

Finance (Banking and Financial Institutions) Act 1986

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LAWS OF MALAYSIA

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Act 330

FINANCE (BANKING AND

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ACT 1986

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FINANCE (BANKING AND FINANCIAL

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FINANCE (BANKING AND FINANCIAL

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FINANCE (BANKING AND FINANCIAL INSTITUTIONS) ACT 1986

An Act to amend the Central Bank of Malaysia Ordinance 1958, the Finance Companies Act 1969, the Banking Act 1973 and the Islamic Banking Act 1983.

[1 January 1987]

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

CHAPTER I

PRELIMINARY

Short title

1. This Act may be cited as the Finance (Banking and Financial Institutions) Act 1986.

Amendments of Ordinance and Acts

2. The *Central Bank of Malaysia Ordinance 1958 [Ord. 61 of 1958], the **Finance Companies Act 1969 [Act 6], the ***Banking Act 1973 [Act 102] and the Islamic Banking Act 1983 [Act 276] are amended in the manner specified in Chapters II, III, IV and V respectively.

*NOTE--The Central Bank of Malaysia Ordinance 1958 [Ord. 61 of 1958] has since been revised as the Central Bank of Malaysia Act 1958 [Act 519]. **NOTE--The Finance Companies Act 1969 [Act 6] has since been repealed by the Banking and Financial Institutions Act 1989 [Act 372]?see section 128 of Act 372. ***NOTE--The Banking Act 1973 [Act 102] has since been repealed by the Banking and Financial Institutions Act 1989 [Act 372]?see section 128 of Act 372. 6 Laws of Malaysia ACT 330

CHAPTER II

AMENDMENTS TO THE *CENTRAL BANK OF MALAYSIA

ORDINANCE 1958

Amendment of section 2

3. Section 2 of the Central Bank of Malaysia Ordinance 1958, which in this Chapter is referred to as "the Ordinance", is amended by inserting after the interpretation of "Board" the following new interpretation of "certificate of deposit":

` "certificate of deposit" means a document relating to money, in any currency, which has been deposited with the issuer or some other person, being a document which recognizes an obligation to pay a stated amount to bearer or to order, with or without interest, and being a document by the delivery of which, with or without endorsement, the right to receive that stated amount, with or without interest, is transferable;`.

Amendment of section 15

4. Section 15 of the Ordinance is amended by inserting after subsection (4) the following new subsection (5):

"(5) Subject to section 49, the Bank may, with the approval of the Minister, out of the funds of the Bank, create and maintain a trust account to be called "the Bank Negara Malaysia Staff Welfare Account" for the benefit of its officers and employees, including their dependents.". Amendment of section 30

5. Subsection (1) of section 30 of the Ordinance is amended-- (a) by substituting for the word "three" the word "twelve" wherever it appears in paragraphs (e) and (1);

(b) by substituting for the word "six" the word "twelve" in paragraph (f);

(c) by inserting after the word "months" the words "or such period as may be approved by the Minister on the

*NOTE--The Central Bank of Malaysia Ordinance 1958 [Ord. 61 of 1958] has since been revised in March 1994 as the Central Bank of Malaysia Act 1958 [Act 519].
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recommendation of the Board" wherever it appears in paragraphs (e), (f) and (1);

(d) by inserting after the words "the Government" the words "or the Bank" in paragraph (fff);

(e) by inserting after paragraph (mmm) the following new paragraph (mmmm):

"(mmmm) establish a central bureau to collect, in such manner and to the extent as the Bank may

think fit, information on and relating to

rejection by a paying bank of any cheque for

reason of insufficient funds in the account of

the drawer of the cheque, and to disclose any

such information to any bank for the purpose

only of assisting the bank to assess the

eligibility of the drawer to maintain or open

any current account with the bank;"; and

(f) by inserting after paragraph (n) the following new paragraphs (nn) and (nnn):

"(nn) place deposits in any bank or finance company licensed under the Finance Companies Act 1969

within the Federation;

(nnn) purchase, under repurchase agreements, and subject to such terms as may be approved by the Minister

on the recommendation of the Bank, and sell any

certificate of deposit issued by any bank or finance company licensed under the Finance Companies

Act 1969;".

CHAPTER III

AMENDMENTS TO THE *FINANCE COMPANIES ACT 1969

Amendment of section 3A

6. Subsection 3A(1) of the Finance Companies Act 1969, which in this Chapter is referred to as "the principal Act", is amended-- (a) by inserting after the words "such person" the words "either in the National Language or in English or in any other language" wherever they appear in paragraphs (a) and (b);

*NOTE--The Finance Companies Act 1969 [Act 6] has since been repealed by the Banking and Financial Institutions Act 1989 [Act 372]?see section 128 of Act 372. 8 Laws of Malaysia ACT 330

(b) by substituting for the comma a fullstop at the end of paragraph (b); and

(c) by deleting the words "after 31 December 1979." in subsection (1).

