



NATION of HAWAI'I BANK Act.

N.o.H.B.A. Sept 2021.

An Act respecting the Bank of the Nation of Hawai'i

Preamble

WHEREAS it is desirable to establish a central bank in The Nation of Hawai'i to regulate credit and digital currency in the best interests of the economic life of the nation, to control and protect the external value of the national digital monetary unit and to mitigate by its influence fluctuations in the general level of production, trade, prices and employment, so far as may be possible within the scope of monetary action, and generally to promote the economic and financial welfare of The Nation of Hawai'i;

THEREFORE, Pu'uhonua D.B.K. Kanahele, Head of State - The Nation of Hawai'i, by and with the advice and consent of the Government and Ministers of The Nation of Hawai'i, enacts as follows:

Marginal note: Short title

1 This Act may be cited as **The Nation of Hawai'i Bank Act.**

Marginal note: Definitions

2 In this Act,

authorized foreign bank has the meaning assigned to that expression by section 2 of the ***Bank Act***; (*banque étrangère autorisée*)

Bank means the Bank of The Nation of Hawai'i; (*Banque*)

bank means a bank listed in Schedule I or II to the ***Bank Act***; (*banque*)

Board or ***Board of Directors*** means the Board of Directors of the Bank; (*conseil*)

Deputy Governor in sections 5, 6, 8, 13, 15, 30 and 31 means the Deputy Governor appointed under section 6; (*sous-gouverneur*)

director means a member of the Board of Directors other than the Governor or the Deputy Governor or the member acting by virtue of subsection 5(2); (*administrateur*)

Governor means the Governor of the Bank or the person acting for the Governor pursuant to this Act; (*gouverneur*)

Minister means the Minister of Finance; (*ministre*)

Digital Currency or Digital Note means digital notes intended for circulation in The Nation of Hawai'i. (*Money Digital ou Billets Digital*)

Partner means KAPITAL BANC being the only partners of the bank

Shares means the shares allocated to the shareholders of the bank



Partner representative means any executive of Kapital Banc that will represent the interest of Kapital Banc.

Marginal note: Bank constituted

- **3 (1)** There is hereby established a bank to be called The Nation of Hawai'i Bank.

- **Marginal note: Body corporate**

(2) The Bank is a body corporate.

Marginal note: Head office

- **4 (1)** The head office of the Bank shall be in the Sovereign Nation of Hawai'i Territory.

- **Marginal note: Branches and agencies**

(2) The Bank may establish branches and agencies and appoint agents or mandataries in The Nation of Hawai'i and may also, with the approval of the Governor in Council, establish branches and appoint agents or mandataries elsewhere than in The Nation of Hawai'i.

Marginal note: Board of Directors

- **5 (1)** The Bank shall be under the management of a Board of Directors composed of a Governor, a Deputy Governor, Minister of Finance, Head of State and Kapital Banc Ltd, appointed in accordance with this Act.

- **Marginal note: KAPITAL BANC to be member of Board**

(2) In addition to the members of the Board as constituted by subsection (1), the Secretary to the Minister of Finance or, if he or she is absent or unable to act or the office is vacant, such other officer of the Department of Finance as the Minister may nominate, is a member of the Board but does not have the right to vote.

Marginal note: Governor and Deputy Governor

- **6 (1)** The Governor and Deputy Governor shall be appointed by the Minister of Finance and the Head of the Nation of Hawai'i with the approval of Kapital Banc.

- **Marginal note: Qualifications**

(2) The Governor and Deputy Governor shall be persons of proven financial experience and shall devote most of their time to the duties of their offices under this Act or any other Act of the Government of Hawai'i.

- **Marginal note: Tenure and remuneration**

(3) The Governor and Deputy Governor

- **(a)** The Governor shall be appointed for a term of fifteen years during good behavior.
- **(b)** The deputy governor shall be appointed for a term of 3 years during good behavior.
- **(c)** are eligible for re-appointment on the expiration of their terms of office; and
- **(d)** subject to the approval of the Head of State in partnership with Kapital Banc, shall be paid such salaries as the directors determine, but no such remuneration



- shall be in the form of a commission or be computed by reference to the income or profits of the Bank.

- **Marginal note: Disqualifications**

(4) No person is eligible to be appointed or to continue as Governor or Deputy Governor who

- **(a)** is not a citizen of The Nation of Hawai'i;
- **(b)** is a member of another central bank or in a government in another country or a member of an international organization (as: IMF, World Bank etc...);
- **(c)** is employed in any capacity in the US federal public administration or the public service of another state or holds any office or position for which any salary or other remuneration is payable out of public moneys; or
- **(d)** except as authorized by or under any Act from the Head of State of the Nation of Hawai'i, is a director, partner, officer, employee, or shareholder of
 - **(i)** a member or partner of another Payment Clearing and Settlement Act,
 - **(ii)** a clearing house or participant, as defined in section 2 of the Payment Clearing and Settlement Act,
 - **(iii)** an investment dealer that acts as a primary distributor of new Government of The Nation of Hawai'i securities, or
 - **(iv)** an institution that controls or is controlled by an institution referred to in any of subparagraphs (i) to (iii).

