



**NATIONAL PARLIAMENT OF SOLOMON ISLANDS  
BILLS AND LEGISLATION COMMITTEE**

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**Report on the Financial  
Institutions (Amendment) Bill  
2013**

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**National Parliament Paper No 15. of 2013**

Presented on 29<sup>th</sup> July 2013

National Parliament Office



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## **EXECUTIVE SUMMARY**

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The Bills and Legislation Committee had completed its inquiry into the Financial Institution Act on the 26<sup>th</sup> of July 2013. The Committee is able to call 8 different stakeholders and hear presentations from their members.

Generally the Committee acknowledge what the Bill seeks to improve and commends the Government and the Ministry of Finance and Treasury for it. The committee did not have any significant issue with the Bill but would like to highlight some matters of concern with the Bill.

An issue which the Committee feels that improvement should be done is the redefining of the term 'banking business' for this amendment under clause (7A). Under (7A) of the Bill the term is used to relate to applicants who hold interim or provisional licenses on conditions imposed by the Central Bank. However the Financial Institution Act 1998 defines it to mean actual engaging in banking. The FIA definition will prevail therefore overriding the intention anticipated by the amendments. The committee recommends a redefine term when relating to provisional license holders.

The Committee had also been informed that the logging industry will be affected by certain policies imposed by the three commercial banks in the country which will come into effect at the end of August. The banks have indicated when they appear before the Committee that they will no longer handle funds derived from the logging industry. The logging industry has contributed significantly to the national revenue and foreign exchange. This restriction will severely affect the country's financial situation. The Solomon Islands Forests Association requests the Committee to inform the government to assist them resolve this issue.

# 1 INTRODUCTION

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The Bills and Legislation Committee (“the Committee”) has completed its review of the *Financial Institutions (Amendment) Bill 2013* (“the Bill”). The Bill was submitted to the Speaker through the Clerk to Parliament as required under the *Standing Orders*<sup>1</sup> on 19<sup>th</sup> July 2013.

The Committee had its deliberative meeting on 23<sup>rd</sup> July and resolved to invite only the relevant stakeholders<sup>2</sup> to make presentations on the contents and policy matters of the Bill. The hearing into the Bill with the relevant stakeholders was held on the 26<sup>th</sup> of July. The minutes of these proceedings are in appendix 1.

## 1.1 Functions of the Committee

The Bills and Legislation Committee is established under the *Standing Orders*<sup>3</sup>. The Order made pursuant to the *Constitution*<sup>4</sup> has the functions together with the necessary powers to discharge such, to:

- (a) examine such matters as may be referred to it by Parliament or the Government;
- (b) review all draft legislation prepared for introduction into Parliament;
- (c) examine all subsidiary legislation made under any Act so as to ensure compliance with the Acts under which they are made;
- (d) monitor all motions adopted by Parliament which require legislative action;
- (e) review current or proposed legislative measures to the extent it deems necessary;
- (f) examine such other matters in relation to legislation that, in the opinion of the Committee require examination; and
- (g) make a written report to each Meeting of Parliament containing the observations and recommendations arising from the Committee’s deliberations.

## 1.2 Terms of Reference

Pursuant to its mandate under the *Standing Orders*<sup>5</sup>, the terms of reference of the Committee in this instance is to examine the Bill and to report its observations and recommendations on the Bill to Parliament.

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<sup>1</sup> *Standing Order* 44 (1)

<sup>2</sup> See Appendix 2

<sup>3</sup> *Standing Order* 71

<sup>4</sup> *Section 62, Constitution of Solomon Islands 1978*

<sup>5</sup> *Standing Order* 71

### **1.3 Membership**

The current members of the Bills and Legislation Committee (9<sup>th</sup> Parliament) are:

Hon. Manasseh D. Sogavare, MP (Chairman)

Hon. Dr Derek Sikua, MP

Hon. Milner Tozaka, MP

Hon. Mathew Cooper Wale, MP

Hon. John Maneniaru, MP

Hon. James Tora, MP

Hon. Douglas Ete, MP

Hon. Sam Iduri, MP

Hon. Johnley Hatimoana, MP

## 2 BACKGROUND

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The Central Bank of Solomon Islands Act [Cap 49] empowers the Central Bank of Solomon Islands (CBSI) to be the regulating authority for banking business in the country. Section 4(d) sanctions the CBSI “to supervise and regulate banking business” in the Solomon Islands.

