
Fifth Session Eleventh Parliament Republic of
Trinidad and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 3 of 2020

[L.S.]

AN ACT to amend the Insurance Act, 2018

[Assented to 18th February, 2020]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Insurance Short title
(Amendment) Act, 2020.

2. This Act shall come into operation on such date as Commencement
is fixed by the President by Proclamation.

Interpretation
Chap. 84:01

Section 4 amended

3. In this Act, “the Act” means the Insurance Act.

4. Section 4 of the Act is amended—

(a) in subsection (1)—

- (i) in the definition of “acquirer”, by inserting after the word “insurer”, the words “or the financial holding company of an insurer”;
- (ii) by deleting the definition of “business day” and substituting the following definition:

“business day” means Monday to Friday, except a “public holiday;”;
- (iii) in the definition of “exempted incidental insurance”, in paragraph (c), by deleting the words “plus odd days”;
- (iv) in the definition of “foreign policy”, in paragraph (b), by deleting the words “for life” and substituting the words “for the life”;
- (v) in the definition of “insurance business”, in paragraph (a), by deleting the word “issue” and substituting the word “issuing”;
- (vi) in the definition of “insurance consultant”, by deleting the words “registered professional in his professional capacity” and substituting the words “professional who is subject to a relevant oversight body, in his professional capacity”;
- (vii) in the definition of “officer”—
 - (A) in subparagraph (a) (ii), by deleting the words

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- “also perform” and substituting the words “who also performs”;
- (B) in paragraph (d), by deleting the words “paragraph (a)(i)” and substituting the words “paragraphs (a) and (b)”;
- (viii) in the definition of “participating account”, by deleting the words “section 43(1)(a)” and substituting the words “section 43(1)”;
- (ix) by deleting the definition of “receiver” and substituting the following definition:
- “ “receiver” shall be construed in accordance with the Companies Act;”;
- (x) by deleting the definition of “receiver-manager” and substituting the following definition:
- “ “receiver-manager” shall be construed in accordance with the Companies Act;”;
- (xi) in the definition of “related group”, in paragraph (e), by deleting the words “paragraph (a)” and substituting the words “in paragraph (a)”;
- (xii) in the definition of “representative office”, in paragraph (a), by deleting the words “foreign company” wherever they occur and substituting the words “foreign insurance company”;

(xiii) in the definition of “significant shareholder”, by inserting before the word “exercise”, the words “directly or indirectly”; and

(b) in subsection (2), by deleting the word “property” wherever it appears and substituting the word “assets”.

Section 5 amended

5. Section 5(2) of the Act is amended—

(a) in subparagraph (a)(iv), by deleting the words “subparagraphs (i) and (ii)” and substituting the words “in subparagraphs (i), (ii) and (iii)”; and

(b) in subparagraph (b)(iv), by deleting the words “subparagraphs (i) and (ii)” and substituting the words “subparagraphs (i), (ii) and (iii)”.

Section 6 amended

6. Section 6 of the Act is amended by repealing paragraph (d) and substituting the following:

“(d) directly or indirectly exercise dominant influence over the conduct of the business and affairs of an entity,

and the terms “controlling interest” and “controlling shareholder” shall be construed accordingly.”.

Section 10 amended

7. Section 10 of the Act is amended—

(a) in subsection (1), by inserting after the word “Act”, the words “and the Regulations”;

(b) in subsection (5), by deleting the words “foreign company” and substituting the words “foreign insurance company”;

(c) in subsection (11)(b), by deleting the words “to inquire,”;

(d) in subsection (14), by deleting the words “audit or cause to be audited” and substituting the words “examine or cause to be examined”;

- (e) in subsection (15), by deleting the words “audit referred to in subsection (1)” and substituting the words “examination referred to in subsection (14)”; and
- (f) in subsection (16), by deleting the words “audit referred to in subsection (1)” and substituting the words “examination referred to in subsection (14)”.

8. Section 11 of the Act is amended—

Section 11 amended

- (a) in subsection (1)(b), by deleting the words “or significant shareholder” and substituting the words “significant shareholder or acquirer”; and
- (b) in subsection (7), by inserting after the words “significant shareholder” wherever they occur, the words “, acquirer”.

9. Section 15(2) of the Act is amended by deleting the words “as it may reasonably require,”.

Section 15 amended

10. Section 16 of the Act is amended by repealing subsection (1) and substituting the following subsection:

Section 16 amended

“ (1) No director, officer or employee of the Central Bank or person acting under the direction of the Central Bank shall disclose—

- (a) any information regarding the business or affairs of a registrant or any of its affiliates or of a privately administered pension fund plan and its trustees; or
- (b) any information regarding a policyholder, consumer or the other person dealing with a registrant or a beneficiary or contingent beneficiary of a privately administered pension fund plan,

that is obtained in the course of official duties.”.