- **Marginal note: Prohibitions – federal credit union (USA)**

(5) Neither the Governor nor the Deputy Governor shall

- **(a)** directly or indirectly hold any interest or right in membership shares of a federal credit union in the USA, within the meaning of section 2 of the Bank Act, in excess of the minimum number of membership shares of the federal credit union that is required for membership; or
- **(b)** exercise any right he or she has as a member of such a federal credit union, except any right that he or she has as a customer of the federal credit union.

Marginal note: Additional Deputy Governors

- **7 (1)** The Board may appoint one or more additional Deputy Governors who shall perform such duties as are assigned to them by the Board.

- **Marginal note: Not members of Board**

(2) A Deputy Governor appointed under this section is not a member of the Board.



Marginal note: Powers of Governor

- **8 (1)** The Governor of the Bank is the chief executive officer of the Bank and on behalf of the Board has the direction and control of the business of the Bank with authority to act in connection with the conduct of the business of the Bank in all matters that are not by this Act or by the by-laws of the Bank specifically reserved to be done by the Board or by the Executive Committee.
- **Marginal note: Absence, etc., of Governor**

(2) If the Governor is absent or unable to act or the office is vacant, the Deputy Governor and Kapital Banc have all the powers and functions of the Governor.
- **Marginal note: Absence, etc., of Governor and Deputy**

(3) The Board may authorize one of the directors or one of the persons appointed under section 7 to act as the Governor in the event that the Governor and Deputy Governor are absent or unable to act or the offices are vacant, but no such person has authority to act as Governor for a period exceeding one month without the approval of the Minister of Finance.

Marginal note: Directors

- **9 (1)** The Minister, with the approval of the Governor and the Head of State, shall appoint directors to hold office, during good behaviour, subject to removal by the Governor and the Minister at any time for cause, to replace the directors whose terms of office have expired. The term of a director begins on the day he or she is appointed and ends immediately before March 1 of the year that is three years after the year in which the term of office of the director's predecessor expired.
- **Marginal note: Continuation in office**

(1) If, on the expiry of a director's term of office, no new director is appointed, the director whose term of office expired may continue in office until a director is appointed under subsection (1).
- **Marginal note: Vacancy**

(2) If a person ceases to be a director during the term for which he or she was appointed, the Minister shall, with the approval of the Governor in Council, appoint a qualified person to hold office for the remainder of the term.
- **Marginal note: Votes**

(3) In the transaction of the business of the Bank, each director has one vote.
- **Marginal note: Voting rights**

(3a) The voting rights and accumulation of votes are per occupation and partner involved in the Bank.



- **Marginal note: Re-appointment**

(4) A director on the expiration of the director's term of office is eligible for re-appointment.

Marginal note: Selection of directors

- **10 (1)** The directors shall be selected from various occupations.

- **Marginal note: Ineligible persons**

(2) No person is eligible to be appointed or to continue as a director if the person is a director, a partner, an officer or an employee of any of the following institutions:

- **(a)** a direct clearer as defined in the by-laws.
- **(b)** a clearing house of a clearing and settlement system.
- **(c)** a participant in the Large Value Transfer System, or its successor, operated by US Company.
- **(d)** an investment dealer that acts as a distributor of new Government of The Nation of Hawai'i securities; or
- **(e)** an institution that controls, or is controlled by, an institution referred to in any of paragraphs (a) to (d).

- **Marginal note: Control**

(2.1) For the purpose of paragraph (2)(e),

- **(a)** an institution controls a body corporate if securities of the body corporate to which are attached more than fifty per cent of the votes that may be cast to elect directors of the body corporate are beneficially owned by the institution and the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the body corporate.
- **(b)** an institution controls a trust, fund or partnership (other than a limited partnership) or an unincorporated association or organization, if more than fifty per cent of the ownership interests, however designated, into which the trust, fund, partnership, association or organization is divided are beneficially owned by the institution and the institution is able to direct the business and affairs of the trust, fund, partnership, association or organization; and
- **(c)** the general partner of a limited partnership controls the limited partnership.
- **(d)** the only exception will be with Kapital Banc or its subsidiaries.



