

TURKS AND CAICOS ISLANDS
MORTGAGE CORPORATION ACT 2026
(Act 8 of 2026)

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TURKS AND CAICOS ISLANDS
MORTGAGE CORPORATION ACT 2026
(Act 8 of 2026)

Assent.....5th June 2026

Publication in Gazette.....12th June 2026

Commencement..... in accordance with section 1

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A MORTGAGE CORPORATION FOR THE ISLANDS AND FOR RELATED MATTERS.

ENACTED by the Parliament of the Turks and Caicos Islands.

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Mortgage Corporation Act 2026 and shall come into operation on such day as the Governor may appoint by Notice published in the *Gazette*.

(2) Different dates may be appointed for different provisions and different purposes.

Interpretation

2. In this Act—

“Board” means the Board established under section 12;

“chairperson” means a person appointed as chairperson of the Board under section 13;

“Corporation” means the Turks and Caicos Islands Mortgage Corporation;

“Financial Services Commission” means the Financial Services Commission established under section 3 of the Financial Services Commission Act;

“Islander” has the same meaning as under the Turks and Caicos Islander Status Act;

“Managing Director” means the Managing Director of the Corporation appointed under section 46;

“member of the Board” means a member of the Board appointed under section 13;

“Minister” means the Minister responsible for the Corporation;

“Prudential Supervisor” means the person appointed under section 91;

Purpose

3. The purpose of the Act is to—

- (a) establish a framework for providing mortgage financing facilities to Islanders for the purpose of acquiring or building affordable homes; and
- (b) promote and support the provision of affordable housing in the Islands, including through financing arrangements, partnerships and other facilitative measures.

Application

4. This Act shall apply to all persons who are Islanders within the meaning of Islander, under the Turks and Caicos Islander Status Act.

Applicable laws

5. The Corporation shall adhere to the following statutes at all times in the conduct of its operations—

- (a) the Public Finance Management Act; and
- (b) the Public Procurement Act.

PART II

ESTABLISHMENT OF THE TURKS AND CAICOS ISLANDS MORTGAGE CORPORATION

Establishment of Corporation

6. (1) There is established the Turks and Caicos Islands Mortgage Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name, and subject to the provisions of this Act, shall do or perform such acts or things as bodies corporate may, by law, do or perform.

Seal of the Corporation

7. (1) The seal of the Corporation shall be a device as shall be determined by the Corporation and shall be kept by the Managing Director.

(2) The affixing of the seal shall be authenticated by the chairperson and the Managing Director, or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which if entered into or executed by a person who is not a body corporate is not required to be under seal, may be entered into or executed without a seal by the chairperson, the Managing Director or any person authorised by the Board in that behalf.

Functions of the Corporation

8. The functions of the Corporation shall be—

- (a) to stimulate, encourage and promote the ownership of homes by individuals for their own occupancy by making available to them the necessary financial funding on terms and conditions to be determined by the Corporation;
- (b) to encourage through the application of its financial resources the construction industry in the provision of new or improved accommodation for housing;
- (c) in co-operation with any other person to implement proposals by providing financial funding for the construction of housing units and projects;
- (d) to make loans to persons for enabling them in purchasing, building or rehabilitating, as the case may be, their respective residential premises;
- (e) to make loans to persons engaged in the construction of housing units or projects;
- (f) to develop public education programs on mortgages and lending;
- (g) to mobilise funds for the purposes of granting mortgages;
- (h) to administer this Act, and the subsidiary legislation;
- (i) to consider and determine applications for mortgages;
- (j) to monitor compliance with this Act, subsidiary legislation, codes, guidelines;
- (k) to advise the Minister on mortgage and housing sectors;
- (l) to make recommendations to the Board for the annual budget of the Corporation;
- (m) to conduct research into the business of lending money on the security of mortgages and to compile information for that purpose; and

- (n) to do all things which may be necessary or incidental to the discharge of its functions and powers under this Act.

Powers of the Corporation

9. The Corporation has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may—

- (a) enter into contracts;
- (b) acquire, hold and dispose of real or personal property;
- (c) borrow money or issue bonds;
- (d) acquire mortgages;
- (e) issue guarantees, (enter into guarantee agreement);
- (f) sell all right or interest of the Corporation in any mortgage held by it on approval of the Minister;
- (g) acquire, hold and dispose of collateral security for the repayment of loans;
- (h) acquire, hold and dispose of collateral security for the repayment of debentures;
- (i) acquire, hold and dispose of collateral security for the repayment of other guaranteed investment certificates or bonds;
- (j) occupy, use and control any land or building owned or held under lease by the Crown and made available for the purposes of the Corporation;
- (k) engage persons to perform services for the Corporation
- (l) invest any of its funds that are not immediately required for the discharge of its functions
- (m) establish branches, subsidiaries with ministerial approval;
- (n) establish committees;
- (o) exercise or perform any other powers conferred on or required to be performed by the Corporation under any other Act; and
- (p) do anything incidental to any of its powers.

Ministerial direction

10. (1) The functions of the Minister shall be—

- (a) to approve the mortgage policy for the Islands; and
- (b) to specify the Government's priorities.

(2) The Minister may give direction to the Corporation and the directions shall be—

- (a) in writing signed by the Minister; and

(b) be published in the *Gazette*.

(3) The Minister shall consult with the Board before giving the direction.

(4) In consulting with the Board, the Minister shall so far as practicable, give reasons for the proposed direction.

(5) In considering what is practicable for the purposes of this section, the Minister shall have regard to any restrictions imposed by any timetable for making the decision.

(6) The Minister is restricted to give directions only on general principles and policies that appear to him to affect the public interest in keeping with the provisions of this Act.

Independence of the Corporation

11. The Corporation shall be independent in the performance of its functions and duties under this Act and shall not be subject to the direction and control of the Government or of any person, or corporation in carrying out its functions and duties, except that the Corporation shall have due regard to the public interest, the minister's policy direction under section 10, the overall Government policy and to the prudential oversight function under Parts X and XI.

PART III

CONSTITUTION OF THE BOARD OF THE CORPORATION

Board of the Corporation

12. There is established the Board of the Corporation.

Constitution of the Board

13. The Board of the Corporation shall consist of seven members appointed by the Minister as follows—

- (a) a chairperson;
- (b) a deputy chairperson; and
- (c) five other persons.

Criteria for appointment of members

14. (1) In making appointments to the Board, the Minister shall use his best endeavours to ensure that the individuals appointed—

- (a) are fit and proper; and
- (b) have knowledge, experience or expertise that is relevant to the functions of the Corporation.

(2) A person appointed as a member of the Board shall have seven or more years' of experience, expertise, and knowledge in at least one of the following—

- (a) mortgage lending;

- (b) banking;
- (c) finance;
- (d) law;
- (e) risk management;
- (f) audit;
- (g) credit risk;
- (h) compliance;
- (i) valuation; and
- (j) real estate planning.

(3) Appointments made under this section shall be subject to the Commission's fit and proper assessment.

Appointment of chairperson and deputy chairperson

15. (1) The chairperson shall be appointed for a period not exceeding three years and may be reappointed.

(2) The deputy chairperson shall be appointed for a period not exceeding two years and may be reappointed.

Term of appointment for members

16. The members under section 13(c) shall be appointed for a period not exceeding three years and shall be eligible for reappointment.

