



SAINT VINCENT AND THE GRENADINES

ACT NO. 25 OF 2022

I ASSENT

[L.S.]

SUSAN DOUGAN
Governor - General
20th December, 2022

AN ACT to amend the Money Services Business Act, Chapter 260.

[20th December, 2022]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:

- | | |
|--|---|
| <p>1. This Act may be cited as the Money Services Business (Amendment) Act, 2022.</p> | <p><i>Short title</i></p> |
| <p>2. Section 2 of the Money Services Business Act, referred to in this Act as the principal Act, is amended by –</p> <p>(a) inserting before the existing provision, the subsection designation (1);</p> <p>(b) inserting immediately before the definition of “affiliate” the following definition –</p> <p>“advertise” means to publish, display, present, disseminate or convey an invitation or solicitation by any medium including –</p> <p>(a) a sign, notice, brochure or pamphlet;</p> | <p><i>Amendment of section 2 of Money Services Business Act, Cap. 260</i></p> |

- (b) a placard, board, poster or other publication;
 - (c) a circular;
 - (d) a word, message on paper, message transmitted by electronic means, a social network or the Internet or mobile message;
 - (e) sound broadcasting;
 - (f) television or telephone communication or other form of communication,
but does not include a prospectus as defined in the Companies Act, issued by a company;
- (c) inserting immediately after the definition of “Central Bank” the following definition –
- “consumer” has the meaning assigned to it in the Consumer Protection Act 2020;
- (d) deleting the definition of “money services business” and inserting the following definition –
- “money services business” means –
- (a) the business of providing any or all of the following services –
 - (i) transmission of money or monetary value in any form including electronic money, mobile money or mobile payment of money;
 - (ii) cheque cashing;
 - (iii) currency exchange;
 - (iv) the issuance, sale or redemption of money orders or traveler’s cheques;
 - (v) micro-financing and lending; and
 - (vi) any other service the Minister may specify by Order in the *Gazette*; and

- (b) the business of operating as an agent, sub-agent or franchise holder of a business mentioned in paragraph (a).
- (e) inserting immediately after the definition of “net worth” the following definition –
- “sub-agent” means a person authorised to act on behalf of a licensee to conduct money services business; and
- (f) inserting the following subsections –
- “(2) In the definition of “money services business” –
- “franchise holder” means a person who enters into an agreement with a money services business and purchases the rights to use the company’s trademarked name and business model to carry on money services business;
- (3) For the purposes of this Act, a business provides micro-financing and lending services if it –
- (a) grants short term credit facilities in the form of a business or personal loan not exceeding fifty thousand dollars to individuals or entities, with or without collateral; and
- (b) does not solicit, receive or accept monetary deposits, investments or any other financial instrument from the public to finance the credit facilities.”.
3. Section 5 of the principal Act is amended –
- (a) in subsection (2), by deleting paragraph (c) and inserting the following –
- “(c) be accompanied by a certified statement showing that the applicant has, in the case of an application for a –
- Amendment of
section 5

-
- (i) Class A licence, a net worth of one hundred thousand dollars;
 - (ii) Class B licence, a net worth of twenty thousand dollars;
 - (iii) Class C licence, a net worth of twenty thousand dollars;
 - (iv) Class D licence, a net worth of one hundred thousand dollars;
 - (v) Class E licence, a net worth of one hundred thousand dollars; or
 - (vi) Class F licence, a net worth of two hundred thousand dollars; and”; and
- (b) by deleting subsection (6) and inserting the following subsection –
- “(6) In addition to the terms and conditions imposed by the Authority under subsection (4), the following conditions apply to a licence –
- (a) a licensee shall not change its name without the prior approval of the Authority;
 - (b) unless otherwise approved by the Authority, a licensee shall carry on money services business in the State at a place of business in the State approved by the Authority;
 - (c) a licensee shall not open a new place of business or change the location of its place of business in the State without the prior written approval of the Authority;
 - (d) a licensee shall not open an associate or branch office outside the State without the prior written approval of the Authority;
 - (e) a licensee shall give thirty days prior written notice to the Authority before

ceasing to operate at its place of business
or other places of business;

(f) a licensee shall in writing notify the Authority forthwith of any change in the information supplied in the application as required by subsection (2) (b) and (c); and

(g) a licensee shall maintain its net worth at an amount not less than that required in subsection (3) (c).”