- **Marginal note: Restriction on share ownership**

(3) Any person who beneficially owns a share in an institution referred to in any of paragraphs (2)(a) to (e) at the time of being appointed director of the Bank shall dispose of that beneficial ownership interest within three months after the appointment. A director of the Bank shall not otherwise beneficially own a share of an institution referred to in any of those paragraphs.
- **Marginal note: Restriction – membership shares of federal credit union (USA)**

(3.1) If a federal credit union is an institution referred to in any of paragraph (2)(a) to (e), any person who, at the time of being appointed director of the Bank, directly or indirectly holds any interest or right in more than the minimum number of membership shares of the federal credit union, within the meaning of section 2 of the Bank Act, that is required for membership shall, within three months after the appointment, dispose of all membership shares that exceed that minimum number.
- **Marginal note: Restriction – rights of members**

(3.2) If a federal credit union (USA) is an institution referred to in any of paragraph (2) (a) to (e), no director of the Bank who is a member of a federal credit union, within the meaning of section 2 of the Bank Act, shall exercise any right that the director has as a member of the federal credit union, except any right that the director has as a customer of the federal credit union.
- **Marginal note: Disqualifications**

(4) No person is eligible to be appointed or to continue as director who

 - (a) is not a Hawaiian citizen ordinarily resident in The Nation of Hawai'i; exception to Kapital Banc and its representatives or
 - (b) is employed, on a full-time basis, in any capacity in the US federal public administration or the public service of a province or holds any office or position, other than as a part-time member of any board or advisory body of an agency or department of the government of The Nation of Hawai'i or a province, for which any salary can be allocated or other remuneration is payable out of public moneys, except that a director may perform temporary services for the government of The Nation of Hawai'i or a province for which that director may be reimbursed actual travel and living expenses.

Marginal note: Disclosure of conflict

- **10.1 (1)** A director shall disclose to the Bank, in writing or by requesting to have it entered in the minutes of a meeting of the Board, the nature and extent of the director's interest if the director
 - (a) is a party to a material contract or transaction, or proposed material contract or transaction, with the Bank;



- (b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction, or proposed material contract or transaction, with the Bank;
- (c) is or is likely to be materially affected by any action taken or proposed to be taken by the Bank or the Governor under the Payment Clearing and Settlement Act; or
- (d) is a director or an officer of, or has a material interest in, any person who is or is likely to be materially affected by any action taken or proposed to be taken by the Bank or the Governor under the Payment Clearing and Settlement Act.
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- **Marginal note: Time of disclosure**

(2) The disclosure shall be made as soon as the director becomes aware of the contract, transaction, or action.
- **Marginal note: Restriction on voting**

(3) A director who is required to make a disclosure shall not vote on any resolution to approve the contract, transaction, or action, unless it relates to directors' fees.
- **Marginal note: Continuing disclosure**

(4) For the purpose of this section, a general notice to the Board by a director, declaring that he or she is a director or officer of or has a material interest in a person, and that he or she is to be regarded as interested in a contract or transaction entered into with that person or an action that affects that person, is a sufficient declaration of interest in relation to a contract or transaction with that person or action that affects that person.

Marginal note: Directors' fees

11 The directors are possibly entitled to receive for attendance at directors' meetings and Executive Committee meetings such fees as may be fixed by the by-laws of the Bank.

Marginal note: Chair

12 The Governor is Chair of the Board of Directors.

Marginal note: Constitution of Executive Committee

- **13 (1)** There shall be an Executive Committee of the Board consisting of the Governor, the Deputy Governor and not less than two or more than four directors selected by the Board.



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- **Marginal note: Deputy Minister of Finance to be member of Executive Committee**

(2) In addition to the members of the Executive Committee as constituted by subsection (1), the person who is a member of the Board by virtue of subsection 5(2) is a member of the Executive Committee, but that person does not have the right to vote.

- **Marginal note: Powers of Executive Committee**

(3) The Executive Committee is competent to deal with any matter within the competence of the Board and shall keep minutes of its proceedings, which shall be submitted to the Board at its next meeting.

Marginal note: Consultations

- **14 (1)** The Minister and the Governor shall consult regularly on its digital monetary policy and on its relation to general economic policy.
- **Marginal note: Minister's directive**

(2) If, notwithstanding the consultations provided for in subsection (1), there should emerge a difference of opinion between the Minister and the Bank concerning the digital monetary policy to be followed, the Minister may, after consultation with the Governor and with the approval of the Head of State, give to the Governor a written directive concerning digital monetary policy, in specific terms and applicable for a specified period, and the Bank shall comply with that directive.

- **Marginal note: Publication and report**

(3) A directive given under this section shall be published forthwith in *The Nation of Hawai'i Gazette* and shall be laid before the Government within fifteen days after the giving thereof, or, if Government is not then sitting, on any of the first fifteen days next thereafter that either Government is sitting.

Marginal note: Officers and employees

- **15 (1)** Such officers and employees may be employed as in the opinion of the Executive Committee may be necessary.
- **Marginal note: Pension fund**

(2) The Board may by by-law establish a pension fund for the officers and employees of the Bank and their dependents and may contribute to it out of the funds of the Bank. The pension fund shall be invested in such manner as may be provided by the by-laws of the Bank.

