

(6) In this section -

“Mutual Fund Administrators Licence” means a licence granted under sections 11 and 12 of the principal Law;

“the new Law” means the principal Law as amended by this Law; and

“the old Law” means the principal Law in force immediately before the date of commencement of this Law.

Passed by the Legislative Assembly the 19th day of December, 2002.

JULIANNA O’CONNOR - CONNOLLY

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.

CAYMAN ISLANDS



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THE MUTUAL FUNDS (AMENDMENT) LAW, 2002

(LAW 36 OF 2002)

ARRANGEMENT OF SECTIONS

- 1. Short title and commencement.
- 2. Amendment of section 9 of the Mutual Funds Law (2001 Revision) - regulated mutual fund to pay annual fee.
- 3. Amendment of section 10 - person to be authorised to administer mutual funds.
- 4. Amendment of section 12 - Mutual Fund Administrators Licences.
- 5. Amendment of section 13 - restriction on issue, etc., or transfer of shares in licensed mutual fund administrator.
- 6. Amendment of section 14 - annual fee for providing or acting as principal office of mutual fund.
- 7. Amendment of section 18 - name of licensed mutual fund administrators restricted.
- 8. Amendment of heading to Part V - Duties and powers of the Authority.
- 9. Amendment of section 29 - Authority to administer Law.
- 10. Amendment of section 30 - powers of Authority in respect of regulated mutual funds.
- 11. Amendment of section 31 - powers of Authority in respect of licensed mutual fund administrators.
- 12. Insertion of section 34A – appeals.
- 13. Amendment of section 35 – indemnity.
- 14. Savings provisions.

which he intends to rely and shall not, unless by leave of the Grand Court, go into any matters not raised by such statements.

(8) The Grand Court may adjourn the hearing of an appeal and may, upon the hearing thereof confirm, reverse, vary or modify the decision of the Authority or remit the matter with the opinion of the Grand Court thereon to the Authority.

(9) An appeal against a decision of the Authority shall not have the effect of suspending the execution of such decision.”.

13. The principal Law is amended in section 35 by repealing the word “Crown” and substituting the word “Authority”. Amendment of section 35 - indemnity

14. (1) Every application for the grant of a Mutual Fund Administrators Licence made under the old Law and wholly or partly heard by the Governor in Council when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force. Savings provisions

(2) A Mutual Fund Administrators Licence granted as a result of an application determined under subsection (1) is to be granted on the same terms and conditions that would have applied if the new Law had not come into force.

(3) Every application for the grant of a Mutual Fund Administrators Licence made under the old Law and not wholly or partly heard by the Governor in Council when the new Law comes into force, is to be taken to be an application made under the new Law and the provisions of the new Law are to apply accordingly.

(4) Any Mutual Fund Administrators Licence granted under the old Law and in force immediately before the date of commencement of this Law -

- (a) shall have effect from that date, as if granted under the new Law; and
- (b) in the case of a Mutual Fund Administrators Licence for a specified period, shall remain in force, subject to the provisions of the new Law, for so much of that period as falls after that date.

(5) On and after the date of commencement of this Law, neither the Crown nor any person carrying out or charged with the carrying out of any duty, obligation or function under the old Law is liable for anything done or omitted to be done in respect of the discharge, purported discharge or non-discharge of that duty or function, unless it is shown that the act or omission was in bad faith.

- (ii) by repealing the words “as he considers appropriate” and substituting the words “as the Authority considers appropriate”;
- (h) in subsection (11), by repealing the words “and take any other action provided for in that subsection or subsection (3)”;
- (i) in subsection (12), by repealing the words “power of the Governor or the Authority, the Governor may” and substituting the words “power of the Authority, the Authority may”.

Insertion of section 34A - appeals

12. The principal Law is amended by inserting after section 34 the following section -

“Appeals

34A.(1) An appeal lies to the Grand Court from any decision of the Authority revoking a licence under section 30(3)(a) or (15) or section 31(3)(a) or (12).

(2) An appeal against the decision of the Authority shall be on motion, and the appellant within twenty-one days after the day on which the Authority has given its decision shall serve a notice in writing signed by the appellant or his attorney-at-law on the Authority of his intention to appeal and of the general ground of his appeal.

(3) Notwithstanding subsection (2), a person aggrieved by a decision of the Authority may, upon notice to the Authority, apply to the Grand Court for leave to extend the time within which the notice of appeal prescribed by this section may be served and the Grand Court upon hearing of such application may extend the time prescribed by this section as it deems fit.

(4) Subject to subsection (5), the Authority shall, upon receiving the notice of appeal, transmit to the Clerk of the Grand Court without delay a copy of the decision and all papers relating to the appeal.

(5) The Authority is not compelled to disclose any information if it is considered that the public interest would suffer by such disclosure.

(6) The Clerk of the Grand Court shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Grand Court may direct.

(7) At the hearing of the appeal the appellant shall, before going into the case, state all the grounds of appeal on

CAYMAN ISLANDS

Law 36 of 2002.

I Assent

B.H. Dinwiddy

Governor.

