currency;

'Currency of Somalia' means the Somali Shilling;

'financial institution' means a body corporate or other body of persons carrying on, whether on their own behalf or as agent for another, financial business, including the remittance of cash, licensed by the Bank within the meaning of the Financial Institutions Act, whether in Somalia or elsewhere;

'foreign currency' means bank notes or coins which are or have at any time been legal tender in any territory outside Somalia and any right to receive or make payment of such bank notes or coins in respect of any credit or balance at a bank either within or outside Somalia;

'Minister' means the Minister of Finance;

'non-resident' means a person or body of person other than a resident;

'Payment' means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank or financial institution which can be drawn upon;

'Payment for currency transaction' means a payment other than a payment for transferring capital and includes:

- a payment due in connection with trade;
- a payment due as interest on a loan or as net income from other investments;
- a payment for amortization of a loan or for depreciation of direct
- a remittance for family living expenses;

'Payment system' means system of instruments, procedures and rules for the transfer of funds among system participants;

'President' means the president of Somalia;

'Public entity' means the Government, a local Somali authority, or public body specified by the Minister, on the recommendation of Bank, as a public entity for the purposes of this Act;

'Resident' means:

- an individual who has been present in Somalia continuously for a period of at least one year or who has declared his intention to the immigration authorities to reside in Somalia for a period of at least a year in Somalia;;
- the Government of Somalia or any accredited official of its diplomatic missions residing outside Somalia;
- a company or other body of persons whose principal place of body is located in Somalia;
- branches of a company or other body of persons carrying on business in Somalia whose principal place of business is located outside Somalia but excludes any foreign diplomatic mission or any of its accredited officials or any organization established in or outside Somalia by international treaty or any of its accredited officials; and

'Settlement' means an act that discharges financial obligations between two or more parties.

## **Part II Establishment, Constitution and Objectives**

### **3. Establishment of the Bank, Legal Status and Autonomy**

1. The Bank shall be known as the Central Bank of Somalia and shall also be known by its alternative corporate name of Bankiga Dhexe ee Somalia.
2. The Bank shall be a body corporate with legal entity, with perpetual succession and common seal, with power to acquire, own, possess and dispose of common seal, and of property, and to contract, to sue and to be sued in its own name.
3. The Bank shall exercise any type of central banking function unless specifically excluded under this Act, and shall enjoy all the prerogatives of a central bank.
4. The Bank shall make its own rules of conduct or procedure not inconsistent with the provisions of this Act, for the good order and proper management of the Bank.
5. The Bank shall not be subject to the Companies Act or to regulations of banks stipulated in the Banking Act.

6. In the pursuit of its objectives and the performance of its functions, the Bank shall be autonomous and accountable as provided for in this Act. Except as otherwise specified in this Act, the Bank, and the members of the Board or the staff, shall not take instructions from any other person or entity, including Government entities. The autonomy of the Bank shall be respected at all times and no person or entity shall seek to influence the members of the decision-making bodies or the staff of the Bank in the performance of their functions or to interfere in the activities of the Bank.

#### **4. Objectives of the Bank**

1. The primary objective of the Bank shall be to achieve and to maintain domestic price stability.
2. The other objective of the Bank, which shall be subordinated to the primary objective of the Bank, shall be to foster and maintain a stable and competitive market-based financial system.
3. Without prejudice to these two objectives, the Bank shall support the general economic policies of the Government.

#### **5. Functions of the Bank**

The Bank shall:

- a) formulate implement and be responsible for monetary policy and implement the foreign exchange policy;
- b) hold and manage the foreign exchange reserves of Somalia;
- c) license, regulate and supervise all banks and financial institutions so as to foster the liquidity, solvency and proper functioning of a stable financial system;
- d) formulate and implement such policies as to best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems;
- e) where appropriate, administer payment, clearing and settlement systems;
- f) act as banker and adviser to, and as fiscal agent for the Government and public entities;
- g) act as sole issuer of legal tender Somali currency notes and coins; and

- h) Shall compile, analyze, and publish the monetary, financial balance of payments statistics and other statistics covering various sectors of the national economy.

## **6. Head Office and Branches**

1. The Bank shall have its head office in Mogadishu but during a time of national emergency the Bank may, unless the President directs otherwise, establish its head office temporarily or permanently in any other place within Somalia or elsewhere.
2. The Bank may, with due consideration of the need to set up an organization at all times adapted to conduct its functions efficiently, establish or close branches in any place within Somalia.

## **7. Agents**

The Board may appoint or cancel the appointment of the agents or correspondents either within or outside of the republic.

## **8. Exemption from Taxation**

1. The Bank shall be exempt from all taxes on its income and all duties, excise and other taxes and levies on the import and domestic supply of gold, banknotes and coins.
2. The Bank shall be exempt from all other taxes duties and levies from which Government ministries and other public agencies are exempted by law.