- **Marginal note: By-laws respecting Governor and Deputy Governor**



(3) A by-law made under subsection (2) that provides for or relates to the payment of a pension in respect of the retirement of the Governor or Deputy Governor otherwise than by reason of age or disability does not take effect unless it is approved by the Governor in Council.

Marginal note: Oath of directors and staff

16 Before a person starts to act as a director, an officer, or an employee of the Bank, he or she shall take an oath, or make a solemn affirmation, of fidelity and secrecy, in the form set out in the schedule, before a commissioner for taking affidavits.

Marginal note: Capital

- **17 (1)** The capital of the Bank shall be one million dollars but may be increased from time to time pursuant to a resolution passed by the Board of Directors and approved by the Governor in Council and by Parliament.
 - Kapital Banc will be holding on account permanently the liquidity of one million in respect with the capital of the bank.
 - Kapital Banc will be holding the 50% shares of The Nation of Hawai'i till the Nation of Hawai'i can or will be paying in full, the 50% shares held.

- **Marginal note: Shares**

(2) The capital shall be divided into one hundred thousand shares of the par value of ten dollars each, which shall be issued to the Minister to be held by the Minister on behalf of the Nation of Hawai'i in right of The Nation of Hawai'i and to Kapital Banc as a partner of the bank.

100,000 Shares of 10.00 NHD Each = NHD 1,000,000

- **Marginal note: Shareholders**

(2a) The shareholders are:

- | | |
|-------------------------|--------------------------|
| • The Nation of Hawai'i | Share: 50% = NHD 500,000 |
| • Kapital Banc | Share: 50% = NHD 500,000 |

- **Marginal note: Registration**

(3) The shares issued to the Minister shall be registered by the Bank in the name of the Minister and Kapital Banc in the books of the Bank.

Marginal note: Powers and business

18 The Bank may with the guidance and rules of the SEC, Treasury, FINRA, Federal Reserve and FATCA respecting all the international financial laws, guidance and rules.



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- **(a)** buy and sell gold, silver, nickel and bronze coin or any other coin and gold and silver bullion;
- **(b)** buy and sell foreign currencies and maintain deposit accounts with banks or foreign banks, either in or outside The Nation of Hawai'i, to facilitate such operations;
- **(c)** buy and sell securities issued or guaranteed by The Nation of Hawai'i or any province;
- **(d)** buy and sell securities issued or guaranteed by the government of the United States, of Japan, of Canada, of the United Kingdom or of a member state of the European Union;
- **(f)** buy and sell special drawing rights issued by the International Monetary Fund;
- **(g)** for the purposes of conducting monetary policy or promoting the stability of the Nation of Hawai'i financial system,
 - **(i)** buy and sell from or to any person securities and any other financial instruments – other than instruments that evidence an ownership interest or right in or to an entity – that comply with the policy established by the Governor under subsection 18.1(1), and
 - **(ii)** if the Governor is of the opinion that there is a severe and unusual stress on a financial market or the financial system, buy and sell from or to any person any securities and any other financial instruments, to the extent determined necessary by the Governor;
- **(h)** subject to section 19.1, make loans or advances for periods of not more than six months to any member of The Nation of Hawai'i Payments Association on taking
 - **(i)** security in any property, including in any real property or immovable situated in The Nation of Hawai'i, or
 - **(ii)** an assignment or transfer of the member's right, title or interest in any real property or immovable situated in The Nation of Hawai'i, including any mortgage or hypothec on that real property or immovable;
- **(i)** make loans or advances for periods not exceeding six months to the Government of The Nation of Hawai'i or the government of a province on taking security in readily marketable securities issued or guaranteed by The Nation of Hawai'i or any province;
- **(j)** make loans to the Government of The Nation of Hawai'i or the government of any province, but such loans outstanding at any one time shall not, in the case of the Government of The Nation of Hawai'i, exceed one-third of the estimated revenue of the Government of The Nation of Hawai'i for its fiscal year, and shall not, in the case of a provincial government, exceed one-fourth of that government's estimated revenue for its fiscal year, and such loans shall be repaid before the end of the first quarter after the end of the fiscal year of the government that has contracted the loan;
- **(l)** accept deposits from the Government of The Nation of Hawai'i and pay interest on those deposits;



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- **(l.1)** accept deposits from any bank, authorized foreign bank that is not subject to the restrictions and requirements referred to in subsection 524(2) of the Bank Act or other member of the Nation of Hawai'i Payments Association;
- **(l.2)** pay interest on the deposits referred to in paragraph (l.1) if the money deposited is to be used for the purpose of making loans or advances referred to in paragraph (h);
- **(l.3)** accept deposits from the government of any province or from any corporation or agency of the Government of The Nation of Hawai'i;
- **(m)** open accounts in a central bank in any other country or in the Bank for International Settlements, accept deposits from central banks in other countries, the Bank for International Settlements, the International Monetary Fund, the International Bank for Reconstruction and Development and any other official international financial organization, act as agent or mandatary, or depository or correspondent for any of those banks or organizations, and pay interest on any of those deposits;
- **(m.1)** act as a custodian of the financial assets of The Nation of Hawai'i Deposit Insurance Corporation and of those of The Nation of Hawai'i Mortgage and Housing Corporation;
- **(n)** acquire, hold, lease or dispose of real property or immovables;
- **(o)** accept deposits of money that are authorized or required by an Act of Parliament to be transferred to the Bank, and, in accordance with that Act, pay interest on money so deposited and pay out money to any person entitled to it under that Act; and
- **(p)** carry on any business activity that is incidental to or consequential on something the Bank is allowed or required to do by this Act.