(c) by inserting after subsection (7), the following subsection –

“(7a) A licensee who fails to comply with a term or condition attached to its licence commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.”

4. After section 5 of the principal Act, the following sections are inserted –

Insertion of
sections 5A and
5B

“Classes
of
licenses

5A. (1) A licence may be issued in one or more of the following classes –

- (a) Class A, which permits the holder to carry on the business of transmitting money in any form;
- (b) Class B, which permits the holder to carry on the business of electronic and mobile transmission of money;
- (c) Class C, which permits the holder to carry on the business of issuing, selling or redeeming money orders or traveller’s cheques, cheque cashing and currency exchange;
- (d) Class D, which permits the holder to engage in micro-financing and lending business;

- (e) Class E, which permits the holder to carry on the business of such other service as may be specified by notice in the *Gazette*; and
- (f) Class F, which permits the holder to carry on all or any combination of money services business permitted by a Classes A through Class E licence.

(2) A licence –

- (a) shall state the class or classes of licence issued to the holder and the business or businesses the holder is authorised to carry on; and
- (b) does not authorise the holder to carry on any class or business that is not specified on the licence.

Display of licence 5B. A licence shall be prominently displayed at the registered office of a licensee.”.

Amendment of section 6

5. Section 6 of the principal Act is amended –

- (a) by deleting subsection (1) and inserting the following subsection –

“(1) No licence may be issued to an applicant unless the applicant makes a statutory deposit for the class of licence for which the applicant has applied in the sums and form as set out in the Fourth Schedule.”; and

- (b) in subsections (2) and (3), by inserting “statutory” before “deposit” wherever it occurs.

Insertion of section 21A to 21L.

6. After section 21 of the principal Act, the following sections are inserted –

Application of 21B to 21L 21A. Sections 21B to section 21L applies to a licensee who is licensed to provide micro-financing and lending services.

Protection of
consumers of
m i c r o
f i n a n c i n g
a n d
l e n d i n g
e n t i t i e s

21B.(1) The Authority may investigate a complaint brought to it by a consumer of a micro-financing and lending entity.

(2) The Authority may, in investigating a complaint under subsection (2), consider the loan agreement between the parties and any action, conduct or decision which the consumer alleges has adversely affected the consumer.

No. 12 of 2020

l o a n
a g r e e m e n t

21C.(1) Where a licensee grants a loan to a consumer, the licensee shall provide the consumer with a loan agreement.

(2) The loan agreement shall –

- (a) be disclosed to the consumer prior to its signing;
- (b) contain the particulars relating to –
 - (i) the name, occupation and place of residence and business of the parties;
 - (ii) the date on which the loan is made and disbursed;
 - (iii) the amount of the loan and the terms of its repayment, including –
 - (A) the rate of interest chargeable, and subject to section 21F (4) expressed in terms of rate per centum per annum;
 - (B) the period of time given for repayment;
 - (C) the date on which the repayment of the loan commences and is subsequently due;
 - (D) the installments payable and, where the installments are weekly or monthly, they shall be expressed in both percentage rate of interest and dollar values;

- (E) the full cost of the loan expressed in both percentage rate of interest and dollar values;
- (F) the amount of interest and the penalty (if any) on default of payment and how the interest on default payments is calculated; and
- (G) the terms and conditions for repayment of the loan ahead of the stipulated loan period;
- (H) how the interest on default payments is calculated;
- (iv) the property, if any, to be given as security for the performance by the consumer of his obligation; and
- (v) the fees, if any, associated with the granting of the loan and with enforcing repayment obligations or the realisation of collateral;
- (c) be made in accordance with any guidelines relating to sound business practices for micro-financing and lending entities, that may be issued by the Authority, from time to time;
- (d) clearly distinguish the terms and conditions of the services offered by the licensee from any promotional material; and

(e) include a fact sheet containing key terms of the loan agreement.

(3) Where under subsection (2) (b) (iv), property in the form of money is given as security for the performance by a consumer of his obligation, the money shall remain the property of the consumer and shall be held in escrow by a deposit taking institution licensed under the Banking Act 2015.