Managing Director ex officio member

17. The Managing Director shall attend meetings of the Board but is not eligible to vote.

Functions of the Board

18. The functions of the Board shall be—

- (a) to oversee the administration, management, services, property and contracts and organization of the Corporation;
- (b) to approve the strategic plans, policies and budget of the Corporation for submission to the Minister;
- (c) to advise on the institutional structure and programmes of the Corporation;
- (d) ensure the financial viability and stability of the Corporation;
- (e) ensure the government's policy is implemented and executed;
- (f) to review and approve the annual report and financial reports and statements;

- (g) to monitor the implementation of the policies for the effective coordination, organization and management of the Corporation; and
- (h) to establish bye-laws for the functioning and operations of the Board.

Vacancy of the Board

19. The office of a member of the Board becomes vacant where—

- (a) he dies;
- (b) his term of office expires;
- (c) he resigns by written notice to the Minister; or
- (d) he is removed by the Minister where he—
 - (i) is unable to function because of physical or mental illness;
 - (ii) is absent from three consecutive meetings of the Board without the permission of the chairperson;
 - (iii) is guilty of misconduct in respect of his duties;
 - (iv) is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
 - (v) is declared bankrupt in accordance with the laws of the Islands or any country;
 - (vi) demonstrates lack of competence, integrity or prudential fitness as determined by the Commission; or
 - (vii) contravenes this Act.

Alternate member of the Board

20. (1) Where a member, is by reason of illness or otherwise, unable to perform his functions or unable to attend meetings of the Board, the Minister may, rather than declare the office vacant, appoint another suitably qualified person to act as an alternate member for the unexpired remainder of the term of the predecessor on the recommendation of the chairperson and the Managing Director.

(2) A person appointed under subsection (1), while acting in the absence of the member, shall be deemed to be a member of the Board and shall enjoy all the powers, rights and privileges and be subject to the duties of that member.

(3) Alternate members shall be subject to the same fit and proper requirements as members appointed under section 13.

Appointments, terminations to be *Gazetted*

21. The appointment or termination of membership of the Board whether by death, resignation, revocation or otherwise shall be published in the *Gazette*.

Board deemed properly constituted

22. Notwithstanding any defect in the appointment of any of its members, the Board shall be deemed to be properly constituted.

Appointment of advisors

23. The Board may appoint one or more advisors with experience in banking, finance, economics, business, law, mortgages from time to time.

Secretary to the Board

24. (1) The Board shall appoint a person to be secretary of the Board for a term as may be specified in the instrument of appointment.

(2) The secretary shall—

- (a) attend all meetings of the Board but shall not be a part of the quorum or vote on a matter or question before the Board;
- (b) prepare minutes of meetings of the Board;
- (c) keep a record of the proceedings and decisions of the Board; and
- (d) carry out such other duties as the Board may require.

PART IV

COMMITTEES OF THE BOARD

Audit and finance committee

25. (1) The Board shall appoint an audit and finance committee, consisting of not less than three members, from among the members of the Board to—

- (a) assure that internal controls are adequate to identify, measure, control, and monitor the financial reporting, business process, and compliance and legal risks of the Corporation; and
- (b) review performance of management and of the Corporation against agreed work programmes, administrative budgets, performance standards and benchmarks.

(2) The audit and finance committee shall elect one of their number as chairperson and the person so elected shall have an original and a casting vote.

(3) The audit and finance committee shall meet at least once every three months and shall have power to regulate its own procedure.

(4) The audit and finance committee shall report quarterly to the Board and shall prepare an annual report to present to the Board.

Risk committee

26. (1) The Board shall appoint a risk committee, consisting of not less than three members, from among the members of the Board to—

- (a) develop and recommend the risk management framework for the Corporation for approval by the Board;
- (b) define the Corporation's risk appetite how much and what type of risk it is willing to take in relation to credit, the market, and its operational functions;
- (c) ensure that the Corporation's risk management policies align with its statutory obligations, housing policies, and the prescribed prudential standards;
- (d) recommend measures to reduce or transfer risks;
- (e) oversee internal controls for risk management;
- (f) recommend policy changes based on changes in market conditions, regulatory requirements, or performance trends; and
- (g) ensure adherence to the relevant financial and anti-money laundering legislation, including legislation on countering the financing of terrorism.

(2) The risk committee shall elect one of their number as chairperson and the person so elected shall have an original and a casting vote.

(3) The risk committee shall meet at least once every three months and shall have power to regulate its own procedure.

(4) The risk committee shall report quarterly to the Board and shall prepare an annual report to present to the Board.

Credit committee

27. (1) The Board shall appoint a credit committee, consisting of not less than three members, from among the members of the Board to—

- (a) review and approve mortgage loan applications above a certain threshold;
- (b) set and to update the lending criteria for the Corporation;
- (c) assess borrower creditworthiness;
- (d) evaluate the credit risk exposure for each loan;
- (e) ensure the Corporation's credit policies comply with statutory requirements, housing policies, and the prescribed prudential lending standards;
- (f) recommend new mortgage products or financing schemes to improve housing accessibility; and
- (g) align the Corporation's lending activities with the government housing policy objectives.

(2) The credit committee shall elect one of their number as chairperson and the person so elected shall have an original and a casting vote.

(3) The credit committee shall meet at least once every three months and shall have power to regulate its own procedure.

(4) The credit committee shall report quarterly to the Board and shall prepare an annual report to present to the Board.

Prudential standards committee

28. (1) The Board shall appoint a prudential standards committee consisting of not less than three members, from among the members of the Board to—

- (a) assist and advise the Board in overseeing the Corporation's compliance with the prudential standards, guidelines, and requirements prescribed under this Act and the regulations;
- (b) monitor and review the Corporation's adherence to prudential requirements relating to capital adequacy, liquidity, asset quality, risk management, governance, and financial soundness;
- (c) review prudential reports and returns submitted by management, including reports on capital adequacy, liquidity, credit risk, loan performance, stress testing, and any breaches or potential breaches of prudential standards;
- (d) assess the adequacy and effectiveness of the Corporation's internal risk management framework, internal controls, and policies insofar as they relate to prudential compliance;
- (e) make recommendations to the Board on corrective or remedial actions where prudential standards or guidelines are not met or are at risk of being breached;
- (f) advise the Board on the need for amendments to prudential policies, procedures, or internal limits to ensure continued compliance with the Act and the regulations;
- (g) consider and review recommendations from the Managing Director, internal audit, external auditors, or the prudential supervisor relating to prudential matters;
- (h) report periodically to the Board on the Corporation's prudential position, including any material risks, emerging vulnerabilities, or systemic concerns; and
- (i) perform such other functions as may be assigned to it by the Board or as may be prescribed.

(2) The prudential standards committee shall elect one of their number as chairperson and the person so elected shall have an original and a casting vote.

(3) The prudential standards committee shall meet at least once every three months and shall have power to regulate its own procedure.

(4) The prudential standards committee shall report quarterly to the Board and shall prepare an annual report to present to the Board.

(5) Where—

(a) the matter involves the Board or a senior officer; and

(b) the Board has failed to take appropriate action or is conflicted,

the prudential standards committee may, as a measure of last resort, notify the Minister solely to enable lawful oversight or referral.

Appointment of advisory committees

29. (1) The Board may establish or appoint advisory committees made up of qualified persons to analyse, evaluate, investigate, comment and report their findings to the Board on any area or areas referred to them by the Board.

(2) Where an advisory committee is established or appointed under subsection (1), the Board shall—

(a) appoint a member of the Board, or some other qualified person to be the chairperson of the advisory committee;

(b) state in writing that the meetings of the advisory committee shall be governed by rules made by the Board for that purpose;

(c) state in writing that an advisory committee shall report its proceedings and findings to the Board, and that the decisions of the advisory committee shall be subject to the approval of the Board; and

(d) state in writing the duration of the advisory committee and its terms of reference.

