

(H. B. 1700)

**(No. 45-2024)**

(Approved February 16, 2024)

## **AN ACT**

To amend Sections 2, 3(a), 4, 5(b), 7(a), 8(b), 8(c), 9, 10(a), 11 and add a new subsection (d), 14, 15, 16(A), 17, 18, 19(c), 20(a), 20(b), and 20(e), 22 and 23 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” in order to increase license application and renewal fees; clarify that applicants shall be responsible for paying the expenses incurred in any investigation conducted as a result of their applications; increase the amount of unencumbered assets or financial assurances; increase the annual license fee for each office; adjust the paid-in capital requirement to present times; establish a fee for change of control exceeding ten percent; provide the reconsideration and judicial review process to address denials of permits or license applications; and for other related purposes.

### **STATEMENT OF MOTIVES**

Economic development and private capital are the cornerstones of Puerto Rico’s economic recovery. This Act is an example of the firm commitment to promote the economic growth of the Commonwealth thereby showing that Puerto Rico is fertile ground and open for business. Furthermore, at this historical juncture in which we are going through a reconstruction process in the wake of hurricanes Irma and María, the earthquakes, and the COVID-19 pandemic, the existence of international financial institutions shall have a positive effect on the economy.

Act No. 4 of October 11, 1985, as amended known as the “Financial Institutions Commissioner’s Office Act,” (hereinafter, “Act No. 4”) provides that the Office of the Commissioner of Financial Institutions (hereinafter, “OCFI” or the “Commissioner”) shall have the duty to regulate, oversee, and supervise financial institutions that operate or do business in Puerto Rico to ensure that they

are solvent, financially sound, and globally competitive, as well as promote the socioeconomic development of the Island, and safeguard the public interest. With the enactment of Act No. 4, supra, OCFI was entrusted with the responsibility of issuing licenses, investigating, and examining financial institutions as well as with all the functions, powers, and duties once held by the Secretary of the Treasury relating to Puerto Rico's financial industry. Furthermore, in 1999, OCFI was recognized as a law enforcement and regulatory agency.

Consistent with the foregoing, the Legislative Assembly has granted OCFI supervisory powers over other financial institutions doing business in Puerto Rico. Thus, OCFI supervises and oversees banks, international banking entities, international financial institutions, investment companies, trust companies, capital investment funds, casinos, pawnbroking businesses, money service businesses, installment sales and financing companies, personal property leasing businesses, small personal loan institutions, financial mediation businesses, mortgage loan businesses, consumer reporting agencies, loan originators, stockbrokers, and investment advisors, the Economic Development Bank, and the Government of Puerto Rico Employee Association, among others.

Pursuant to Act No. 4, supra, OCFI administers Act No. 52 of August 11, 1989, as amended, known as the "International Banking Center Regulatory Act," (Act No. 52), which governs international banking entities doing business in Puerto Rico. Since the approval of Act No. 52, there has been a growing interest from investors worldwide who are applying for international banking entity licenses to do business in Puerto Rico, thereby promoting the Island's economic development.

In order to responsibly address international banking entities' compliance with the laws and regulations that govern them, it is necessary to strengthen the current regulatory and supervisory framework. Thus, this measure increases the license application and renewal fees established by Act No. 52, supra, which have

remained unchanged for years, as well as the Paid-in capital and the required unencumbered assets. Furthermore, it establishes a fee and provides for the payment of expenses incurred in the evaluation of applications for a change of control exceeding ten percent (10%) of any class of capital stock or equity shares of an international banking entity. Moreover, the annual license fee, that is, the investigation, licensing, and renewal fees, have remained unchanged for years. Lastly, this Act demands greater compliance with the laws in order to combat money laundering and empower the Commissioner of Financial Institutions to revoke or suspend a license, among other things, if upon conducting an examination it is found that an international banking entity has violated the law.

These changes facilitate oversight in the investigations for license applications or renewals and other applications while ensuring that financially sound entities capable of doing business in the most competitive and efficient manner are retained in our market. Conforming our regulatory framework to the prevailing trends in the financial market is a compelling and genuine interest for the orderly economic development of Puerto Rico.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Section 2 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 2.- Definitions.

(a) Supervisory Agency - Means any of the following:

(1) The Office of the Comptroller of the Currency or OCC, the Federal Deposit Insurance Corporation or FDIC, the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission or SEC, the Commodity Futures Trading Commission or CFTC, the Financial Crimes Enforcement Network or FinCEN, the Internal Revenue Service or IRS, any

successor thereof and any agency created in the future with similar supervisory authority.

(2) Any agency from any jurisdiction primarily responsible for the chartering and supervision of the operations of an international banking entity's holding company or the entity of which the international banking entity is a unit;

(3) Any state or federal agency exercising a regulatory function over the activities conducted by international banking entities; and

(4) Any Self-regulatory Organization required by law to exercise a regulatory function over the activities conducted by international banking entities, such as the Financial Industry Regulatory Authority, Inc. (FINRA) and other similar bodies, or any entity designated by the U.S. Department of the Treasury or its designated person.

