

CAYMAN ISLANDS



Supplement No. 4 published with Gazette No. 2 dated
27th January, 2004.

THE MONETARY AUTHORITY (AMENDMENT) LAW, 2003

(LAW 35 OF 2003)

THE MONETARY AUTHORITY (AMENDMENT) LAW, 2003

ARRANGEMENT OF SECTIONS

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CAYMAN ISLANDS

Passed by the Legislative Assembly the 16th day of December, 2003.

Law 35 of 2003.

LINFORD A. PIERSON

I Assent

Speaker.

B. H. Dinwiddy

WENDY LAUER EBANKS

Governor.

Clerk of the Legislative Assembly.

2 January, 2004

A LAW TO AMEND THE MONETARY AUTHORITY LAW (2003 REVISION) TO REVISE THE MONETARY AUTHORITY'S POWERS OF DISCLOSURE; TO PROVIDE FOR THE INDEMNIFICATION OF THE MONETARY AUTHORITY'S DIRECTORS; AND TO MAKE PROVISION FOR INCIDENTAL AND CONNECTED MATTERS

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Monetary Authority (Amendment) Law, 2003.

Short title

2. The Monetary Authority Law (2003 Revision), in this Law referred to as "the principal Law", is amended in section 2 by repealing the definition of the term "regulatory functions" and substituting the following definition -

Amendment of section 2 of the Monetary Authority Law (2003 Revision) - definitions

" "regulatory functions" means the functions of the Authority, specified in section 6(1)(b) or, in relation to an overseas regulatory authority, functions corresponding to the functions of the Authority, specified in section 6(1)(b);"

3. The principal Law is amended in section 19(1) by inserting after the word "director" the words " , a member of the Management Committee or a member of a committee appointed under section 17,".

Amendment of section 19 - pecuniary interests for the purposes of section 18

Amendment of section 43 - immunity

4. The principal Law is amended in section 43 by inserting after the words "under this Law" the words "and the regulatory laws".

authorities in the Islands and the relevant country or territory, has given permission for disclosure of the information,

Insertion of section 43A - indemnity

5. The principal Law is amended by inserting after section 43 the following section -

"Indemnity 43A. The Authority shall indemnify a director against all claims, damages, costs, charges or expenses incurred by that director in the discharge or purported discharge of his functions or duties under this Law and the regulatory laws, except claims, damages, costs, charges or expenses caused by the bad faith of that director."

the overseas regulatory authority may, with the consent of the Authority, further disclose the information for the purpose of criminal investigation into contraventions of laws or regulations administered by that regulatory authority identified in its request.;"

Amendment of section 49 - confidentiality

6. The principal Law is amended in section 49 as follows -

(a) in subsection (2), by repealing paragraph (g) and substituting the following paragraph -

- "(g) lawfully made - (i) to the Attorney-General or a law enforcement agency in the Islands, with a view to the institution of or for the purpose of criminal proceedings; (ii) to a person pursuant to the money laundering regulations; or (iii) to an overseas regulatory authority under subsection (3);"

(d) by inserting after subsection (7) the following subsection -

"(7A) The Authority shall decline to give its consent to further disclosure of information pursuant to subsection (3)(c) unless the overseas regulatory authority has given a written undertaking that the information will not be used in any criminal proceedings without the consent of the relevant Cayman Islands authority.;" and

(e) by repealing subsection (8) and substituting the following subsection -

"(8) In this section -

"Cayman Authority" means the Cayman Mutual Legal Assistance Authority established under the Mutual Legal Assistance (United States of America) Law (1999 Revision);

"relevant Cayman Islands authority" means, as the case may be, the Attorney-General, the Cayman Authority or any other authority charged under any other Law of the Islands with the provision of international assistance in criminal matters; and

"relevant country or territory" means the country or territory from which the request for assistance is made."

(b) in subsections (3)(b) and (9)(c), respectively, by repealing the words "civil or" and substituting the words "civil and";

(c) in subsection (3), by substituting a semi-colon for the full stop appearing at the end of paragraph (b) and inserting after paragraph (b) the following -

- " and (c) where the Authority has provided information under paragraph (a) or (b) and the Authority has received the advice of the Attorney-General, that there are reasonable grounds for believing that an offence specified in an overseas regulatory authority's request for assistance has been committed and - (i) the information already provided by the Authority to the overseas regulatory authority relates to the offence; or (ii) the Cayman Authority, under a treaty for the provision of mutual assistance between the

7. The principal Law is amended in section 50(1) by repealing the words "by such authorities" and substituting the words "with such authorities or for such other purposes as the Governor may deem fit".

Amendment of section 50 - memoranda of understanding