



E-ALERT: Amendments to the Banking Act No. 30 of 1988

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Background

With the passing of the Banking (Amendment) Act No. 24 of 2024 (“**Banking Amendment Act**”), which came into effect on 15th June 2024, significant revisions have been introduced to the Banking Act No. 30 of 1988 (as amended) (the “**Banking Act**”), being the primary law governing commercial banks and specialized banks in Sri Lanka. The Banking Amendment Act is the latest in a slew of financial sector legislation introduced by the Government in the last year, such as the Central Bank of Sri Lanka Act No. 16 of the 2023 (“**Central Bank Act**”), which repealed and replaced the Monetary Law Act, and the Banking (Special Provisions) Act No. 17 of 2023. The Central Bank has stated that these amendments have been introduced with a view to enhancing the ‘resilience of the banking sector of Sri Lanka’ through strengthening of the applicable legal and regulatory framework.

A fundamental change introduced by the Central Bank Act was the replacement of the Monetary Board with the ‘Governing Board’ of the Central Bank, which was generally vested with the rights or obligations attributed to the Monetary Board in the Monetary Law Act (as well as other laws). As such, all residual powers granted to the Monetary Board in the Banking Act No. 30 of 1988 (as amended) (the “**Banking Act**”) are now to be exercised by the Governing Board. However, the Banking Amendment Act goes further, with various powers previously held by the Monetary Board being expressly transferred to the Central Bank, certain powers being transferred or assigned to the Director of Bank Supervision and the express empowerment of the Central Bank to delegate any of its powers under the Banking Act to an officer not below the rank of Head of Department (or to a committee of such officers).

<https://www.cbsl.gov.lk/en/news/implementation-of-banking-amendment-act-no-24-of-2024#:~:text=The%20Central%20Bank%20of%20Sri,%2C%20effective%20from%2015.06.2024.>



Background (cont.)

Other Developments include:

1. expansion of the banking license eligibility criteria, which now also includes an assessment of shareholder suitability;
2. the ability of the Central Bank to evaluate qualitative 'significant influence' related criteria, in addition to the percentage of voting shares held, in determining whether permissible threshold for material interest have been contravened;
3. removal of the demarcation between 'domestic' and 'offshore' banking services;
4. the imposition of additional reporting duties and responsibilities on statutory auditors, the requirement for audited accounts to be prepared on both a solo and consolidated basis (for business carried out in and outside of Sri Lanka), the reduction of timelines for the completion of annual audits and the introduction of mandatory auditor rotation;
5. a requirement for banks to divest certain non-financial sector subsidiaries after a transitional period;
6. enhancement of the fitness and propriety criteria for directors and key officers and mandatory pre-approval requirements for their election/appointment;
7. an enabling of banks to merge with, or acquire the business of, finance companies;
8. the introduction of 'control test' based qualitative criteria for determining bank ownership limits;
9. the imposition of greater board-level responsibility for ensuring legal and regulatory compliance;
10. broadening of the grounds for determining and regulating 'large exposures' (i.e., financial accommodation to single borrowers and related/connected borrowers);



Background (cont.)

11. extension of the framework for limits and conditions on granting financial accommodation to cover executive officers, shareholders having material interests, subsidiaries and associated companies and certain other specified persons, in addition to the bank's directors and close relations;
12. the empowerment of the Central Bank to impose additional capital requirements on licensed commercial banks, based on specific risk assessments, and greater discretion on determination of 'liquid asset' maintenance requirements;
13. the amendment or repeal of various provisions connected with the liquidation/winding up of banks, to facilitate the operation of the Banking (Special Provisions) Act (which came into effect on 15th November 2023);
14. the right to impose administrative fines and take other punitive action for breach of certain provisions, such as those dealing with the maximum shareholding thresholds, minimum capital requirements, financial reporting timelines and limits on large exposures; and
15. sweeping powers for the Central Bank to require any person (other than licensed banks, their directors and executive officers) to furnish any documents or information that it considers necessary for the exercise, performance and discharge of its powers, duties and functions under the Banking Act.