(b) AMLA - Means the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (NDAA), which includes the Anti-money Laundering Act of 2020 (AML Act) and, within the AML Act, the Corporate Transparency Act (CTA). The purpose of these laws is to modernize and simplify the U.S. anti-money laundering (AML) regime. Reference to AMLA may be made to include said Act in its entirety, or any other law that amends or replaces it.

(c) Bank Secrecy Act or BSA - Means the federal Currency and Foreign Transactions Reporting Act of 1970, better known as the Bank Secrecy Act (BSA) or any law that amends or replaces it.

(d) Capital - Means the difference between the assets and liabilities of an international banking entity that meets the regulatory capital requirements prescribed by the Commissioner.

(e) Paid-in Capital - Means the total amount of cash in the official currency of any country and other assets (excluding non-marketable securities or of a predominantly speculative nature) that shareholders, members, or partners have

contributed to an entity in exchange for shares of capital stock or equity shares of an international banking entity, as the case may be.

(f) Code - Means Act No. 1-2011, as amended, known as the 'Internal Revenue Code for a New Puerto Rico' or any other law that replaces or amends it.

(g) Commissioner or OCFI - Means the Commissioner of the Office of the Commissioner of Financial Institutions of Puerto Rico.

(h) Independent Director - Means a member of the board of directors or governing body of an international banking entity who has no financial interest in or any banking, commercial, business, consulting, familial or legal relationship, among others, with the entity or the owners of the entity and is not an employee or a managing member thereof.

(i) IBE or International Banking Entity - Means a person, other than an individual, incorporated or organized under the laws of Puerto Rico, the United States, or a foreign country, or a unit of such person, to which a license has been issued pursuant to Section 7 of this Act, and that has not been converted into an international financial institution pursuant to Act No. 273-2012, as amended, known as the 'International Financial Center Regulatory Act.'

(j) United States - Means the United States of America, any state of the United States, the District of Columbia, and every possession, territory, political subdivision, and agency thereof, excluding Puerto Rico.

(k) Insolvency or Insolvent - Means the financial condition in which an international banking entity or the person of which an international banking entity is a unit may find itself, when its liabilities exceed its assets, or it is unable to pay its debts when they become due or when its paid-in capital has been reduced to less than one-third (1/3).

(l) Act No. 4 - Means Act No. 4 of October 11, 1985, as amended, known as the 'Financial Institutions Commissioner's Office Act.'

(m) UAPA - Means Act No. 38-2017, as amended, known as the ‘Government of Puerto Rico Uniform Administrative Procedure Act,’ or any other law that amends or replaces it.

(n) OFAC - Means the Office of Foreign Assets Control of the U.S. Department of the Treasury.

(o) Office - Means the facility in which only specific administrative activities relating to the operations of international financial institutions are performed. International financial institutions engaged in banking or financial service activities shall not accept deposits nor conduct banking operations at the facilities thereof except for those which are incidental to the administrative duties of such office.

(p) Person - Means an individual, corporation, limited liability company, partnership, association, unit, trust or estate, syndicate or enterprise of any kind, government, its agencies, instrumentalities, political subdivisions, or other entities of the Government of Puerto Rico.

(h)[sic] Domestic person - Means a natural person who is a Puerto Rico resident or a person incorporated or organized under the laws of Puerto Rico, or a person whose principal place of business is located in Puerto Rico, and the Government or any political subdivision or agency of the Commonwealth of Puerto Rico.

(i)[sic] Foreign Person - Means any person other than a domestic person.

(j)[sic] Puerto Rico - Means the Commonwealth of Puerto Rico and every political subdivision and agency thereof.

(k)[sic] Puerto Rico Resident - Shall have the same meaning given to such term in the Code and the regulations prescribed thereunder.

(l)[sic] Branch - Means any kind of facility established by an international banking entity outside of Puerto Rico.

(m)[sic] Unit - Includes any subdivision or branch of any person other than an individual, whose businesses and operations are segregated from the other businesses and operations of such person, as required by this Act.

(n)[sic] Service Unit - Means such facility established by an international banking entity in Puerto Rico in which only specific banking operations are performed. Service units shall not accept deposits or establish accounts if such transactions involve the acceptance of a deposit.

(o)[sic] USA Patriot Act - Means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended.”

Section 2.- Subsection (a) of Section 3 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 3.- Authority and Duties of the Commissioner.