Section 20 amended

11. Section 20 of the Act is amended—

(a) by repealing subsection (1) and substituting the following subsection:

“ (1) Subject to subsection (2), for the purposes of this Act, “carrying on insurance business” includes but is not limited to any or all of the following:

- (a) making of, or proposing to make, a contract of insurance in or from Trinidad and Tobago;
- (b) making of, or proposing to make, as guarantor or surety, any contract of guarantee or suretyship as a business and not merely incidental to any other of the guarantor’s or surety’s legitimate business or activity in or from Trinidad and Tobago;
- (c) taking or receiving an application for insurance in or from Trinidad and Tobago;
- (d) the collection or receipt of any premium or other consideration for insurance or any part thereof in or from Trinidad and Tobago;
- (e) the issuing of contracts of insurance in or from Trinidad and Tobago, to persons—
 - (i) resident in Trinidad and Tobago; or

(ii) authorized to do business in Trinidad and Tobago; or

(f) the solicitation, negotiation, procurement or effecting of insurance or renewals thereof in or from Trinidad and Tobago,

whether carried on directly by a person or through another person acting with the actual or apparent authority or on behalf of the first person.”;

(b) in subsection (2)—

(i) in the *chapeau*, by deleting the words “in Trinidad and Tobago if the only reason for so treating the person is either of the following:” and substituting the words “if the only reason for so treating the person is that-”;

(ii) by deleting the word “or” at the end of paragraph (a);

(iii) by deleting the full stop at the end of paragraph (b) and substituting the words “; or”; and

(iv) by inserting after paragraph (b), the following paragraph:

“(c) the person solicits, negotiates or procures insurance business as a sales representative, broker, brokerage, agent or agency registered under this Act.”.

12. Section 21 of the Act is amended—

Section 21 amended

(a) in subsection (1), by deleting the words “in, or from Trinidad and Tobago unless that person is a company that is registered

under the Companies Act and this Part” and substituting the words “unless that person is a local company that is registered under this Part”;

- (b) by repealing subsection (4) and substituting the following subsection:

“ (4) Except with the approval of the Central Bank, no person other than an insurer, agency or brokerage shall trade or carry on any business or undertaking under any name or title, in any language, which includes the words—

(a) “insurance”, “assurance” or “reinsurance” or any of their derivatives;

(b) “indemnity”, “guarantee”, “underwriting”, “surety”, “casualty”, or any of their derivatives,

or any other expression which connotes, or is intended to connote, insurance business.”;

- (c) in subsection (5), by deleting the words “subsection (1), a foreign company” and substituting the words “subsections (1) and (2), a foreign insurance company”; and
- (d) in subsection (8), by deleting the word “injunctive”.

Section 22 amended

13. Section 22 of the Act is amended—

- (a) in subsection (3), by deleting the words “An insurer” and substituting the words “Subject to subsection (4A), an insurer”;
- (b) in subsection (4), by deleting the words “On the commencement” and substituting the words “Subject to subsection (4A), on the commencement”;

- (c) by inserting after subsection (4), the following subsection:

“ (4A) Where an insurer was registered to carry on both long-term and general insurance business immediately before the commencement of this Act, but a certificate or registration is re-issued under section 23(1) and (3) only in respect of one type of insurance business, the insurer shall increase its stated capital in accordance with subsection (2).”;

- (d) in subsection (5), by deleting the words “a plan acceptable” and substituting the words “a plan approved by its board of directors which is acceptable”;

- (e) by repealing subsection (6) and substituting the following subsection:

“ (6) Where—

- (a) an insurer fails to submit or implement a plan under subsection (5); or

- (b) the Central Bank considers it appropriate to ensure that the insurer meets the requirements under this section,

the Central Bank may impose any conditions on the registration of the insurer or give any other directions that it considers to be necessary in relation to the plan.”; and

- (f) in subsection (8), by deleting the word “physically”.

Section 23 amended

14. Section 23 of the Act is amended—

- (a) by repealing subsection (1) and substituting the following subsection:

“ (1) Subject to subsection (3), an insurer, which at the commencement of this Act is registered as an insurer under the former Act, shall be deemed to have been registered under section 25 and the insurer shall obtain a new certificate of registration duly signed by the Governor, which shall specify the classes and types of insurance business in respect of which the insurer is registered and shall be *prima facie* evidence that the insurer named in the certificate has been registered under this Act.”;

- (b) by inserting after subsection (1), the following subsections:

“ (1A) An insurer registered under the former Act shall submit its certificate of registration issued under the former Act to the Central Bank for cancellation.

(1B) Where the certificate of registration of an insurer under the former Act has been lost or destroyed, the insurer shall submit a statutory declaration stating that its certificate of registration has been lost or destroyed and the circumstances of the loss or destruction.

(1C) Where the Central Bank is satisfied that the certificate of registration has been lost or destroyed, it shall deem the lost or

destroyed certificate of registration cancelled by notice in writing to the insurer.”;

(c) in subsection (2), by deleting the words “A company” and substituting the words “An insurer”;

(d) by repealing subsection (3) and substituting the following subsection:

“ (3) An insurer shall only be deemed to be registered under subsection (1) in respect of the classes and types of insurance business that the insurer has carried on in Trinidad and Tobago within the period of twelve months prior to the commencement of this Act and the insurer shall only be registered in respect of the classes and types of insurance business that it was carrying on at such time.”;

(e) in subsection (4), by deleting the words “A company” and substituting the words “An insurer”; and

(f) in subsection (5), by deleting the words “a company” and substituting the words “an insurer”.

15. Section 24(2) of the Act is amended—

Section 24 amended

(a) by repealing paragraph (b) and substituting the following paragraph:

“ (b) the name, address, nationality, experience, and other relevant information, including the information prescribed in Schedule 5 pertaining to each director and officer or proposed director and officer and all

existing and proposed shareholders holding five per cent or more of any class of shares;”;

(b) by repealing paragraph (g) and renumbering paragraphs (h) to (m) as paragraphs (g) to (l) respectively; and

(c) in the re-numbered paragraph (k), by deleting the words “controller of” and substituting the words “controlling shareholder of or person with a controlling interest in”.

Section 28 amended **16.** Section 28(1) of the Act is amended—

(a) in paragraph (c), by deleting the words “where the company is required to appoint an actuary under this Act,”;

(b) in paragraph (e), by deleting the words “section 30(7)” and substituting the words “sections 30(6) and (7)”.

