

**4<sup>th</sup> Draft 6/12/17**

**ANTIGUA AND BARBUDA**



**THE FINANCIAL SERVICE REGULATORY COMMISSION (AMENDMENT)  
BILL, 2017**

**NO. OF 2017**

*The Financial Services Regulatory Commission NO. OF 2017  
(Amendment) Bill, 2017*

**ARRANGEMENT OF SECTIONS**

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**ANTIGUA AND BARBUDA**

**A BILL FOR**

**THE FINANCIAL SERVICES REGULATORY COMMISSION (AMENDMENT)  
ACT, 2017**

**AN ACT** to amend the Financial Services Regulatory Commission Act, 2013 No. 5 of 2013.

**ENACTED** by the Parliament of Antigua and Barbuda as follows:

**1. Short Title**

This Act may be cited as the Financial Services Regulatory Commission (Amendment) Act, 2017.

**2. Interpretation**

In this Act-

“principal Act” means the Financial Services Regulatory Commission Act, No. 5 of 2013.

**3. Amendment of section 2-Interpretation**

Section 2 of the principal Act is amended as follows:

(a) by the repeal of the definition of Chief Executive Officer and the substitution therefor of the following:

“Chief Executive Officer means the person appointed to the office of Chief Executive Officer pursuant to section 10”

(b) by the insertion in its alphabetical Order of the following definition “Chief Regulatory Officer” means the person appointed to the office of Chief Regulatory Officer pursuant to section 10”

#### **4. Repeal and replacement of section 8-Board of Directors**

Section 8 of the principal Act is repealed and substituted by the following-

(1) For the purposes of this Act, there shall be a Board of Directors of the Commission.

(2) The Board shall consist of a chairman, a Deputy Chairman and not less than five nor more than seven other persons.

(3) The Chief Executive Officer, appointed under section 10 shall be an ex-officio member of the Board and shall attend all meetings of the Board, but shall have no right to at vote such meetings.

(4) The directors referred to in subsection (2) shall be persons with requisite qualification in business administration, accounting, banking, finance, law or experience in business management.

(5) Notwithstanding the qualifications referred to in subsection (4), no person shall be appointed a director of the Board if such person is not a fit and proper person nor a person who has demonstrated experience relevant to at least some of the functions of the Commission.

#### **5. Repeal and replacement of section 10-Appointment of Chief Executive Officer**

Section 10 of the principal Act is repealed and replaced by the following-

##### **“10 Appointment of Chief Executive officer and Chief Regulatory Officer.**

(1) The Board shall, after consultation with the Minister, appoint a fit and proper persons to the office of-

(a) Chief Executive Officer, and

(b) Chief Regulatory Officer.

(2) The Chief Executive Officer shall be employed by the Board on such terms and conditions as the Board considers appropriate, having regard to his qualification, experience in finance or business management, in either the private or public sector.

(3) The Chief Executive Officer shall, subject to the functions and duties delegated to it or the general direction given by the Board, be entrusted with the day to day administration of the Commission to the extent of the delegation or directions of the Board.

(4) The Board shall also appoint a fit and proper person with requisite qualification and experience to be the Chief Regulatory Officer on such terms and conditions as the Board considers to be appropriate, having regard to his qualification and experience in finance or accounts.

(5) The Chief Regulatory officer shall be responsible for the regulatory functions of the Board and be accountable to the Board through the Chief Executive Officer.

(6) Where the Chief Executive Officer or the Chief Regulatory Officer is absent from Antigua and Barbuda or for some other reason unable to perform his functions under the Act, the Board shall, after consultation with the Chief Executive Officer, appoint some other senior officer of the Commission, who is fit and proper person to perform the duties and functions of the absentee Officer.

(7) Any acting appointment made by the Board under this section shall not exceed three months, and where for any reason the absence of the Chief Executive Officer or the Chief Regulatory Officer exceeds three months, the Board shall, after consultation with the Minister appoint some other fit and proper officer of the Commission to act in place

of the Chief Executive Officer or the Chief Regulatory Officer for the duration of his absence.