(a) The Commissioner shall:

(1) adopt, and may thereafter, from time to time, repeal, amend, or supplement rules and regulations in order to enforce the provisions of this Act;

(2) collect fees for examinations, audits, license renewals, verification of criminal record, reports and applications for change of control, receive monies, and make disbursements according to its budget or as otherwise provided by law or regulations;

(3) open and maintain bank accounts as may be necessary and appropriate to conduct operations;

(4) review and conduct investigations with respect to all applications for licenses to operate international banking entities, or for change of control;

(5) approve, grant conditional approval, or deny applications for permits and licenses to operate international banking entities; provided, further, that any person whose application has been denied or conditionally approved may request a hearing pursuant to the regulations provided in Section 23 of this Act;

(6) supervise, oversee, and audit international banking entities and require them to file periodic or special reports and furnish any other information specified in the regulations of the Commissioner;

(7) require periodic audits of each international banking entity at least once a year, which shall include an assessment of the financial condition of each international banking entity, the international banking entity's compliance with the provisions of this Act and the regulations of the Commissioner, and such other matters as the Commissioner may deem appropriate;

(8) ensure the financial and operational soundness of international banking entities as well as their compliance with the applicable laws and regulations and any other provision or requirement prescribed by the Commissioner through order, regulation, circular letter, or guidance documents applicable to IBEs;

(9) revoke or suspend a license to operate an international banking entity or impose any penalties he or she may deem necessary and convenient pursuant to regulations; provided, further, that any person whose license has been revoked or suspended, or to whom any other penalty has been imposed, shall have the right to request a hearing pursuant to the regulations provided in Section 23 of this Act;

(10) suspend, dismiss, or otherwise sanction any director, officer, employee, agent, or individual acting in a similar capacity for an international banking entity, who violates, or willingly or negligently allows another person to violate this Act, any regulation or order of the Commissioner, or the articles of incorporation, articles of organization, bylaws, limited liability company agreement, partnership agreement, or other organizational document of the international banking entity, as the case may be, or a license issued under this Act. Any individual who is suspended, dismissed, or otherwise sanctioned may request a hearing pursuant to the regulations provided in Section 23 of this Act;

(11) conduct studies and investigations, upon request of an interested party or on the Commissioner's own initiative, regarding authorized matters or alleged violations of this Act or the Regulations of the Commissioner, and may require information deemed necessary, pertinent, and essential to achieve such purposes, as well as any other investigations necessary for the sound administration of this Act or the Regulations of the Commissioner. For the purposes of this subsection, the applicant or licensee shall be responsible for paying the costs of any special investigation that the Commissioner deems necessary. Any examination or investigation shall be kept confidential except as provided in Section 23 of this Act; and

(12) take actions and impose remedies as are necessary to enforce the provisions of this Act or the regulations thereunder.

(b) ...

(c) ...

(d) ...”

Section 3.- Section 4 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 4.- Interest Rates and Reserves.

The Commissioner may not establish interest rates to be paid or charged by an international banking entity. Notwithstanding the foregoing, in the case of international banking entities expressly authorized under their license to receive deposits pursuant to the provisions of Section 13(a)(1) of this Act, the Commissioner may establish reserve requirements that, in no case, may exceed twenty percent (20%) of the total demand deposits maintained by the international banking entity (except for the demand deposits maintained by the Economic Development Bank for Puerto Rico or any successor thereof that is duly secured by collateral). The Commissioner shall establish the reserve requirements, computation method, and other details in the licenses concerned or by the regulations of the Commissioner, circular letter, or guidance documents applicable to IBEs.”

Section 4.- Subsections (b) and (c) of Section 5 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” are hereby amended to read as follows:

“Section 5.- Organization.

...

(b) The articles of incorporation or bylaws, in the case of a corporation; the articles of organization or operational agreement, in the case of a limited liability company; the partnership agreement; or any other organizational document of an international banking entity shall include:

- (1) The name by which it is to be known.
- (2) The street, number, and city where its principal place of business shall be established in Puerto Rico.
- (3) Paid-in Capital:

(A) In the case of a corporation or person other than a corporation, the amount of paid-in capital shall not be less than ten million dollars (\$10,000,000). For the purposes of this Act, said amount shall be deemed initial paid-in capital and shall be fully paid at the time the license is issued. The Commissioner may authorize or require a lesser or greater amount of initial paid-in capital, upon his or her own initiative or upon request of an interested party, taking into consideration the types of businesses or activities to be conducted by the international banking entity or other circumstances as determined by the Commissioner. However, in no case shall the amount of paid-in capital be less than ten percent (10%) of the deposits accepted by the IBE. If the international banking entity shall have authority to issue shares of only one (1) class of capital stock or equity shares, the articles of incorporation, bylaws, articles of organization, limited liability company agreement, partnership agreement, or other organizational document of the international banking entity, as the case may be, shall include the aggregate number of shares of capital stock or equity shares which the entity shall have authority to issue, the par value of each of the shares or a statement that all of the shares of capital stock or equity shares are without par value. If the entity shall have authority to issue more than one class of capital stock or equity shares, said document, as applicable, shall also include said information for each class. IBEs holding a valid license as of the effective date of this Act shall gradually increase their paid-in capital until it reaches at least ten million dollars (\$10,000,000) pursuant to the capitalization plan prepared by each IBE and filed with the Commissioner for review, taking into consideration the total amount of paid-in capital as of the effective date of this Act. The Commissioner may authorize or require a lesser or greater amount of paid-in capital, upon the Commissioner's own initiative or upon request of an interested party, taking into consideration the types of businesses or activities conducted by international banking entities or other

circumstances as determined by the Commissioner. However, upon request by an IBE, the Commissioner may adopt another staggered plan for paid-in capital through administrative determination to such effect.