No. 5 of 2015

(4) A licensee shall ensure that the language in which the terms and conditions of a loan agreement is expressed, is clear and unambiguous and where technical language is unavoidably used, the language is accompanied by an explanation in simple language that is not false or misleading.

(5) A loan agreement between a licensee and a consumer shall become enforceable twenty-four hours after the loan agreement is executed, or within such shorter period as agreed, in writing, by the parties.

(6) Notwithstanding anything in subsection (1) or (4), a court may, on application being made, and, if it considers it equitable to do so, declare the contract to be enforceable in the same manner and to the same extent as if the requirements of subsections (1) and (4) had been complied with.

Licensee to provide statement of account and confirmation of repayment of loan

21D.(1) Where a licensee grants a loan to a consumer, it shall, at any time during the term of the loan agreement, at the request of the consumer or the guarantor, if any, make available to the consumer and to the guarantor, if any, a printed copy of a statement of accounts, or, at the option of either or both the consumer and the guarantor, the statement of accounts in electronic form, outlining –

- (a) the payments received, in principal and interest; and
- (b) the amount outstanding, in principal and interest.

(2) On the repayment of a loan, the licensee shall furnish the consumer with a receipt or other form of written confirmation of the repayment of the loan and the receipt or other form of confirmation, may, at the option of the consumer, be presented in electronic form.

Obligation
of
consumer

21E. A person who applies for a loan shall provide evidence of that person's ability to repay the loan.

Interest
rate

21F. A licensee may impose interest on a loan calculated –

- (a) at a rate based on market forces; and
- (b) consequent on the assessment by the licensee of the risks involved in providing the loan to the consumer.

(2) A licensee shall expressly state in writing to prospective consumers, the rate of interest to be imposed on a loan and the method of calculation of the rate of interest to be imposed on the loan.

(3) Notwithstanding the method used to calculate the rate of interest on a loan, the rate of interest shall also be reflected as an effective annual interest rate and where interest rates are being advertised, the effective annual interest rate shall be the most prominent interest rate advertised.

(4) The interest and any penalty to be paid on default of payment of a loan shall be calculated on the outstanding balance of the loan and not on the original principal sum.

Cost, charge
or expense of
loan

21G. In addition to any tax, duty or fee payable under any written law as part of the cost of obtaining a loan, a licensee may impose other reasonable and justifiable costs associated with the extension of the loan and with enforcing payment obligations or realization of collateral.

Complaints 21H. (1) A complaint to the Authority shall be made in writing.

(2) In exercising its powers under this section, the Authority –

- (a) shall ensure that its decision in resolution of any complaint made under this section is communicated by notice in writing to the person who made the complaint and the licensee concerned; and
- (b) may issue such directions as it thinks necessary to implement that decision.

(3) A person who fails to comply with a direction issued by the Authority under subsection (2) commits an offence, and is liable on summary conviction –

- (a) in the case of a person other than an individual, to a fine of twenty thousand dollars; and
- (b) in the case of an individual, to a fine of five thousand dollars or to imprisonment for a term of six months, or both.

(4) For the purposes of investigating a complaint made under this section, the Authority may –

- (a) in writing, advise the licensee concerned of the general nature of the complaint and direct the licensee to furnish the Authority with such information as it may require;
- (b) appoint a person to carry out the investigation; and
- (c) require a person appointed by the Authority under paragraph (b), to enter upon any premises where the

licensee carries on the business of providing micro- financing and lending services in order to conduct the investigation.

(5) Where the Authority determines that a licensee is in breach of this section, the Authority shall give the licensee, by notice, in writing, an opportunity to remedy the breach within fourteen days of receipt of the notice.

(6) Where the licensee refuses or neglects to remedy the breach under subsection (5), the Authority shall exercise its powers in accordance with section 211.

(7) Where a magistrate is satisfied, on information given by a person appointed under subsection (4)(b), that there are reasonable grounds for believing that there is at any premises, any item relevant to the investigation, the magistrate may issue a warrant authorising the person, together with a police officer, to enter and search such premises, if necessary, by force, and to examine the item or remove the item for the purpose of making copies.

(8) Where a person appointed under subsection (4)(b) or a police officer removes an item from any premises for the purpose of making copies under this section, the person or police officer, shall give a receipt for the item to the occupant of the premises and shall ensure that the copies are made and the item returned to the premises as soon as is reasonably practicable, and in any event, not later than thirty days after the removal.