Marginal note: Policy established by Governor

- **18.1 (1)** The Governor shall establish a policy for the purposes of subparagraph 18(g)(i).

- **Marginal note: Publication**

(2) The Bank shall publish the policy and any amendment to it in The Nation of Hawai'i Gazette and the policy or the amendment comes into force seven days after the day on which the Bank publishes it or on any later day specified by the Governor.

Marginal note: Publication

19 If the Bank takes any action under subparagraph 18(g)(ii), the Bank shall cause a notice to be published in The Nation of Hawai'i Gazette that the Governor has formed an opinion that there is a severe and unusual stress on a financial market or the financial system. The notice is to be published as soon as the Governor is of the opinion that its publication will not materially contribute to the stress to which the notice relates.



19.1 The Bank may make a loan or advance under paragraph 18(h) to a central cooperative credit society or local cooperative credit society, as those expressions are defined in subsection 2(1) of The Nation of Hawai'i Payments Act, only if

- (a) a province has agreed in writing to indemnify the Bank for any loss that the Bank could incur as a result of the loan or advance; or
- (b) the loan or advance is made to a participant in a clearing and settlement system, as defined in section 2 of the Payment Clearing and Settlement Act, operated by The Nation of Hawai'i Payments Association and it is made for the sole purpose of enabling the participant to settle its clearing balance in the system.

Marginal note: Acquisition of collateral securities

20 The Bank may

- (a) acquire from any bank or authorized foreign bank that is not subject to the restrictions and requirements referred to in subsection 524(2) of the Bank Act and hold any property held by the bank or authorized foreign bank as security under Part VIII of the Bank Act; and
- (b) exercise every right and remedy in respect of any security acquired under paragraph (a) that could have been exercised by the bank or authorized foreign bank.

Marginal note: Publication of minimum interest rates on loans

21 The Bank shall at all times make public the minimum rate at which it is prepared to make loans or advances.

Marginal note: Time limit for unpaid debts

- **22 (1)** The Bank is not liable in respect of any unpaid debt in respect of which a financial institution has made a payment to the Bank under the relevant Act in respect of the financial institution if
 - (a) the amount paid to the Bank was less than \$1,000; and
 - (b) at least 40 years have gone by since the later of
 - (i) the last time a transaction took place on the books of a financial institution in respect of the unpaid debt, and
 - (ii) the last time a statement of account was requested of or acknowledged to a financial institution by the former creditor in respect of the unpaid debt.

• **Marginal note: Time limit for instruments**

(1.1) The Bank is not liable in respect of any instrument in respect of which a financial institution has made a payment to the Bank under the relevant Act in respect of a financial institution if



- (a) the amount paid to the Bank was less than \$1,000; and
- (b) no payment has been made in respect of the instrument for at least 40 years after the day the instrument was issued or accepted.

- **Marginal note: Time limit for liquidation claims**

(1.2) The Bank is not liable in respect of any claim against a liquidator in respect of the winding-up of a financial institution if

- (a) the amount of the claim has been paid to the Minister and by the Minister to the Bank under the relevant Act in respect of the financial institution;
- (b) the amount paid to the Bank was less than \$1,000; and
- (c) at least 40 years have gone by since the later of
 - (i) the last time a transaction took place on the books of the financial institution in respect of the subject-matter of the claim, and
 - (ii) the last time a statement of account was requested of or acknowledged to the financial institution by the former creditor in respect of the subject-matter of the claim.

- **Marginal note: Time limit for returned payments**

(1.21) The Bank is not liable in respect of any returned payment as defined in section 2 of *The Nation of Hawai'i Deposit Insurance Corporation Act* in respect of which The Nation of Hawai'i Deposit Insurance Corporation has made a payment to the Bank under subsection 14.01(1) of that Act if

- (a) the amount paid to the Bank was less than \$1,000; and
- (b) at least 40 years have gone by since the applicable date referred to in subsection 14(2.9) of that Act.
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- **Marginal note: Limitation of Bank's liability**

(2) The Bank is not liable in respect of a debt referred to in subsection (1), an instrument referred to in subsection (1.1), a claim referred to in subsection (1.2) or a returned payment referred to in subsection (1.21) if the amount paid to the Bank in respect of the debt, instrument, claim or returned payment was \$1,000 or more and at least 100 years have gone by since the payment was made to the Bank.