(4) The names and addresses of the partners and other owners.

(5) The period of duration, which may be perpetual in the case of a corporation.

(6) The purposes for which it is organized, including a specific operational limitation to perform only those services authorized in Section 13 of this Act.

(7) Any other provisions which may be convenient for the sound operation of the business. Such provisions shall not conflict with other laws of Puerto Rico.

(8) Any other provisions required by the regulations of the Commissioner.

(c) An international banking entity that intends to operate as a unit shall provide a certification executed by the person of which it is a unit, in the form prescribed by the regulations of the Commissioner, stating:

(1) The name by which the unit shall be known.

(2) The street, number, and city where the unit shall establish its principal place of business in Puerto Rico.

(3) The amount of the authorized or proposed capital and initial paid-in capital of the person of which the international banking entity shall be a unit, whose capital meets the requirements of this Act, as the case may be, and the amount of capital to be assigned to the unit. The Commissioner may authorize a lesser authorized, proposed, and/or paid-in capital, upon request by an interested party and when in the judgement of the Commissioner, the type of business or

powers that the international banking entity intends to exercise or other circumstances so warrant.

(4) The purposes for which the unit is authorized, including a specific operational limitation to perform only those services authorized in Section 13 of this Act; and

(5) Such other provisions as may be required by the regulations of the Commissioner.

(d) Every international banking entity shall have at least one Independent Director.”

Section 5.- Subsection (a) of Section 7 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 7.- License.

(a) The Commissioner, at his or her discretion, may issue a license to operate an international banking entity to the applicants upon receipt of:

(1) The certification from the Department of State referred to in Section 6 of this Act;

(2) the annual fee for a license to operate an international banking entity. As of January 1, 2024, the annual license fee shall be twenty-five thousand dollars (\$25,000) for each annual license renewal, and five thousand dollars (\$5,000) for each office or branch. This license fee shall be paid annually within thirty (30) days before the anniversary date of the original license;

(3) a certified copy of the articles of incorporation or the articles of organization, as the case may be, or other organizational document of the international banking entity, or the certification of the person of which the international banking entity is a unit;

(4) a copy of the bylaws adopted by the board of directors or governing body of the international banking entity, or a copy of the limited liability company or partnership agreement, as the case may be, which shall be certified by its secretary or person acting in a similar capacity, before a notary public;

(5) proof, in the form prescribed by the regulations of the Commissioner, that the capital of the international banking entity has been subscribed to, issued and contributed under such conditions as the Commissioner may prescribe in his or her sole discretion;

(6) a statement, in the form prescribed by the regulations of the Commissioner and authenticated before a notary public, from the secretary of the board of directors or governing body of the international banking entity, or the person acting in a similar capacity for the international banking entity, or the person of which the international banking entity is a unit, stating that the international banking entity has complied with the provisions of this Act, the regulations of the Commissioner, and the circular letters or guidance documents applicable to IBEs and is ready to begin operations. No license shall be issued if the Commissioner believes, or has reason to believe, that the applicants have violated the provisions of this Act, the regulations of the Commissioner, circular letters, or guidance documents applicable to IBEs; and

(7) a sworn statement signed by the chief executive officer of the institution concerned certifying, among other things, that the banking entity has adopted and implemented the procedures and systems necessary and adequate to comply with BSA and AMLA, as applicable, based on the financial activities conducted by the international banking entity. Said sworn statement shall further state the steps taken by the institution's management to establish a BSA compliance program and that it has adopted or shall adopt in the future business policies and procedures, as necessary, to comply with the requirements of OFAC

or any other Supervisory Agency, as applicable, based on the activities to be conducted by the international banking entities.

(b) ...”

Section 6.- Section 8 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 8.- License Renewal.

(a) Every license shall be valid for one year or through its anniversary date.

(b) Every license renewal application shall be filed within thirty (30) days before the expiration date of each license. Said application shall contain:

(1) A description of any material changes in the information provided to OCFI in the initial license application.

(2) Proof that the licensee maintains the capital required by the Commissioner as provided in Section 5 of this Act, computed in accordance with generally accepted accounting principles in the United States or those that may be adopted by the public accounting profession, as applicable to the permitted activities of the international financial[sic] entity, and that it maintains valid unencumbered assets in favor of the Commissioner;

(3) Annual license renewal fees amounting to twenty-five thousand dollars (\$25,000) to be paid by electronic fund transfer, cashier’s check, certified check, or by postal or bank money order, payable to the Secretary of the Treasury.