(9) A copy of any item removed from premises under subsection (7) and certified to be a true copy by the person appointed under subsection (4)(b) or the police officer who removed it, shall be admissible in evidence as if it were the original of such item.

(10) A search and seizure warrant does not confer the right to seize any information or material that a person would be entitled to refuse to produce on the grounds of legal professional privilege.

(11) For the purposes of this section “item” means any document or object.

(12) A person commits an offence, and is liable, on summary conviction to a fine of five thousand dollars, if that person, without lawful justification or excuse, obstructs, hinders, resists or fails to comply with the lawful direction of a person appointed under subsection (4)(b), or a police officer, in the exercise of any functions under this section.

Enforcement
measures of
the Authority

211. (1) Where the Authority is satisfied that a licensee has committed any of the following contraventions, the Authority may direct a licensee to take one or more of the actions set out in subsection (2) –

- (a) failed to provide a loan agreement to a consumer under section 21C;
- (b) failed to include in a loan agreement, the required particulars specified in section 21C;
- (c) failed to provide a statement of account or a receipt or other form of written confirmation of the repayment of a loan under section 21D;
- (d) failed to provide the method of calculation of the rate of interest to be imposed on a loan under section 21F; or
- (e) contravened or is contravening any other obligation, a direction, rule, order, requirement or standard made or imposed under this Act, the Authority may do any one or more of the following.

(2) The Authority may –

- (a) issue a warning to the licensee of the likelihood of the sanctions which may be imposed, unless the breach by the licensee is rectified as directed by the Authority;
- (b) direct the licensee to cease any such practice;
- (c) direct the licensee to, forthwith or within such other period as may be specified by the Authority, comply with the direction, rule, order, requirement or standard made or imposed under this Act, with which the licensee has failed to comply; or
- (d) direct the licensee to take necessary action to correct the necessary conditions resulting from such contravention.

False or misleading advertising by licensee in relation to the grant of a loan

21J. (1) A licensee shall not knowingly or recklessly advertise any information relating to the terms and conditions for the grant of a loan, which contains any information which is false or misleading in a material particular.

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars.

Using misleading, false or deceptive information to induce a person to take a loan from a micro-financing and lending entity

21K. (1) A licensee shall not –

- (a) by any statement, promise, forecast or projection which the licensee knows to be misleading, false or deceptive;
- (b) by the reckless making of any statement, promise, forecast or projection which is misleading, false or deceptive,

willfully induce or attempt to induce a person to accept or take a loan (by whatever name called) with the licensee.

(2) A licensee who contravenes subsection (1) commits an offence and is liable, on summary conviction –

- (a) in the case of a person other than an individual, to a fine of twenty thousand dollars; and
- (b) in the case of an individual, to a fine of five thousand or to imprisonment for a term of six months, or both.

Threatening, etc.
consumer 21L. A person who, in an attempt to recover a debt owed to a licensee, uses any violence or threats of violence or other criminal means to harm the physical person or property of a consumer or the guarantor of that consumer, commits an offence and is liable, on summary conviction, to a fine of ten thousand dollars.”.

7. Section 31 of the principal Act is deleted and the following section inserted –

Repeal and
reinsertion of
section 31

“Issuance of guidelines 31. (1) The Authority may, with the approval of the Minister, issue guidelines setting out measures not inconsistent with this Act for the general guidance of the operation of licensees including –

- (a) credit administration;
- (b) fit and proper requirements;
- (c) transparent lending practices;
- (d) reporting requirements;
- (e) such other matters as the Authority considers necessary for the administration of this Act.