Other committees and other matters relating to committees

30. (1) The Board may appoint other committees where it is considered necessary for the better carrying out of the work of the Corporation, from time to time.

(2) For the avoidance of doubt, a committee established under sections 25 to 30, shall not have any reporting, advisory or decision-making relationship with the Minister, except through the Board.

(3) For the avoidance of doubt—

(a) the prudential standards committee established under section 28 is only to assist and advise the Board in ensuring that the Corporation is in compliance with the prudential standards to be prescribed under Part X; and

(b) the prudential standards committee in carrying out its functions under section 28 shall not exercise the prudential supervision powers under Parts X and XI.

(4) A committee established under sections 25 to 30 may include not more than five persons who are not members of the Board.

(5) The Board shall determine the quorum, procedures and terms of reference to be followed by any committee established under this Part.

PART V

MEETINGS OF THE BOARD

Meetings of the Board

31. (1) The chairperson shall preside at all meetings of the Board at which he is present, and in his absence from a meeting, the deputy chairperson shall preside and in the absence of the deputy chairperson, the members present shall elect one of their number to preside.

(2) Each member of the Board is entitled to one vote on a matter arising for determination by the Board, and in the event of an equality of votes, the chairperson or member acting as chairperson shall have a second or casting vote.

Special meetings of the Board

32. (1) Where two members sign a written request directed to the chairperson setting out the object of a proposed meeting of the Board, the chairperson shall convene the meeting within seven days of the receipt of the request.

(2) The chairperson may at any time convene an emergency meeting whenever he thinks it necessary to do so.

Times and places of the meetings of the Board

33. The Board shall meet at least once a month in the first year, and after the first year, at least once every quarter and at other times as may be necessary or expedient for the transaction of its business, and its meetings shall be held at a place and time and on days as the Board may determine.

Quorum

34. A quorum at a meeting of the Board shall be five members inclusive of the chairperson.

Validity of proceedings of the Board

35. The validity of any proceedings of the Board shall not be affected by any vacancy in its membership or by any defect in the appointment of a member.

Invitation of non-members(experts) to meeting

36. The Board may invite a person who, in the opinion of the Board, has expert knowledge concerning any of the functions of the Board,

which is likely to be of assistance to attend a meeting of the Board and take part in the proceedings.

Minutes of meetings

37. The Board shall cause minutes to be kept of every meeting and the minutes shall be confirmed by the Board and signed by the chairperson and the secretary.

Declaration of interest by members of the Board

38. (1) A person who serves as a member of the Board, attending a meeting the Board who is any way, whether directly or indirectly, interested in a matter before the Board, shall declare his interest to the Board and absent himself during the deliberations concerning his declaration of interests.

(2) The Board, excluding the member of the Board referred to in subsection (1), shall determine whether this interest is sufficiently material so as to constitute a conflict of interest.

(3) In the event that the Board finds that the interest constitutes a conflict of interest, an individual referred to in subsection (1) attending a meeting of the Board shall not take part in any deliberations or vote on that matter, and shall absent himself during the deliberations.

(4) For the purposes of this section, a person referred to in subsection (1) attending a meeting of the Board shall be deemed to have an interest in a matter if he or a related party has a pecuniary interest in a matter before the Board.

Protection of persons dealing with members of the Board and agents

39. (1) A person who deals with a member of the Board or the Managing Director shall not be affected by any irregularity of procedure in connection with the authorisation of a transaction by a meeting of the Corporation or by the directors or any committee of directors.

(2) A person who deals with another person who is held out by the Board as having authority to act on the Corporation's behalf in connection with any transaction may treat the Corporation, as bound by the acts of that other person done within his apparent authority even though he has not been authorised by the Corporation to do those acts on its behalf so long as that person has no knowledge whether actual or constructive, that another person has not been so authorised by the Corporation.

(3) This section does not entitle a person to recover a debt from the Corporation or to enforce an obligation or liability against it or to treat any obligation as binding on it, if in connection with the same matter that person is found guilty of a fraud upon the Corporation or has participated or acquiesced in a fraud committed on the Corporation.

Remuneration, allowances etc

40. A member of the Board or a person invited to attend a meeting, who is not a public officer shall be paid the remuneration, allowances and travelling expenses incurred in connection with service to the Board as the Minister may determine.

General power to regulate procedure and to delegate

41. (1) Subject to the provisions of this Act, the Board may regulate its own procedure.

(2) The Board may by resolution, delegate—

- (a) to a member of the Board;
- (b) to a committee of the Board; and
- (c) such functions and powers as the Board may determine, other than powers that by this Act are required to be exercised by the Board.

(3) Where the Board makes a delegation under subsection (2) the delegation—

- (a) shall be writing and recorded in the minutes;
- (b) may be made subject to conditions or limitations as the Board may specify; and
- (c) does not prevent the Board from exercising the delegated power or function.

(4) The Board remains collectively responsible for the exercise of any power or function delegated under this section.

Preservation of confidentiality of information obtained by Board

42. (1) A member of the Board shall regard and deal with the information relating to the business of a person which he has obtained by virtue of his membership or connection as secret.

(2) A person referred to in subsection (1) shall not disclose or allow to be disclosed any information referred to in subsection (1) to anyone not lawfully entitled to the information.

(3) A person who without reasonable excuse discloses or allows to be disclosed information contrary to this section commits an offence and is liable—

- (a) on conviction to a fine not exceeding \$25,000 or a term of imprisonment not exceeding three years, or to both; and
- (b) if the offence is a continuing one, to a further fine of \$100 for every day or part of a day on which the offence has continued.

Immunity from liability for Board members

43. A member of the Board is not personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or the discharge or purported discharge of any duty or function under this Act.

PART VI

MANAGING DIRECTOR AND STAFF OF THE CORPORATION

Custody and use of common seal

44. (1) The Managing Director shall provide for the safe custody of the common seal of the Corporation.

(2) The common seal of the Corporation shall be affixed to instruments pursuant to a resolution of the Board and by and in the presence of—

- (a) the chairperson or, in his absence the deputy chairperson; and
- (b) one other member of the Board or the secretary.

(3) All documents made by the Corporation other than those required by law to be under seal and all decisions of the Corporation may be signified under the hand of the chairperson, the deputy chairperson or the secretary.

Management of the Corporation

45. The powers of the Corporation are vested in the Board, who shall be responsible for the policy and general administration of the Corporation.

Appointment of the Managing Director

46. The Board may appoint a Managing Director of the Corporation—

- (a) after consultation with the Minister and the Leader of the Opposition for a term of three years in accordance with the terms and conditions set by the Board, and may be eligible for reappointment for a further period as may be agreed; and
- (b) who shall have suitable academic qualifications and professional experience to be able to satisfactorily undertake the requirements of the position.

Functions of the Managing Director

47. The Managing Director shall be responsible to the Board—

- (a) for the day to day administration of the affairs of the Corporation;

- (b) to ensure that the Corporation is equipped with the necessary information technology facilities for the efficient processing of data or information or services
- (c) to draw up draft business plans in accordance with commercial norms and procedures;
- (d) to develop the necessary strategies for the implementation of the objectives of the Board;
- (e) for advising the Board on any matter it may refer to the Managing Director or any matter the Managing Director considers necessary;
- (f) for the observance of the provisions of—
 - (i) this Act and in particular to those relating to the prescribed prudential requirements, secrecy, confidentiality and data protection;
 - (ii) the Public Procurement Act in respect of every procurement by the Corporation; and
 - (iii) the Public Finance Management Act and in particular to those provisions relating to reporting and borrowing.
- (g) for the provision of technical advice and guidance on matters of policy;
- (h) for the submission of annual and other reports to the Board;
- (i) for representing the Corporation at regional and international conferences and in any dealings with regional and international organisations or agencies; and
- (j) for the performance of the functions as the Board may delegate to him.

