

CAYMAN ISLANDS



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THE MONETARY AUTHORITY LAW, 1996

(LAW 16 OF 1996)

CAYMAN ISLANDS

THE MONETARY AUTHORITY LAW, 1996

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CAYMAN ISLANDS

Law 16 of 1996.

I Assent

JOHN OWEN

Governor.

25 November, 1996

A LAW TO REPEAL AND REPLACE THE CURRENCY LAW (1995 REVISION); TO ESTABLISH THE CAYMAN ISLANDS MONETARY AUTHORITY; TO PROVIDE FOR THE TRANSFER TO THE AUTHORITY OF CERTAIN FUNCTIONS AND ASSETS OF THE GOVERNMENT AND OF THE CAYMAN ISLANDS CURRENCY BOARD; AND FOR INCIDENTAL AND CONNECTED PURPOSES.

ENACTED by the Legislature of the Cayman Islands.

Part I - Preliminary

Short title and commencement

1. This Law may be cited as the Monetary Authority Law, 1996 and shall come into force on such date as may be appointed by Order by the Governor in Council, and different dates may be appointed for different provisions of this law and in relation to different cases.

Interpretation

2. In this Law, unless the context otherwise requires -

“Authority” means the Cayman Islands Monetary Authority referred to in section 3;

“bank” means a person carrying on a banking business and licensed as such in the Islands or elsewhere;

“board” means the board of directors established under section 9;

“currency notes” and “coins” mean, respectively, the currency notes and coins issued under this law;

“Currency Reserve” means the reserve established under section 28;

“demand liabilities” means the total value of-

- (a) amounts standing to the credit of any accounts opened for any local banks or for the Government of the Islands; and
- (b) (i) currency notes in circulation; and
(ii) an amount not less than 10 per cent of the nominal value of coins in circulation,
other than such currency notes and coins as are no longer legal tender and in respect of which a transfer to the general revenue of the Islands has been made under section 25 (3);

“director” means a director of the Authority appointed under section 10;

“external assets” means assets denominated in a currency other than the Cayman dollar and representing a claim on a non-resident of the Islands;

“financial year” means the financial year of the Authority as defined in section 33;

“General Reserve” means the reserve established under section 6;

“head office” means the head office of the Authority established in accordance with section 3(4);

“licensee” means a person holding a licence under the regulatory Laws;

“local bank” means any bank or branch thereof authorised to transact business as such in the Islands;

“managing director” means the managing director of the Authority appointed under section 11;

“public officer” has the meaning assigned to it by section 50(1) of the Constitution.

“the regulatory Laws” means any one or more of -

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- | | |
|---------------|--|
| 1995 Revision | (a) the Banks and Trust Companies Law (1995 Revision); |
| 1996 Revision | (b) the Companies Management Law (1996 Revision); |
| 1995 Revision | (c) the Insurance Law (1995 Revision); |
| 1996 Revision | (d) the Mutual Funds Law (1996 Revision), |

and any other Laws that may be prescribed by the Governor in Council by Regulations made under section 39.

Part II - Establishment Capital and Administration of Authority

Establishment of
Authority

3. (1) There is established an Authority to be called the Cayman Islands Monetary Authority which shall be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in its corporate name.

(2) For the purpose of carrying out its functions under this Law the Authority may buy, sell, hold, deal and otherwise acquire and dispose of land and other property of whatsoever nature and may enter into contracts whether of agency or otherwise.

(3) All deeds, documents and other instruments requiring the seal of the Authority shall be sealed with the common seal of the Authority by the authority of the Authority in the presence of the chairman or managing director and of one other director of the Authority.

(4) The Authority shall establish and maintain its head office and principal place of business within the Islands, and shall cause details thereof to be gazetted, and service of all documents on the Authority shall be deemed to be effective if delivered at the head office.

(5) The Authority may by resolution appoint an officer of the Authority or any other agent either generally or in a particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.