In this e-alert, we identify key statutory amendments introduced by the Banking (Amendment) Act and provide a side-by-side comparison against the predecessor provisions, with a view to identifying and highlighting material changes and developments to the country's banking law framework.



Banking License



Banking License: Eligibility Criteria

New section	Previous section
<p>Section 2A outlines the factors taken into consideration by the Central Bank (“CBSL”) when evaluating applications for banking licenses, which include:</p> <ul style="list-style-type: none"> a) compliance with the initial capital requirements set by CBSL from time to time; b) the nature and adequacy of financial resources as a means of continuing financial support of the licensed commercial bank to be established in Sri Lanka; c) sources of capital and other funding; d) the suitability of significant shareholders as per section 12(1B); <p><i>[Section 12(1B) states that when granting approval for an acquisition under section 12(1C), the CBSL shall ensure the individuals or directors of such body corporate involved are fit and proper persons, based on criteria outlined section 42(2) in addition to;</i></p> <ul style="list-style-type: none"> - <i>track record of the individual or directors of body corporate.</i> - <i>soundness and feasibility of the business plans of the individual or body corporate.</i> - <i>nature, sufficiency and legitimacy of the financial resources of the individual or corporate entity as a source of continuing financial support for the licensed commercial bank.</i> - <i>the business record and experience of the corporate entity over the past three years.</i> - <i>transparency in ownership structure and the beneficial ownership.]</i> <ul style="list-style-type: none"> e) fitness and propriety of directors, CEO, officers performing executive roles, or a person proposed to be appointed to such position, based on the criteria outlined in section 42(2); f) the track record of operating in accordance with standards of good governance and integrity; g) transparency in ownership structure and beneficial ownership; h) impact on the viability and stability of the banking system and the interests of the national economy; i) compliance with any other requirements under the Act or any other applicable laws within or outside Sri Lanka. 	<p>There was no prior section in the previous banking act.</p>
<p>Our Comment: The Bank Supervision Department of the CBSL has published guidelines on establishing new banks in Sri Lanka, in June 2024, which can be accessed on its website - http://www.cbsl.lk</p>	

Demarcation between domestic and offshore banking business



Demarcation between domestic and offshore banking businesses eliminated

New section	Previous section
Section 5(2)(a) is amended to eliminate the demarcation between domestic and offshore banking services and licenses issued under this Section 5(1) would only specify that such company is authorised to conduct banking business but subject to such terms and conditions imposed therein.	Section 5(2)(a) specified that licenses issued under Section 5(1) must specify whether the company is authorized to conduct domestic banking business, offshore banking business, or both types of businesses.
<p>Our comment: This amendment streamlines banking operations and enhances the efficiency of the financial system. By establishing a unified regulatory framework, it simplifies regulatory compliance for banks and strengthens the Central Bank’s oversight capabilities. This further aligns with international best practices, smoothing integration with the global financial system.</p> <p>This will also eliminate the need for the Banks to prepare separate departmental financial statements for the Domestic and Offshore Banking units, which was a non-value adding administrative task that involved time, effort and costs.</p>	

Banking (offshore banking business) Order No.2 of 2024
([Banking Act Order No 2 of 2024 e1.pdf \(cbsl.gov.lk\)](#) and https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/laws/cdg/Banking_Act_Directions_No_02_of_2024_e1.pdf).