(8) Any Officer appointed under this section shall render his services exclusively to the Commission and shall be answerable to the Board for his acts and decisions.”

#### **6. Amendment of section 11-Termination of Appointments**

Section 11 of the principal Act is amended in subsection (3) as follows-

(a) by deleting the opening sentence of subsection (3) and substituting therefor the following-

“(3) The appointment of a director or a Chief Executive Officer, or a Chief Regulatory Officer who-“

(b) by deleting paragraph (g) thereof and substituting the following-

“(g) is not a fit and proper person in accordance with the criteria prescribed in subsection (3);”

shall be terminated.

#### **7. Amendment of section 12-Meetings and Decisions of the Board**

Section 12 of the principal Act is amended by inserting as subsection (4) the following-



“(4) The Board may continue to act and perform its functions under this Act, notwithstanding that a vacancy exists among the members or in the Office of Chairman or deputy Chairman.

### **8. Repeal and replacement of section 13-Committees**

Section 13 of the principal Act is repealed and substituted by the following-

#### **13 Committees of the Board**

(1) For the purposes of this Act, there shall be established by the Board, a Management committee, which shall consist of the following persons-

- (a) the Chief Executive Officer;
- (b) the Chief Regulatory Officer;
- (c) the head of the regulatory division or his alternate;
- (d) the head of the supervisory division or his alternate; and
- (e) such other senior officer as the Board may, after consultation with the Chief Executive Officer, appoint.

(2) The Board may, after consultation with the Chief Executive Officer, appoint a qualified and suitable officer of the Commission to act as secretary to the Management Committee.

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(3) The Board may, subject to section 12(5) and by instrument in writing, delegate any of its administrative and other functions and duties to the Management Committee.

(4) In addition to the Management Committee established under this section, the Board may, subject to the provisions of this Act, appoint such other committees, as it considers necessary to assist the Board in the performance of its duties under the Act, and, shall appoint such fit and proper persons to serve on such committees.

Passed the House of Representatives

Passed the Senate

this the            day of            2017.

this    day of            2017

*Speaker*

*President*

NO. OF 2017

*The Financial Services Regulatory  
Commission (Amendment) Bill, 2017*

*Clerk to the House of Representatives*

*Clerk to the Senate*

## **EXPLANATORY MEMORANDUM**

This Bill proposes amendments to the Financial Services Regulatory Commission Act 2013. Since its passage, the Act has been in operation for approximately four years. An evaluation of its effectiveness in achieving its objective, has revealed that a couple of gaps have to be filled to strengthen its effect and make it more efficient and effective. Hence, the need to make the amendments proposed in this Bill.

2. The Bill therefore proposes the appointment of a Chief Regulatory Officer to senior management and technical position. To give effect to this proposal an amendment to section 10 of the Act is required. The Bill accordingly, amends section 10 to authorise the Board to appoint a Chief Regulatory Officer. As a consequence to this amendment, section 2 is also amended to define the position of the Chief Regulatory Officer. It was also considered necessary to clarify the definition of Chief Executive Officer by identifying the provision of the Act under which she is appointed.

3. Although section 13 of the Act authorises the Board to appoint committees to assist it in the performance of its functions, it has become necessary, for purposes of efficiency and effectiveness that a Management Committee, which is permanent be established to assist the Board in the performance of its administrative functions. The proposed

amendment requires the Board to delegate in a formal way, by an instrument in writing, some of the functions vested in it by the Act or exercised by it as a statutory body, to the Management Committee.

4. The Bill accordingly repeals section 13 of the Act and, in its place, provides for the establishment of a Management Committee, whose composition is made up of senior officers of the Commission.

5. It was also realised that the Act does not make provision for the attendance of the Chief Executive Officer of the Commission at meetings of the Board. This omission would appear to have deprived the Board of essential information and operational knowledge of the operations of the Commission. This omission is being corrected by making provision for the Chief Executive Officer to serve as an ex officio member of the Board, a position which will require her attendance at meetings of the Board, without a right to vote on decisions at such meetings.

Hon. Gaston Browne  
Prime Minister and  
Minister of Finance