On the other hand the Financial Institution Act 1998 (FIA) provides for licensing, regulation and supervision of financial institutions that are doing banking business in the country. Therefore the CBSI as the regulating authority will enforce the FIA to regulate banking business in the country.

The Bill that is now before Parliament seeks to amend section 5 of the FIA to allow CBSI to be flexible in the issuance of banking business licenses due to changing circumstances in the banking sector today. It is intended to permit the issue of interim licenses for applicants to carry on banking business pending approval or rejection of their license application by the Central Bank.

When appearing before the Committee the CBSI Governor commented that the amendment will enable them to assess the applications while the processing of the license is still ongoing. He commented further that probably the amendments may provide an opportunity for non-financial institutions or corporate bodies to be involve in banking.

## 3 CURRENT STATUS

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The current position for issuance of banking license is stated in the Financial Institutions Act 1998 (FIA). The FIA directs persons intending to do banking business in the Solomon Islands to apply for a banking license. Section 5 (1) of the FIA states;

*“Any person desirous of commencing banking business in Solomon Islands after the commencement of this Act shall, before commencing such business, apply for and obtain a licence to do so.”*

Section 5 (1A) further states;

*“No person other than a body corporate shall be issued with a license to carry on banking business pursuant to this Act.”*

When issuing banking licenses the Central Bank of Solomon Islands (CBSI) is guided by section 5 (7) of the FIA. It states;

*“Within four months after receipt of an application under this section, and all other additional relevant information and documents it may require, the Central Bank shall-*

*(a) issue to the applicant a license to carry on banking business subject to such terms and conditions as may be specified in the license; or*

*(b) inform the applicant that its application is refused.”*

This section basically authorizes the CBSI to either reject or issue a banking license within 4 months upon receiving the application.

Another issue that would probably change the banking sector is the concern of the Solomon Islands Forests Association (SIFA). When members of SIFA made their presentation, they inform the Committee that they have receive letters from the Banks informing them that there are now certain restrictions on funds derived from the logging industry. The senior executive officers of the banks confirm this to the Committee citing current bank policies with regards to environment protection and preservation. Bank South Pacific has stated that they will not accept any new clients from the forestry industry additional to the current two they have. Westpac has issued a letter that they will close all business with the logging industry by the end of the year. Currently about 80 percent<sup>6</sup> of Solomon Islands revenue is from the logging industry. With the imposition of the restrictions by the banks, our revenue collection and foreign reserves will be severely affected. The Government is urged to deal with the situation and probably come up with a financial mechanism to resolve this matter. The amendments contain in the Bill is probably a step towards this direction.

With the passing of this Bill, the process CBSI deals with applications will certainly change. Specifically the amendments replace the current section 5 (7A) and inserts two additional clauses, (7B) and (7C). These new clauses authorises CBSI within 60 days of receiving a complete application, to issue a provisional or an interim license that is valid for a period of 6 to 12 months.

#### **4 RECOMENDATION**

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The Committee welcomes the Bill because of its intention to create flexibility in the banking business. It will pave the way for local corporate bodies that can fulfil the necessary requirements to venture into banking. However most of the requirements are still very stringent, for example the requirements for a start-up capital of 5 million dollars, the need to align with overseas reputable financial institution<sup>7</sup> etc., which may in some ways still inhibit local corporate bodies from venturing into this business.