Pre-approval from
Central Bank



Pre-approval from Central Bank: Mandatory for certain transactions

New section	Previous section
<p>The requirement for written approval from the Monetary Board with Ministerial concurrence has been replaced with the requirement for written approval from CBSL:</p> <ul style="list-style-type: none"> - Section 12 (1)(a): for a licensed commercial bank to open or close a branch, agency or office of such bank in any part of Sri Lanka or to effect the change in the location of any existing place of business. - Section 12 (1)(b): for a licensed commercial bank incorporated or established within Sri Lanka by or under any law to open or close a branch, agency, or office in any place outside of Sri Lanka, although consultation with the Minister is required. - Section 12 (1) (c): for a licensed commercial bank to acquire or sell all or part of the business, including branches of another licensed commercial or specialised bank or finance company. - Section 12 (1)(d): for banks incorporated or established outside Sri Lanka to open a representative office or other place of business within Sri Lanka subject to an application fee determined by CBSL. - Section 12 (1)(e): for a licensed commercial bank to merge or consolidate with another licensed commercial bank, licensed specialized bank, or licensed finance company. - Section 12(1)(f): for a licensed commercial bank or a licensed specialised bank to acquire the business or part of the business of another financial institution which is subject to the regulation or supervision of CBSL. - Section 12(1C)(a): for an individual, partnership or corporate body acting directly or through intermediaries acquiring a material interest in a licensed commercial bank incorporated or established within Sri Lanka. <p><i>[Material interest has been defined in the Act as holding over ten percent of voting shares, or if CBSL determines that there exists significant influence to nominate, appoint or remove a director, CEO or an officer performing executive functions of the licensed commercial bank or to exercise control over the policies of such bank pursuant to a contract or otherwise.]</i></p>	<p>Written approval of the Monetary Board with the concurrence of the Minister was required:</p> <ul style="list-style-type: none"> - for a licensed commercial bank to open, close, relocate, or change any branch, agency, or office anywhere in Sri Lanka; - open/close a branch agency or office in any place outside of Sri Lanka; - acquire whole or part of the business of another licensed commercial/ specialised bank or branch; - open a representative office or other place of business within Sri Lanka; - merge or consolidate with any another licensed commercial/ specialised bank or a branch; - acquire a material interest in a licensed commercial bank incorporated or established within Sri Lanka.
<p>Our Comment: Changes made to section 12(1) enables banks to acquire or merge with licensed finance companies, which was previously limited to other banks. This aligns with the overall financial sector consolidation objectives of the CBSL and the government. However, the divergences in the customer segments as well as differing governance, risk and compliance standards between the two sectors may create challenges in such integrations.</p> <p>Section 12(1C) is a clear indication of the regulator's intention not to let any party obtaining control or significant influence over a Bank, without its approval. However, the context or circumstances under which CBSL will provide such approval is not clearly stipulated. Further, where a party has already acquired such material interest what repercussions this section will have remains uncertain.</p> <p>Above provision together with the broadened definition of related parties and connected parties in assessing single borrower limits will disincentivize investors seeking commercial interests beyond investment returns by investing in banks and thus will encourage more passive investors.</p>	

Divestment and Capital Requirements



Banks to divest certain non-financial subsidiaries that do not serve the bank, within 5 years

New section	Previous section
<p>Section 17 (4A): Licensed commercial banks are required to divest the ownership in the equity share capital of non-financial subsidiaries that do not serve the bank or the banking group.</p> <p>Five years from the appointed date (15.06.2024) is given for such divestment, after notifying CBSL of such decision and the manner of divestment.</p>	<p>There was no prior section in the banking act.</p>
<p>Our Comment: This will likely spur an increase in mergers and acquisitions (M&A) activity as banks streamline their operations and focus on core activities.</p>	

Risk-Based Capital Requirements: Central Bank oversight of Banks

New section	Previous section
<p>Section 19 (10): CBSL is vested with the authority to require licensed commercial banks to maintain additional capital as deemed appropriate, considering specific risks emanating from such bank's business.</p>	<p>There was no prior section in the banking act.</p>
<p>Our Comment: This section empowers the CBSL with greater flexibility in managing capital adequacy by taking directed action where necessary, rather than limiting itself to formula-based capital adequacy ratios.</p>	