Principal objects of
Authority

4. The principal objects of the Authority shall be -
- (a) to issue and redeem currency notes and coins;
 - (b) to promote and maintain monetary stability;
 - (c) to promote and maintain a sound financial system;
 - (d) to advise Government on banking and monetary matters; and
 - (e) to perform such functions as may be appropriate to fulfil the objects set out in paragraphs (a), (b), and (c).

5. (1) The authorised capital of the Authority shall be \$100,000,000 and may be increased from time to time by regulations made by the Governor in Council. Authorised capital

(2) On the establishment of the Authority such portion of the authorised capital as the Governor in Council may decide shall be subscribed and paid up by Government, and shall be held on behalf of Government by the person nominated by Order by the Governor in Council for the time being.

(3) The paid-up portion of the authorised capital may be increased from time to time by such amount as the Governor in Council may approve.

(4) The payment of such increase in the paid-up capital referred to in subsection (3) may be made by way of transfers from the General Reserve.

6. (1) There shall be a General Reserve of the Authority to which shall be allocated any amounts that may become available under section 8. General Reserve

(2) In the event that the General Reserve, after the allocation of amounts under section 8, amounts to less than 15 per cent of the demand liabilities of the Authority, the Government may appropriate such funds from the general revenue of the Islands as are required to extinguish all or part of such deficiency.

7. The net profits of the Authority for any financial year shall include, but shall not be limited to, the income from the investments of the Authority, and the profits from the sales of investments belonging to the Authority; and shall be determined by the Authority after meeting or providing for all expenditure for that year and making such provisions for contingencies and the establishment of such additional reserves as it may consider desirable. Calculated profits

8. (1) The net profits of the Authority for each financial year shall be calculated in accordance with section 7 and shall be distributed as follows- Allocation of profits

- (a) firstly, such amount from the net profits of the Authority as the board, with the approval of the Governor in Council, may determine to be consistent with the prudent management of the Authority, shall be allocated to the Currency Reserve so that the Currency Reserve shall, subject to section 28(7), be maintained at a level of at least 115 per cent of the demand liabilities of the Authority; and
- (b) secondly, so long as the General Reserve established under section 6 amounts to less than 15 per cent of the demand liabilities of the Authority at the end of the financial year in

which such profits were earned, there shall be allocated to the General Reserve all such net profits or such lesser amount as shall make the General Reserve equivalent to 15 per cent of the said liabilities; and

- (c) any net profits not allocated in accordance with paragraph (a) or (b) shall be transferred to the general revenue of the Islands.

(2) Where the total assets of the Authority are less than the total liabilities of the Authority such deficiency shall be a first charge on the Authority's net profits.

Board of directors

9. (1) There shall be a board of directors of the Authority which shall be responsible for the policy and general administration of the affairs and business of the Authority.

(2) The board shall consist of -

- (a) the Financial Secretary who shall be the chairman by virtue of his office; and
- (b) four other directors, appointed in accordance with sections 10 and 11, all of whom shall have demonstrated to the satisfaction of the Governor in Council substantial knowledge and experience of the economy of the Islands and of the financial industry.

Appointment of directors

10. (1) The directors referred to in section 9 (2)(b) shall be appointed by the Governor in Council.

(2) The directors so appointed -

- (a) shall not act as delegates on the board from any commercial, financial, agricultural, industrial or other interests with which they may be connected; and
- (b) shall hold office for a term not less than 3 years and not exceeding 5 years and shall be eligible for reappointment; and
- (c) may be paid by the Authority out of the funds of the Authority such remuneration and allowances as may be determined by the Authority.

(3) Paragraphs (b) and (c) of subsection (2) shall not apply to a director who is appointed managing director under section 11.

(4) If any director appointed under subsection (1) dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person may be appointed by the Governor in Council for the

unexpired period of the term of office of the director in whose place he is appointed.