Resignation and removal of the Managing Director

48. (1) The Managing Director may resign his office by writing under his hand addressed to the chairperson of the Board.

(2) The Managing Director may be removed from office by the Board where he—

- (a) is declared a bankrupt;
- (b) is incapable of performing his duties under this Act;
- (c) commits a gross misconduct;
- (d) neglects his duties as Managing Director or is engaged in conduct that would bring the office of the Managing Director into disrepute;
- (e) is sentenced to a term of imprisonment;
- (f) has been absent from three consecutive meetings of the Board without permission from the Board; or

- (g) is in breach of confidentiality contrary to the oath of secrecy.

Delegation of functions by Managing Director

49. (1) The Managing Director may delegate in writing to the Deputy Managing Director and an officer of the Corporation any of the functions conferred or imposed on him under section 47 or any other section of this Act, than the power of delegation under this section.

(2) The Managing Director may at any time revoke a delegation made under subsection (1).

(3) A delegation under subsection (1) does not prevent the exercise by the Managing Director himself of a power so delegated.

Deputy Managing Director

50. (1) The Board may appoint a Deputy Managing Director of the Corporation—

(a) who shall have suitable academic qualifications and professional experience to be able to satisfactorily undertake the requirements of the position; and

(b) subject to the terms and conditions as the Board may approve from time to time. of the Corporation.

(2) The Deputy Managing Director shall be subject to the direction and control of the Managing Director, and shall perform the functions as may be assigned to him by the Managing Director from time to time.

(3) Where—

(a) there is a vacancy in the office of the Managing Director by reason of death, resignation or otherwise; or

(b) the Managing Director is absent from duty, for any cause,

and so long as the vacancy or the absence continues, the Deputy Managing Director shall have and may exercise all the functions, duties and powers of the Managing Director.

(4) The fact that a Deputy Managing Director exercises any function, duty or power of the Managing Director shall be conclusive evidence of the authority of the Managing Director to do so.

Appointment of staff of the Corporation

51. (1) The Managing Director shall, subject to the provisions of this Act, regulations or policy guidelines which may be made from time to time by the Board, appoint the officers and employees of the Corporation as may be necessary.

(2) A person appointed under subsection (1) shall perform the functions assigned to him from time to time by the Managing Director or as is specified in his letter of appointment.

Internal audit

52. (1) The Board shall ensure that adequate arrangements shall be made for the internal audit of the financial procedures, benefit payments and maintenance and operation of the accounts of the Corporation.

(2) The provisions for the Chief Internal Auditor function shall apply as is specified under section 13 of the Public Finance Management Act.

Staff may appeal

53. (1) A person who is aggrieved by a decision of the Managing Director to remove him from office or take disciplinary action against him shall have a right to appeal to the Board in accordance with procedures approved by the Board.

(2) The Board shall review the decision of the Managing Director and may confirm, vary, or set aside the decision.

(3) A person who is aggrieved by a decision of the board under subsection (2) shall within the prescribed time, appeal to the court.

(4) The right of appeal to the court under subsection (3) shall arise only after the exhaustion of the internal appeals process under this section.

(5) The Board shall ensure that the principles of natural justice and procedural fairness are observed in respect of the conduct of a review under subsection (2).

Secondment of public officers to the Corporation

54. (1) Subject to sections 53 and 54 of the Public Service Act, a public officer may be seconded to the Corporation, for a period not exceeding one year, for the purpose of supporting the establishment of the Corporation or for the purpose of facilitating the transfer of skills and institutional knowledge.

(2) A secondment made under subsection (1) may be renewed once only, on request to the Governor, for a further period, not exceeding one year, where—

(a) the Board is satisfied that the continued secondment is necessary to meet an identified operational or skill transfer need of the Corporation; and

(b) the renewal is approved by the Governor, subject to the conditions as he may impose.

(2) The Corporation may identify and co-opt a public officer to the Corporation, where it identifies that the Corporation requires the specialised skill sets of that particular public officer.

(3) Where a person is identified to be co-opted under subsection (2) by the Corporation, the Governor, in the exercise of his discretion and subject to the conditions as he may impose, may approve the secondment of the public officer to serve with the Corporation in accordance with subsection (1) and (2).

(4) A public officer seconded to the Corporation shall, during the period of secondment, remain a public officer and shall be subject to the terms and conditions imposed by the Governor, under subsection 3 and subject to section 53 of the Public Service Act.

(5) Subject to the conditions of his secondment, a public officer shall, at the expiry of his period of secondment, have the option to be employed by the Corporation and the Corporation shall have the option to employ him through a competitive and merit based recruitment process, in accordance with its human resources policies.

(6) A secondment by the Governor to the Corporation shall not create any entitlement or legitimate expectation of permanent employment with the Corporation.

Preservation and accrual of pension benefits

55. The pension benefits under the applicable Act that have accrued to a person, who was seconded under section 54, shall be preserved at the date of the person's employment with the Corporation and shall continue to accrue as if he had remained in the public service.

Pension fund options for the Corporation

56. The Corporation, shall within six months of the commencement of this Act indicate that it will participate in the Public Sector Employees Pension Fund established under section 3 of the Public Sector Employees Pension Fund Act.

Training of employees

57. The Corporation, may, for the purpose of advancement of, the skills of its employees, provide assistance and facilities as may be necessary for training, education and research.

Right to belong, form trade unions

58. The Corporation, shall recognise the right of its employees to belong to or form trade unions for the protection of their interests.

Regulations relating to staff

59. The Board may make Regulations to determine the conditions of services for employees of the Corporation, and in particular may make regulations relating to—

- (a) the appointment, dismissal, discipline, hours of work, pay and vacation leave;
- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the grant of pensions, gratuities, salaries or benefits to the employees and their dependents.

PART VII

FUNDING AND FINANCIAL PROVISIONS AND AUDIT

Transfer of property

60. The Minister responsible for finance may, by Order published in the *Gazette*, transfer to the Corporation, any property belonging to the Government which appears to him to be necessary or useful to the Corporation, for carrying out its functions and the property shall vest in the Corporation, by virtue of the Order without further assurance.

Initial funding by the government

61. Subject to section 11 of the Turks and Caicos National Wealth Fund Act, the start-up capital of \$20, 000, 000 shall be transferred from the Mortgage Corporation Fund to the Corporation.

Funds of the Corporation

62. The funds of the Corporation shall consist of—

- (a) moneys appropriated by the Parliament for the purposes of the Corporation;
- (b) sums as may accrue to the Corporation from the conduct of its business under this Act;
- (c) all sums recovered in payment of the fees, charges or administrative fines imposed by the Corporation under this Act or by Regulations;
- (d) grants, donations, benefactions;
- (e) endowments from any source including regional and international organisations; and
- (f) all other sums or property which may in any manner become payable to the Corporation in respect of any matter incidental to its functions.

Loans to the corporation from consolidated fund

63. At the request of the Corporation, the Minister may, submit to the Parliament, approval, to lend money to the Corporation from the consolidated fund on any terms and conditions that the Parliament may fix.