## **Part III Capital**

### **9. Authorized Capital of the Bank**

1. The authorized capital of the Bank fully subscribed and paid-up, shall be an amount equivalent to [X] Somali Shillings.
2. The ownership of the entire paid up capital of the Bank shall be vested in the Ministry of Finance.
3. The paid up capital of the Bank shall not be reduced at any time. The authorized capital of the Bank may be increased by such amounts as may be proposed by the Board and approved by the Ministry of Finance.

## **Part IV Management**

## **10. Board of Directors**

The Board shall be charged with the formulation and the supervision of the implementation of the policies, and the supervision of the administration and the operations of the Bank.

## **11. Composition of the Board of Directors**

1. The Board shall consist of:
  - a) the Governor, who shall be the Chairman;
  - b) The Deputy Governor, who shall be the chairmen of the Board when the Governor is absent; and
  - c) Five other non-executive directors.

## **12. Appointment of Members of the Board of Directors**

1. A person shall be eligible to be appointed member of the Board if the candidate is a person of highest recognized integrity and:

- a) is a citizen of Somalia;
- b) holds a university degree or has otherwise acquired equivalent knowledge or experience in monetary, financial, banking, accounting, legal or economic matters or other disciplines relevant to the functions of the Bank; and
- c) For whom no ground for disqualification according to Article 14 exists.

2. No person shall qualify to be appointed as a Governor or a Deputy Governor unless he or she:

- a) Holds a university degree in monetary, financial, banking, accounting, legal or economic matters;
- b) has not less than 12 years experience in the fields of economics, banking, finance or law; and
- c) Has been in a senior managerial position in Government, private institution or international organization.

2. The Governor, the Deputy Governor and the directors shall be appointed by the President, upon the proposal of the Council of Ministers, and shall hold office for terms **of Four** years each but shall be elected for reappointment, provided that no Governor, Deputy Governor or director shall hold office for more than two terms.

3. A member of the Board may resign his office in writing addressed to the President which resignation shall take effect one month from the date of receipt of the letter of resignation by the President.
4. If the Governor, a Deputy Governor or a director dies, resigns, or otherwise vacates office before the expiry of his term of office, the President, upon the proposal of the Council of Ministers, shall appoint another person to serve during the remaining time of office in his place.
5. Where the Governor, a Deputy Governor or a director is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President, upon the majority recommendation by the Board and upon the proposal of the Council of Ministers, may appoint a substitute for that member of the Board to act with the full power of the member until such time as the President determines that his incapacity has ceased.

### **13. Governor and Deputy Governor**

1. The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, and the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.
2. The Governor shall be the principal representative of the Bank and shall, in that capacity, have authority:
  - a) to represent the Bank in its relations with other public entities, persons or bodies;
  - b) to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;
  - c) to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank, reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.
3. The affixing of the common seal of the Bank shall be authorized by the signature of the Governor and of some other person or persons authorized by the Governor in that behalf.
4. The Governor may, under the common seal of the Bank, empower any person to execute or authenticate on behalf of the Bank any documents on its behalf.
5. The Deputy Governor, in the order determined by the Governor, shall act for the Governor, shall exercise all the powers, and shall perform all the functions conferred on the Governor under this Act whenever the Governor is temporarily

absent or incapacitated, and shall perform such other functions as the Governor may from time to time assign to him.

6. A) The Governor and the Deputy Governor shall perform their duties on a full-time basis. None of these member shall engage in any occupation, whether gainful or not, unless exemption is exceptionally granted by the Board.
  - b) Provided that nothing in the above paragraph a) shall prevent the Governor or a Deputy Governor from accepting or holding any academic office or position in an institution of higher learning or any advisory position or membership in any committee or commission with public responsibility, or from serving in any international financial institution of which Somalia is a member or with which Somalia is associated, or any specialized financial institution established by the Government.
7. The Governor may delegate any of his powers provided for in this Article to other officers of the Bank or, where Paragraph 2 b) applies, to a counsel not employed by the Bank.

#### **14. Disqualifications for Board Members**

1. No person shall serve on the Board while he or she is a member of the Parliament, the Government, an official of a Government ministry, or an official or employee of a bank or financial institution operating through offices in Somalia or is a beneficial owner of five percent or more of an equity interest in a bank or financial institution.
2. The President shall, upon a recommendation by a majority of the members of the Board, terminate the appointment of the Governor, a Deputy Governor or a director on grounds specified in this Article who:
  - Becomes subject to any of the disqualifications described in Paragraph 1;
  - is adjudged bankrupt or insolvent, applies for any benefit under the law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes any assignment in whole or in part of his income from the Bank for the benefit of such creditors;
  - Is convicted of an offence involving dishonesty or fraud or moral turpitude;
  - Is adjudged or otherwise declared to be of unsound mind; is absent, without leave of the Board, from three consecutive meetings of the Board; or
  - a) Becomes, for any reason, incapable or incompetent of properly performing the functions of his office.
3. No member of the Board may be removed unless on grounds provided for in this Act and where a Board member is removed under this Article, the reasons for the removal shall be published in the Official Bulletin and published to the general public.