Dividend Distributions



Dividend distributions: Central Bank oversight of Banks

New section	Previous section
Section 22: CBSL is vested with the authority to consider the capital or liquidity levels of a licensed commercial bank and issue directions imposing conditions before the declaration or payment of dividends of any type, or transfer of profits earned in Sri Lanka, outside Sri Lanka.	Section 22 restricted licensed commercial banks from paying dividends and such banks incorporated outside of Sri Lanka from transferring abroad any profits until their capitalised expenses and preliminary expenses were fully written off.
<p>Our Comment: Restrictions on payments by banks of cash dividends and the repatriation of profits are not necessarily a new concept and had been had first introduced in July 2021 in the form of directions issued by the CBSL (i.e., the directions No. 11 of 2021 (Restrictions on Discretionary Payments of Licensed Banks)), taking into account the macroeconomic conditions within the country at the time, as well as the necessity of maintaining liquidity levels and capital buffers, and thereafter extended for 2022 and 2023 by way of further directions (Nos. 2 of 2022 and 1 of 2023). These directions were issued under the general powers in section 46(1) and 76(J)(1) of the Banking Act, for the Monetary Board to issue directions to all commercial banks and all licensed specialised banks (or any category of them) on any aspect of their business, in order to maintain the ‘soundness of the banking system’.</p> <p>By amending section 22, the CBSL has received express and specific powers to impose conditions on dividend declarations and profit repatriations on any one or more banks at any time, taking into account their particular capital or liquidity levels (as opposed to the broader requirement of maintaining the soundness of the overall banking system), and it may be possible that the right to issue such directions may be delegated to the Director of the Department of Bank Supervision (or other officer/committee), under section 83D of the Act, for operational flexibility and efficiency.</p>	

Auditors and Auditing



Auditors and Auditing

New section	Previous section
<p>Section 39(1A), auditors are required to immediately report findings (i.e., revealed in the performance of their duties) to the Director of Bank Supervision that:</p> <ul style="list-style-type: none"> - reveal significant losses incurred or are likely to incur that could materially reduce the capital of any licensed commercial bank; - irregularities that have been occurred in such bank including the engagement in unsafe or unsound practices of business that would jeopardise the interests of the depositors and creditors; - if there are insufficient assets to cover obligations of depositors and creditors; or - any other matter that can materially affect the safety and soundness of licensed commercial bank. <p>Section 39 (2): to prepare the audit reports within two months of the end of the financial year.</p>	<p>Auditors were required to submit the reports specified in Section 39(2) within three months of the end of the financial year.</p>
<p>Section 39 (3B): where CBSL is of the view that a licensed commercial bank is required to conduct an additional audit focusing on any aspect of the business and affairs of the bank, the Director of Bank Supervision can require to conduct such additional audit at the bank's cost.</p>	<p>There was no prior section in the banking act.</p>
<p>Our Comment: Under Section 39 (3A), the Director of Bank Supervision is authorized to call upon the auditors after the receipt of the auditor's report to submit additional information in relation to the audit as the Monetary Board considers necessary, extend or enlarge the scope of the audit of the business and affairs of the bank, to carry out such other examination required by him or recommend to the licensed commercial bank any procedure in respect of a particular matter, and submit a report on any of the matters referred to above.</p> <p>Pursuant to the amendment of Section 39 (3A), the cost of such additional audit or such other work shall be borne by the respective licensed bank which was earlier borne by CBSL.</p>	
<p>Section 39 (7A,7B,7C) require licensed commercial banks to:</p> <ul style="list-style-type: none"> - Ensure that the engagement partner of the auditor is a member of the Institute of Chartered Accountants of Sri Lanka and not subject to any disqualification as an auditor in Sri Lanka or abroad. - Change the engagement partner once every three (03) years and the auditor once every six (06) years. - A transitional period of two (02) years from the appointed date i.e., 15.06.2024 has been included, for auditors already appointed to comply with this requirement. 	<p>There was no prior section in the banking act.</p>