Amendment of section 21

7. The principal Act is amended by substituting for section 21 the following new section 21:

"Prohibition of advances, loans or credit facilities to directors, officers and employees

21. (1) Unless otherwise exempted by the Central Bank, with or without conditions, or except as provided under subsection (2) or (4), no licensed finance company shall grant advances, loans or credit facilities to--

(a) any of its directors, officers or employees or other persons being persons receiving remuneration from it (other than accountants, advocates and solicitors, architects, estate agents, doctors and any other persons receiving remuneration from it in respect of their professional services);

(b) any firm in which any of its directors, officers or employees is interested as partner, manager, agent or guarantor; (c) any corporation in which any of its officers or employees is a director, manager, agent or guarantor, or any corporation in the shares of which any of its officers or employees has any material interest as determined by the Central Bank;

(d) any corporation in which any of its directors (not being an executive director, he being within the ambit of paragraph (c) pursuant to subsection (3)) is a member, director, manager, agent or guarantor, or any corporation in the shares of which any such director of the licensed finance company has any

interest whatsoever directly or indirectly; or

(e) any individual for whom any of its directors, officers or employees is a guarantor.

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(2) A licensed finance company may grant to any of its officers or employees loans which are provided under its appropriate scheme of service and, where the licensed finance company is satisfied that special or compassionate circumstances exist, a loan not exceeding at any one time six months' remuneration of that officer or employee on such terms and conditions as the licensed finance company thinks fit. (3) The provisions of paragraph (1) (c) and of subsection (2) shall also apply to the executive directors of licensed finance company.

(4) The provisions of paragraph (1) (d) shall not apply to the granting of advances, loans or credit facilities by a licensed finance company to--

(a) a corporation which is listed on a recognized stock exchange and in the shares of which no director of that licensed finance company has, directly or indirectly, any material interest as determined by the Central Bank; and

(b) a public company in which a director of that licensed finance company has no interest in his personal capacity, as determined by the Central Bank:

Provided that for the purposes of this subsection the director concerned is not an executive director of that licensed finance company.

(5) Any licensed finance company which has entered into any transaction prohibited under this section shall not later than 30 June 1988 or such further period as the Central Bank may specify in any particular case secure the repayment of such advance, loan or credit facility.

(6) For the purposes of this section, "director", "officer" or "employee" includes a spouse, parent or child of a director, an officer or employee."

New section 21B

8. The principal Act is amended by inserting after section 21A the following new section 21B:

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"Restriction on grant of loan, advance or credit facility under section 21

21B. No licensed finance company shall grant any advance, loan or credit facility under the exemption referred to in subsection 21(4) unless the following conditions are satisfied: (a) that the advance, loan or credit facility meets the standards of creditworthiness required of other applicant borrowers; (b) that the terms of the advance, loan or credit facility are not less favourable to the licensed finance company than those offered to others; (c) that the grant of the advance, loan or credit facility will serve the best interest of the licensed finance company; (d) that the advance, loan or credit facility has been approved by the votes of not less than two-thirds of all the other directors of the licensed finance company at a duly constituted meeting of the full board of directors and the approval has been recorded in the minutes of that meeting.". Amendment of section 23

9. Subsection 23(1) of the principal Act is amended-- (a) by deleting paragraphs (a), (b) and (d); and

(b) by substituting for paragraph (e) the following new paragraph (e):

"(e) any corporation or public company referred to in subsection 21(4);".

CHAPTER IV

AMENDMENTS TO THE *BANKING ACT 1973

Amendment of section 21

10. Section 21 of the Banking Act 1973 is amended-- (a) by deleting the word "and" after the words "Central Bank;" in paragraph (1) (ca);

*NOTE--The Banking Act 1973 [Act 102] has since been repealed by the Banking and Financial Institutions Act 1989 [Act 372]?see section 128 of Act 372.

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(b) by inserting after paragraph (1) (ca) the following new paragraph (cb):

"(cb) notwithstanding the provisions of subsection 36(2), a statement showing such information relating to

its customers as is required for the purposes of

the central bureau established under paragraph

30(1) (mmmm) of the Central Bank of Malaysia

Ordinance 1958; and"; and

(c) by substituting for the words "paragraph (ca)" the words "paragraphs (ca) and (cb)" in subsection (2).

CHAPTER V

AMENDMENTS TO THE ISLAMIC BANKING ACT 1983

Amendment of section 19

11. Section 19 of the Islamic Banking Act is amended— (a) by deleting the word "and" after the words "Central Bank;" at the end of paragraph (1) (d);

(b) by inserting after paragraph (1) (d), the following new paragraph (da):

"(da) notwithstanding the provisions of subsection 34(3), a statement showing such information relating to its customers as is required for the purposes of the central bureau established under paragraph 30(1) (mmmm) of the Central Bank of Malaysia Ordinance 1958; and"; and

(c) by substituting for the words "paragraph (d)" the words "paragraphs (d) and (da)" in subsection (2).

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LIST OF AMENDMENTS

Amending law Short title In force from

? NIL ?

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LIST OF SECTIONS AMENDED

Section Amending authority In force from

? NIL ?

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