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<sup>6</sup> Johnny Lee Sy, Oral Submission, 26 July 2013

<sup>7</sup> Denton Rarawa, Oral Submission, 26 July 2013

The Committee also have some concerns on the amendments. One of the concerns is the definition of 'banking business.' The Bill states in section 2 (7A);

*“The Central Bank may.....issue an interim license to permit the applicant to carry on banking business for a period of 6 to 12 months from the date of issue, subject to such terms and conditions as may be specified in the license.”*

Section 2 (1) of the FIA defines 'banking business' as;

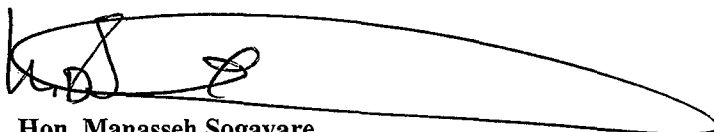
*“(a) the business of accepting deposits of money from the public or members thereof, withdrawable or payable upon demand or after a fixed period or after notice, or any similar operation through the frequent sales or placement of bonds, certificates, notes or other securities, and the use of such funds, either in whole or in part, for loans or investments for the account and at the risk of the person doing such business; and*

*(b) any other activity recognised by the Central Bank as customary banking practice which a licensed financial institution engaging in the activities described in paragraph (a), or any related activity which the Central Bank may consider appropriate;*

With the way the Bill is drafted, an applicant can actually carry out banking business as stipulated in the FIA shown above when holding an interim or provisional license. The CBSI Governor during the hearing explain to the Committee that during the interim period, the Central bank will set conditions on the interim license of an applicant on what activities the applicant can do. However the Committee views this as ultra vires to the FIA because the definition in the principle Act will prevail.

#### **Recommendation**

**The Committee is recommending further amendments to qualify the meaning of the term 'banking business' for clause (7A).**



**Hon. Manasseh Sogavare**

Chairman

Bills and Legislation Committee

25<sup>th</sup> March 2013



## 5 APPENDICES

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### APPENDIX 1: MINUTES



#### BILLS AND LEGISLATION COMMITTEE

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#### NATIONAL PARLIAMENT OF SOLOMON ISLANDS

##### **Deliberative meeting**

**Minutes of the deliberative meeting into the Constitution (Functions of Electoral Commission) (Amendment) Bill 2013, Financial Institutions (Amendment) Bill 2013 and the Political Parties Integrity Bill 2013.**

Held: Tuesday 23<sup>rd</sup> July 2013

Venue: Parliament Conference Room II

Time: 10:21am.

##### **1. Members Present**

Hon. Manasseh D. Sogavare (Chairman)

Hon. Mathew Cooper Wale

Hon. John Maneniaru

Hon. Milner Tozaka

Hon. Douglas Ete

##### **Secretariat**

Mr Wilson Anii, Committee Secretariat

**Opening Prayer:** Hon. Douglas Ete

##### **2. Chair's Opening Remarks**

The Chair welcomed and thanked members for attending. The Chair introduces the three new Bills. He suggested discussing the two short amendment Bills first before the Political Parties Integrity Bill.

##### **3. Constitution (Functions of Electoral Commission Bill 2013**

The Chairman introduces the Bill and Invite members to suggest relevant stakeholders required to appear before the Committee. Members discussed and resolved on the following stakeholders;

- Rep from the Prime Minister's Office
- Rep from the Electoral Commission
- Legal Draftsman
- Permanent Secretary of the Ministry of Home Affairs

Members directed the Committee Secretariat to upload the three Bills on the Parliament website and advertise them, calling for submission in the Solomon Star newspaper.

##### **4. Financial Institution (Amendment) Bill 2013**

Chairman invite suggestions for stakeholder required to appear before the Committee. The Committee resolved for the following to be invited;

- Rep from the Ministry of Finance

- Rep from the Central Bank of Solomon Islands (CBSI)
- Reps from all the commercial Banks currently operating here
- The Solomon Islands Chamber of Commerce
- The Solomon Islands Forests Association

Members directed the Secretariat to have copies of the Financial Institution Act and the Central Bank of Solomon Islands Act ready for the Committee.