4. A member of the Board removed from office shall have a right of appeal to the Supreme Court within 15 calendar days of the date of the decision, which shall be published to the general public.

## **15. Powers and Functions of the Board**

The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board, or to any member thereof, or to any officer, employee or agent of the Bank the exercise of any powers or the performance of any functions or duties of the Board under this Act or any other written law, except for the following:

formulate and adopt the monetary policy of the Bank including, as appropriate, decisions relating to intermediate monetary objectives, key interest rates and the supply of reserves in Somalia and to adopt internal rules for their implementation;

- a) formulate and adopt other policies of the Bank regarding the execution of its functions, and to adopt, as appropriate, internal rules for their implementation;
- b) decide upon the application of the foreign exchange regime;
- c) supervise the implementation of the policies and the execution of the functions of the Bank;
- e) License and revoke licenses for banks and financial institutions;
- f) Adopt the regulations issued by the Bank;
  - g) Adopt majority recommendations, under Articles 12.6 and 14.2;
  - h) Determine the establishment and location of branches, representative offices, and operations facilities;
  - I) propose increase in capital;
    - j) Approve the annual budget of the Bank;
    - k) Approve the annual report, monetary policy statement and other formal reports and financial statements of the Bank;
    - l) Appoint the Chief Internal Auditor and the External Auditors of the Bank;
  - m) Determine the categories of assets that shall constitute the official foreign reserves of Somalia;
    - n) Determine the categories of assets that shall be suitable for investment of the Bank's financial resources;
  - o) approve, deny or revoke the issuance of licenses for clearing, payment and securities settlement systems;

- p) Determine denominations and design of banknotes, coins and their issuance and handling's)
- s) Assess risks and formulate contingency plans for the ongoing operations and security of the Bank; and
- r) Adopt the rules of procedure of the Board.

## **16. Remuneration**

1. The remuneration received by the Governor and the Deputy Governor shall be in line with that received by persons holding similar executive positions with large financial institutions and be disclosed in the annual report.
2. The Governor, the Deputy Governor, and any substitute thereof appointed under Article 13.6, shall be paid by the Bank such salaries and allowances as may be determined from time to time by the President, upon the recommendation of the Council of Ministers, and those salaries and allowances shall not be altered to the detriment of any person during his office.
3. The directors and any substitute appointed under Article 12.6 shall be paid by the Bank such allowances as may be determined by the President.

## **17. Meetings of the Board**

1. The Governor, as Chairman of the Board of the Bank, shall convene meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever he is so requested in writing by at least three directors.
2. A quorum for any meeting of the Board shall be the Governor or one of the Deputy Governor and three directors.
3. Decisions of the Board shall be adopted by a majority of the votes of those present at that meeting and in case of an equality of votes the Chairman or Deputy Chairman, presiding at the meeting shall have a second or casting vote.
4. Any minority voting member shall make a reservation, to be recorded in the minutes of the meeting, where that member shall specify which other decision he or she would have favored to adopt and the reasons for his or her position as formulated by that member.
5. The proceedings of the meetings of the Board shall be confidential. The Board may decide to make the outcome of its deliberations on any matter public. It shall publish promptly its decisions on the formulation of monetary policy or on other general policy matters.
6. The minutes of each Board meeting shall be signed by the person chairing the meeting and the Secretary of the Board.

7. The Secretary of the Board shall be appointed by the Board on proposal of the Governor, from among the senior staff of the Bank; she or he shall not be a member of the Board.
8. The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board, or by any defect in the appointment or disqualification of any member, which is discovered subsequent to those proceedings.
9. Any Board member who is interested in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at every meeting of the Board at which that matter or the exercise or proposed exercise of the power, is considered by the Board, and that Board member shall not be entitled to attend and vote, or be counted in a quorum present, at a meeting at which the matter or the exercise or the proposed exercise of the power in which the director has interest is considered.

## **18. Preservation of Secrecy**

1. Except for the purpose of the performance of his duties or the exercise of his powers, the Governor, any Deputy Governor, any director or any other officer or employee of the Bank shall not disclose, neither during nor after the termination of his employment with the Bank, any information which he has acquired in the performance of his duties or the exercise of his powers.
2. Any person who contravenes Paragraph 1 shall be guilty of an offence and shall be punishable under the relevant provisions of the Penal Code, in addition to any disciplinary action which may be taken by the Board.

## **Part V Currency**

### **19. Currency of Somalia**

The unit of currency of Somalia shall be the Somali Shilling.

### **20. Use of the Currency**

All monetary obligations or transactions entered into or made in Somalia shall be deemed to be expressed and recorded, and shall be settled, in the currency determined under Article 19 unless otherwise provided for by law or agreed upon by the parties.

### **21. Issue of Notes and Coins, Legal Tender and Withdrawal**

1. The Bank shall have the sole right to issue notes and coins in Somalia and only those notes and coins shall be legal tender in Somalia.