Enhanced Scrutiny & Directors' Responsibilities

Enhanced scrutiny: Fit and proper criteria revised

New section	Previous section
<p>The criteria for determining a fit and proper person are revised:</p> <p>Section 42 (2)(a): a person will be qualified as fit and proper to be appointed, elected or nominated or continue as a director of a licensed commercial bank if they possess qualifications and experience in banking, finance, economics, accounting, business administration, information technology, risk management, law or other relevant discipline as determined by CBSL.</p>	<p>The persons that fall within the fit and proper criteria as per Section 42 (2)(a) were limited to persons who possess qualifications and experience in banking, finance, business, administration or other relevant discipline (i.e. without requiring a determination of CBSL in that regard).</p>
<p>Section 42 (2)(c): such person should not be subject to any proceedings, inquiries or investigations on being served notice of charges involving fraud, deceit dishonesty or similar criminal activity by any court or anybody (such as a tribunal, regulatory/ supervisory authority) established in or outside Sri Lanka.</p>	<p>Under Section 42(2)(c), such persons were required to not have been subject to investigation or inquiry consequent upon being served with notice of a charge involving fraud, deceit, dishonesty or other similar criminal activity, by any regulatory authority, supervisory authority, professional association, Commission of Inquiry, tribunal or other body established in or outside Sri Lanka.</p>
<p>Section 42 (4)(a): licensed commercial banks are required to inform the Director of Bank Supervision of the name, address, occupation and other information of a person prior to the appointment, election or nomination as a director. Under Section 42 (4A) the Director of Bank Supervision is authorised to conduct any further investigations to verify such details.</p>	<p>Under Section 42 (4)(b), the provision of details of a director post appointment, election or nomination was permitted.</p>
<p>Our Comment: The CBSL has amended the directions on the assessment of fitness and propriety of directors (being the directions No. 8 of 2019) by way of the directions No. 3 of 2024, requiring a more detailed affidavit to be submitted by the person to be appointed, elected or nominated as a director. The amended directions can be accessed on the CBSL's website.</p>	
<p>Section 42 (7): unless approval is obtained by the Director of Bank Supervision for the proposed appointment, election or nomination as a director in a licensed commercial bank, he/she is not permitted to carry out duties in any capacity.</p>	<p>Under Section 42 (7) a temporary exception was granted for directors who have been nominated for approval under S.42(5)(6) to be appointed/elected/nominated and if approval was refused, such person immediately ceased to be a director subject to the decision of the Monetary Board.</p>
<p>Our Comment: With the amendment to section 42(7), individuals cannot hold office as bank directors (or perform any duties vested in such office) prior to receiving the approval of the CBSL.</p>	

Enhanced scrutiny: Fit and proper criteria revised (Cont.)

New section	Previous section
Section 44A(1): The CEO and such other officers performing executive functions in a licensed commercial bank as maybe determined by CBSL shall be subject to the enhanced fit and proper criteria (as outlined in section 42 (2)).	Under Section 44A(1) the Monetary Board had the power to determine whether the CEO and other officers performing executive functions were compatible with the fit and proper criteria.
Our Comment: The CBSL has amended the directions on the assessment of fitness and propriety of chief executive officers and officers performing executive functions (being the directions No. 1 of 2019) by way of the directions No. 2 of 2024, requiring a more detailed affidavit to be submitted by the person to be appointed, elected or nominated as a CEO and officers performing executive functions. The amended directions can be accessed on the CBSL's website.	
Section 44B: CBSL shall determine whether to disqualify an individual as not being fit and proper based on his/her past involvement in fraud, deceit, dishonesty or criminal activity while serving as a director, CEO or other executive officer in a licensed commercial bank. A person so determined will be ineligible for the appointment, election, nomination or continuation as a director, CEO or executive officer of any financial institution regulated and supervised by CBSL.	There was no prior section in the banking act.

