

CAYMAN ISLANDS
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**THE BANKS AND TRUST COMPANIES
(AMENDMENT) LAW, 1993**
(LAW 28 OF 1993)

CAYMAN ISLANDS

Law 28 of 1993

I Assent

MICHAEL J GORE
Governor

13th December, 1993

A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW, 1989

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Banks and Trust Companies (Amendment) Law, 1993.

Interpretation.

2. Section 2 of the principal Law is amended by the addition of the following:—

""net worth" means excess assets over liabilities as presented under applicable generally accepted accounting principles subject to adjustment for non-admitted assets as determined by the Inspector;"

"principal Law" means the Banks and Trust Companies Law, 1989;"

Section 5 amended.

3. Section 5 of the principal Law is amended —

(a) by omitting subsection (2) and substituting the following subsections —

"(2) A licence shall not be granted to a bank or trust company unless it has –

- (a) a place of business in the Islands, approved by the Inspector, which will be its principal office in the Islands; and
- (b) two individuals or a body corporate, approved by the Inspector, resident or incorporated in the Islands to be its agent in the Islands.

(2A) Where, in accordance with subsection (2) (b), a licensee has appointed two individuals in the Islands to act as its agent in the Islands the licensee may appoint them to act either separately or jointly.";

- (b) by omitting subsection (3) and substituting the following subsection –

"(3) A licensee shall not –

- (a) cease to have a principal office in the Islands; or
- (b) change its principal office in the Islands without the prior approval of the Inspector; or
- (c) cease to have an authorised agent under subsection (2) (b); or
- (d) change its agent (or, where the licensee has appointed two individuals to be its agent, either of them) without the prior approval of the Inspector,";

- (c) by omitting paragraph (a) from subsection (4) and substituting the following paragraph –

"(a) banking business within and outside the Islands but subject to such conditions as may be imposed by the Governor, known as "A" licences;"

- (d) by omitting paragraph (c) from subsection (4) and substituting the following paragraph –

"(c) trust business within and outside of the Islands but subject to such conditions as may be imposed by the Governor, known as Trust licences;"

- (e) by the addition of the following paragraph after paragraph (f) –

"(g) any conditions imposed pursuant to this subsection may at any time be varied or revoked by the Governor."

(a) by omitting "No shares" and substituting "(1) No shares";

(b) by adding the following subsection –

"(2) In subsection (1) the reference to shares being transferred or disposed of includes not only the transfer or disposal of the legal interest in the shares but also the transfer or disposal of any beneficial interest in the shares."

Section 7 repealed and replaced.

5. Section 7 of the principal Law is repealed and the following section is substituted –

"Net worth requirement.

7. (1) Except in the case of a restricted "B" licence, or a Restricted Trust licence, or a Nominee (Trust) licence, a licence shall not be granted to a bank or trust company unless it has a net worth of not less than four hundred thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

(2) A Restricted "B" licence or a Restricted Trust licence shall not be granted to a bank or trust company unless it has a net worth of not less than twenty thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

(3) A Nominee (Trust) licence shall not be granted to a trust company unless such trust company furnishes a guarantee from the licensee of which it is a wholly-owned subsidiary for liabilities of up to two hundred thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

(4) When he has reasonable cause to believe that there are grounds for doing so, the Inspector may require a licensee to increase its net worth by increasing its paid-up capital to such greater sum as he may determine for the nature of the banking business or trust business current or proposed.

(5) A licensee shall at all times maintain the net worth required by this section unless exempted by the Governor:

Provided that a licensee holding a licence at the date of coming into operation of this Law, shall be given at least 90 days (or such longer period as the Inspector shall allow) to increase its net worth to meet the said requirements."

Section 13 repealed
and replaced.

6. Section 13 of the principal Law is repealed and the following section is substituted —

" Secrecy.

13. (1) Subject to subsections (2) and (3), the Inspector shall not disclose any information relating to —

- (a) any application made to him for a licence under this Law; or
- (b) the affairs of a licensee; or
- (c) the affairs of a customer of a licensee,

the Inspector has acquired in the course of his duties or the exercise of his functions under this Law.

(2) Subsection (1) does not apply to a disclosure by the Inspector —

- (a) necessary for the effective regulation within the Islands of a licensee; or
- (b) lawfully required or permitted by any court of competent jurisdiction within the Islands; or
- (c) under the provision of any other Law; or
- (d) in respect of the affairs of the licensee or a customer of a licensee with the authority of the licensee or the customer of the licensee which has been voluntarily given, as the case may be.

(3) Subject to subsection (4), the Inspector may disclose to a banking supervisory authority outside the Islands information necessary to enable that authority to exercise functions corresponding to those exercised in respect of licensees by the Inspector under this Law including, in particular, any information which will assist that authority in its consolidated supervision of a banking group which controls a licensee."

(4) Nothing in subsection (3) authorises the Inspector to make a disclosure referred to in that subsection unless —

- (a) the Inspector has satisfied himself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking on confidentiality; and
- (b) the disclosure does not relate to customers of a licensee other than information relating to large credit exposures of the licensee."

Section 14
amended.

7. Section 14 of the principal Law is amended –

- (a) by omitting from subsection (1) –

"(d) has failed to comply with a condition of its licence, he may forthwith do any of the following –" and substituting –

"(d) has failed to comply with a condition of its licence, he may forthwith do any of the following –";

- (b) by omitting paragraph (ii) and substituting the following paragraph –

"(ii) impose conditions, or further conditions, as the case may be, upon the licence and may amend or revoke any such condition;".

Passed by the Legislative Assembly the 29th day of November, 1993.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.