2. The Bank shall have the sole power to:
  - a) determine the currency denominations which in aggregate can be accepted as legal tender;
  - b) determine the denomination, inscriptions, forms, material and other characteristics of the notes and coins issued by the Bank, in consultation with the Minister of Finance, and shall notify such in the Official Bulletin and in other media of public information likely to bring them to the attention of the public; and
  - c) Withdraw any notes or coins issued by the Bank, and to determine the procedures for and effect of withdrawal. Such procedures and effects shall be published in the Official Bulletin and in such other manner, as the Bank considers likely to bring that notice to the attention of the public.

## **22. Exchange of Mutilated Notes and Coins**

The Bank shall by regulation, which shall be published, prescribe and specify certain requirements upon the fulfillment of which it shall exchange banknotes or coins if their designs are illegible, misshaped or perforated or if more than forty percent of their surface has been lost.

## **23. Bills of Exchange, Promissory Notes and Similar Instruments**

1. The Bank may, by regulations published in the Official Bulletin, prohibit the issue by any person other than the Bank of any bill of exchange, promissory note or similar instrument for the payment of money to the bearer on demand, and any such regulations may make different provision for different cases or classes of case and may impose penalties for any offence under the regulations of a fine or imprisonment to be determined by the Bank.
2. Subject to any regulations made under this Article the issue of any bill, note or instrument referred to in Paragraph 1 shall not be deemed to contravene the sole right of the Bank to issue notes in Somalia.

## **Part VI Relations with Parliament, Government and Public Entities**

### **24. Parliament**

The Governor shall, at the request of Parliament or any of its committees or on his own initiative, periodically be heard by Parliament or its committees, concerning the Bank's monetary policy, financial system issues, the management of the Bank and the state of the economy.

## **25. Meetings between the Governor and the Minister**

The Governor and the Minister shall hold regular meetings on monetary and fiscal policies and other matters of common interest. The Governor and the Minister shall endeavor to reach agreement and shall keep one another fully informed of all matters that affect the Bank and the Ministry jointly.

## **26. Adviser to the Government**

1. The Minister shall consult with the Bank and seek its advice on draft Government budget proposals and any other draft legislation that may effect the Bank's primary monetary objective or otherwise effect the Bank's ability to properly pursue its objectives or its functions, and the Bank shall give its advice accordingly.
2. The Bank shall advise the Government when, in the Bank's opinion, any matter relating to its functions, powers, and duties is likely to affect the fiscal policy or the achievement of the principal objectives of the Bank. The Bank may tender advice to the Minister on any other matter in which the Bank considers it is concerned.

## **27. Directive by the Government**

1. Where in exceptional circumstances and after consultation with the Bank, the Minister may, in case he is of the opinion that such is necessary for the coordination of monetary and fiscal policies, submit a recommendation to the Prime Minister. A copy of such recommendation is send to the Bank.
2. The Bank shall, if it has any objections to the recommendation as referred to in Paragraph 1 submit in writing said objections to the Prime Minister within seven calendar days of receiving the recommendation.
3. The Prime Minister shall thereupon by directive determine the policy to be adopted by the Bank during the next six months.
4. The Prime Minister shall inform the Bank in writing of the policy so determined and that the Government accepts responsibility for the adoption of such policy.
5. The Bank shall thereupon give effect to such policy while the directive remains in operation.
6. The Prime Minister shall publish to the general public and in the Official Bulletin and cause to be laid before the Parliament, within 30 calendar days after the Prime Minister has informed the Bank of the policy determined:
  - the directive of the Prime Minister as referred to in Paragraph 3;
  - the recommendation the Minister submitted to the Prime Minister as referred to in Paragraph 1; and
  - The statement of the Bank as referred to in Paragraph 2.

## **28. Prohibition on Lending to Government and Public Entities**

1. The Bank shall not grant any direct or indirect credits to the Government or to any other public agency or State-owned entity except and exclusively as provided for in this Article and in Article 29.
2. The provisions of the previous paragraph shall not apply to publicly-owned banks and other supervised publicly-owned entities, which shall be given the same treatment as privately-owned banks and other supervised privately-owned entities.
3. The Bank may purchase Government securities provided that such purchases are only made in the secondary market.

## **29. Temporary Direct Advances to the Government**

Notwithstanding the prescribed prohibition in Article 28, the Bank may make direct advances to the Government for offsetting fluctuations between receipts from the budget revenue and payments of the Government provided each advance made to the Government under this article shall:

Be secured with negotiable instruments issued by the Government which mature not later than twelve months;

Bear interest at market interest rates determined by the Bank;

Be made solely for providing temporary accommodation to the Government; provided the total amount outstanding at any time of advances made under this article shall not exceed 15 %, of the gross recurrent revenue of the Government as shown in the Government's accounts for the latest year for which those accounts have been audited by the Controller and Auditor General; any advance made by the Bank to the Government, which is outstanding at the commencement of this article, shall be deemed to be a loan granted by the Bank to the Government on such terms and conditions as may be determined by the Bank; any advance should be secured with such Government securities as the Bank may specify; and

- a) for the purposes of Paragraph d), the recurrent revenue of the Government shall include revenue from taxes, customs, excise and other duties, fees, rents, profits and income from any investment or undertaking, but shall not include proceeds from grants, or loans, or disposal of assets for purposes of privatization or any form of borrowing whether short term or long term.

