

ANTIGUA AND BARBUDA
INTERNATIONAL BUSINESS CORPORATIONS
REGULATIONS, 1998

Arrangement of Regulations

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THE UNIVERSITY OF CHICAGO
 DEPARTMENT OF POLITICAL SCIENCE
 POLS 303: THE POLITICAL ECONOMY OF DEVELOPMENT

Assignment 1: Development of Institutions

Questions

1. What are the main arguments for the importance of institutions in development?
2. How do institutions affect economic growth?
3. What is the relationship between institutions and economic growth?
4. How do institutions affect the quality of institutions?
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ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1998, No. 41

**The International Business Corporations Regulations, 1998,
made by the Minister under Section 351 of the International
Business Corporations Act, Cap. 222.**

1. These Regulations may be cited as the International Business Corporations Regulations, 1998. Short title.

2. In these Regulations, unless the context otherwise requires, Interpretation;
 - “Act” means the International Business Corporations Act; Cap. 222.
 - “Authority” means the International Financial Sector Authority; and
 - “licensed institution” means a corporation licensed by the Authority for the purpose of engaging in international banking, trust or insurance business.

3. The Authority shall not issue a licence to an institution whose ownership is held directly or indirectly in “bearer shares” or otherwise unknown. No licensing of anonymously owned institutions.

4. A licensed institution, and its owners, directors, officers and agents, shall provide all information requested as to the ownership and management of the institution within thirty days of receipt of a demand from the Authority. Providing ownership and management information.

5. The Authority shall not issue a licence to any business proposing to engage in international banking, trust or insurance business, which is a subsidiary or branch of an institution located in a foreign country: Foreign supervision and information.
 - (a) where the Authority determines that the foreign country does not have adequate procedures for supervision of such institution; or

- (b) where the Authority has not received necessary information concerning the ownership, management or operation of the institution so located in the foreign country.

Subsidiaries of foreign offshore corporations.

6. The Authority shall not issue a licence to a business proposing to engage in international banking, trust or insurance business which is a subsidiary or branch of an international business corporation located in a foreign country.

Foreign subsidiary or branch.

7. (1) No licensed institution shall open a subsidiary or branch in a foreign country without the prior approval of the Authority.

(2) The Authority in granting approval under subsection (1) shall take into consideration all the circumstances including:

- (a) whether there are adequate provisions for the Authority to have access to the records located in the foreign country, other than account information;
- (b) ownership of the subsidiary;
- (c) whether the laws of the foreign country make provision for adequate recordkeeping and inspection of the records; and
- (d) whether there is a bilateral or multilateral treaty in effect in the foreign country for the prevention of money laundering.

Records of foreign branches.

8. (1) A foreign subsidiary or branch of a licensed institution shall maintain appropriate records as determined by the Authority concerning the ownership, management and operations of the foreign subsidiary or branch and the records shall be made available for examination by the Authority or their designee.

(2) The disclosure of account information will not be required if prohibited under the laws of the foreign country.

(3) The records should be recorded in the English language and the accounts calculated in United States Dollars.

9. (1) No licensed institution shall offer or provide Internet services of any type without the prior approval of the Authority. Internet services.

(2) The Authority shall not give approval unless, after consideration of all the circumstances, it is satisfied that the services will not be contrary to the public interest.

10. No licensed institution shall make a change to its directors or the direct or indirect, legal or beneficial owner of five percent or more of a class of shares in that institution, without prior approval from the Authority. Changes in ownership or management.

11. No licensed institution shall loan funds directly or indirectly: Insider loans.

(a) to the direct or indirect, legal or beneficial owner of an aggregate of five percent or more of a class of shares of the institution; or

(b) to an entity which the direct or indirect, legal or beneficial owner owns, controls or has an interest,

without securing collateral equal to one hundred percent of the amount of the loan.

12. No licensed institution shall lend money directly or indirectly to anyone for the purpose of acquiring shares or other beneficial interest, either directly or indirectly, in that institution. No loans to acquire ownership.

13. An international banking corporation shall maintain a ratio of equity to assets of five percent or greater. Equity to assets ratio for banks.

14. A licensed institution shall install and employ any accounting, monitoring or reporting system prescribed by the Authority. Monitoring systems.

15. A licensed institution shall:

(a) in relation to the establishment of individual accounts (whether identified by name or number) obtain the following identifying information of the actual account holder through visual document examination:

Customer identification and recordkeeping.

(i) name of account holder;

- (ii) address of account holder;
 - (iii) passport number, national identification number, driver's licence number or similar identification;
 - (iv) business interests; and
 - (v) anticipated account activity;
- (b) in relation to the establishment of organizational accounts (whether identified by name or number) obtain the following information of the actual account holder through visual document examination and enquiry:
- (i) evidence of legal status of business entity;
 - (ii) the identities of the Directors of the business and the signatories to the account;
 - (iii) the nature of the business; and
 - (iv) anticipated account activity;
- (c) in relation to the establishment of joint or other multi-party accounts (whether identified by name or number) obtain the information required by paragraphs (a) and (b) for each party with an interest in or authority over the account;
- (d) verifying the information obtained under paragraphs (a), (b), and (c) by personal references, bank references, credit reporting companies and any other appropriate means; and
- (e) in relation to all accounts, retain all information obtained under this regulation for a period of five years in the format prescribed by the Authority.

Transaction record
keeping.

16. A licensed institution shall:

- (a) in relation to all transactions obtain the following information:
 - (i) the name of the account,
 - (ii) the account number;

- (iii) the type of transaction;
- (iv) the amount of the transaction;
- (v) the date of the transaction; and
- (vi) the identity of the party authorizing the transaction;

- (b) in relation to deposits the account name, account number and financial institution from which the funds were drawn;
- (c) in relation to withdrawals the name, address and where applicable the financial institution, account name and account number to whom the funds are being disbursed; and
- (d) retain all information obtained under this regulation for a period of five years in the format prescribed by the Authority.

17. No licensed institution shall accept currency or bearer negotiable instruments in any amounts for any transactions.

Currency and bearer negotiable instruments.

18. No licensed institution shall serve as originator or recipient in the transfer of funds on behalf of a person who is not an account holder or in the process of opening an account at that institution.

No transactions for non-account holder.

19. (1) A licensed institution shall designate a person to be known as a "compliance officer" who shall be responsible for ensuring that the institution complies with the Money Laundering (Prevention) Act and its Regulations, and the Act and its Regulations, and for filing suspicious activity reports with the Supervisory Authority appointed under the Money Laundering (Prevention) Act with simultaneous copies to the Executive Director of the International Business Corporations Authority.

Designation of compliance officers. Act No.9 of 1996.

(2) The suspicious activity report shall set out all required information that is available relative to the transactions or patterns of transactions deemed by the "compliance officer" to be suspicious including the facts arousing his suspicion.

20. (1) A licensed institution shall be subject to on-site examinations by the Authority at its head office, its local office, and any other office deemed appropriate by the Authority at least once a year to ensure that the institution is in compliance with the Money

Annual on-site examination.

a year to ensure that the institution is in compliance with the Money Laundering (Prevention) Act and its Regulations and this Act and its Regulations.

(2) The cost of an examination by the Authority under subsection (1) shall be borne by the institution being examined.

Made this 10th day of December, 1998.

John E. St. Luce,
Minister of Finance.

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