11. (1) The Governor in Council shall appoint one of the directors appointed under section 10(1) to be the managing director. Appointment of managing director

(2) The managing director shall be an employee of the Authority on such terms and conditions of service as the Governor in Council may decide.

(3) The managing director shall be entrusted with the day to day administration of the Authority to the extent of the authority delegated to him by the board.

(4) The managing director shall render his services exclusively to the Authority and shall be answerable to the board for his acts and decisions.

(5) In the event of the absence or inability to act of the managing director, the Governor in Council may appoint a director to discharge his duties during the period of his absence or inability.

12. (1) No person may be appointed as or remain a director of the Authority who is an elected member of the Legislative Assembly. Disqualification of directors

(2) The Governor in Council shall terminate the appointment of any director who -

- (a) resigns his office; or
- (b) becomes of unsound mind or incapable of carrying out his duties; or
- (c) becomes bankrupt or suspends payment to or compounds with his creditors; or
- (d) is convicted in the Islands or in any other jurisdiction of an offence involving dishonesty or fraud or of any indictable offence;
- (e) is guilty of serious misconduct in relation to his duties; or
- (f) is absent, without leave of the Chairman of the board, from three consecutive meetings of the board; or
- (g) fails to comply with his obligations under section 14.

(3) The Governor, at his discretion, may terminate the appointment of any director.

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Meetings and decisions
of the board

13. (1) The chairman of the board shall summon regular meetings of the board as often as may be required, but not less frequently than once in 3 months, and shall summon extraordinary meetings when required to do so in accordance with rules made under section 40.

(2) At every meeting of the board, a quorum shall consist of 3 directors, and decisions shall be adopted by a simple majority of the votes of the directors present and voting except that in the case of an equality of votes the chairman shall in addition have a casting vote.

(3) The board may act notwithstanding that a vacancy exists among the members and shall have power to-

- (a) act by sub-committee; and
- (b) delegate any of its duties and powers from time to time to such sub-committees and to any of their own number and to the officers, servants and agents of the Authority,

except that where the board sets up a sub-committee which consists of members other than directors, officers or servants of the Authority, it may only act or delegate its duties or powers to such sub-committee with the approval of the Governor in Council.

Director's interest

14. (1) If a director has any pecuniary interest, direct or indirect, in any contract, proposed contract, licence or other matter and is present at a meeting of the board at which the contract, proposed contract, licence or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract, proposed contract, licence or other matter or vote on any question with respect to it and shall be excluded from the meeting for the duration of the consideration, discussion and voting procedure.

(2) If any person fails to comply with the provisions of subsection (1) he shall be guilty of an offence and liable -

- (a) on summary conviction to a fine not exceeding \$20,000 or imprisonment for a term not exceeding 2 years, or both; or
- (b) on conviction on indictment to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 5 years, or both,

unless he proves that he did not know that the contract, proposed contract, licence or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) A disclosure under subsection (1) shall be recorded in the minutes of the board.

(4) No act or proceeding of the board shall be questioned on the ground that a director has contravened this section.

15. (1) For the purposes of section 14, a director shall be treated, subject to the following provisions of this section and to section 16, as having indirectly a pecuniary interest in a contract, proposed contract, licence or other matter if - Pecuniary interests for the purposes of section 14

- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the licence or other matter under consideration; or
- (b) he is a partner, or is in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct pecuniary interest in the licence or other matter under consideration; or
- (c) he, or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter.

(2) Subsection (1) does not apply to membership of or employment under any public body.

(3) In the case of married persons the interest of one spouse shall be deemed for the purpose of section 15 to be also the interest of the other.

16. (1) The Governor may at his discretion and subject to such conditions as he may think fit appoint persons to act as directors for any specified period, in any case in which the number of directors disabled by section 14 at any one time would be so great a proportion of the whole as to impede the transaction of business. Removal or exclusion of disability, etc.

(2) Nothing in section 14 precludes any director from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Governor for the exercise of the powers conferred by subsection (1).