## **30. Fiscal Agent, Banker and Foreign Exchange Dealer**

1. While strictly observing the prohibitions on lending to the Government and public entities in this Act, the Bank shall be the sole fiscal agent, banker and foreign exchange dealer for the Government and may have such functions as fiscal agent and foreign exchange dealer also for specified public entities.
2. The Bank may perform the functions of fiscal agent for any other public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the public entity concerned.
3. Notwithstanding Paragraphs 1 and 2 above, the Minister may authorize specified public entities and organs of the Government to establish commercial relations and conduct specified financial transactions with commercial banks.

### **31. Functions as Fiscal Agent, Banker and Foreign Exchange Dealer**

1. As the sole fiscal agent, banker and foreign exchange dealer for the Government and, if the Bank has assumed functions as fiscal agent and foreign exchange dealer to public entities, according to Paragraphs 30.1 or 2, the Bank may:

Be the official depository of the public entity concerned and accept deposits and effect payments for the account of that public entity;

- a) select any bank to act in its name and for its account as the official depository of that public entity in places where the Bank has no office or branch;
- b) maintain and operate special official accounts in accordance with arrangements made between the Bank and the public entity concerned;

as an agent of Government, administer the public debt including the issuance of, payment of interest on, and redemption of, bonds and other securities of the Government;

Pay, remit, collect, or accept for deposit or custody funds in Somalia or abroad; purchase, sell, transfer or accept for custody cheques, bills of exchange and securities; collect the proceeds, whether principal or interest, resulting from the sale for, or accruing to the interest of, a public entity of securities or other property; and

- c) Purchase, sell, transfer, or accept for custody gold or foreign exchange.

2. The Bank shall be consulted on the appropriate terms and conditions before the State enters into any credit arrangement or debt obligation in foreign currency exceeding the equivalent of [-----] Somali Shillings, or issues bonds in any amount denominated in Somali Shillings. The council of Ministers shall Decree the amount at the appropriate period.

### **Part VII External Relations**

### **32. Foreign Exchange Regime and Reserve of External Assets**

1. The Government shall decide on the system (floating, fixed or any variation thereof) which shall apply for establishing the value of the Somali shilling in relation to foreign currencies (the foreign exchange regime).
2. The Bank may request the Government to make a decision on the foreign exchange regime. Such a request shall be swiftly dealt with by the Government.
3. The Government shall consult the Bank before making decisions on the foreign exchange regime.
4. The Bank shall decide on the application on the foreign exchange regime decided upon by the Government. If the Government has decided on a fixed foreign exchange regime, or a variation thereof, in relation to one or several foreign currencies, the Bank shall decide the rates to be applied in that system which it considers strictly compatible with its primary monetary policy objective to maintain domestic price stability.

The Bank shall at all times use its best endeavors to maintain a reserve of external assets at a level adequate for the external transactions of Somalia and the Bank's objectives as defined in this law; the reserve shall consist of any or all of the following: special drawing rights held in the account of Somalia in the International Monetary Fund;

The reserve position of Somalia in the International Monetary Fund;

Gold held by or for the account of the Bank, including credit balances on account representing such gold;

Banknotes and coins denominated in freely convertible foreign currencies held by or for the account of the Bank;

- a) credit balances and interbank deposits that are payable on demand or within a short term denominated in freely convertible foreign currency and are held in the accounts of the Bank, on the books of foreign central banks, or international financial institutions;

readily-marketable debt securities denominated in freely convertible foreign currencies issued by, or bearing the full faith and credit of, foreign governments, foreign central banks or international financial institutions; and

- b) Claims on international financial institutions resulting from repurchase, sell and buy back and securities lending agreements in the foresaid debt securities.

### **33. Dealing in Gold and Foreign Exchange**

The Bank may, at market rates, buy, sell, import, export, hold or otherwise deal in gold or convertible foreign exchange under such other terms and conditions as it shall determine.

### **34. Relations with Foreign Central Banks, Foreign Banks and International Financial Institutions**

The Bank may open accounts for and accept deposits from, collect money and other monetary claims for and on account of foreign central banks, foreign banks, and international financial institutions and may generally act as banker to those banks or institutions.

### **35. Payments Agreements**

The Bank shall be consulted by the Government in negotiating any payments agreement to be entered by Somalia. The Bank may be charged by the Government with administering any such payments agreement.

### **36. Fiscal Agent with International Financial Institutions**

The Bank shall be the fiscal agent for all of the Government's transactions with international financial institutions of which a member or with which Somalia is associated.

### **37. Depository**

The Bank shall act as a depository for currency holdings owned by international financial institutions Somalia is a member or with which Somalia is associated.