Section 29 amended **17.** Section 29 of the Act is amended by inserting after subsection (1), the following subsections:

“ (1A) For avoidance of doubt, all insurers issued certificates of registration under section 23 shall thereafter continuously meet all registration requirements under this Part and comply with all terms and conditions of its registration and the requirements under Schedule 5.

(1B) Any insurer which is deemed registered pursuant to section 23 and does not meet the requirements of section 28 at the time of commencement of this Act shall, within six months of the commencement of

this Act, submit a plan approved by its board of directors for meeting the requirements under section 28 to the Central Bank by the end of the first year after the commencement of this Act.

(1C) Where an insurer which is deemed registered pursuant to section 23—

(a) fails to submit or implement a plan approved by its board under subsection (1B); or

(b) the Central Bank considers it appropriate to ensure that the insurer meets the requirements under the section 28,

the Central Bank may impose on the registration of that insurer such conditions as it considers necessary.

18. Section 30 of the Act is amended—

Section 30 amended

(a) by repealing subsection (1) and substituting the following subsection:

“ (1) An insurer shall not transact insurance business in Trinidad and Tobago with a—

(a) company which carries on, purports to carry on, or represents itself as carrying on insurance business; or

(b) person who carries on, purports to carry on, or represents itself as carrying on insurance business as an intermediary,

that is not registered under this Act.”;

- (b) in subsection (5), by inserting after the words “subsection (6)”, the words “and the exception in subsection (13)”;
- (c) in subsection (6), by inserting after the words “subsection (5)” the words “and subject to the exception in subsection (13)”;
- (d) in subsection (8), by deleting the words “subsection (6)” and substituting the words “subsections (6) and (13)”; and
- (e) by inserting after subsection (12), the following subsection:

“ (13) Notwithstanding subsections (5) and (6), the Export-Import Bank of Trinidad and Tobago Limited may carry on business other than insurance business which is necessary to promote the export of goods and services from Trinidad and Tobago.”.

Section 34 amended

19. Section 34 of the Act is amended—

- (a) in subsection (1)(b), by inserting after the words “written law”, the words “relating to the regulation of financial services or designed to protect against fraud”;
- (b) in subsection (1)(e), by deleting the words “under section 24” and substituting the words “by the insurer”; and
- (c) by repealing subsection (11) and substituting the following:

“ (11) When a decision is made to revoke a registration of all classes of insurance business for which an insurer is registered, the Central Bank may—

- (a) apply to the High Court for an order for the

winding up of the insurer
if the local insurer is
under liability to its
policyholders; or

- (b) take such other action as
provided for under this
Act.”.

20. Section 43 of the Act is amended—

Section 43 amended

- (a) in subsection (2), by inserting after the words “surplus accounts,” the words “and these accounts shall be”; and
- (b) by inserting after subsection (2), the following subsection:

“(3) The Inspector may disallow any method used for the allocation of investment income or losses, including accrued capital gains or losses, expenses, including taxes, or any other accounting items on the ground that it is not fair and equitable to the participating policyholders and he may specify an alternate method which, in his opinion, is fair and equitable to the participating policyholders of the insurer.”.

21. Section 44 of the Act is amended—

Section 44 amended

- (a) in subsection (2), by deleting the words “on its property insurance business” and substituting the words “in relation to its property insurance business”; and
- (b) in subsection (3), by deleting the words “on the insurer’s property insurance business” and substituting the words “in relation to its property insurance business”;

(c) in subsection (5)—

- (i) in paragraph (a), by deleting the word “capital” and substituting the words “capital base”; and
- (ii) by repealing paragraph (c) and substituting the following paragraph:

“ (c) after any reduction pursuant to paragraph (a) or (b) or where no reduction pursuant to paragraph (a) or (b) occurs, the value of the Catastrophe Reserve Fund at the end of a financial year is more than one hundred and twenty per cent of the net written premium income in relation to the insurer’s property insurance business for that year, in which case the maximum reduction by the insurer shall be twenty per cent of the net written premium income in relation to the insurer’s property insurance business at the end of that financial year.”.

New section 48A
inserted

22. The Act is amended by inserting after section 48, the following new section:

“Application may be made for Vesting Order for restructuring under section 47 or 48

48A. (1) Where a controlling shareholder is directed or required to engage in a restructuring under section 47 or 48 and a company within the related group

is acquiring the undertaking of the local insurer and the Central Bank has approved the transfer scheme in accordance with sections 57 to 64, that company may make an application to the Minister for a Vesting Order under section 263(1).

(2) Where a controlling shareholder is directed or required to engage in a restructuring under section 47 or 48 and the business is being transferred to a newly established insurer which is not under liability to policyholders or any other creditors, the Central Bank may exempt the transfer from sections 57 to 64 of this Act and that insurer may make an application to the Minister for a Vesting Order under section 263(1)."

23. Section 49 of the Act is amended in paragraph (a) Section 49 amended by inserting after the word "services", the words "or a foreign holding company".

24. Section 50(3) of the Act is amended by deleting Section 50 amended the word "Subject" and substituting the words "Notwithstanding subsection (1) and subject".

25. Section 52 is amended—

Section 52 amended

(a) by repealing subsections (1) to (14) and substituting the following subsections:

" (1) Notwithstanding any other law, a person or a person on whose behalf shares are held either in trust or by a nominee, shall not become a controlling shareholder of an insurer without first obtaining a written permit from Central Bank.