Power to borrow or raise capital

64. (1) Subject to section 119 of the Constitution and Part V of the Public Finance Management Act, the Corporation may borrow money otherwise than from the Government and is authorised to borrow money and the amounts outstanding at any time in respect of such borrowings shall not exceed the sum of—

- (a) \$50,000,000; or

- (b) any additional amounts authorised by Parliament for the purposes of this subsection by an Appropriation Act or any other Act of Parliament.

(2) The Corporation may borrow from any other sources.

Issuing obligations

65. Subject to section 119 of the Constitution and Part V of the Public Finance Management Act, the Minister may, submit to the Parliament, approval for the Corporation to issue or reissue, sell or pledge—

- (a) bonds;
- (b) debentures;
- (c) notes;
- (d) commercial paper; and
- (e) other secured or unsecured obligations,

of the Corporation.

Apportioning costs of borrowing

66. For the purposes of determining the cost of its activities, the Corporation may apportion the costs related to its borrowings as it considers appropriate.

Advances to the Corporation

67. (1) Subject to section 119 of the constitution and Part V of the Public Finance Management Act, the Minister may, submit to the Parliament, approval for an advances to be made to the Corporation.

(2) An advance made under subsection (1) to the Corporation out of the Consolidated Fund for its purposes shall be subject to the terms and conditions as the Parliament may approve.

Financial year

68. The financial year of the Corporation shall be a period of twelve months commencing from 1 April and ending on 31 March.

Preparation and submission of estimates

69. (1) The Corporation, not less than three months prior to the commencement of each financial year, shall prepare and submit to the Board its annual budget and shall furnish to the Minister of Finance in respect of that financial year, estimates of—

- (a) its expected recurrent and capital expenditure;
- (b) its expected revenue arising from any source; and
- (c) the revenues it expects to collect on behalf of the Government.

(2) The Corporation shall furnish the Minister of Finance with such further information and explanations in relation to the estimates, as the Minister of Finance may require.

Accounts, audit and annual budget

70. (1) The Corporation shall keep proper accounts of all its transactions in accordance with Part VII of the Public Finance Management Act.

(2) The Corporation shall have regard to and comply with its obligation to prepare and submit its annual budget and its financial statements for auditing within the time required under Part VII of the Public Finance Management Act.

Reserve fund

71. (1) The Corporation shall established a reserve fund into which, it shall pay moneys from the Corporation's surplus at a prescribed rate.

(2) The Corporation shall expend money from the reserve fund only for the purposes as may be permitted by the Regulations.

(3) The Regulations may—

- (a) specify circumstances in which the Corporation may expend money from the reserve fund only with the prior approval of the Minister;
- (b) provide for the investment by the Corporation of monies in the reserve fund; and
- (c) otherwise provide for the operation of the reserve fund.

Unexpended funds

72. Section 44 of the Public Finance Management Act shall apply in relation to the unexpended balance of moneys appropriated to the Corporation for any financial year.

Annual financial report

73. (1) Subject to section 43 of the Public Finance Management Act, the Corporation shall within six months after the end of each financial year, prepare and submit to the Minister in respect of that financial year, a written report of its operations for that financial year containing—

- (a) a balance sheet and a complete audited statement of profits and losses in accordance with recognised accounting standards; and
- (b) the report of the auditor.

(2) The Minister shall lay the report on the table of the Parliament at the next sitting of the Parliament held after the Minister receives the report.

Publication of accounts and annual report

74. The Corporation shall ensure the publication of the financial accounts and report in the *Gazette* and on the Corporation's website.

Tax exemptions

75. (1) All instruments executed by or on behalf of the Corporation shall be exempt from stamp duty.

(2) Notwithstanding anything contained in any Act, all material, apparatus or equipment of any kind imported into the Islands by the Corporation for the purpose of carrying on its purposes shall be free of all customs duty and any other tax or fee.

Financial regulations

76. The Board may make Regulations—

- (a) requiring the day-to-day deposit of the funds of the Corporation into a bank or financial institution in the Islands approved by the Board;
- (b) designating the officers of the Corporation who shall have custody of the funds of the Corporation, and shall sign cheques and other instruments on behalf of the Corporation; or
- (c) specifying the total amount which may be maintained by the Corporation at any one time as petty cash.

Deposit accounts

77. The Corporation may maintain in its own name one or more accounts with one or more banks in the Islands.

PART VIII

LOANS BY THE CORPORATION

Conditions of loans granted by Corporation

78. (1) The Corporation shall make loans to persons on terms and rates to be determined by the Corporation.

(2) The Corporation may vary the terms and rates imposed under subsection (1) having regard to the financial considerations of the particular loan and the public interest.

Repayment of loans

79. The repayment of a loan to the Corporation granted under this Act shall be secured by way of execution of a mortgage or charge in favour of the Corporation, and the instrument shall be prepared by the Corporation at the expense of the borrower.

Cancellation or modification of approval of loan

80. The Corporation may cancel or modify a loan where approval is obtained by misrepresentation or where the circumstances have been altered materially after approval.

Power of the Corporation to deny pay out of any outstanding part of an approved loan

81. In any case where the Corporation has approved the granting of a loan by instalments and there remain instalments to be advanced, where—

- (a) any sum of money whether principal or interest due in respect of any prior loan granted by the Corporation to the person to whom the advance should be made remains unpaid;
- (b) in the opinion of the Corporation any prior loan made by the Corporation has not been applied for the purpose for which it was made or has not been carefully or economically expended;
- (c) the borrower has become insolvent;
- (d) there has been a breach or non-observance of any conditions attached to the loan; or
- (e) in the opinion of the Corporation the sums already advanced were not applied to the purposes for which the loan was made within a reasonable time,

the Corporation, without prejudice to any other remedy, may refuse to advance any portion of the loan remaining outstanding.

Suspension of payment of principal and interest

82. The Corporation may—

- (a) postpone the payment of any sum due to it as principal or interest in respect of a loan granted by the Corporation upon the terms and conditions for the carrying out of the purposes for which the loan was made and for the ultimate repayment of the principal or payment of the interest as it may consider necessary;
- (b) from time to time extend the period for the repayment of a loan or compound any part the loan subject to the terms and conditions as it may consider fit; and
- (c) write off any loan or any part of a loan with the approval of the Minister in accordance with section 52 of the Public Finance Management Act upon the Minister being satisfied that all measures have been exhausted whereby the recovery of the loan could be achieved.

Realisation and restrictions on mortgaged property acquired by the Corporation

83. (1) Where any property mortgaged as security for a loan under the provisions of the Act is sold for the purpose of the enforcement of the security, the Corporation may buy the property and may sell or otherwise dispose of it as may appear to the Corporation conducive to the carrying out of its functions.

(2) Where the Corporation acquires a property under subsection (1) in default of the repayment of a loan granted under this Act, the Corporation shall sell the property without delay, within timelines approved by the Commission.

Appointment of receiver or manager

84. The Corporation may appoint a receiver where a loan granted by the Corporation is not secured by the grant of a mortgage or charge.

Assessment of loan granted

85. (1) Where the Corporation has granted a loan, it may —

- (a) from time to time make or cause to be made the examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made; and
- (b) require financial statements or bank statements to be submitted in detail and at the times as the Corporation may determine by the person in receipt of the loan and the person shall comply with the requirement.

(2) The Corporation may authorise in writing any of its officers or any other person to make an examination and the person in receipt of the loan shall, if required by the person so authorised, produce to him all the relevant documents and other matters as are necessary for the examination.

(3) A person who wilfully fails to comply with any requirement made pursuant to subsection (2) commits an offence and is liable—

- (a) on summary conviction to a fine of \$500; and
- (b) if the offence is a continuing one, to a further fine of \$100 for every day or part of a day on which the offence has continued.