## **Part VIII Relations with Banks and Financial Institutions**

### **38. Supervisor of and Banker to Banks and Supervisor of and Provider of Certain Banking Services to Financial Institutions**

1. The Bank shall be exclusively responsible for the regulation, licensing, registration and supervision, including the imposition of remedial measures and administrative sanctions of banks and financial institutions.
2. The Bank may open accounts for and accept deposits from, and collect monetary claims for and on account of banks.
3. The Bank may open accounts for and accept deposits from and collect monetary claims for and on account of licensed and supervised financial institutions. The Bank may provide any additional services or facilities it considers desirable, except extending credits, advances or loans, including facilities for clearing financial instruments to such financial institutions.

### **39. Loans to Banks**

1. The Bank may grant loans or advances for fixed periods not exceeding six months to banks, which pledge treasury bills or other government securities specified by the Bank.
2. Except as provided in this Article and in Article 40 the Bank shall not extend credit directly or indirectly to banks.
3. The Bank may determine the general terms and conditions under which it extends credit to banks, and in particular, the Bank shall determine and announce the rates of interest it shall charge for granting loans or advances to banks in accordance with this Article and may determine different rates for different classes of transactions or maturities.

#### **40. Lender of Last Resort to Banks**

1. In exceptional circumstances, the Bank may, on such terms and conditions as it determines, act as lender of last resort for a bank. Such support may be provided by granting financial assistance to the bank, or for the bank's benefit, for periods not exceeding 90 calendar days that may be renewed by the Bank on the basis of a program specifying the measures that the bank concerned will be taking, provided, however, that no such commitment shall be made by the Bank unless:
  - a) the bank, in the opinion of the Bank, is solvent and provides adequate collateral, and the request for financial assistance is based on the need to improve liquidity;  
or
  - b) Such assistance is necessary to preserve the stability of the financial system and the Minister of Finance has issued to the Bank a guarantee in writing on behalf of the Government securing the repayment of the loan.
2. If the Bank discovers that the concerned bank was unable to carry out the approved program as mentioned in Paragraph 1 the Bank shall take appropriate measures. In all cases the total period of the loans and facilities granted shall not exceed 180 calendar days.

#### **41. Reserve Requirements**

1. The Bank may, in pursuance of its objectives of monetary policy, from time to time require banks to maintain minimum cash balances on deposit with the Bank as reserves against their deposit and other liabilities.
2. The Bank may specify ratios for different types of liabilities and may further specify the method of computing the amount of the total liabilities of a bank but the ratios specified shall be the same for all banks. Provided that nothing in this Sub-Article shall be construed to prevent the Bank from allowing a bank or group of banks upon

which the provisions of sub-article 1 are applied for the first time, a period within which to comply with the cash reserve ratio requirements as may be prescribed by the Bank.

3. Any specification of, or increase in the minimum reserve requirements under Paragraph 1 or Paragraph 2 shall take effect only after the expiration of thirty days' notice to the bank of the Bank's intention to take action.
4. The Bank may impose on any bank, which fails to maintain the sufficient minimum cash balances required under this Article, a penalty interest charge not exceeding a level equivalent to the prevailing yearly inflation rate, determined by the Bank, per day on the amount of the deficiency for each day during which the deficiency continues.
5. The Bank may pay, if it deems this compatible with its monetary policy objectives, interest at such rates and subject to such qualifications as it may determine on minimum cash balances deposited with the Bank under this Article.

## **42. Open Market Operations**

For the purposes of regulating the money supply, the Bank may, on terms and conditions specified by the Board, while observing the restriction in Article 28, purchase, hold or sell negotiable securities of any maturity issued by the Government, or other negotiable securities specified by the Bank.

## **Part IX Information and Statistics**

### **43. Information by Banks and Financial Institutions**

1. Banks and financial institutions shall furnish to the Bank, at such time and in such manner as the Bank may prescribe any information and data the Bank may reasonably require for the proper discharge of its functions under this Act and the Financial Institutions Act.
2. The Bank may publish in whole or in part, at such times and in such manner as it may decide, any information or data furnished under Paragraph 1 provided no such information shall be published that would disclose the financial affairs of any person or undertaking unless the prior consent in writing of that person or undertaking has first been obtained by the Bank.

### **44. Statistics and Information from Natural and Legal Persons**

1. The Bank shall:

Collect, compile, analyze, abstract and publish statistics and information relevant to the carrying out of its functions; and

a) Define, by regulations, the statistical information so required and the form in which such information is to be provided to the Bank, the natural and legal persons subject to reporting requirements, the applicable confidentiality regime and the administrative penalties that may be imposed on entities operating in breach of these statistical requirements.

2. The institutions that fall under scope of the statistical requirements, as defined in the regulations mentioned in Paragraph 1. b) Are required to furnish the Bank the requested information within the time required by the Bank.

3. The Bank shall disclose:

a) information and statistics, subject to the regulation on confidentiality as mentioned in Paragraph 1.b);

b) the documentation on the methodology applied to its compilation; and

c) Relevant statistical data and concepts that will allow making external verification of the statistics produced by the Bank.