(4) The annual license renewal fees for each branch, amounting to five thousand dollars (\$5,000) per office or branch, to be paid by electronic fund transfer, cashier’s check, certified check, or by postal or bank money order, payable to the Secretary of the Treasury.

(5) An independent auditor's report on the effectiveness of the entity's BSA and OFAC compliance programs and such programs' compliance with the applicable regulations. This independent report requirement shall not apply to an international banking entity which is a unit of another financial institution that is subject to the regulations and supervision by a Federal Supervisory Agency; and

(6) such other information required by the Commissioner, the Regulations of the Commissioner, circular letters, or guidance documents applicable to IBEs.

(c) The Commissioner may extend the renewal period for good cause. If the licensee fails to file the application for renewal, proof that it maintains the required capital, the sworn statement, or the auditor's report, or fails to pay the applicable fees within the granted period or during the additional period authorized by the Commissioner, if any, it shall be understood that the licensee has relinquished its license to operate the international banking entity. As a result, the licensee shall cease to engage in business, and proceed to surrender the license and to the voluntary liquidation of the international banking entity, as provided in Section 18(b) of this Act.

(d) Every international banking entity shall include in its license application or license renewal application a sworn statement signed by the chief executive officer of the institution attesting compliance with the provisions of the BSA and OFAC regulations which, as reiterated in this Act, are applicable to international banking entities, and certifying that the international banking entity is well capitalized in accordance with the standards established in the federal regulations of the Supervisory Agencies, as applicable based on the activities carried out by the international banking entity, or such levels of capital provided in the regulations of the Commissioner, circular letters, or guidance documents

applicable to IBEs. In addition, the sworn statement shall indicate the procedures and systems that the institution has adopted to comply with the provisions of the BSA, as applicable to the financial activities carried out by the international banking entity. The sworn statement shall also certify the steps taken by the institution's management to establish a BSA compliance program, as applicable to the financial activities carried out by the international banking entity, and that it has adopted business policies and procedures, as necessary, to comply and be compliant with the requirements of OFAC and the applicable Supervisory Agencies.

(e) Every license renewal application submitted after the period granted shall be subject to a late renewal fee of not less than one thousand five hundred dollars (\$1,500) nor more than five thousand dollars (\$5,000) for each day of noncompliance by the international banking entity. If the IBE fails to renew its license prior to the expiration date, the Commissioner shall deem the license surrendered and shall proceed to impose or issue orders, fines, or penalties as appropriate.”

Section 7.- Section 9 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 9.- Amendments to Articles of Incorporation or Organization.

(a) No amendment whatsoever to the articles of incorporation, articles of organization, bylaws, limited liability company agreement, partnership agreement or other document under which an international banking entity is organized or operated, as the case may be, or to the certification issued under Section 5 of this Act, as applicable, shall be adopted unless such amendment has been previously approved, in writing, by the Commissioner.

(b) After any amendment to the international banking entity's articles of incorporation or articles of organization, as the case may be, or to the certification issued under Section 5 of this Act, as applicable, is duly adopted, such amendment shall be filed with the Department of State."

Section 8.- Subsection (a) of Section 10 of Act No. 52 of August 11, 1989, as amended, known as the "International Banking Center Regulatory Act," is hereby amended to read as follows:

"Section 10.- Unencumbered Assets, Capital, Shares of Capital Stock.

(a) As a requirement to obtain or renew a license, every international banking entity shall possess not less than three hundred thousand dollars (\$300,000) in unencumbered assets or acceptable financial assurances, or that lesser sum authorized by the Commissioner upon request of an interested party, when the type of business or powers that the international banking entity intends to exercise or other circumstances so warrant in the judgment of the Commissioner. International banking entities holding a valid license as of the approval of this Act shall gradually increase the amount of their unencumbered assets, as follows: (i) to five hundred thousand dollars (\$500,000) for the 2024-2025 renewal; (ii) to seven hundred fifty thousand dollars (\$750,000) for the 2025-2026 renewal; (iii) to one million dollars (\$1,000,000) for the 2026-2027 renewal; and (iv) to one million five hundred thousand dollars (\$1,500,000) for the 2027-2028 renewal, and thereafter. The unencumbered assets shall be physically located in Puerto Rico and subject to the requirements prescribed therefor by the regulations of the Commissioner."

Section 9.- Section 11 of Act No. 52 of August 11, 1989, as amended, known as the "International Banking Center Regulatory Act," is hereby amended and a new subsection (d) is hereby added to read as follows:

“Section 11.- Transfer of Capital or Control of an International Banking Entity.

(a) Except as provided in the regulations adopted by the Commissioner, circular letters, or guidance documents applicable to IBEs, no sale, encumbrance, assignment, merger, barter, exchange or other transfer of shares of capital stock or equity shares of an international banking entity may be carried out without the prior written authorization from the Commissioner, if by way of such transaction, a person may acquire, directly or indirectly, control of ten percent (10%) or more of the shares of any class of capital stock or equity shares of an international banking entity.