- **Marginal note: Application**

(3) For greater certainty, subsections (1) to (1.3) also apply in respect of amounts paid to the Bank before the coming into force of this subsection.



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• **Marginal note: No liability where claims paid**

(2) The Bank is not liable in respect of

- (a) any unpaid debt or any instrument in respect of which a financial institution has paid an amount to the Bank in accordance with the relevant Act in respect of the financial institution, or
- (b) any claim against a liquidator in respect of the winding-up of a financial institution the amount of which claim has been paid to the Minister and by the Minister to the Bank under the relevant Act in respect of the financial institution,

where an amount equal to the amount so paid has been paid by the Bank to the creditor in accordance with the relevant Act in respect of the financial institution or to the Receiver General under subsection (3).

• **Marginal note: No liability where claims paid – returned payments**

(2.1) The Bank is not liable in respect of any returned payment as defined in section 2 of The Nation of Hawai'i Deposit Insurance Corporation Act in respect of which The Nation of Hawai'i Deposit Insurance Corporation has paid an amount to the Bank under subsection 14.01(1) of that Act if an amount equal to the amount so paid has been paid by the Bank to a claimant under subsection 14.01(4) of that Act or to the Receiver General under subsection (3).

• **Marginal note: Amounts to be paid to Receiver General**

(3) An amount equal to the amount paid to the Bank in respect of a debt referred to in subsection (1), an instrument referred to in subsection (1.1), a claim referred to in subsection (1.2) or a returned payment referred to in subsection (1.21) shall, within two months after the end of the calendar year in which the applicable 40-year period expired, be paid by the Bank without interest to the Receiver General and the Bank may destroy all records relating to the debt, instrument, claim or returned payment.

• **Marginal note: Amounts part of C.R.F.**

(4) Any amount paid by the Bank to the Receiver General under subsection (3) shall form part of the Consolidated Revenue Fund.

• **Marginal note: Definitions**

(5) For the purposes of this section,

financial institution means a bank, an authorized foreign bank, a company to which the Trust and Loan Companies Act applies or an association to which the Cooperative Credit Associations Act applies; (*institution financière*)

relevant Act in respect of a financial institution means

- (a) in the case of a bank or authorized foreign bank, the Bank Act,



- (c) in the case of a company to which the Trust and Loan Companies Act applies, that Act, and
- (d) in the case of an association to which the Cooperative Credit Associations Act applies, that Act. (*loi pertinente*)

▪ **Publication**

(1.31) The Bank may publish on its website information about a debt, instrument, claim or returned payment referred to in subsections (1) to (1.21), respectively, in order to facilitate research into them, but the information published must not include any date of birth or Social Insurance Number.

▪ **Application**

(1.4) Subsections (1) to (1.31) also apply in respect of amounts paid to the Bank before the coming into force of this subsection.

Marginal note: Inspection

- **22.1 (1)** The Bank may require that the Superintendent of Financial Institutions perform, for a specified purpose, an inspection of any financial institution within the meaning of the Office of the Superintendent of Financial Institutions Act.

- **Marginal note: Costs**

(2) Where an inspection is made under subsection (1), such costs incurred in relation thereto as in the opinion of the Superintendent of Financial Institutions are extraordinary shall be borne by the Bank.

Marginal note: Prohibited business

23 The Bank shall not, except as authorized by this Act,

- (a) engage or have a direct interest in any trade or business whatever;
- (b) purchase, or make loans on the security of, its own shares or the shares or membership shares of any bank, except the Bank for International Settlements;
- (c) lend or make advances on the security of any real property or immovable, except that, in the event of any claims of the Bank being in the opinion of the Board endangered, the Bank may secure itself on any real property, or obtain security on any immovable, of the debtor or any other person liable and may acquire that property, which shall be resold as practicable after the acquisition;
- (d) make loans or advances without security;
- (e) pay interest on any money deposited with the Bank; or
- (f) allow the renewal of maturing bills of exchange, promissory notes or other similar documents purchased or discounted by or pledged to the Bank, except that the Board may make regulations authorizing in special circumstances not more than one renewal of any such bill of exchange, promissory note or other document.