(2) In the circumstances where a proposed controlling shareholder is an acquirer, the provisions of section 54 shall also apply and for the

avoidance of doubt, where approval is granted for an acquirer to become a controlling shareholder, a permit shall be issued under this section in addition to the permit issued under section 54.

(3) Where a person becomes beneficially entitled after probate of a will or a grant of letters of administration to shares such as to make him a controlling shareholder, he shall apply for a permit within one month of this fact coming to his knowledge.

(4) A person who holds shares that entitle him to exercise or control more than fifty per cent of the voting power at any general meeting of an insurer prior to the commencement of this Act, is deemed to hold a permit under this section.

(5) In determining whether a permit should be granted, the Central Bank shall take into account, without limitation, the criteria in Schedule 5 as to whether the proposed shareholder is a fit and proper person or may be such as to prejudice the interests of the policyholders of the insurer and whether ownership by a controlling shareholder who is—

- (a) part of a group of relatives, each of whom is substantially dependent upon the same source of income; or
- (b) in the case of a company, an affiliate of another company,

would be likely to prejudice the interests of policyholders of the insurer.

(6) Where a permit is granted or deemed to be granted under this section, the controlling shareholder shall—

- (a) provide the Central Bank with such relevant information as the Central Bank may require from time to time; and
- (b) comply with such terms and conditions as may be specified in the permit.

(7) Where—

- (a) a controlling shareholder granted a permit after the commencement of this Act is no longer a fit and proper person;
- (b) a person under subsection (3) is not granted a permit;
- (c) a controlling shareholder deemed to be granted a permit upon the commencement of this Act is not a fit and proper person; or
- (d) after commencement of this Act, a person who, without being granted a permit under this section, obtains shares such as to make him a controlling shareholder,

that person shall be notified, in writing, by the Central Bank of this fact and he shall be required to take such steps to reduce his shareholding in such manner and in such time as may be specified by the Central Bank.

(8) Where the Central Bank gives a notice—

- (a) under subsections, (7)(a), (b) and (c), the person is entitled to receive dividends and to exercise voting rights until such time as the shares disposed of in accordance with subsection (8) or an order of the High Court is made under this section; and
- (b) under subsection (7)(d), a person shall not be entitled to receive any dividends or to exercise any voting rights.

(9) Where a controlling shareholder is notified that he is not or no longer fit and proper in accordance with subsection (7), he may, within the period of ten business days commencing the day after which the notice is received, make written representations to the Central Bank which shall take such representatives into account in determining whether to withdraw or vary the notice.

(10) Where a person fails to comply with the Central Bank's requirements under subsection (7), his shares shall be subject to disposal in accordance with subsections (11) and (12), without prejudice to any other penalty which may be incurred by any party pursuant to this Act.

(11) Where the circumstances so warrant, the Central Bank may apply to the High Court for an order for the disposal of shares on such terms and conditions as the High Court deems appropriate.

(12) Where shares referred to in subsection (9) are sold in pursuance of an order of the High Court, the proceeds of sale, less the costs of the sale, shall be paid into the High Court or into such fund as the High Court may specify for the benefit of the persons beneficially interested in the disposed shares, or to such person as the High Court may direct.

(13) Where a controlling shareholder fails to comply with any condition of its permit, the Central Bank shall issue directions to the controlling shareholder and section 155 shall apply *mutatis mutandis* to this section.”; and

(b) by renumbering subsection (15) as subsection (14).

26. Section 53 of the Act is amended—

Section 53 amended

(a) in subsection (2), by deleting the words “section 74 shall prevail over this section” and substituting the words, “section 54

shall also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a significant shareholder, a permit shall be issued under this section in addition to the permit issued under section 54”;

(b) by repealing subsection (6) and substituting the following:

“ (6) Where—

- (a) a significant shareholder granted a permit after the commencement of this Act is no longer a fit and proper person;
- (b) a person under subsection (2A) is not granted a permit;
- (c) a significant shareholder deemed to be granted a permit upon the commencement of this Act is not a fit and proper person; or
- (d) after the commencement of this Act, a person who, without being granted a permit under this section, obtains shares such as to make him a significant shareholder,

that person shall be notified, in writing, by the Central Bank of this fact and he shall be required to take such steps to reduce his shareholding in such manner and in such time as may be specified by the Central Bank.”;

(c) in subsection (7)—

- (i) in paragraph (a), by deleting the words “subsection (6)(a) and (b)” and substituting the words “subsections (6)(a), (b) and (c)”; and
- (ii) in paragraph (b), by deleting the words “subsection (6)(c)” and substituting the words “subsection (6)(d)”; and

(d) in subsection (8), by deleting the words “no longer fit and proper” and substituting the words “not or no longer fit and proper in accordance with subsection (6)”.

27. Section 54 (11) of the Act is amended by deleting Section 54 amended the words “section 52(2) and (4) to (13)” and substituting the words “section 52(3), (5) to (12) and (14)”.

28. Section 57(1) of the Act is amended by deleting the Section 57 amended words “Notwithstanding any other law, a transfer” and substituting the words “Notwithstanding any other law and subject to sections 48A(2) and 281(4), the transfer of any class of insurance business, either in whole or in part,”.

29. Section 58(1) of the Act is amended by deleting the Section 58 amended words “transfer or amalgamation” and substituting the words “transfer by way of a deed or Vesting Order or amalgamation by way of an agreement”.

30. Section 63 of the Act is amended—

Section 63 amended

- (a) in subsection (5), by deleting the word “The” and substituting the words “On the recommendation of the Central Bank, the”; and
- (b) by inserting after subsection (6), the following subsection:

“(7) The directors of any company affected by a scheme of transfer approved by the Central Bank or the Minister shall cause a copy of the scheme to be filed with the Registrar of Companies.”.