(b) Every sale, encumbrance, assignment, merger, barter, exchange, or other transfer of shares of capital stock or equity shares of an international banking entity, as provided in subsection (a) of this Section, shall be void ab initio if the Commissioner’s written authorization has not been obtained.

(c) The international banking entity shall notify the Commissioner thirty (30) days in advance of the transfers referred to in subsection (a) of this Section, the identities of the transferor and the transferee, and the nature of the transaction. The Commissioner may require such additional information as he or she deems necessary to determine whether the transfer would be detrimental to the security or financial solvency of the international banking entity or violate any law, rule or regulation governing the international banking entity, in which case the Commissioner may deny the authorization for such transaction. Any person to whom such authorization is denied shall have the right to request a hearing pursuant to the regulations provided in Section 23 of this Act. Any application for the transfer of capital to, or control of an entity which results in the holding, directly or indirectly, of ten (10) percent or more, for the first time, shall be subject to a nonrefundable application fee of thirty-five thousand dollars (\$35,000). The

expenses incurred by the Commissioner in conducting the investigation of transfer of capital or control shall be paid by the applicants by deposit or by agreement with the entities authorized by the Commissioner to conduct the investigation. It shall be the duty of the Commissioner, as soon as the Commissioner receives notice of a proposed transaction resulting in the control or change in control of an international banking entity, to conduct such investigations as he or she may deem necessary with respect the transfer of capital or change of control.

(b) Expenses exceeding the thirty-five thousand dollars (\$35,000) stated above, incurred by the Commissioner in conducting the investigation shall be paid by the applicants through advanced payment based on the estimate or by agreement with the entities authorized by the Commissioner to conduct the investigation. The Commissioner shall claim the investigation costs to the applicants.”

Section 10.- Section 14 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 14.- Responsibilities of the Holders of a License to Operate an International Banking Entity.

Every holder of an International Banking Entity license shall:

(a) Adopt written policies and procedures as are necessary to ensure that the international banking entity complies with the applicable state and federal laws, including this Act, the BSA, the USA Patriot Act, and the AMLA;

(b) Fully comply with the applicable state and federal laws and the regulations applicable to the international banking entity, including this Act, the applicable provisions of the BSA, the USA Patriot Act, and AMLA;

(c) File currency transaction or suspicious activity reports required by the BSA, the USA Patriot Act, and AMLA, when necessary;

(d) Follow the rules and procedures in the business as appropriate to meet the requirements established by OFAC, as applicable.”

Section 11.- Section 15 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 15.- Personnel.

(a) The international banking entity shall employ on a full-time basis a minimum of eight (8) persons at its business office or offices in Puerto Rico. Provided, further, that the Commissioner may authorize a lesser number of employees upon request of an interested party, for which authorization the Commissioner shall evaluate factors such as the powers conferred by the license granted under this chapter, the nature and complexity of its operations in Puerto Rico, and such other criteria established in the regulations of the Commissioner.

(b) ...

(c) The employment requirement established in this Section shall not be used to comply with the terms and conditions of a tax exemption decree issued under any other law.”

Section 12.- Subsection (a) of Section 16 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 16.- Accounts and Records.

(a) The administration and principal operations of the international banking entity, including management, accounting, and compliance, as well as the original accounting books and records of transactions, shall be carried out and maintained at its principal business office in Puerto Rico. The accounting books and records of transactions may be maintained in hard copy form or, at the request of the international banking entity, in electronic form, and shall show such details

and be administered as required by the regulations of the Commissioner, circular letters, or guidance documents applicable to IBEs.

(b) ...

(c) ...”

Section 13.- Section 17 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 17.- Reports.

(a) Every international banking entity shall file with the Commissioner all such reports as may be required by the regulations of the Commissioner, circular letters, or guidance documents applicable to IBEs.

(b) Every international banking entity shall file with the Commissioner an annual report of its financial condition and results of operations, in the manner prescribed by the Commissioner, within ninety (90) days after the close of each fiscal year. The report shall include the audited financial statements as of the close of its fiscal year or those of the person of which it is a unit, as the case may be, prepared in a manner consistent with the reports of condition filed periodically. A statement attesting to the international banking entity’s compliance with the terms of this Act and the regulations of the Commissioner shall be included with the financial statements, by completing the form to be designed and circulated, from time to time, by the Commissioner through circular letter or guidance documents applicable to IBEs for such purposes. Said form shall be certified by an independent Certified Public Accountant authorized to practice the profession under the laws of Puerto Rico. The financial statements shall be received by the Commissioner within ninety (90) days as of the close of the international banking entity’s fiscal year and shall comply with Generally Accepted Accounting

Principles in the United States or those that may be adopted by the public accounting profession.