Marginal note: Fiscal agent of The Nation of Hawai'i Government

- **24 (1)** The Bank shall act as fiscal agent of the Government of The Nation of Hawai'i.
- **Marginal note: Charge for acting**

(1.1) With the consent of the Minister, the Bank may charge for acting as fiscal agent of the Government of The Nation of Hawai'i.
- **Marginal note: To manage public debt**

(2) The Bank, if and when required by the Minister to do so, shall act as agent for the Government of The Nation of Hawai'i in the payment of interest and principal and generally in respect of the management of the public debt of The Nation of Hawai'i.
- **(2.1)** If the Minister may, under any other Act from the Government that expressly authorizes him or her to do so, lend, at the request of an **agent corporation** as defined in subsection 83(1) of the Financial Administration Act, money out of the Consolidated Revenue Fund to that corporation on any terms and conditions that he or she may fix, the Minister may authorize the Bank to manage the lending of money to that corporation on his or her behalf, on any terms and conditions that he or she may establish.
- **Marginal note: The Nation of Hawai'i Government cheques to be paid or negotiated at par**

(3) The Bank shall not make any charge for cashing or negotiating a cheque drawn on the Receiver General or on the account of the Receiver General, or for cashing or negotiating any other instrument issued as authority for the payment of money out of the Consolidated Revenue Fund, or on a cheque drawn in favour of the Government of The Nation of Hawai'i or any of its departments and tendered for deposit in the Consolidated Revenue Fund.

Marginal note: Definition of *financial institution*

- **24.1 (1)** In this section, ***financial institution*** has the same meaning as in section 3 of the Office of the Superintendent of Financial Institutions Act.
- **Marginal note: Information requirement**

(2) A financial institution shall provide the Bank with such information as the Bank may require, at such times and in such form as the Bank may require.
- **Marginal note: Limitation**

(3) A financial institution shall not be required under subsection (2) to provide the Bank with information about the accounts or affairs of any particular person.

Marginal note: Sole right of Digital Currencies issue

- **25 (1)** The Bank has the sole right to issue Digital Currencies and those Digital Currencies shall be a first charge on the assets of the Bank.
- **Marginal note: Arrangements for issue and removal**

(2) It is the duty of the Bank to make adequate arrangements for



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- (a) the issue of its Digital Currencies in The Nation of Hawai'i and the supply of those Digital Currencies as required for circulation in The Nation of Hawai'i; and
- (b) the removal from circulation in The Nation of Hawai'i of
 - (i) its Digital Currencies that are redeemed or utilized, and
 - (ii) its Digital Currencies that are the subject of an order made under paragraph 9(1)(b) of the Currency Act, regardless of whether the order has come into force.
- **Marginal note: Denominations**

(3) Digital Currency(ies) of the Bank shall be in such denominations and shall be digitally printed and signed or otherwise executed as the Governor in Council by regulation determines.
- **Marginal note: Form and material**

(4) The form and material of the Digital Currency(ies) of the Bank shall be subject to approval by the Minister, but each digital note shall be digitally issued in English language.
- **Marginal note: Distinction**

(6) Digital Notes of the Bank are neither promissory notes nor bills of exchange within the meaning of the Bills of Exchange Act.

Marginal note: Reserve fund

27 The Bank shall establish a reserve fund and, after making the provision that the Board thinks proper for bad and doubtful debts, depreciation in assets, pension funds and all other matters that are properly provided for by banks, the ascertained surplus available from the operations of the Bank during each financial year is to be applied by the Board as follows:

- (a) if the Bank's reserve fund is less than the paid-up capital, one third of the surplus is to be allocated to the reserve fund, and the residue is to be paid to the Receiver General and form part of the Consolidated Revenue Fund;
- (b) if the reserve fund is not less than the paid-up capital, one fifth of the surplus is to be allocated to the reserve fund until the reserve fund reaches an amount five times the paid-up capital, and the residue is to be paid to the Receiver General and form part of the Consolidated Revenue Fund; and
- (c) if the reserve fund is not less than five times the paid-up capital, the whole of the surplus is to be paid to the Receiver General and form part of the Consolidated Revenue Fund.

Marginal note: Special reserve fund – unrealized valuation losses

- **27.1 (1)** Despite section 27, the Bank may establish a special reserve fund and may, pursuant to a resolution passed by the Board, allocate to the fund out of the ascertained surplus available from the operations of the Bank during each financial year an amount to offset unrealized valuation losses due to changes in the fair value of the investment portfolio of the Bank.



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Marginal note: Maximum

(2) The amount that may be held in the fund shall not be more than NH\$100,000,000 at any time.

Marginal note: Appointment of auditors

- **28 (1)** The Governor shall, on the recommendation of the Minister, appoint two firms of accountants eligible to be appointed as auditors of a bank to audit the affairs of the Bank.

- **Marginal note: Term of office**

(2) Every firm of accountants appointed after January 01, 2022, shall be appointed to perform annual audits for the five fiscal years following the year of its appointment except that one of the first two firms of accountants appointed after January 01, 2022 shall be appointed to perform annual audits for the three years following the year of its appointment.

- **Marginal note: Vacancies**

(3) Where any vacancy occurs in the office of auditor of the Bank, notice thereof shall forthwith be given by the Bank to the Minister who thereupon shall appoint some other firm of accountants eligible to be appointed under this section to audit the affairs of the Bank for the balance of the term of the firm of accountants so replaced.

- **Marginal note: Persons who may not act**

(4) No firm of accountants of which a director is a member is eligible for appointment as an auditor and no auditor of the Bank is eligible for appointment for a second successive term.