Directors' responsibilities: Board Composition

New section	Previous section
Section 42 (12): the duties and responsibilities of directors have been expanded and directors will have the duty to oversee the management of the affairs of the bank including its governance framework . Directors will be ultimately responsible for ensuring compliance with all applicable laws and ensuring consistency with safe and sound banking practices.	The responsibilities of the directors under Section 42 (12) were limited to the overseeing of management of affairs of the bank.
Section 42 (13): CBSL is vested with the authority to determine the number of members of the Board of Directors of a licensed commercial bank which shall not be less than seven (07).	

Risk-based supervision

Risk-based supervision: Regulating large exposures

New section	Previous section
<p>Section 46(1): The Monetary Board can issue directions to licensed commercial banks considering their asset size, scale, diversity, and operational complexity regarding the manner of conduct of business without prejudice to the foregoing, and may, also issue directions specifying;</p> <ol style="list-style-type: none"> a) The class or classes of advances which may or may not be made by such bank. b) The margins to be maintained in respect of secured advances. <p>Section 46 (1)(c): regulate limits on large exposures of licensed commercial banks, considering the financial strength and aligning with international standards applicable on large exposures, as may be made by such bank-</p> <ol style="list-style-type: none"> i. to any single company, public corporation, firm, association of persons or an individual or; ii. in the aggregate to- <ol style="list-style-type: none"> A. an individual, his close relations or to a company or firm in which he or his close relations have a substantial interest or; B. a group of connected borrowers if at least one of the following criteria is satisfied: <ol style="list-style-type: none"> a) control relationship, a company and one or more of the following having control relationships with each other: <ol style="list-style-type: none"> i. its subsidiaries ; ii. its holding company; iii. its associate company; iv. a subsidiary of its holding company; v. a company in which a company referred to in item (a) of this sub-paragraph or its subsidiary or its holding company or a subsidiary of its holding company, has a substantial interest; vi. an individual having a substantial interest in such company and the close relations of such individual; or vii. any other company having direct or indirect control over such company as may be determined by CBSL. b) CBSL can determine economic interdependence between connected borrowers based on predetermined criteria. <p>Licensed commercial banks must comply with the provisions of this paragraph within three years from the appointed date (i.e. 15.06.2024), or such other period determined by CBSL.</p>	<p>Under Section 46 (1): The Monetary Board had the authority issue directions regarding the manner in which any aspect of the business of the bank was to be conducted. Additional directions could be issued specifying;</p> <ol style="list-style-type: none"> a) The class or classes of advances which may or may not be made by such bank; b) The margins to be maintained in respect of secured advances; <p>Section 46 (1)(c): The Monetary Board can regulate the maximum amount of accommodation which having regard to the equity capital, reserves and deposits of such licensed commercial bank and other relevant considerations, as may be made by such bank –</p> <ol style="list-style-type: none"> i. to any single company, public corporation, firm, association of persons or an individual; or ii. in the aggregate to – <ol style="list-style-type: none"> a) an individual, his close relations or to a company or firm in which he has a substantial interest; b) a company and one or more of the following- <ol style="list-style-type: none"> aa) its subsidiaries; bb) its holding company; cc) its associate company; dd) a subsidiary of its holding company; or ee) a company in which such company or its subsidiary, or its holding company, or a subsidiary of its holding company, has a substantial interest.
<p>Our Comment: The amendment to section 46 (1) requires the Governing Board to consider the asset size, scale, diversity and complexity of operations of licensed commercial banks when issuing directions. Further, a refined large exposure framework is introduced defining connected borrowers comprehensively and incorporating the adoption of international standards, including control relationships and economic interdependence. A transitional period of three years or such other period as determined by the Central Bank is granted to comply with the requirements specified in this section. Generally, generic directions applicable to all banks were issued and this section empowers CBSL to issue directions that are directed towards a specific bank or group of banks.</p>	



Extended Reach,
Consequences of
Non-Compliance &
Mandatory
Information on third
parties