(3) Section 14 does not apply to an interest in a contract, proposed contract, licence or other matter which a director has as a member of the public or to an interest in any matter relating to the terms on which the right to participate in any service is offered to the public.

(4) Where a director has an indirect pecuniary interest in a contract, proposed contract, licence or other matter by reason only of a beneficial interest in securities of a company or other body, and the nominal value of those securities does not exceed \$1,000 or one-thousandth of the total nominal value of the issued share capital of the company or other body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-thousandth of the total issued share capital of that class, section 14 shall not prohibit him from taking part in the consideration or discussion of the contract, proposed contract, licence or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

Power to employ staff,
etc.

17. (1) The Authority may employ at such remuneration and on such terms and conditions as may be approved from time to time by the board such persons as the board considers necessary for the performance of the functions of the Authority.

(2) The Authority shall create and maintain or subscribe to a fund for the payment of pensions to employees of the Authority in accordance with a scheme, the terms of which shall be approved by the Governor in Council.

(3) The fund shall be vested in trustees to be appointed by the Authority for that purpose and shall be maintained at a sufficient level according to accepted actuarial principles to enable pensions to be paid to all employees of the Authority in accordance with the approved scheme.

(4) The Governor in Council may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Government by way of secondment to any office with the Authority, and any public officer so appointed shall, in relation to pension, gratuity or other allowance and to other rights and obligations as a public officer, be treated as continuing in the service of Government.

PART III - Currency

Unit of currency

18. (1) The unit of currency of the Islands shall continue to be the Cayman dollar divided into 100 cents.

(2) The value of the Cayman dollar shall be equivalent to such an amount of currency of the United States of America as the Governor in Council may, in accordance with the advice of the Authority, by Order made in accordance with this section, prescribe.

(3) An Order made under this section shall come into operation at the time and on the day as may be specified in such Order.

(4) An Order made under this section shall be given such publicity immediately after it is subscribed in writing by the Governor in Council as, in the opinion of the Authority, is likely to bring the Order to the notice of such persons as are immediately affected thereby, and shall also be gazetted.

(5) For the avoidance of doubt it is hereby declared that an Order may be made on a public holiday within the meaning of the Public Holidays Law (1995 Revision).

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19. Every contract, document, sale, payment, bill, note, transaction, instrument or security for money and every transaction, dealing, matter or thing whatsoever relating to money or involving payment of or the liability to pay in money shall, to be valid in the Islands, be made, executed, entered into, done, had or settled in the currency of the Islands unless it is expressly made, executed, entered into, done, had or settled in the currency of some other country.

Contracts, etc., to be made in currency

20. (1) The Authority on behalf of the Government shall have the sole right of issuing legal tender notes and coins in the Islands and no person other than the Authority shall in the Islands issue currency notes, bank notes or coins or any documents or tokens payable to bearer on demand being documents or tokens which are likely to pass as legal tender.

Sole right of currency issue

(2) No currency notes or coins other than the currency notes and coins issued by the Authority shall be legal tender in the Islands.

21. (1) The Authority shall on demand at its head office issue and redeem Cayman dollars against the currency of the United States of America provided that-

Obligation to deal in United States dollars

- (a) the Authority shall not be required to issue and redeem Cayman dollars of an amount less than such minimum sum as may from time to time be prescribed; and
- (b) the rate of exchange quoted by the Authority in respect of spot transactions shall not differ by more than such margins on either side of the value of the currency of the Islands established in terms of section 18 as may from time to time be prescribed by the Governor in Council after consultation with the Authority.

(2) The Authority shall publish or cause to be published at its offices and at the offices of its agents and representatives the rates referred to in paragraph

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(b) of subsection (1) at which it is prepared to deal against the currency of the United States of America with the public.

(3) Notwithstanding subsection (2), the Authority may at its discretion deal against the currency of the United States of America with local banks at rates different from its published rates.

