

CAYMAN ISLANDS



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THE MONETARY AUTHORITY (AMENDMENT) LAW, 2010

(LAW 9 OF 2010)

THE MONETARY AUTHORITY (AMENDMENT) LAW, 2010

ARRANGEMENT OF SECTIONS

1. Short title
2. Amendment of section 2 of the Monetary Authority Law (2008 Revision) - definitions
3. Amendment of section 4 - private sector consultation
4. Amendment of section 6 - principal functions of Authority
5. Amendment of section 11 - board of directors
6. Amendment of section 34 - relations with banks and other financial institutions
7. Amendment of section 35 - assistance in obtaining information
8. Amendment of section 48 - regulatory handbook
9. Amendment of section 51 - memoranda of understanding
10. Insertion of section 52 - disclosure to regulators
11. Repeal and substitution of Third Schedule - private sector associations
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CAYMAN ISLANDS

Law 9 of 2010.

I Assent

Duncan Taylor

Governor.

15th April, 2010

A LAW TO AMEND THE MONETARY AUTHORITY LAW (2008 REVISION) TO MAKE FURTHER PROVISION IN RESPECT OF THE OPERATIONAL INDEPENDENCE OF THE MONETARY AUTHORITY; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Monetary Authority (Amendment) Law, 2010. Short title
2. The Monetary Authority Law (2008 Revision), in this Law referred to as the “principal Law”, is amended in section 2, in the definition of the term “regulatory laws”, as follows - Amendment of section 2 of the Monetary Authority Law (2008 Revision) - definitions
 - (a) by substituting a semi colon for the comma appearing at the end of paragraph (g); and
 - (b) by inserting after paragraph (g) the following paragraph -
“(h) Securities Investment Business Law (2004 Revision),”.
3. The principal Law is amended in section 4 as follows - Amendment of section 4 - private sector consultation
 - (a) in subsection (2) -
 - (i) by deleting the words “the approval of the Governor” and substituting the words “consultation with the Financial Secretary”; and

- (ii) by deleting the words “for consideration by the Governor” and substituting the words “together with a draft of the proposed measure”; and
 - (b) in subsection (3) by deleting the words “, with the consent of the Governor,”.
- Amendment of section 6 - principal functions of Authority
4. The principal Law is amended in section 6(4)(b) by deleting the words “with section 50(4)” and substituting the words “with section 50(8)”.
- Amendment of section 11 - board of directors
5. The principal Law is amended in section 11 as follows -
- (a) in subsection (1) by deleting the words “policy and general administration of the affairs and business of the Authority” and substituting the words “governance, policy and performance of the Authority and the general conduct of its affairs and business”; and
 - (b) in subsection (3) by deleting the words “after consultation with the directors appointed in accordance with sections 12 and 13”.
- Amendment of section 34 - relations with banks and other financial institutions
6. The principal Law is amended in section 34 as follows -
- (a) by repealing subsection (1) and substituting the following subsection -
 - “ (1) After private sector consultation and consultation with the Financial Secretary, the Authority may -
 - (a) issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory laws may apply;
 - (b) issue or amend statements of guidance concerning the requirements of the money laundering regulations or the provisions of the regulatory laws; and
 - (c) issue or amend rules or statements of principle or guidance to reduce the risk of financial services business being used for money laundering or other criminal purposes.”;
 - (b) by repealing subsection (2);
 - (c) in subsection (3) by inserting after the words “given thereunder” the words “and shall state the provision of this Law, the regulatory law, the regulations or the directions, as the case may be, to which they relate”;

- (d) by repealing subsection (5) and substituting the following subsection -
- “ (5) The Authority shall, without delay, publish in the Gazette notice of the issue or amendment of rules or statements of principle or guidance under subsection (1) and forward to the Financial Secretary copies of the rules or statements of principle or guidance as issued or amended.”; and
- (e) in subsection (7)(a) by deleting the words “one thousand “ and substituting the words “five thousand”.
7. The principal Law is amended in section 35 as follows -
- (a) in subsection (1) by deleting the words “in section 34(1)” and substituting the words “in section 34(9)”;
- (b) by inserting after subsection (4) the following subsection -
- “ (5) The Authority, any person authorised under subsection (1) or the Commissioner of Police may apply to a Justice of the Peace, a Magistrate or a Judge of the Grand Court for a search warrant in pursuance of an investigation under subsection (2).”.
8. The principal Law is amended in section 48 by repealing subsection (4) and substituting the following subsection -
- “ (4) In cases where the regulatory handbook would have the effect of creating, directly or indirectly, rules or statements of principle or guidance, the Authority shall consult with the private sector associations and the Financial Secretary.”.
9. The principal Law is amended in section 51 as follows -
- (a) by repealing subsection (1) and substituting the following subsection -
- “ (1) The Authority may, in the exercise of its co-operative functions, after consultation with the Financial Secretary, enter into memoranda of understanding with overseas regulatory authorities for the purpose of assisting consolidated supervision with such authorities or for such other regulatory or supervisory purposes as the Authority may deem fit.”; and
- (b) in subsection (3) by inserting after the words “each memorandum of understanding” the words “entered into”.

Insertion of section 52 -
disclosure to regulators

10. The principal Law is amended by inserting after section 51 the following section -

“Disclosure to
regulators

52. Where a person regulated under the regulatory laws provides information to the Authority or, in the case of a foreign branch or subsidiary, to an overseas regulatory authority that regulates its parent company, for the purpose of consolidated supervision, the provision of the information shall not be treated as a breach of any restriction upon the disclosure of information by or under any Law and the fact of such provision of information shall not give rise to any criminal or civil liability.”.

Repeal and substitution
of Third Schedule -
private sector
associations

11. The principal Law is amended by repealing the Third Schedule and substituting the following schedule -

“THIRD SCHEDULE

(Sections 2 and 4(4))

Private Sector Associations

Alternative Investment Management Association (Cayman Islands)
Cayman Islands Association of Insurance and Financial Advisors
Cayman Islands Bankers Association
Cayman Islands Company Managers Association
Cayman Islands Directors Association
Cayman Islands Financial Services Association
Cayman Islands Fund Administrators Association
Cayman Islands Insurance Association
Cayman Islands Law Society
Cayman Islands Society of Professional Accountants
Caymanian Bar Association
Chartered Financial Analysts Society of the Cayman Islands
Compliance Association
Insurance Managers Association of Cayman
Society of Trust and Estate Practitioners (Cayman Islands)”.

Savings and transitional
provisions

12. (1) Every matter commenced under the former Law and partly dealt with immediately before 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.

(2) Every matter commenced under the former Law and not wholly or partly dealt with immediately before the new Law comes into force, is to be taken to be a matter commenced under the new Law and the provisions of the new Law are to apply accordingly.

(3) Any subordinate legislation made under the former Law and in force immediately before the new Law comes into force, so far as such subordinate legislation is not inconsistent with the provisions of the new Law, continues in force as if made under the new Law.

(4) In this section -

“former Law” means the principal Law in force immediately before the date of commencement of this Law; and

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the 1st day of March, 2010.

Mary J. Lawrence, JP

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.