Extended reach: Sections applicable to all licensed banks

New section	Previous section
<p>Section 76K- the following provisions of the Act are made applicable to both licensed commercial banks and licensed specialized banks.</p> <ul style="list-style-type: none"> Section 45: Authorizes the Director of Bank Supervision to intervene in instances of engagement in unsafe banking practices and non-compliance with the Act/regulations issued under the Act. Section 47: Provisions relating to conditions imposed upon granting accommodation and applicable persons. Section 48A: Restrictions on purchase and acquisition of immovable property. Section 49: Restrictions of sale, transfer, assignment or disposal of immovable assets. Section 49A: Insolvency related reporting requirements. 	<p>Under Section 76K, only Section 45 was applicable to licensed commercial banks and licensed specialised banks.</p>

Consequences of Non-Compliance: Administrative Fines Imposed by CBSL

New section	Previous section
<p>Section 79B (1) authorizes the Central Bank to impose administrative fines on any person contravening the provisions relating to section 12(1)(c), (3), (4), Section 19, Section 21, Section 38(1), and Section 46(1)(c).</p> <ul style="list-style-type: none"> - Section 12 (1)(c) – obtaining written approval from the Central Bank prior to acquiring the business or a branch of another licensed commercial bank, licensed specialized bank, licensed finance company or a branch or selling all or part of its business. - Section 12 (3): when acquiring a material interest in a licensed commercial bank contravening the requirement to obtain prior written approval of the Central Bank, the Central Bank has been vested with the authority to direct disposal of such material interest. - Section 12(4): until the disposal of material interest is affected, the Central Bank has the authority to impose interim measures, inter alia, to suspend the exercise of voting rights entitled to such shareholding and prohibit the licensed commercial bank from issuing further shares. - Section 19: Requirement to maintain the capital of a licensed commercial bank in such amounts as specified. - Section 21: requirement for licensed commercial banks to maintain liquid assets to meet their liabilities as determined by the Central Bank. - Section 38(1): requirement for licensed commercial banks to publish financial statements in the manner prescribed under this section. 	<p>There was no prior section in the banking act.</p>

Consequences of Non-Compliance: Administrative Fines Imposed by CBSL (Cont.)

New section	Previous section
<ul style="list-style-type: none">- Section 46 (1)(c): the limitations imposed on licensed commercial banks on large exposures. <p>Section 79B (2) outlines the factors taken into consideration when determining the imposition of fines, which include the gravity and recurrence of a contravention, loss/damage caused to depositors or others, the obtaining of any undue benefit, the financial resources of the contravening person and any mitigating factors.</p>	<p>There was no prior section in the banking act.</p>
<p>Our Comment: The introduction of section 79B has empowered the CBSL to issue administrative fines for certain statutory contraventions, which were not previously available. Previously, all violations of the Act would need to be prosecuted as criminal offences, in the Magistrate's courts, and subject to a maximum fine not exceeding Rs.1Mn and/or to a term of imprisonment. While offences could be compounded, it was only possible with the consent of the Monetary Board and for a sum not exceeding LKR1Mn per offence. The CBSL is now given sweeping discretion in determining the procedures and manner for imposing administrative fines and the amount of such fines.</p>	

Regulation issued under Sections 21(1) and 76H of the Banking Act

(https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/laws/cdg/Banking_Act_Determination_No_1_of_2024_e.pdf).

Mandatory Information Disclosure obligations on third parties.

New section	Previous section
<p>Section 83E: CBSL is authorized to inform any person, (other than a licensed commercial or licensed specialized bank, directors, CEOs, or executive officers of such banks), to furnish any specified information or documents within a specified timeframe, as the CBSL considers necessary for the exercise of its powers and persons such requested are required to comply within the specified period.</p>	<p>There was no prior section in the banking act.</p>
<p>Our Comment: Broad information and documentation gathering powers have been granted to the CBSL pursuant to the introduction of this provision, where the persons compelled to make the necessary disclosures do not necessarily have to be shareholders, directors or officers of the bank or otherwise materially connected to it.</p>	

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