Direction for repayment of loan following an assessment

86. The Corporation may direct that the sum together with any interest due on the date of the directions is to be repaid to the Corporation within the time specified and whether any sum directed to be repaid shall become a debt due to the Corporation.

PART IX

REPORTS AND PROGRESS REVIEWS

Quarterly reports

87. (1) The Corporation shall prepare and lay a quarterly report of its activities and accounts before the Board within fifteen days of the end of the quarter.

(2) The Board shall—

- (a) assess the extent to which the Corporation has made progress towards achieving its purposes articulated under this Act; and
- (b) lay the report, in the format determined by the Commission, and its assessment to the Prudential Supervisor within fifteen days of having received it under subsection (1).

(3) The Managing Director shall cause a copy of each quarterly report, to be published in the official *Gazette*, website and in at least one newspaper in national circulation.

Other reports

88. (1) The Minister may require the Corporation to report at any time on any matter relating to its functions, including but not limited to the progress with regard to the achievement of the Corporation's purposes.

(2) The Corporation shall promptly comply with a requirement under subsection (1).

Independent assessment of progress

89. (1) The Minister shall cause an independent review to be conducted every five years to—

- (a) assess the extent to which the Corporation has made progress towards achieving its overall objectives; and
- (b) decide whether the Corporation should continue as an independent statutory body or whether more resources should be made available to the Corporation, to enable it to meet its overall objectives.

(2) For the purposes of this review, the Minister shall appoint an independent reviewer.

Report on review of the Corporation

90. On the fifth anniversary and every five years of the Corporation, the Minister shall report to the Parliament the findings of the assessment conducted under section 89 and shall lay the report for debate on the table of the Parliament.

PART X

PRUDENTIAL SUPERVISION

Appointment of Prudential Supervisor

91. (1) The Minister shall, by notice in the *Gazette*, appoint the Financial Services Commission as the Prudential Supervisor.

(2) For the avoidance of doubt, where the Financial Services Commission is appointed under subsection (1) it is being assigned this function, under section 4(1)(j) of the Financial Services Commission Act.

(3) The Prudential Supervisor shall report to the Minister and the Governor from time to time in respect of its functions under this Part.

Functions of the Prudential Supervisor

92. The Prudential Supervisor shall at least twice per year—

- (a) examine the books, reports and records of the Corporation ;
- (b) appraise the policies and operating procedures to make recommendations to the Board and the committees under Part IV;
- (c) confirm the cash instruments, property and securities of the Corporation;
- (d) confirm the loan balances and mortgage portfolio of the Corporation;
- (e) monitor the management of the Corporation;
- (f) verify the assets of the Corporation and monitor whether the assets are properly protected;
- (g) receive and investigate any complaints made by any customers affecting the proper management of the Corporation;
- (h) at least once a year cause the mortgage statement of accounts of customers to be verified with the records of the Corporation; and
- (i) ensure that all advances, loans, and other transactions involving members of the Board, committee members and employees are in keeping with the Act, Regulations, guidelines and the policies of the Corporation;
- (j) make periodic prudential reports to the Minister and the Governor; and
- (k) perform other functions to be conferred on the Prudential Supervisor by virtue of this or any other Act or any regulations made under this Act.

Special examination for soundness

93. (1) Subject to section 92(a) the Prudential Supervisor shall examine or cause an examination of the Corporation from time to time or whenever in its judgement an examination is necessary or expedient

in order to determine that the Corporation is in sound financial condition and that the requirements of this Act and the Regulations have been complied with in the conduct of its business.

(2) Notwithstanding subsection (1) the Prudential Supervisor shall ensure that it shall cause a special examination at least once every thirty-six months.

(3) Where an examination under subsection (1) is made, and the costs incurred in relation to the examination is in the opinion of the Financial Services Commission extraordinary, the cost shall be borne by the Corporation.

Prudential requirements

94. (1) The Prudential Supervisor shall apply the following prescribed prudential requirements for an examination conducted under section 93—

- (a) minimum capital adequacy ratio;
- (b) exposure limits;
- (c) credit risk limits;
- (d) liquidity requirements;
- (e) related party lending limits;
- (f) asset quality and risk management;
- (g) loan loss provisioning;
- (h) fit and proper criteria;
- (i) internal audit function;
- (j) reporting and disclosure requirements;
- (k) market and interest rate risk controls;
- (l) stress testing and scenarios analysis;
- (m) prohibition on the use or transfer of surplus to the reserve fund; and
- (n) other prudential requirements as may be determined by the Prudential Supervisor or as may be prescribed to be necessary or appropriate.

(2) The Minister, may make regulations in respect of the matters under subsection (1) acting after consultation and on the recommendation of the Prudential Supervisor.

(3) The Prudential Supervisor may issue prudential guidelines to the Corporation from time to time, in respect of the matters under subsection (1), acting after consultation with the Minister and the Board.

(4) A draft of every regulation or guidelines made under this Part shall first be laid for approval before the Parliament.

Disclosure and access to books and records by Prudential Supervisor for examination

95. The Prudential Supervisor shall have—

- (a)* full access to the premises, books, records and computers of the Corporation at reasonable times;
- (b)* have a right to call upon—
 - (i)* the Managing Director, Deputy Managing Director, any member of the Board, officer or other employee of the Corporation;
 - (ii)* any person to which the Corporation has outsourced any of its functions; and
 - (iii)* any other person with information regarding the Corporation,

to furnish any information and explanation which the Prudential Supervisor may consider necessary.

Remedial actions the Prudential Supervisor may take

96. (1) Subject to Part VII of the Public Finance Management Act, where in the opinion of the Prudential Supervisor the Corporation—

- (a)* engages in unsafe and unsound practices in conducting the mortgage business of the Corporation;
- (b)* violates any provision of this Act, Regulations, Order, or guidelines made under this Act;
- (c)* violates any prudential standard prescribed under this Act; or
- (d)* incurs losses,

the Corporation may be subject to the remedial actions specified in subsection (2).

(2) Where the Prudential Supervisor has reasonable cause to believe that the circumstances referred to in subsection (1) *(a)* to *(d)* are likely to occur, the Prudential Supervisor may take one or more of the following measures, after consulting with the Minister of Finance and the Governor—

- (a)* issue a written warning as it considers necessary or appropriate;
- (b)* conclude a written agreement with the Corporation, providing for a program of remedial action;
- (c)* issue an order to the Corporation; and
- (d)* issue such directions as it considers necessary in relation to the Board and the Managing Director of the Corporation.

(3) An agreement, order, or direction under subsection (2) may require any or all of the following—

- (a) to cease and desist from the specified practice or violation;
- (b) affirmative action to correct the condition resulting from the specified practice or violation; or
- (c) any specified remedial action.

(4) For the avoidance of doubt, where the Prudential Supervisor consults with the Governor or Minister under subsection (2), or under section 97(1) it shall be for the purpose of the Prudential Supervisor making them aware of the systemic risk and the remedial action the Prudential Supervisor plans to take and it shall not be construed as requiring approval.