(c) If an international banking entity fails to file the annual reports required by the preceding subsection, the Commissioner, in coordination with the Secretary of State, is hereby authorized to revoke the articles of incorporation or organization of said international banking entity. The Commissioner shall notify the affected international banking entity and the Secretary of State of its intent to revoke by mailing notice of such intent to the registered agent of the international banking entity, as shown in its records and to the Secretary of State at least sixty (60) days before revoking the international banking entity's articles of incorporation or organization. The Commissioner shall prescribe by regulations such other provisions necessary to implement the administrative fine procedure and other penalties for an international banking entity's noncompliance with the provisions of this Section. Once the articles of incorporation or organization of an international banking entity are revoked under the provisions of this Section, the Commissioner shall notify the Secretary of the Treasury of such revocation."

Section 14.- Section 18 of Act No. 52 of August 11, 1989, as amended, known as the "International Banking Center Regulatory Act," is hereby amended to read as follows:

"Section 18.- Revocation, Suspension or Surrender.

(a) A license issued under Section 7 of this Act shall be subject to revocation or suspension by the Commissioner, upon notice and hearing pursuant to the regulations provided in Section 23 of this Act, if:

(1) An international banking entity or the person of which said international banking entity is a unit, violates or fails to comply with any of the provisions of this Act, any regulation of the Commissioner, circular letters or guidance documents applicable to IBEs, or any order issued by the Commissioner

or memorandum of understanding entered into under this Act or any of the terms and conditions of the license to operate an international banking entity.

(2) An international banking entity fails to pay the annual license fee.

(3) The Commissioner finds that the business or affairs of an international banking entity are conducted in a manner that is not consistent with the public interest.

(4) Any fact exists which, if it had existed or had been known at the time the license was issued or renewed, it would have been grounds for denying it, or if it is found that the international banking entity has submitted false, inaccurate or misleading information, the Commissioner shall follow the procedures regarding the revocation, cancellation, or suspension of the license in accordance with the powers and authorities granted to him or her under Act No. 4 and the UAPA.

(b) An international banking entity or the person of which said international banking entity is a unit may, at any time, and in the manner provided by the regulations of the Commissioner, circular letters, or guidance documents applicable to IBEs, surrender its license to operate an international banking entity, upon thirty (30)-day prior notice to the Commissioner, and including its plan of liquidation. As part of said plan of liquidation, the international banking entity may, subject to the Commissioner's approval, liquidate its assets, pay its obligations, merge, or consolidate with another juridical person, become another juridical person, or reorganize in another jurisdiction, or dissolve, in all cases, in accordance with the applicable laws. The Commissioner may order and conduct an examination of the business before accepting the surrender of its license. If upon the examination, it is found that the international banking entity has committed a violation of law, the Commissioner may revoke its license and impose the

corresponding penalty in accordance with the provisions of this Act. The Commissioner may summon the person surrendering a license to a meeting in which such person shall be required to surrender the license and pay any outstanding debts with the Office of the Commissioner.

(c) No surrender, revocation, cancellation, or suspension of any license shall impair or affect the obligations of any preexisting lawful contract between the international banking entity and other persons.”

Section 15.- Subsections (a) and (c) of Section 19 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” are hereby amended to read as follows:

“Section 19.- Dissolution.

(a) The Commissioner may appoint a receiver and order the dissolution of an international banking entity: (i) if the license of said international banking entity or the person of which the international banking entity is a unit is revoked or surrendered pursuant to Section 18 of this Act, or (ii) if any shareholder, member, partner, director, or executive officer is convicted of any felony or any other offense involving fraud, money laundering, tax evasion, or moral turpitude.

(b) ...

(c) The receiver shall manage the international banking entity in accordance with the provisions of this Act for the purpose of liquidating it, and shall:

(1) Take possession of the assets and liabilities, books, records, documents, and files belonging to the international banking entity;

(2) collect all loans, charges and fees owed to the international banking entity;

(3) pay all obligations and debts of the international banking entity, after having paid the necessary costs of the receivership; and

(4) supervise the dissolution and liquidation of the international banking entity, for which the receiver may sell real and personal property and other assets, and such receiver shall continue to discharge his or her duties in the manner provided until the final liquidation of the international banking entity.”

Section 16.- Subsections (a), (b), and (e) of Section 20 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” are hereby amended to read as follows:

“Section 20.- Penalties.

(a) If any director, officer, or individual acting in a similar capacity of an international banking entity or of a person of which the international banking entity is a unit, violates, or willingly or negligently allows any director, officer, agent, or employee of the international banking entity or of the person of which the international banking entity is a unit, to violate this Act, the regulations of the Commissioner, circular letters or guidance documents applicable to IBEs, or any order issued by the Commissioner or memorandum of understanding entered into under this Act, or any provision of the articles of incorporation, articles of organization, bylaws, limited liability company agreement, partnership agreement or other organizational document of the international banking entity, as the case may be, the Commissioner shall schedule and summon the interested parties to an administrative hearing pursuant to the regulations provided in Section 23 of this Act. Once the hearing is held and after the Commissioner determines that any of the provisions mentioned in this subsection has been violated, the Commissioner shall take the appropriate action, including the suspension or dismissal of such director, officer or individual.