## **Part X Clearing, Payment and Securities Settlement Systems**

### **45. Facilities, Licensing and Oversight**

1. The Bank may provide facilities to ensure sound and efficient clearing, payment and securities settlement systems. The Bank is authorized to organize, participate in and operate clearing, payment and securities settlement systems.

2. The Bank shall be exclusively responsible for the regulation, licensing and oversight, including the imposition of remedial measures and administrative sanctions, of clearing, payment and securities settlement systems.

3. The Bank may by regulations:

a) require the licensing of any clearing, payment and securities settlement system or clearing, payment and securities settlement system operator;

b) require any clearing, payment and securities settlement system or clearing, payment and securities settlement system operator to observe such safe and sound conditions and requirements as may be established by the Bank; and

c) Regulate and supervise the issuance and quality of payment instruments.

## **Part XI Financial Provisions**

### **46. Financial Year**

The financial year of the Bank shall be the same as the Government's financial year and the accounts of the Bank shall be closed at the end of each financial year.

### **47. Annual Report and Monthly Pro Forma Balance Sheets**

1. The Bank shall prepare an annual report for its financial year.
2. Within three months after the close of each of its financial years, the Bank shall submit to the Minister and shall transmit copies to the Parliament, the President and the Prime Minister an annual report for the preceding financial year which shall consist of:
  - a) Financial statements, approved by the Board, signed by the Governor and certified by the external auditors;
  - b) a report, approved by the Board, of its operations and affairs during the financial year that just ended, in particular in relation to its policy objectives and the events that affected the economy of Somalia; and
  - b) A report, approved by the Board, on the state of the economy during the financial year that just ended, including an outlook for the economy for the coming year, with emphasis on its policy objectives and the condition of the financial system of Somalia. The report should also include a review and assessment of the Bank's policies followed last financial year and a description and explanation of the Bank's policies to be followed during the next financial year.
3. Upon their completion, the Bank shall publish the financial statements referred to in Paragraph 2.a) in the Official Bulletin and on its website. The reports referred to in Paragraphs 2.b) and c) shall be published.
4. The Bank shall, within ten working days after the end of each calendar month, prepare and publish a pro forma balance sheet as of the end of that month. Copies of such balance sheets shall be transmitted to the Minister and published in the Official Bulletin and on its website.

### **48. Accounts, Audit and Budget**

1. The Bank shall maintain accounts and records in accordance with the International Financial Reporting Standards, or other subsequent internationally widely accepted accounting standards for central banks and other international major financial institutions, to reflect its operations and financial condition.

2. The Chief Internal Auditor, appointed by the Board, shall have the necessary education and experience to ensure the proper implementation of the International Financial Reporting Standards, or any subsequent international accounting standards, and shall, directed by the Governor, supervise and report to the Governor the implementation of the decisions by the Board and make any other verification as directed by the Governor.
3. The External Auditors, appointed by the Board upon the approval of the Minister, shall be experienced in the audit of major international banks or other major international financial institutions in accordance with the International Financial Reporting Standards or any subsequent international accounting standards. No external auditor shall be appointed consecutively for a cumulative period exceeding three years.
4. The Bank shall prepare its annual budget, which shall be approved by the Board, prior to the commencement of each financial year. The approved budget shall be communicated to the Minister for his information.
5. All projected revenue and income generated by the Bank or granted to the Bank from any source together with projected expenditure, including depreciation and provisions, shall be reported in the annual budget.

#### **49. General Reserve and Unrealized Revaluation Reserve Accounts**

1. The Bank shall establish and maintain a general reserve account. The general reserve account may not be used except for the purposes of covering losses sustained by the Bank.
2. The Bank shall establish unrealized revaluation reserve accounts for positions with foreign currencies, gold, financial instruments, and other assets.

#### **50. Distributable Earnings**

1. The net profits or losses of the Bank shall be determined in conformity with the International Financial Reporting Standards or any subsequent internationally widely accepted standards for central banks and international major financial institutions.

The distributable earnings for distribution shall be determined as follows: by deducting from the net profits the total amount of unrealized revaluation gains, and by allocating an equivalent amount to the respective unrealized revaluation reserve accounts; and

- a) By deducting from the unrealized revaluation reserve accounts and adding to the distributable earnings the amount of any unrealized profit that was deducted from the net profits for one or more previous years and was realized during the current financial year.

2. Unrealized revaluation losses will be transferred to the respective unrealized revaluation reserve accounts until such time as these revaluation reserve accounts has a zero balance, after which these losses shall be covered by the current year's profit, then by the general reserve account and subsequently by capital.
3. Within six months after the end of the financial year, the Board shall allocate the distributable earnings as follows:
  - a) an amount equivalent to [at least 50] percent of distributable earnings shall be credited to the general reserve account until the authorized capital and general reserves equal [10] percent of the total financial assets of the Bank; and
  - b) Any remaining distributable earnings shall be transferred to the Government as revenue for the general budget of the State.
5. No distribution shall be made out of retained or current income of the Bank except as permitted by Paragraph 4.
6. If in any financial year the Bank incurs negative distributable earnings, these earnings shall first be charged to the general reserve account, and subsequently applied to capital.