Date: 22 January, 2003

A LAW TO AMEND THE MUTUAL FUNDS LAW (2001 REVISION) TO TRANSFER, FROM THE GOVERNOR IN COUNCIL TO THE CAYMAN ISLANDS MONETARY AUTHORITY, LICENSING POWERS IN RELATION TO MUTUAL FUND ADMINISTRATORS; TO INCREASE THE REGULATORY POWERS OF THE MONETARY AUTHORITY IN RELATION TO MUTUAL FUND ADMINISTRATORS; AND TO MAKE PROVISION FOR RELATED MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Mutual Funds (Amendment) Law, 2002.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by order made by the Governor.

2. The Mutual Funds Law (2001 Revision), in this Law referred to as the “principal Law”, is amended in section 9 as follows -

Amendment of section 9 of the Mutual Funds Law (2001 Revision) - regulated mutual fund to pay annual fee

“ (5) Without prejudice to the foregoing provisions of this section, if an annual fee referred to in subsection (1) or (2) is not paid on or before the 15th January in each year, the unpaid annual fee may be sued for by the Crown by action as a civil debt and the Crown may require, and the court may order, the payment of any penalties accrued in respect of the late payment of the fee.

(6) In subsection (5), “court” means the Grand Court or a court of summary jurisdiction, as the case may be.”.

Amendment of section 10 - person to be authorised to administer mutual funds

3. The principal Law is amended in section 10 as follows -
- in subsections (1) and (2), respectively, by repealing the words “Executive Council” and substituting the word “Authority”; and
 - in subsection (2), by repealing the words “restricted Mutual Fund Licence” and substituting the words “restricted Mutual Fund Administrators Licence”.

Amendment of section 12 - Mutual Fund Administrators Licences

4. The principal Law is amended in section 12 as follows -
- in subsections (2) and (6), respectively, by repealing the words “Executive Council” and substituting the word “Authority”;
 - in subsection (2)(c), by repealing the words “restricted Mutual Fund Licence” and substituting the words “restricted Mutual Fund Administrators Licence”;
 - in subsection (3), by repealing the words “Executive Council may waive compliance with subsection (2)(b)” and substituting the words “Authority may waive compliance with subsection (2)(c)”; and
 - in subsection (8), by repealing the words “or to the Executive Council”.

Amendment of section 13 - restriction on issue, etc., or transfer of shares in licensed mutual fund administrator

5. The principal Law is amended in section 13 as follows -
- in subsection (1) -
 - by repealing the word “Governor” and substituting the word “Authority”; and
 - by repealing the words “his approval” and substituting the words “its approval”; and
 - in subsection (2), by repealing the word “Governor” wherever it appears and substituting the word “Authority”.

Amendment of section 14 - annual fee for providing or acting as principal office of mutual fund

6. The principal Law is amended in section 14 as follows by inserting after subsection (5) the following subsections -
- “ (6) Without prejudice to the foregoing provisions of this section, if an annual fee referred to in subsection (2) or (3) is not paid on or before the 15th January in each year, the unpaid annual fee may be sued for by the Crown by action as a civil debt and the Crown may require, and the court may order, the payment of any penalties accrued in respect of the late payment of the fee.

(7) In subsection (6), “court” means the Grand Court or a court of summary jurisdiction, as the case may be.”.

7. The principal Law is amended in section 18 as follows -

- in subsection (1), by repealing the word “Governor” and substituting the word “Authority”; and
- in subsection (2) -
 - by repealing the word “Governor” wherever it appears and substituting the word “Authority”; and
 - by repealing the words “in the Governor’s opinion, he” and substituting the words “in the Authority’s opinion, it”.

Amendment of section 18 - name of licensed mutual fund administrators restricted

8. The principal Law is amended in the heading to Part V by repealing the words “**The Governor And**”.

Amendment of heading to Part V - Duties And Powers Of The Authority

9. The principal Law is amended in section 29 -

- by repealing the words “make recommendations to the Governor and the Executive Council” and substituting the words “make determinations”; and
- by repealing paragraph (c).

Amendment of section 29 - Authority to administer Law

10. The principal Law is amended in section 30(6) by repealing the words “the Government or” wherever they appear.

Amendment of section 30 - powers of Authority in respect of regulated mutual funds

11. The principal Law is amended in section 31 as follows -

- in the marginal note and in subsections (1), (3), (4), (9), (11) and (13), respectively, by repealing the word “Governor” and substituting the word “Authority”;
- in subsection (1), by repealing the words “if he is satisfied that” and substituting the words “if it is satisfied that”;
- in subsection (2)(b) and (d), by repealing the words “the Governor’s approval” and substituting the words “the Authority’s approval”;
- in subsection (4), by repealing the words “, and subsequently take any other action provided for in that subsection”;
- in subsection (5), by repealing the words “the Government or” wherever they appear;
- in subsection (8)(b), by repealing the words “the Governor and” wherever they appear;
- in subsection (10) -
 - by repealing the word “Governor” wherever it appears and substituting the word “Authority”; and

Amendment of section 31 - powers of Authority in respect of licensed mutual fund administrators