

CAYMAN ISLANDS



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**THE BANKS AND TRUST COMPANIES (AMENDMENT) LAW, 2008**

**(LAW 8 OF 2008)**

**THE BANKS AND TRUST COMPANIES (AMENDMENT) LAW, 2008**

**ARRANGEMENT OF SECTIONS**

1. Short title
2. Amendment of section 5 of the Banks and Trust Companies Law (2007 Revision) - licence or registration required to carry on banking or trust business
3. Amendment of section 10 – capital adequacy ratio
4. Amendment of section 14 – certain prohibitions on licensee
5. Amendment of section 15 – general requirements for trust companies
6. Amendment of section 27 - regulations

CAYMAN ISLANDS

Law 8 of 2008.

I Assent

Stuart Jack

Governor.

3<sup>rd</sup> August, 2008

**A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW  
(2007 REVISION) TO MAKE FURTHER PROVISION IN RESPECT OF  
RESTRICTIONS IMPOSED ON BANKS; TO RE-STATE CERTAIN  
DUTIES IMPOSED ON TRUST COMPANIES; AND TO MAKE  
PROVISION FOR RELATED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Banks and Trust Companies (Amendment) Law, 2008. Short title

2. The Banks and Trust Companies Law (2007 Revision), in this Law referred to as the “principal Law”, is amended in section 5 as follows - Amendment of section 5 of the Banks and Trust Companies Law (2007 Revision) - licence or registration required to carry on banking or trust business

- (a) in subsection (2) by inserting after the words “subsection (3)” the words “and to such other exemptions and conditions as may be prescribed by regulations made by the Governor under this subsection”;
- (b) in subsection (3) by inserting after the words “debt instruments” the following words -
  - “or to carry on other trust business that is -
  - (a) connected with the trust business of the licensee by which the controlled subsidiary is owned; and
  - (b) within the scope of that licensee’s Trust licence”;

(c) by inserting after subsection (4) the following subsection -

“ (4a) A controlled subsidiary that is registered under subsection (4) may, on payment of the prescribed fee, act as a trustee of a trust that is registered as a mutual fund under the Mutual Funds Law (2007 Revision) without being licensed as a mutual fund administrator under that Law, if the licensee by which the controlled subsidiary is owned is itself licensed under that Law to administer such trust.”; and

(d) in subsection (5) by inserting after the words “this section” the words “or any regulations made under subsection (2)”.

Amendment of section  
10 – capital adequacy  
ratio

3. The principal Law is amended in section 10(3) by deleting the words “or of the beneficiaries of any trust,”.

Amendment of section  
14 – certain prohibitions  
on licensee

4. The principal Law is amended in section 14 as follows -

(a) by repealing subsection (2) and substituting the following subsection -

“ (2) A licensee incorporated under the Companies Law (2007 Revision) holding a licence for the carrying on of banking business shall not acquire or hold a beneficial interest in an entity, whether directly or indirectly, so that the value of the interest at any time exceeds twenty per cent of the net worth of the licensee -

(a) except with the prior written approval of the Authority; or

(b) except insofar as may be necessary with respect to any interest acquired by the licensee in satisfaction of debts due to it, but any such interest acquired in satisfaction of debts shall be disposed of within a period not exceeding five years unless permission to extend such period has been given by the Authority.”;

(b) in subsection (3) by deleting the words “real estate unless -” and substituting the words “real estate unless the Authority has given prior written approval or -”; and

(c) by inserting after subsection (5) the following subsection -

“ (6) A contract, transaction, obligation or instrument entered into by any person shall not be rendered unenforceable merely because it is entered into in connection with banking

business carried on by that person in contravention of this section.”.

5. The principal Law is amended in section 15 as follows -

Amendment of section  
15 – general  
requirements for trust  
companies

- (a) by repealing subsection (1);
- (b) in subsection (2) by deleting the words “in such manner as may be determined” and substituting the words “and such insurance or arrangements shall be subject to review”; and
- (c) in subsection (3) by deleting the words “In making determinations” and substituting the words “In conducting reviews”.

6. The principal Law is amended in section 27(c) by deleting the words “section 6(7) and (8)” and substituting the words “this Law”.

Amendment of section  
27 - regulations

Passed by the Legislative Assembly the 30<sup>th</sup> day of June, 2008.

EDNA MOYLE

Speaker.

WENDY LAUER EBANKS

Clerk of the Legislative Assembly.