Section 64 amended **31.** Section 64 (a) of the Act is amended by deleting the words “or deed” and substituting the words “,deed or Vesting Order”.

Section 65 amended **32.** Section 65 of the Act is amended—

- (a) in subsection (4), by deleting the comma after the word “regarded”;
- (b) in subsection (10), by inserting after the words “emergency powers” the words “in respect of that insurer”;
- (c) in subsection (12) (b), by deleting the words “subsection (5)” and substituting the words “subsection (4)”;
- (d) in subsection (13), by deleting the words “subsection (8)” and substituting the words “subsection (7)”.

Section 67 amended **33.** Section 67(3) of the Act is amended by deleting the comma after the words “knowledge of”.

Section 68 amended **34.** Section 68(5) of the Act is amended—

- (a) by deleting the word “and” at the end of paragraph (b);
- (b) by deleting the full stop at the end of paragraph (c) and substituting the words “; and”;
- (c) by inserting after paragraph (c), the following paragraph:

“(d) “significant supplier” means a person who, either alone or with one or more affiliates or relatives or connected parties, supplies

the insurer or a connected party of the insurer with products or services which comprise ten per cent or more of the total products or services used by the insurer or the connected party of the insurer as the case may be on an annual basis.”.

35. Section 69(a) of the Act is amended by inserting Section 69 amended after the words “chief financial officer”, the words “on behalf of management and signed by the chairman of the board of directors or a duly authorized director on behalf of the board of directors,”.

36. Section 75 of the Act is amended— Section 75 amended

(a) in subsection (3), by deleting the word “and” at the end of paragraph (d) and substituting the word “or”;

(b) by inserting after subsection (7), the following subsection:

“ (8) For the purposes of this section, a member of an audit entity refers to an individual auditor who meets the criteria of subsection (2)(b).”.

37. Section 79(1) of the Act is amended— Section 79 amended

(a) in paragraph (b), by inserting before the word “actuary”, the word “appointed”; and

(b) in paragraph (c), by inserting before the word “actuary”, the word “appointed”.

38. Section 82 of the Act is amended— Section 82 amended

(a) in subsection (2), by deleting the words “regulatory capital ratio” and substituting the words “capital ratios”; and

(b) by inserting after subsection (2), the following subsection:

“ (2A) For the avoidance of doubt, if at any time within five years of the commencement of this Act, an insurer exceeds any of the transitional capital ratios prescribed in Schedule 8 and the Regulations, the insurer shall not reduce its capital ratios below that excess and shall continue to comply with the transitional capital ratios set out in Schedule 8 and the Regulations.”.

Section 84 amended

39. Section 84(2) of the Act is amended by—

- (a) inserting before the words “holding company”, the word “financial”; and
- (b) inserting after the word “Act”, the words “and the Regulations”.

Section 87 amended

40. Section 87 of the Act is amended—

- (a) in subsection (7), by deleting paragraph (b) and the words “if the Central Bank is of the opinion that the entity does not provide necessary services in support of the activities of the insurer.” and substituting the following paragraph:
 - “ (b) require the insurer to dispose of any of the shares or ownership interests in an entity referred to in subsection (4)(a), in accordance with subsection (8), if the Central Bank is of the opinion that the entity does not provide necessary services in support of the activities of the insurer.”;
 - and
- (b) in subsection (8), by inserting after the words “held by it”, the words “in contravention of subsection (5) or”.

41. Section 89 of the Act is amended—

- (a) in subsection (1)(a), by inserting after the words “Trinidad and Tobago”, the words “where such guarantee is explicit,^{Section 89 amended} unconditional, legally enforceable and irrevocable over the life of the credit exposure in question”; and
- (b) in subsection (9), by inserting after the words “publication of”, the words “Guidelines or”.

42. Section 90 of the Act is amended by repealing^{Section 90 amended} subsection (4) and substituting the following subsection:

“ (4) Notwithstanding subsection (1), an insurer shall not incur credit exposures to—

- (a) a director of an insurer;
- (b) an officer of an insurer; or
- (c) a relative of a person referred to in paragraphs (a) and (b), in an amount exceeding—
 - (i) in the case of a non-executive director or relative of a non-executive director, two per cent of the capital base of the insurer; or
 - (ii) in the case of an executive director, officer, or relative of an executive director or officer, two per cent of the capital base of the insurer or two years’ emoluments of the director or officer, whichever is the lesser.”.

Section 92 amended **43.** Section 92(1) of the Act is amended in paragraph (c)(i) by deleting the words “for general insurance, which” and substituting the words “which in the case of general insurance”.

Section 93 amended **44.** Section 93 of the Act is amended in subsection (2) by deleting the words “Central Bank” and substituting the word “Inspector”.

Section 97 amended **45.** Section 97(5) of the Act is amended by deleting the words “the Registrar of Companies to issue a certificate of amalgamation under the Companies Act” and inserting the words “the judicial manager to file a copy of the confirmed scheme of transfer with the Registrar of Companies”.

Section 101 amended **46.** Section 101 of the Act is amended—
(a) in subsection (3)(b), by deleting the words “make an application” and substituting the word “petition”;
(b) in subsection (6), by deleting the words “shall be repaid out of the funds of the insurer in the event that the insurer is liquidated” and substituting the words “shall be repaid out of the assets of the insurer during the suspension and upon liquidation or judicial management, shall be payable out of the assets of the insurer in priority to all other unsecured claims”.