Additional remedial actions

97. (1) The Prudential Supervisor may also take the following remedial actions, after consulting with the Minister of Finance and the Governor—

- (a) restrict the Corporation from further lending or taking further financial exposures, including off-balance sheet transactions, investments, or capital expenditure;
- (b) require the Corporation to suspend for a specified period of time, alter, reduce, or terminate any activity that in the opinion of the Prudential Supervisor has caused material losses to the Corporation, is detrimental to the interest of investors, or presents excessive risk to continuation of the Corporation;
- (c) prohibit payment of bonuses or incentive compensation to any director or officer of the Corporation;
- (d) prohibit the Corporation from making good on a debenture or other security to any person claiming under their authority;
- (e) require the Corporation to seek or raise additional capital;
- (f) recommend to the Governor to suspend or remove any officer or employee of the Corporation or restrict the officer's powers, under Part VII of the Public Finance Management Act;
- (g) recommend to the Governor to declare an officer or employee of the Corporation to no longer be fit and proper;
- (h) recommend to the Governor to remove any or all of the members on the Board of the Corporation or restrict their powers; or
- (i) any other action necessary or appropriate to eliminate the basis for requiring remedial action.

(2) Where the Prudential Supervisor has reasonable cause to believe that the Corporation or its members of the Board, officers,

employees, attorneys, accountants or other professionals have engaged or are engaging in criminal or fraudulent activities, it shall immediately refer the matter to the authorities responsible for investigating and prosecuting the activities.

Additional powers of remedial action against members of the Board, officers, employees

98. (1) Where in the opinion of the Prudential Supervisor any members of the Board, management, officers or employees of the Corporation—

- (a) wilfully or repeatedly has caused violation of any provision of this Act, Regulations or guidelines issued under this Act or the prescribed prudential standard and is subject to a written warning or an order from the Commission under section 96;
- (b) has been engaging in an unsafe or unsound practice that has resulted in a material loss to the Corporation or financial gain to a person; or
- (c) has been conducting the affairs of the Corporation in a manner detrimental to the interests of the customers or the public interest,

that person shall be subject to the remedial actions specified in subsection (2).

(2) In addition to the actions in section 96, the Prudential Supervisor may take one or more of the following actions—

- (a) recommend to the Governor to dismiss the members of the board, management, officers or employees of Corporation from his position in the Corporation pursuant to Part VII of the Public Finance Management Act;
- (b) recommend to the Governor to prohibit the relevant person from serving in or engaging in mortgage business permanently or for a stated period.

Appointment of observer

99. (1) Where any of the grounds for remedial action under section 96 exists and—

- (a) the Prudential Supervisor considers it necessary to stabilise the Corporation; or
- (b) the Corporation fails to comply with a measure under section 96,

the Prudential Supervisor may recommend to the Governor to appoint a competent person as an observer of the Corporation.

(2) The Prudential Supervisor shall give the Corporation—

- (a) notice in writing of its intention to recommend to the Governor that it is necessary to appoint an observer; and

- (b) the opportunity to submit to it, within a specified period being not less than fourteen days, a written statement of objections to the recommendation for the appointment, unless, the Commission determines that the time to object would be detrimental to the customers and the public interests.
- (3) Where the Corporation is served with an order by the Governor appointing an observer it shall comply with the order.
- (4) An observer appointed by the Governor under this section is entitled to attend the meetings of the Board or its committees.
- (5) The observer's views shall be recorded in the minutes of the meetings, but the observer shall not have the right to vote on any matter.
- (6) An observer appointed under this section—
 - (a) shall hold office for a period determined by the instrument of appointment; and
 - (b) shall furnish the Governor, the Prudential Supervisor and the Parliament with status reports on the Corporation as may be determined in the instrument of appointment.
- (7) An observer appointed under this section shall have full access to the premises of the Corporation and shall have a right to call upon any member of the Board, officer, auditor, or other person to which any function is outsourced or any other person with information regarding the Corporation to furnish the observer any information and explanation which the observer may consider necessary and that person shall comply.

Failure to comply with remedial actions

100. (1) Where the Corporation fails to comply with any or all of the remedial actions recommended by the Prudential Supervisor under this Part or the prescribed prudential standards, the Prudential Supervisor may take any of the following actions—

- (a) require the Corporation to present a plan that is satisfactory to the Prudential Supervisor to reconstitute its capital adequacy ratio within thirty days or a longer period as may be determined by the Prudential Supervisor;
- (b) prohibit the Corporation from awarding any bonuses, or increments in the salary, emoluments and other benefits of all members of the Board, Managing Director, Deputy Managing Director and officers.
- (c) prohibit the Corporation from opening new branches or acquiring or establishing new subsidiaries;
- (d) restrict the Corporation from engaging in new business;
- (e) impose restrictions on the growth of assets or liabilities of the Corporation as it shall consider fit;

- (f) restrict the rate of interest on debentures or other securities due by the Corporation to be prescribed under section 65, to the rates as the Prudential Supervisor shall determine; and
 - (g) recommend to the Governor, pursuant to Part VII of the Public Finance Management Act, the removal of the officers of the Corporation responsible for the noncompliance.
- (2) Where at any time—
- (a) after the period specified, the Corporation failed to raise its capital to the levels necessary to rectify its undercapitalisation; or
 - (b) before the end of the period specified, the financial position of the Corporation continues to deteriorate,

the Prudential Supervisor may without having to wait for the expiry of that period recommend to the Governor under Part VII of the Finance Management Act that the Corporation be placed into official administration.

PART XI

OFFICIAL ADMINISTRATION

Official Administration

101. Subject to Part VII of the Public Finance Management Act, the Prudential Supervisor may recommend that the Governor appoint an official administrator where the Corporation is unable to fulfil its mandate.

Grounds for official administration

102. The Prudential Supervisor may recommend the appointment of an official administrator for the Corporation where—

- (a) the Prudential Supervisor determines that the corporation has—
 - (i) violated any provision of this Act or Regulations or guideline made under this Act; or
 - (ii) engaged in any unsafe and unsound practices, in such a manner as to weaken the Corporation's condition, threaten investors' interests, or dissipated the Corporation's assets;
- (b) the Corporations regulatory capital level falls below the minimum regulatory capital required as per the prescribed prudential standards;
- (c) the Prudential Supervisor has reasonable cause to believe that the Corporation or its directors or officers, is engaging in illegal activities in a manner as to jeopardize the customer and the public's interests;

- (d) the Prudential Supervisor determines that the Corporation is in an unsafe or unsound condition to transact business and the Corporation or its directors or officers are unable to without delay improve the condition;
- (e) the Corporation fails in any manner to cooperate with the Prudential Supervisor or its examiners to enable it to perform its supervisory responsibilities, including through concealment or failure to submit for inspection any of the Corporation's books, papers or records;
- (f) the Corporation fails in any manner to cooperate with its auditors;
- (g) the Corporation or its directors, officers, employees, wilfully violate or fail to comply with an order or direction of the Prudential Supervisor under Part X; or
- (h) the Corporation by a resolution of its Board, requests the appointment of an official administrator.

Matters to be considered on the appointment of an official administrator

103. The following matters in relation to the appointment of an official administrator for the Corporation shall be taken into account, in the instrument of appointment to be made by the Governor under Part VII of the Public Finance Management Act—

- (a) notice of the appointment of the official administrator;
- (b) the effective date of the appointment;
- (c) the person qualified to be appointed as an official administrator;
- (d) the period of appointment;
- (e) the replacement and removal of the official administrator;
- (f) the requirement that the official administrator shall be a fit and proper person;
- (g) the requirement for the official administrator to declare any conflict of interest;
- (h) the determination that transactions of the Corporation in official administration shall be approved by the Minister;
- (i) the general powers of the official administrator;
- (j) oversight of the official administrator;
- (k) the requirement for the official administrator to prepare and deliver an inventory of the Corporation's assets and liabilities, no later than forty-five days after the appointment;

- (*l*) the requirement for the official administrator to prepare and deliver a report on the financial condition and future prospects of the Corporation no later than ninety days after the appointment; and
- (*m*) the requirement for the official administrator to include in the report under paragraph (*l*) a proposed plan of action that may recommend—
 - (i) returning the Corporation to comply with the Act by carrying out a plan of corrective actions that may include an increase in capital;
 - (ii) any course of action designed to resolve the Corporation in a manner that minimises disruption to customers and preserves the public interest; or
 - (iii) the winding up of the Corporation under section 104.