(b) Any officer or employee of an international banking entity, or of a person of which it is a unit, who receives on behalf of such international banking entity any deposit or contract for a loan knowing that the international banking

entity or the person of which it is a unit is insolvent, shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for a term of not less than three (3) years nor more than seven (7) years, or by a fine of not less than five thousand five hundred dollars (\$5,500) nor more than ten thousand dollars (\$10,000) or both penalties at the discretion of the court.

(c) ...

(d) ...

(e) The Commissioner is hereby authorized to:

(1) Impose and collect administrative fines of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each violation of the provisions of this Act or of the rules and regulations that may be promulgated thereunder;

(2) Order restitution or reimbursement of payments received in violation of the provisions of this Act or any rules or regulations that may be promulgated thereunder or any other remedy that he or she may deem necessary to achieve the purposes of this Act; and

(3) Impose and collect administrative fines of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000) for each day the international banking entity fails to meet the requirements or carry out the orders of the Commissioner.”

Section 17.- Section 22 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 22.- Transitional Provisions.

This Act shall apply to all international banking entities organized before the effective date of this Act and those organized before the effective date of Act No. 273-2012, subject to the provisions of Section 27 thereof.”

Section 18.- Section 23 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 23.- Administrative Hearings, Adjudicative Proceedings, and Judicial Review.

All that pertains to the review of fines imposed through examinations shall be carried out through a reconsideration process upon the filing of a motion for reconsideration with the Commissioner within twenty (20) days of the date of entry of notice of the Commissioner’s determination. If the OCFI outright denies the motion for reconsideration within fifteen (15) days from its filing, the aggrieved party shall have thirty (30) days to file a request for review with the Court of Appeals.

All that pertains to the revocation or suspension of licenses shall be provided in Regulation 3920 of June 23, 1989, known as the ‘Regulations to Govern Adjudicative Proceedings Under the Jurisdiction of the Office of the Commissioner of Financial Institutions’ or any other regulations that replaces or amends the same, promulgated by the Commissioner in accordance with the provisions of the UAPA.

Section 19.- Subsection (b) of Section 27 of Act No. 52-1989, as amended, known as the “International Banking Center Regulatory Act,” is hereby amended to read as follows:

“Section 27.- Income Tax Exemption.

(a) ...

(b) General Rule.-

(1) Excess net income derived in the taxable year by every international banking entity subject to taxation, as said term is defined in subparagraph (A), shall be subject to the tax rates established in the Puerto Rico

Internal Revenue Code of 2011, as amended, for corporations and partnerships. For the purposes of this subsection (b), the following terms shall mean:

(A) ‘Taxable international banking entity’. Means an international banking entity that operates as the unit of a bank organized under the Puerto Rico Banking Act, whose net income derived from investment activities with its own funds exceeds twenty percent (20%) of the net income derived in the taxable year by said bank (including income derived by said unit). Said net income shall be computed pursuant to the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 2011, as amended. For these purposes, investment activities with own funds means the income derived from, or the gain or loss from the sale of, stocks, securities, (other than loans granted or obtained in the regular course of banking operations), and commodities, including hedging operations.

(B) ‘Excess net income’. Means the net income, computed pursuant to the provisions of Subtitle A of the Puerto Rico Internal Revenue Code of 2011, as amended, derived by the taxable international banking entity from investment activities with own funds, which exceeds twenty percent (20%) of the total net income derived in the taxable year by the bank of which it operates as a unit (including the income derived by said unit).

(2) ...

(3) ...

(c) ...

(d) ...

(e) ...

(f) ...

(g) ...

(h) ...

(i) ...

(j) ...”

Section 20.-Severability.

If any part of this Act were held to be void or unconstitutional, the holding to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the specific part thus held to be void or unconstitutional. If the application to a person or a circumstance of any part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application of this Act, even if it renders ineffective, voids, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance.

Section 21.- Effectiveness.

This Act shall take effect ninety (90) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 45-2024 (H. B. 1700)** of the **7<sup>th</sup> Regular Session** of the **19<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend Sections 2, 3(a), 4, 5(b), 7(a), 8(b), 8(c), 9, 10(a), 11 and add a new subsection (d), 14, 15, 16(A), 17, 18, 19(c), 20(a), 20(b), and 20(e), 22 and 23 of Act No. 52 of August 11, 1989, as amended, known as the “International Banking Center Regulatory Act,” in order to increase license application and renewal fees; clarify that applicants shall be responsible for paying the expenses incurred in any investigation conducted as a result of their applications; increase the amount of unencumbered assets or financial assurances; increase the annual license fee for each office; adjust the paid-in capital requirement to present times; establish a fee for change of control exceeding ten percent; provide the reconsideration and judicial review process to address denials of permits or license applications; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.  
In San Juan, Puerto Rico, on this 24<sup>th</sup> day of April, 2024.

Mónica Freire-Florit, Esq.  
Director