## **51. Shortfall in Capital**

In the event that in the audited annual financial statements of the Bank, the value of its assets falls below the sum of its liabilities, its unimpaired authorized capital and general reserves, then:

- a) the Board, with the advice of the external auditors of the Bank, shall assess the situation and prepare a report on the causes and extent of the shortfall and assess the situation within a period of no more than 30 calendar days; in the event that the Board approves the above mentioned report, the Bank shall request the Minister for a capital contribution by the State to remedy the deficit; and Upon receipt of this request the Ministry shall, within a period of no more than 30 calendar days, transfer to the Bank the necessary amount in currency or in negotiable debt instruments with a specified maturity issued at market-related interest rates prevailing.

## **Part XII Regulatory Provisions**

### **52. Regulatory Instruments**

1. The Bank shall have the power to issue regulations necessary for carrying out the functions entrusted to the Bank under this Act or any other Law.
2. All regulatory decisions that apply to more than one institution shall be issued by way of instructions.
3. The Bank may issue orders that shall be binding on a single party.

4. Instructions and orders issued by the Bank shall be binding on the parties to which they are addressed.

### **53. Publication of Regulations**

1. Instructions issued by the Bank shall be published in the Official Bulletin and shall take effect on the date of such publication or on such later date as such regulatory instruments shall specify.
2. The Bank may decide on the publication of orders.
3. The Bank shall maintain a public register of such instructions and published orders.

## **Part XIII Monetary Policy Statements and Other Reports**

### **54. Monetary Policy Statements**

The Bank shall at intervals of not more than six months publish and make available to the general public a monetary policy statement for the next twelve months which shall:

- a) Specify the policies and the means by which the Bank intends to achieve the policy targets;
- b) State the reasons for adopting such policies and procedures; and
- c) Contain a review and assessment of the progress of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates.

### **55. Other publications**

1. The Bank shall at a minimum twice a year and when necessary inform the Parliament and the general public of its monetary policy, the achievement of its objectives and its vision on the real variables of the economy.
1. The Bank may publish reports and studies on financial and economic matters as it deems appropriate.

## **Part XIV Miscellaneous Provisions**

### **56. Additional Prohibited Operations**

In addition to the prohibited operations stated in this Act, the Bank shall not:

- a) Engage in trade, or own or acquire any direct interest in any commercial, agricultural, industrial or similar undertaking, except in the course of obtaining

satisfaction for any debt due to the Bank, and any such interest shall be disposed of at the earliest suitable opportunity;

b) The Bank is authorized to lease its immovable properties if it deems it necessary and above the immediate needs of its business and staff requirements.

c) The Bank is further authorized to rent premises in Somalia & abroad where it has no property for conducting its business.

d) Draw or accept bills payable otherwise than on demand; or

e) Guarantee any loan, advance or investment.

## **57. Protection from Personal Liability**

No act or thing done by any officer of the Bank or any person acting under the direction of the Bank shall, if the act or thing was done bona fide for carrying out the duties of the Bank, subject such officer or person to any liability, action, claim, or demand whatsoever.

## **58. Abrogation**

Any law or law provision, that is contrary or inconsistent with this Act, is hereby abrogated as far as it applies to the Bank.

## **Part XV Transitory Provisions**

### **59. Initial Appointments of the Members of the Board**

1. On the date this Act takes effect, all members of the Board shall be appointed in accordance with Article 13, except for the initial terms of office which shall be:

For the Governor, Four years;

For the Deputy Governor, four years; and

For the five non-executive directors, one, two, three, four and five years respectively.

### **60. Regulation and Rules**

1. The Bank may make internal rules in conformity with this Law and regulations issued hereunder governing its exercise of the powers conferred hereunder.
2. The Central Bank and any other Bank operating in Somalia, should conform and establish themselves in compliance with Islamic Banking Systems.

### **61. Monetary Policy Statements**

Upon the entry into force of this Act, the first monetary policy statement, according to Article 53, shall be published within 18 months.

## **62. General Banking Services**

1. For ensuring that the public is adequately provided with general banking services, the Bank may transact general banking business with the public, until these functions can be fully operated by Commercial and Development banks and from the date of entry into force of this Act.
2. Such general banking business may include, but is not limited to:
  - a) Receiving monies on deposit;
  - b) Borrowing money; buying, selling, discounting and rediscounting bills of exchange and promissory notes;  
Establishing letters of credit; issuing bills and drafts and effecting transfers of money; accepting pledges; and
  - g) Receiving items in safe custody.
3. The Bank may also, under this Article, provide limited lending to the public for private or commercial purposes provided the outstanding amount shall, at all times, be less than three percent of the authorized capital of the Bank.

## **Part XVI Final Provision**

### **63. Entry into force**

This Act shall come into force on the first day of the next month following the date of its publication in the Official Bulletin.