Section 107 amended **47.** Section 107 of the Act is amended by repealing subsection (3) and substituting the following subsection:
“(3) Notwithstanding the provisions of this section, all costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.”.

48. Section 108(7) is amended by deleting the words “Section 104(3)” and substituting the words “Section 104(3) and (4)”. Section 108 amended

49. Section 112(6) of the Act is amended by deleting the words “an agent of an insurer” and substituting the words “an agent”. Section 112 amended

50. Section 113(2) of the Act is amended in— Section 113 amended

- (a) paragraph (d), by deleting the words “business as a brokerage” and substituting the words “the business of an insurance brokerage”;
- (b) paragraph (e), by deleting the words “business as a brokerage” and substituting the words “the business of an insurance brokerage”.

51. Section 114 of the Act is amended— Section 114 amended

- (a) in subsection (1), by inserting the words, “, agency” after the word “insurer” whenever it occurs; and
- (b) in subsection (3)—
 - (i) by deleting the words “issued to a” and substituting the words “issued to an agency or”; and
 - (ii) in paragraph (a), by inserting before the word “broker”, the words “agent or”.

52. Section 116 of the Act is amended— Section 116 amended

- (a) in subsection (4), by deleting the words “a plan acceptable” and substituting the words “a plan approved by its board of directors which is acceptable”;
- (b) by repealing subsection (5) and substituting the following subsection:
 - “Where—
 - (a) a brokerage fails to submit or implement a plan under sub-section (4); or

(b) the Central Bank considers it appropriate to ensure that the brokerage meets the requirements under this section,

the Central Bank may impose any conditions on the registration of the brokerage or give any other directions that it considers to be necessary in relation to the plan.”.

Section 122 amended **53.** Section 122(1) is amended in the *chapeau* by deleting the word “brokerage,”.

Section 133 amended **54.** Section 133 of the Act is amended by deleting the word “carry on” and substituting the word “transact” wherever it occurs.

Section 136 amended **55.** Section 136 of the Act is amended by inserting after subsection (4), the following subsection:

“(5) The financial statements required under this section shall be audited by an auditor that is—

(a) a fit and proper person in accordance with the criteria set out—

(i) in subhead A of Schedule 5 of the Act where the auditor is an individual; and

(ii) paragraph 1 of subhead B and subhead C of Schedule 5 of the Act where the auditor is an entity; and

(b) a practising member in good standing with ICATT or the holder of a valid practicing

certificate from such other professional association of accountants or auditors as the Central Bank may approve.”.

56. Section 144(5) of the Act is amended in Section 144 amended paragraph (b)(ii) by deleting the words “where such company has credit exposures with the insurer”.

57. Section 155 of the Act is amended— Section 155 amended

- (a) in subsection (1)(c), by inserting after the word “law”, the words “relating to the regulation of financial services or designed to protect against fraud”;
- (b) in subsection (6), by inserting before the words “not exceeding twenty business days”, the words “having effect for a period”; and
- (c) in subsection (9), by deleting the words “fails to comply with a direction issued or made under subsection (4), (5) or (6) respectively” and substituting the words “to whom a direction is issued, fails to comply with that direction”.

58. Section 160(3) of the Act is amended by deleting Section 160 amended the words “section 42” and substituting the words “section 43”.

59. Section 168(1) of the Act is amended by deleting Section 168 amended the words “as he would” and substituting the words “as he would have,”.

60. Section 180 of the Act is amended— Section 180 amended

- (a) in subsection (1), by deleting the words “An ordinary policy” and substituting the words “A policy”;
- (b) in subsection (4), by deleting the words “An ordinary policy” and substituting the words “A policy”.

Section 197 amended **61.** Section 197 of the Act is amended—

- (a) in subsection (1), by deleting the words “showing all policies in respect of which amounts remain unpayable by the insurer for a period of seven years” and substituting the words “showing all policies in respect of which there is unclaimed money”;
- (b) in subsection (14), by deleting the words “within seven years after the maturity date of the policy” and substituting the words “within the time which proceedings may be taken for their recovery”.

Section 215 amended **62.** Section 215(1) of the Act is amended in paragraph (a) by inserting before the words “outstanding claims”, the words “provisions for”.

Section 218 amended **63.** Section 218 of the Act is amended—

- (a) in subsection (1)—
 - (i) in paragraph (a), by deleting the word “prescribed” and substituting the words “as specified by the Central Bank”;
 - (ii) in paragraph (d)(v), by deleting the word “prescribed” and substituting the words “required by the Central Bank”;
- (b) in subsection (5)(a), by deleting the word “prescribed” and substituting the words “as specified by the Central Bank”.

Section 226 amended **64.** Section 226(1) of the Act is amended in paragraph (b) by deleting the word “prescribed” and substituting the words “specified by the Central Bank”.

Section 244 amended **65.** Section 244 of the Act is amended—

- (a) in subsection (2)(e), by deleting the words “receipt and expenditure by” and substituting the words “income and expenses of”; and

(b) in subsection (3), by deleting the words “receipt and expenditure by” and substituting the words “income and expenses of”.

66. Section 245(2) is amended by deleting the words Section 245 amended “associations of underwriters that it” and substituting the words “associations of underwriters that he”.

67. The Act is amended by inserting after section 250, New section 250A inserted the following section:

“Alternate dispute resolution scheme 250A. An insurer shall, no later than sixty business days after the commencement of this Act, enroll in an alternate dispute resolution scheme approved by the Central Bank.”.

68. Section 251(1) of the Act is amended by deleting Section 251 amended the words “registrant including an unincorporated body, and a financial holding company” and substituting the words “person or entity”.