#### **5. Political Parties Integrity Bill 2013**

Chairman once again invites members to suggest relevant stakeholders required to appear before the Committee. The following was suggested by members;

- Reps from each Political Parties in the country
- Rep from PMO
- Civil society organizations
- Women
- Young women parliamentary Group (YWPG)
- Youths

#### **6. Schedule**

Members of the Committee agreed to start with the hearing on Thurs 25<sup>th</sup> July after Parliament adjourned for the two amendment Bills and the Political Parties Integrity Bill will start on Tuesday the 30<sup>th</sup> July.

The secretariat was reminded to seek the consultation report on the political parties Bill from the PMO and to ask Albert Kabui to draft a tabulated comparative analysis of the previous Political Parties Bill and the current Bill for Parliament.

#### **7. Close**

Closing prayer by Hon. John Maneniaru

Meeting closed at 11:30am.

### **Minutes of Proceedings Hearing**

Date: Friday 26 July, Venue: Parliament Conference Room II, Time: 1:42pm

#### **Members Present**

Hon. Manasseh Sogavare, MP (Chair)  
 Hon. John Maneniaru, MP  
 Hon. James Tora, MP  
 Hon. Mathew Wale, MP  
 Hon. Derek Sikua, MP  
 Hon. Johnley Hatimoana

#### **Stakeholders (Witnesses)**

**1:42pm – 2:33pm**

Katherine Tuck	-	Senior Advisor, ERU, MOFT
Selwyn Takana	-	Director, ERU, MOFT
Denton Rarawa	-	Governor, CBSI
Ranjit Hewagama	-	Chief Legal Draftsman, AG Chambers

**2:55pm – 4:03pm**

Geoffrey Buchanan - CEO, ANZ Bank  
 Mark Corcoron - Outgoing Country Manager, BSP  
 David Anderson - New Country Manager, BSP  
 Kutila Pinto - General Manager, Westpac

**4:15pm – 4:45pm**

Johnny Lee Sy - President, Solomon Islands Forests Association  
 Raymond Lai - Member, SIFA  
 Three other SIFA members (names Unknown)

**Secretariat**

Mr Wilson Anii, Committee Secretary

**1. Welcome & Opening Statement**

Chairman acknowledges and thanked the stakeholders for their commitment to appear before the committee.

**2. Hearing into the Bill**

The Chairman made welcome remarks, inform the witnesses on protection from prosecution under parliament privileges then invited those who appear to make opening statements to the Committee on the Bill.

Those who made presentations to the committee includes;

- The Governor of CBSI
- Director of Economic Reform Unit, MOFT
- All the Managers of the Banks
- President and Raymond Lai, SIFA

The Committee questioned, made comments and seek clarification from those who appear on the different issues covered in the Bill.

**3. Closing**

The hearing closed at 4:45pm.

**APPENDIX 2: WITNESSES**

The following witnesses appeared before the Bills and Legislation Committee;

<b>Date of appearance</b>	<b>Name</b>	<b>Ministry/Institution represented</b>	<b>Position/Job title</b>
Fri 26 <sup>th</sup> July 2013	Katherine Tuck	MOFT	Senior Advisor, ERU
	Selwyn Takana	MOFT	Director, ERU
	Denton Rarawa	CBSI	Governor
	Ranjit Hewagama	AG Chambers	Chief Legal Draftsman
	Geoffrey Buchanan	ANZ Bank	CEO

Mark Corcoron	Bank South Pacific	Outgoing Country Manager
David Anderson	Bank South Pacific	New Country Manager
Kutila Pinto	Westpac Banking Corporation	General Manager
Johnny Lee Sy	Solomon Islands Forests Association (SIFA)	President
Raymond Lai	SIFA	Member
3 others (names unknown)	SIFA	Members