(2) Guidelines issued on consumer related matters for licensees who are licensed to provide

micro-financing and lending services may provide for the following –

- (a) the obligation of licensees to keep the language in loan agreements with consumers simple and clear, and to ensure that key terms, including but not limited to rates, fees and payment dates, are clearly identified and defined for the consumer's attention;
- (b) the obligation of the licensees to take all reasonable steps to verify that the consumers have, or are likely to have, the means to repay a loan;
- (c) the obligation of licensees to provide a copy of the proposed loan agreement to each consumer and the guarantor, if any;
- (d) the establishment by licensees of effective mechanisms to address consumer complaints;
- (e) the communication of consumer complaints mechanisms and procedures to consumers by licensees;
- (f) the reporting and record keeping obligations of licensees in relation to consumer complaints and resolutions within the times and in the formats specified by the Authority;
- (g) the lawful methods of enforcement available where a consumer has breached the repayment terms of a loan agreement;
- (h) the licensee's enforcement process;

- (i) measures that will be taken to facilitate access to micro-financing and lending services for senior citizens and consumers with disabilities; and
- (j) any other matter the Authority thinks necessary.

(3) Guidelines, and any amendment to the guidelines, shall be formulated after consultation with the licensees or such other persons, who in the opinion of the Authority are relevant stakeholders.

(4) Where a licensee contravenes a guideline, the Authority may issue directives to that licensee.

(5) A licensee who fails to comply with a directive issued by the Authority commits an offence and is liable on summary conviction –

- (a) in the case of a person other than an individual, to a fine of twenty thousand dollars; and
- (b) in the case of an individual, to a fine of five thousand dollars or to imprisonment for a term of six months, or both.

(6) A contravention of the guidelines shall not invalidate a transaction.

(7) Subject to subsection (6), no proceedings or determination made under guidelines on consumer related matters issued for licensees who are licensed to provide micro-financing and lending services shall affect the rights of any party to enforce any claim under the contractual agreement between the parties.”.

8. The First Schedule to the principal Act is amended by inserting after item 1 the following item –

Amendment of
First Schedule

“1A. Class of license being sought (*please tick*)

Class A

Class B

Class C

Class D

Class E

Class F

Repeal and
reinsertion of
Second Schedule

9. The Second Schedule to the principal Act is deleted and the schedule set out in Schedule 1 to this Act inserted.

Repeal and
reinsertion of
Third Schedule

10. The Third Schedule to the principal Act is deleted and the schedule set out in Schedule 2 to this Act inserted.

Insertion of
Fourth Schedule

11. The principal Act is amended by inserting immediately after the Third Schedule the schedule set out in Schedule 3 to this Act.

Savings for
businesses
providing
micro-lending
services on
commencement
of Act

12. (1) A business providing micro-financing and lending services and the business of electronic and mobile transmission of money on the commencement of this Act, shall on the commencement, be deemed to be duly licensed for a period of six months, and must apply for a licence before the expiration of that period.

(2) Nothing in this Act applies to or affects the validity of any micro-financing and lending transaction in existence, or electronic and mobile transmission of money, pending transaction, at the date of commencement of this Act.

SCHEDULE 2

(section 10)

“Third Schedule

[section 5]

Fees

Class of Licence	Application Fee (Section 5 (2) (d))		Annual Fee (section 5 (8))	
	Main Agent	Sub-Agent	Main Agent	Sub-Agent
Class A	\$3,000	\$300	\$15,000	\$3,000
Class B	\$3,000	\$300	\$7,500	\$1,500
Class C	\$3,000	\$300	\$12,000	\$2,400
Class D	\$3,000	\$300	\$10,000	\$2,000
Class E	\$3000	\$300	\$10,000	\$2,000
Class F	\$3000	\$300	\$20,000	\$4,000".

SCHEDULE 3

(section 11)

"Fourth Schedule

[section 6]

Capital and Statutory Deposit Requirement

Class of Licence	Statutory Deposit Payable
Class A	\$100,000 payable in cash, government securities or any other form approved by the Minister
Class B	\$10,000 payable in cash at application stage and thereafter \$10,000 payable in cash by July 1st annually for the next three-year period.
Class C	\$10,000 payable in cash at application stage and thereafter \$10,000 payable in cash by July 1st annually for the next three-year period.
Class D	\$100,000 payable in cash, government securities or any other form approved by the Minister.
Class E	\$100,000 payable in cash, government securities or any other form approved by the Minister.
Class F	\$200,000 payable in cash, government securities or any other form approved by the Minister."

Passed in the House of Assembly this 30th day of August, 2022.

NICOLE HERBERT
Clerk of the House of Assembly.

Printed by the Government Printer at the Government Printing Office,
Campden Park Industrial Estate, St. Vincent and the Grenadines.