69. Section 252 of the Act is amended— Section 252 amended

(a) by deleting the word “or” at the end of paragraph (c);

(b) by deleting the comma at the end of paragraph (d) and substituting the words “; or”; and

(c) by inserting after paragraph (d), the following paragraph:

“(e) the date on which a particular registered pension fund plan became or ceased to be registered,”.

70. Section 253 of the Act is amended by deleting the Section 253 amended words “, the Board” wherever they occur.

Section 255 amended

71. Section 255 of the Act is amended—

(a) in subsection (2)(b), by deleting the words “persons connected with him” and substituting the words “a connected party”; and

(b) in subsection (3)—

(i) by inserting after the words “sales representative”, the words “, agent or broker”; and

(ii) by deleting the words “persons connected with him” and substituting the words “a connected party”.

Section 263 amended

72. Section 263(1) of the Act is amended by inserting after the word “Where”, the words “the Central Bank has confirmed a scheme of transfer or where an exemption is granted by the Central Bank from the provisions of sections 57 to 64 pursuant to section 48A(2) or 281(4), and”.

Section 265 amended

73. Section 265 of the Act is amended—

(a) by inserting the word “(1)” after the word “265”; and

(b) by inserting after the renumbered subsection (1), the following subsection:

“ (2) Notwithstanding subsection (1), the transfer of and vesting in the transferee of an undertaking by a Vesting Order as a result of a restructuring described in sections 47, 48 and 281(2) of this Act shall not be subject to the provisions of the Stamp Duty Act.”.

74. Section 277(1) of the Act is amended by deleting Section 277 amended the words “the Minister may” and substituting the words “the Central Bank shall”.

75. The Act is amended by repealing section 279 and Section 279 amended substituting the following section:

“Regulations
and
amendment
of Schedules 279. (1) The Minister may, after receiving recommendations from the Central Bank, make Regulations for—

- (a) reinsurance business;
 - (b) the conduct of examinations for persons applying to be registered as an intermediary and the exemption of persons from such examinations;
 - (c) the appointment of approved educational institutions and their functions;
 - (d) prudential criteria;
 - (e) contracts of insurance of the classes under Type B-Long-Term Insurance Business in the First Schedule;
 - (f) maintaining reserves;
 - (g) controlling, restricting or prohibiting the making of linked long-term contracts of insurance by a company which is registered in Trinidad and Tobago to carry on insurance business in that country;
 - (h) any other thing which is required or authorised to be prescribed by this Act;
- and

(i) generally giving effect to the provisions of this Act.

(2) Regulations made under subsection (1) shall be subject to a negative resolution of Parliament.

(3) Regulations made under subsection (1)(d) may include, but shall not be limited to—

- (a) capital adequacy and solvency requirements and capital ratios in relation to registrants, financial holding companies and members of financial groups;
- (b) liquidity requirements and ratios;
- (c) treatment of credit exposures;
- (d) treatment of assets and investments;
- (e) transactions with connected parties and connected party groups;
- (f) risks relating to self-dealing;
- (g) profiting from insider information;
- (h) risks relating to foreign exchange transactions, sectoral and business risks, and off balance sheet transactions;
- (i) reporting requirements for transactions referred to in paragraph (e);
- (j) other reporting requirements;
- (k) information required in published financial statements;

- (l) new financial instruments;
- (m) relationships with holding companies, controlling shareholders, significant share-holders, subsidiaries and other affiliates as they may affect the capital position of the registrant; and
- (n) any other matter related to prudential criteria.

(4) Regulations made under subsection (1) may authorise the Central Bank—

- (a) to exempt from the provisions of this Act any class of insurance business where the Central Bank considers such exemption necessary having regard to the class of insurance business and to the provisions of this Act; or
- (b) to approve, in relation to any company, the use of any prescribed form with such modifications as the Central Bank thinks fit, where the Central Bank is satisfied that the modification would not substantially affect the purpose of the form.

(5) Regulations made under subsection (1)(g) shall be limited to the contracts specified in that paragraph which—

- (a) are entered into by insurance companies to

which Part III of this Act applies; and

- (b) are contracts under which the benefits payable to the policyholder are wholly or partly to be determined by reference to the value of or the income from property of any description, or by reference to fluctuations in or in an index of the value of property of any description, whether or not specified in the contract.

(6) Regulations made under subsection (1)(g) may make different provisions in relation to different cases or circumstances, and the Minister may, on the application of any insurer alter the provisions of any such Regulations so as to adapt those provisions to the special circumstances of an insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.

(7) Regulations made under subsection (1)(g) may make provision—

- (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
- (b) regulating the manner in which and the frequency with which property of any description is to be

-
- valued for the purpose of determining the benefits referred to in paragraph (a);
- (c) requiring insurers under the contracts to appoint valuers to carry out valuations of property of any description in order to determine the benefits referred to in paragraph (a);
 - (d) prescribing the qualifications of a valuer and his relationship with the insurer;
 - (e) requiring insurers under the contracts to furnish in such manner and at such times as may be specified in the Regulations, such information relating to the value of the benefits under the contracts as may be specified in the Regulations;
 - (f) requiring insurers under the contracts to furnish to the Central Bank, in such manner and at such times as may be specified in the Regulations, such information as may be specified therein relating to the contracts or with any class or description of the contracts;
 - (g) enabling the Central Bank to publish the information

referred to in paragraph (f)
in such ways as the Bank
thinks fit.

(8) Regulations requiring insurers to furnish information as required by subsection (7)(e) may, in relation to notices which are required to be sent to policyholders, impose requirements which would ensure that the notices are easily legible.