Insolvency or winding up not applicable

104. (1) An Act relating to the insolvency or winding-up of a company shall not apply to the Corporation.

(2) The affairs of the Corporation shall only be wound up by an Act of Parliament and in accordance with section 40 of the Public Finance Management Act.

PART XII

MISCELLANEOUS

Fees

105. The Corporation may charge the following prescribed fees—

- (*a*) application fees;
- (*b*) evaluation fees;
- (*c*) closing fees; and
- (*d*) any other fees.

Electronic communication

106. (1) The Managing Director shall establish an information processing system for the following operations—

- (*a*) filing of electronic communications with the Corporation;
- (*b*) service or issue of electronic communications with the collector; and
- (*c*) payment or collection of—
 - (i) mortgage payments;
 - (ii) fees; and

(iii) any other payments,

by electronic means.

(2) The filing, service or issuance of documents by the Corporation via an information processing system established under subsection (1) shall be valid and effective for all purposes under this Act.

(3) An electronic communication that is made under subsection (2) is deemed to have been received by the person to whom it was sent upon receipt.

(4) The filling, service or issuance of documents by electronic means other than via an information processing system established under subsection (1) shall be valid and effective for all purposes under this Act as provided for under the Electronic Transactions Act.

Service of notices

107. Any notice or document given or served under this Act shall be deemed served on or given to a person—

- (a) by delivering it to the person personally;
- (b) by leaving it at the usual or last known place of abode of that person;
- (c) by serving it on the attorney or agent who accepts service for and on behalf of an owner and occupier of the land;
- (d) by serving it on an attorney or agent holding a power of attorney where the attorney or agent is authorised to accept the service;
- (e) by publishing it in three consecutive issues of a newspaper in general circulation;
- (f) by publishing it in three consecutive issues of the *Gazette*;
- (g) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode or, where an address for service has been given by that person, at that address; or
- (h) in the case of a body corporate, or other body, by delivering it to the secretary or other officer of that body at its registered or principal office in the Islands, or by sending it in a prepaid registered letter addressed to the secretary or other officer of that body at that office.

Customer complaints and Disputes

108. (1) Where a customer of the Corporation wishes to make a complaint under this provision, he shall submit the complaint to the Corporation within fifteen days of the occurrence of the event on which he wishes to make his complaint.

(2) A complaint shall be in writing and may be made by the complainant in person or by any person authorised by him in writing in that behalf.

(3) Any dispute arising from a complaint between the Managing Director and a customer shall be submitted to a prescribed complaints resolution process and if the complaint is not resolved under the complaints resolution process, the complaint shall be submitted to the Complaints Board.

Complaints Board

109. (1) The Complaints Board is established.

(2) The Complaints Board shall seek to resolve any matter referred to it under section 108.

(3) The Complaints Board shall comprise of the following persons appointed by the Minister—

(a) a chairperson being a person with at least five years' experience and knowledge in any of the following areas—

- (i) accounting;
- (ii) finance;
- (iii) economics;
- (iv) law;
- (v) banking;
- (vi) mortgages; and
- (vii) consumer affairs.

(b) two representatives of a private sector consumer organization(s) or some other similar private sector organization(s).

(4) A person appointed under subsection (2) may be appointed for a period of up to two years, and may be reappointed.

(5) The chairperson of the Complaints Board may summon a meeting whenever a matter is referred to the Complaints Board pursuant to section 108 and the Complaints Board shall meet at least quarterly throughout the year.

(6) The Complaints Board may regulate its own procedure as it thinks fit.

(7) Members of the Complaints Board shall be paid such remuneration and travelling and other allowances as may be appropriated by the Parliament for the purpose.

Confidentiality

110. Any person employed in the exercise of any power or the performance of any duty under this Act shall, before entering upon his

functions, shall take an oath of secrecy in the form set out in Schedule 4 before—

- (a) a Magistrate or a Justice of the Peace;
- (b) the Managing Director; or
- (c) a person authorised to take an oath.

Oath of secrecy

111. (1) A member of the Board or employee of the Corporation, or any person assisting the Board or Corporation shall observe and preserve the confidentiality of all matters coming before the Board or Corporation, and the confidentiality shall subsist even after the termination of the term of office or the mandate.

(2) A member of the Board or employee of the Corporation, or any person to whom confidential information is revealed through working with the Board or Corporation shall not disclose that information to any person, unless he is required to do so in terms of any law or for purposes of any judicial proceedings.

(3) A person who contravenes this section commits an offence and is liable—

- (a) on summary conviction, to a fine of \$5,000 or to imprisonment for a term of two years, or to both; or
- (b) on conviction on indictment, to a fine of \$10,000 or to imprisonment for a term of three years, or to both.

Immunity for staff of the Corporation

112. An employee or agent of the Corporation shall not be personally liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function or duty or the exercise or purported exercise of any power under this Act or any other Act unless it is shown that the act or omission was in bad faith.

Limitation period for proceedings

113. Any proceedings by way of summary conviction in respect of an offence under this Act may be instituted at any time within but not later than two years after the time when the subject matter of the proceedings arose, or two years after the time when the commission of the offence first became known to the Corporation.

Regulations

114. The Minister may, on the recommendations of the Managing Director, make Regulations for the carrying out of the objectives of this Act and in particular—

- (a) to set the fees and charges to be paid to the Corporation for any information, report or service, carried out by the Corporation;

- (b) to establish forms to be used by applicants for loans by the Corporation;
- (c) to provide for the information to be furnished by applicants for loans by the Corporation and the procedure to be followed securing the loans
- (d) to specify the terms and conditions subject to which loans are made by the Corporation;
- (e) to establish data protection protocols and guidelines for the Corporation;
- (f) the form and issue of bonds and debentures of the Corporation;
- (g) the terms and conditions to which the bonds and debentures are subject; and
- (h) to prescribe any matter or thing required to be prescribed for the purposes of this Act.

Rules

115. The Minister may make Rules for the carrying out of the objectives of this Act.

Guidelines

116. (1) The Corporation may issue Guidelines with respect to the procedures to be followed by and the conduct expected in the granting of mortgages under this Act.

(2) The Guidelines may make different provision in relation to different persons, circumstances or cases.

(3) The Corporation shall publish the Guidelines and any amendments in the manner as may be specified in the Regulations.

(4) Without limiting subsection (1) the Regulations may prescribe matters that shall be, or may be, provided for in Guidelines.

Consequential amendment

117. Section 39 of the Public Finance Management Act is amended by inserting after subsection (7) the following new subsections—

“(8) For the avoidance of doubt, in respect of the Turks and Caicos Islands Mortgage Corporation, established under section 6 of the Mortgage Corporation Act, as a statutory body, subsections (2) to (6) shall not apply and the power of the Governor to intervene in the Turks and Caicos Islands Mortgage Corporation, shall be exercised in accordance with Parts X and XI of the Mortgage Corporation Act.

(9) The Governor shall on the advice of the Prudential Supervisor, exercise his or her power to intervene in the Turks and Caicos Islands Mortgage Corporation, under Parts X and XI of the Mortgage Corporation Act.”.