ROATÁN FINANCIAL SERVICES AUTHORITY (RFSA)

WHEREAS the Roatán Financial Services Authority (RFSA) is a department within Próspera ZEDE's General Service Provider that has authority under the Próspera Financial Regulation A to promulgate published administrative actions, subject to override by Rule, applicable to persons governed pursuant to Part 3(c) of Próspera Financial Regulation A, for interpretative, investigatory and enforcement purposes.

WHEREAS a comprehensive regulatory and supervisory regime for bank operations is necessary to ensure maximum protection of client and creditor interests.

NOW, THEREFORE, in accordance with articles 15, 18, 294 and 329 of the Constitution of the Republic of Honduras; 1, 2, 8.2, 12.2, 30 and 45 of the ZEDE Organic Law; Part 8, div. 2, sec. 205, 206, 208, 209 and div. 3, sec. 315 of the Próspera Financial Regulation A; the Proclamation of Formation of the Roatán Financial Services Authority by Administrative Action of the Próspera ZEDE Council of Trustees; and the RFSA Oversight Committee Inaugural Action by Unanimous Consent; all of which are saved from repeal and guaranteed as controlling law under the mandate of Articles 96 of the Constitution, 10.4 of CAFTA-DR, and 16.4 of the Agreement for the Promotion and Reciprocal Protection of Investments between Honduras and Kuwait, as well as a certain amended Legal Stability Agreement approved by Resolutions §§5-1-130-0-0-0-1, 5-1-160-0-0-0-1; 17-A of the Law of the Financial System; the following Administrative Action is hereby promulgated.

RFSA ADMINISTRATIVE ACTION NO. 13

FORCED LIQUIDATION OF A BANK

Section 1. Closure by RFSA for Involuntary Dissolution and Liquidation.

(1) The RFSA may close a bank that is a Covered Regulated Industry Person for involuntary dissolution and liquidation under this chapter if the banking commissioner determines that:

a) the voluntary liquidation is:

i. being conducted in an improper or illegal manner; or

ii. not in the best interests of the bank's depositors and creditors; or

b) the bank is insolvent or imminently insolvent.

(2) Action to Close a Bank.

a) The RFSA may close and liquidate a state bank on finding that:

i. Any of the situations enumerated in Part 8, Division 2, Chapter 2, Section 205 of Próspera Financial Regulation A has materialized with respect to the bank;

ii. the interests of the bank's depositors and creditors are jeopardized by the bank's insolvency or imminent insolvency; and

iii. the best interests of depositors and creditors would be served by requiring that the bank be closed, and its assets liquidated.

b) A majority of the bank's directors may voluntarily close the bank and place it with the RFSA for liquidation.

Section 2. Notice and Effect of Closure; Appointment of Receiver.

(1) After closing a bank under Section 1, the RFSA shall place a sign at its main entrance stating that the bank has been closed and the findings on which the closing of the bank is based. A correspondent bank of the closed bank may not pay an item drawn on the account of the closed bank that is presented for payment after the correspondent has received actual notice of closing unless it previously certified the item for payment.

(2) As soon as practicable after posting the sign at the bank's main entrance, the RFSA shall tender the bank to Próspera ZEDE's Insurer of Last Resort, a qualified financial industry person or initiate a receivership proceeding by filing a copy of the notice contained on the sign before the Default Arbitration Service Provider of Próspera ZEDE or the ZEDE Special Judiciary. The arbitration center or court in which the notice is filed shall docket it as a case styled, "In re liquidation of ____" (inserting the name of the bank). When this notice is filed, the arbitration center or court has constructive custody of all the bank's assets and any action that seeks to directly or indirectly affect bank assets is considered an intervention in the receivership proceeding.

Section 3. Contest of Liquidation.

(1) A bank, acting through a majority of its directors, may intervene in an action filed by the RFSA closing a bank to challenge the RFSA's closing of the bank and to enjoin the RFSA or other receiver from liquidating its assets. The bank must file the intervention not later than the third business day after the closing of the bank, excluding legal holidays. The Default Arbitration Service Provider or a court of competent jurisdiction may issue an ex parte order restraining the receiver from liquidating bank assets pending a hearing on the injunction. The receiver shall comply with the restraining order but may petition the arbitration center or the court for permission to liquidate an asset as necessary to prevent its loss or diminution pending the outcome of the injunction.

(2) The arbitration center or competent court shall hear an action as quickly as possible and shall give it priority over other business.

(3) A bank, acting through a majority of its directors, may intervene in an action filed by the RFSA closing a bank to challenge the RFSA's closing of the bank and to enjoin the RFSA or other receiver from liquidating its assets. The bank must file the intervention not later than the third business day after the closing of the bank, excluding legal holidays. The Default Arbitration Service Provider or a court of competent jurisdiction may issue an ex parte order restraining the receiver from liquidating bank assets pending a hearing on the injunction. The receiver shall comply with the restraining order but may petition the court for permission to liquidate an asset as necessary to prevent its loss or diminution pending the outcome of the injunction.

(4) The bank or receiver may appeal the arbitration center or court's judgment as in other civil cases, except that the receiver shall retain all bank assets pending a final appellate arbitration center or court order even if the RFSA does not prevail in the arbitration proceedings or trial court. If the RFSA prevails in the arbitration proceedings or trial court, liquidation of the bank may proceed unless the arbitration center, trial court or appellate arbitration center or court orders otherwise. If liquidation is enjoined or stayed pending appeal, the arbitration center or the trial court retains jurisdiction to permit liquidation of an asset as necessary to prevent its loss or diminution pending the outcome of the appeal.

Section 4. Liquidation Procedure.

(1) The liquidation of the bank shall proceed as established in Sections 206, 207, 208, 209, 210, 211, 301, 302, 303, 306, 307, 308, 309, 310, 311, 312, 313, 314, and 315 of Part 8 of Próspera Financial Regulation A.

IT IS SO PROMULGATED THIS 14TH OF JUNE OF 2022.

Alexander P. Rolfe
Alexander P. Rolfe (Jun 15, 2022 10:14 EDT)

ALEXANDER ROLFE
RFSA Commissioner

Jose Luis Moncada r
Jose Luis Moncada r (Jun 15, 2022 09:45 MDT)

JOSÉ LUIS MONCADA
RFSA Commissioner

chirag shah
Chirag Shah (Jun 15, 2022 18:47 GMT+4)

CHIRAG SHAH
RFSA Commissioner

Sohan Dasgupta
Sohan Dasgupta (Jun 16, 2022 11:29 EDT)

DR. SOHAN DASGUPTA
RFSA Commissioner