(9) The Minister may, by Order, upon recommendation by the Central Bank, amend the Schedules.

(10) The Minister may, by Order, upon recommendation by the Central Bank, vary the amount specified—

(a) in the definition of “insolvent”
in section 4(2);

(b) in section 193(1) and (3);
and

(c) in section 195(3) and (4).

(11) Any amendment to Schedule 6 shall be subject to affirmative resolution of Parliament.”.

Section 281 amended

76. Section 281 of the Act is amended—

(a) by repealing subsection (1) and substituting the following:

“ (1) Notwithstanding section 280, the former Act, save for sections 84 to 87 of that Act, and the Regulations made thereunder shall apply to a foreign insurer for a period of eighteen months (“reorganisation period”) from the commencement of

this Act in order to facilitate a reorganisation of the foreign insurer's business such that the foreign insurer can comply with the requirements of section 21(1) of this Act.”;

(b) by repealing subsection (4) and substituting the following:

“ (4) Where a foreign insurer engages in a reorganisation of its business pursuant to subsection (1) and (2) by way of a transfer of a class of business or part thereof, the Central Bank may exempt such transfer from the requirements of sections 57 to 64 of this Act, where pursuant to such reorganisation, a newly established insurer which is not under liability to policyholders or any other creditor, proposes to acquire a class of business or part thereof of the foreign insurer.”; and

(c) by inserting after subsection (6), the following subsection:

“ (7) Notwithstanding subsection (1), this section, sections 57 to 64 and sections 262 to 265 of this Act apply *mutatis mutandis* to a foreign insurer during and after the reorganisation period.”.

77. Section 282 of the Act is amended by deleting the words “, the Married Persons Act”. Section 282 amended

78. Schedule 1 of the Act is amended in paragraph (5)(b)(i) under the heading “Contracts of insurance referred to in paragraph (5)” by deleting the words “plus odd business days”. Schedule 1 amended

Schedule 2 amended

79. Schedule 2 of the Act is amended—

(a) in Part A, by inserting at the end the table, the following paragraph:

“ The annual Fees within this Part shall be calculated on a *pro rata* basis, where a certificate of registration, approval or permit is issued or granted for the first time.”; and

(b) by repealing Part B and substituting the following:

“PART B

1. The following fees shall be payable by intermediaries in accordance with the provisions of this Act:

<i>Section</i>	<i>Matters in Respect of which Fee is Payable</i>	<i>Registration Fee Payable in Trinidad and Tobago Dollars</i>
111	Application to be registered as a sales representative	\$1,000 Per annum
111	Application to be registered as an agent	\$1,000 Per annum
111	Application to be registered as a broker	\$3,500 Per annum
111	Application to be registered as an adjuster (individual)	\$3,500 Per annum
111	Application to be registered as an agency	\$3,500 Per annum
111	Application to be registered as a brokerage	\$6,500 Per annum
111	Application to be registered as an adjuster (company)	\$6,500 Per annum
111	Application to be registered as an insurance consultant	\$6,500 Per annum

2. Fees within this part may be calculated on a *pro rata* basis, where applicable.”.

80. Schedule 6 of the Act is amended in Part A in the first column—

- (a) beginning with section 89(1A), by deleting the words in the second column General Description of Offence and substituting the words “Incurring of a credit exposure by an insurer to a person, borrower group or related group in an aggregate amount that exceeds the amount approved by the Inspector or as prescribed by this section”; and
- (b) beginning with section 244(4), by deleting the words “receipt and expenditure” and substituting the words “income and expenses”.

81. Schedule 8 of the Act is amended by deleting the words “transitional regulatory capital ratios” in the *chapeau* and substituting the words “transitional capital ratios”.

82. Schedule 12 of the Act is amended—

Schedule 12
amended

- (a) by deleting the following row:

“The Married Persons Act, Chap. 45:50	Repeal section 11.”;
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- (b) in the Central Bank Act, in the second column, by renumbering the section beginning “In section 44D(1)(c)” as “A” and inserting a new section B as follows:

“ B. Section 56(1) is amended by inserting after the words “Financial Institutions Act”, the words “and section 16 of the Insurance Act” and by inserting the words “or entity” after the word “person”;

(c) in the Financial Institutions Act, in the second column as follows:

- (i) in the definition of “significant shareholder”, insert before the word “exercise” the words “directly or indirectly”;
- (ii) in item D, by inserting after paragraph (c), the following:
 - “ (d) in subsection (11)—
 - (i) delete the words “in Chambers”;
 - (ii) delete the word “shall” and substitute the word “may”;
- (iii) by inserting after item F, the following new item:

“ FA. In section 71(2), delete the words “prevail over this section” and substitute the words “also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a controlling shareholder, a permit shall be issued under this section in addition to the permit issued under section 74.”;

- (iv) by deleting item G and substituting the following:

“G. In section 72—

- (a) in subsection (2), delete the words “prevail over

this section” and substitute the words “also apply and for the avoidance of doubt, where approval is granted for an acquirer to become a significant shareholder, a permit shall be issued under this section in addition to the permit issued under section 54.”; and

- (b) repeal subsection (11) and substitute the following:

“ (11) W h e r e the circumstances so warrant, the Central Bank may apply to the High Court for the disposal of shares on such terms and conditions as the High Court deems appropriate.”;

- (vi) by inserting after item H, the following new item:

“ HA. In section 78(1)(b), insert after the words “significant shareholder” the words, “acquirer” wherever they occur.”.

Passed in the House of Representatives this 31st day
of January, 2020.

Clerk of the House

Passed in the Senate this 5th day of February, 2020.

Clerk of the Senate