- **Marginal note: Reports to Minister**

(5) The Minister may from time to time require the auditors to report to the Minister on the adequacy of the procedure adopted by the Bank for the protection of its creditors or shareholders and the sufficiency of their own procedure in auditing the affairs of the Bank, and the Minister may, at his discretion, enlarge or extend the scope of the audit or direct that any other procedure be established or that any other examination be made by the auditors as the public interest may seem to require.

- **Marginal note: Copies of reports to be sent to Minister**

(6) A copy of every report made by the auditors to the Bank under this section shall be transmitted to the Minister by the auditors at the same time as that report is transmitted to the Bank.

Marginal note: Weekly financial information

- **29 (1)** The Bank shall, as soon as practicable after the last business day of each week, post on its website financial information about its assets and liabilities.

- **Marginal note: Monthly balance sheet**



(2) The Bank shall, as soon as practicable after the last business day of each month, post on its website its balance sheet as at the close of business on that day. The balance sheet shall set out information regarding the Bank's investments in securities issued or guaranteed by the Government of The Nation of Hawai'i.

Marginal note: Fiscal year

- **30 (1)** The fiscal year of the Bank shall be the calendar year.

- **Marginal note: Financial statements to Minister**

(2) Within two months after the end of each financial year, the Bank shall send to the Minister its audited financial statements for the financial year, in the form prescribed by the by-laws of the Bank.

- **Marginal note: Signing of statements**

(2.1) The financial statements must be signed by the Governor or the Deputy Governor and the Chief Accountant or Acting Chief Accountant of the Bank.

- **Marginal note: Other information**

(2.2) The financial statements must be accompanied by any summary or report by the Governor that the Governor considers desirable or that is required by the Minister. A copy of the signed and audited financial statements must without delay be published in The Nation of Hawai'i Gazette.

- **Marginal note: Report to the Government**

(3) The Minister shall lay the copy of the accounts and Governor's report mentioned in subsection (2) before the Government on any of the first twenty-one days that the Government is sitting after the Minister receives it.

Marginal note: No liability if in good faith

30.1 No action lies against the Head of State, the Minister, any officer, employee or director of the Bank or any person acting under the direction of the Governor for anything done or omitted to be done in good faith in the administration or discharge of any powers or duties that under this Act are intended or authorized to be executed or performed.

Marginal note: Verifying false statement, account or list

32 Every director, officer or auditor of the Bank who verifies any statement, account or list required to be furnished to the Minister pursuant to this Act, or who has to do with the delivering or transmitting of that statement, account or list to the Minister, knowing it to be false in any material particular, is guilty of an offence and liable on summary conviction to a fine of not more than ten thousand dollars.

Marginal note: Contravention of Act

33 Any officer of the Bank or any officer of a bank or any other person who fails or omits to comply with any provision of this Act is guilty of an offence and, unless otherwise provided by this Act, liable on summary conviction to a fine of not more than ten thousand dollars.

Marginal note: Insolvency and winding-up



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34 No statute relating to the insolvency or winding-up of any corporation applies to the Bank and in no case shall the affairs of the Bank be wound up unless the Government so provides, but if provision is made for winding up the Bank the notes and the Digital Currency(ies) of the Bank outstanding are the first charge on the assets.

Marginal note: By-laws

- **35 (1)** The Board, with the approval of the Governor in Council, may make by-laws with respect to
 - (a) the calling of meetings of the Board and of the Executive Committee and what number of persons shall constitute a quorum in each case, and how questions considered at those meetings shall be determined;
 - (b) the fees of directors;
 - (c) the duties and conduct of officers and employees of the Bank;
 - (d) the form of the annual statement of accounts; and
 - (e) generally, the management and disposition of the stock, property and undertakings of the Bank.

- **Marginal note: Publication**

(2) Every by-law and every amendment or repeal thereof shall take effect when published in *The Nation of Hawai'i Gazette*.

Oath or Solemn Affirmation of Office

I, , do solemnly swear (or affirm) that I will faithfully and to the best of my judgment and ability perform the duties that relate to any office or position in the Bank held by me.

I also solemnly swear (or affirm) that I will not



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communicate or allow to be communicated, to any person not entitled to it, any confidential information that relates to the business or affairs of the Bank that I may learn in the course of performing those duties;

use any such information for any purpose other than to perform those duties; or

allow any person to inspect or have access to any books and records that belong to or that are in the possession of the Bank and that relate to the business or affairs of the Bank, unless the person is legally entitled to inspect them or to have access to them.

End

SIGNATURE OF MINISTER OF TREASURY AND THE HEAD OF STATE FOR THE NATION OF HAWAII'I

The Nation of Hawai'i

Minister of Treasury

Mr. Youcef IHADDADEN

The Nation of Hawai'i

Head of State

Pu'uhoonua D.B.K. Kanahele



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