

When the Central Bank Steps In: Understanding Its Appointment Powers under the BTCRA, 2020



By McFalloughn Bowleg | October 2025

Introduction

When the Banks and Trust Companies Regulation Act, 2020 (“BTCRA”) came into force on July 24, 2020, it did more than simply update a twenty-year-old statute, it reshaped the way financial stability is safeguarded in The Bahamas.

Replacing the 2000 Act, this new framework granted the Central Bank of The Bahamas (“CBB”) far-reaching authority to intervene when a financial institution is at risk. The Act empowers the CBB to step into the operations of troubled institutions either through the appointment of a Statutory Administrator or by compulsorily winding up a bank and appointing a liquidator.

What makes the BTCRA particularly noteworthy, however, is that it introduces an unprecedented regulatory model in The Bahamas: one in which the CBB supervises these appointments while acting in a quasi-judicial capacity. This role, sitting at the intersection of regulator, supervisor, and adjudicator has not yet been tested before the courts, making it a significant development in Bahamian financial law.

The Central Bank as Quasi-Judicial Supervisor

Under this new regime, the CBB is not merely a licensing or oversight body. It now serves as an active decision-maker, capable of stepping in where the stability of the financial system or the protection of depositors is threatened.

Once a statutory administrator or liquidator is appointed, the CBB maintains direct supervisory oversight over their actions. This means that the CBB is, in effect, exercising a quasi-judicial function by balancing the rights of shareholders, depositors, and creditors while ensuring the broader public interest in financial stability.

This dual role distinguishes the BTCRA from its predecessors and from many comparable statutes across the region. It raises important questions about the limits of administrative discretion and the potential for judicial review - questions that remain untested in Bahamian jurisprudence.

Appointment of a Statutory Administrator

Section 38 of the BTCRA outlines the circumstances under which the CBB may appoint a Statutory Administrator. This step is taken when the CBB forms the opinion that a financial institution is engaging in unsafe practices, violating legal or regulatory requirements, or is otherwise financially unsound.

In practical terms, this may occur where a bank:

- Has inadequate capital or diminishing asset value;
- Engages in illegal or high-risk activities that jeopardise depositors;
- Fails to cooperate with auditors or with the CBB; or
- Is unable to meet its obligations or maintain depositor confidence.

Once appointed, the Statutory Administrator assumes full control of the bank. All the powers of shareholders, directors, and officers are suspended and vested in the administrator, who operates under the supervision and direction of the CBB.

The administrator's mandate is not merely custodial, it is interventionist. They may restructure, merge, sell, or close parts of the institution to restore financial soundness or minimise losses to depositors and creditors.

Compulsory Winding Up and Appointment of a Liquidator

Where recovery is not feasible, the CBB may invoke its power to compulsorily wind up a bank and appoint a liquidator. This occurs where:

- A bank's licence has been revoked; or
- A statutory administration fails to achieve rehabilitation or restructuring.

Once appointed, the liquidator becomes the sole legal representative of the bank. Their responsibility is to realise the bank's assets, satisfy its liabilities, and ensure that remaining funds are distributed in accordance with statutory priorities.

Depositors and creditors must file claims within the time period specified in the notice published in the Gazette and local newspaper by the liquidator.

The liquidator reviews and either allows or rejects each claim. Where a claim is rejected, the aggrieved party may file an objection with the CBB who will hear and determine the objection. Again, this underscores the CBB's quasi-judicial authority under this regime.

Why It Matters

The BTCRA's approach to bank intervention represents a shift in regulatory philosophy. Rather than relying solely on court-driven insolvency procedures, it gives the CBB a direct, pre-emptive role in managing financial distress.

This not only promotes quicker action during crises but also positions the CBB as a central figure in the resolution of banking failures which is a responsibility typically divided between regulators and the courts.

While this framework offers flexibility and speed, it also introduces novel legal questions: How far can the CBB's quasi-judicial powers extend? What recourse will affected parties have against its decisions? And how will the courts interpret this expanded role once it is eventually challenged?

Conclusion

The BTCRA marks a pivotal evolution in Bahamian financial regulation. By granting the CBB both administrative and quasi-judicial powers, the Act strengthens the nation's ability to respond to financial instability while simultaneously laying the groundwork for new legal and constitutional considerations.

As this regime remains untested in the courts, its practical and legal implications will likely define the next chapter of Bahamian banking law. For now, the BTCRA stands as a bold example of proactive financial governance - one that balances authority, accountability, and the enduring goal of depositor protection.

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