Provisions relating to issue of currency

22. The Authority shall-

- (a) arrange for the printing of currency notes and the minting of coins and for all matters relating thereto and for the security of such notes and coins; and
- (b) issue, re-issue, withdraw and, at its discretion, exchange currency notes and coins at its head office and at such offices and agencies elsewhere in the Islands as it may establish.

Denominations and forms of currency

23. (1) Currency notes issued under this Law shall be of such denominations and of such form and design and printed from such plates and on such paper and authenticated in such manner as may from time to time be recommended by the Authority and approved by the Governor in Council.

(2) Coins issued under this Law shall be of such denominations and of such form and design and made of such metal or metals and made or issued by such mint or mints as may from time to time be recommended by the Authority and approved by the Governor in Council.

Legal tender

24. (1) Currency notes shall continue to be legal tender in the Islands at their face value for the payment of any amount.

(2) Coins shall, if they have not been illegally dealt with, continue to be legal tender in the Islands to an amount not exceeding two hundred and fifty dollars in the case of coins of denomination of not less than five cents, and not exceeding fifty cents in the case of lower denominations.

(3) For the purposes of this Law, a coin shall be deemed to have been illegally dealt with where the coin has been impaired, diminished or lightened otherwise than by fair wear and tear, or has been defaced by having any name, word, device or number stamped or engraved thereon, whether the coin has or has not been thereby diminished or lightened.

Calling-in of currency

25. (1) The Authority may, with the approval of the Governor in Council, declare that any currency notes or coins shall cease to be legal tender and may provide for any matters incidental to the calling-in of such notes or coins.

(2) Any declaration authorised by subsection (1) shall have effect as from the date of gazettal or such later date as may therein be specified and the holders of any notes or coins so called in shall be entitled within such period as may be specified in such declaration, or in any subsequent declaration issued by the Authority with the approval of the Governor in Council, to claim payment from the Authority of the face value thereof.

(3) When any currency notes or coins are called in under subsection (1) the Authority at its discretion may transfer to the general revenue of the Islands, 10 years after the date of the calling-in, an amount equivalent to the value of any such notes or coins still remaining in circulation, and the Authority shall have the right to recover from the general revenue an amount equivalent to the value of any such notes or coins presented for payment thereafter.

26. No person shall be entitled to recover from the Authority the value of any lost, stolen, mutilated or imperfect currency note or coin, or of any coin which has been illegally dealt with. The circumstances and conditions under which such value may be refunded as an act of grace shall be within the absolute discretion of the Authority. Mutilated, etc., currency

27. A person who, without lawful authority or excuse (the proof whereof shall be on the person accused), defaces, mutilates or perforates any currency note or coin which under this Law is made legal tender in the Islands is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 or imprisonment for a term not exceeding 3 months, or both. Defacing, etc., of notes or coins

Part IV -Currency Reserve

28. (1) The Authority shall at all times maintain a Currency Reserve which shall consist of external assets and local assets. Currency Reserve

- (2) The external assets referred to in subsection (1),
- (a) shall be in value not less than an amount equivalent to 90 per cent of the demand liabilities of the Authority; and
 - (b) shall consist of all or any of -
 - (i) gold coin or bullion; or
 - (ii) notes and coins, in such currencies as may be approved by the board; or
 - (iii) money at call and deposits with such banks and in such countries as may be approved by the board; or
 - (iv) treasury bills maturing within 184 days issued by such foreign governments as may be approved by the board; or

- (v) marketable securities issued or guaranteed by such foreign governments or international financial institutions as may be approved by the board and maturing within 10 years; or
- (vi) such other securities and investments not exceeding 20 per cent of the value of the external assets as may be authorised by the Governor in Council on the recommendation of the Authority.

(3) An amount equivalent to not less than 20 per cent of the demand liabilities of the Authority shall at all times be held in liquid form, that is to say it shall be held in Treasury bills issued by such governments as shall be approved by the board, or may be lent out at call or for short term to such banks as may be approved by the board, or invested in such readily realisable securities as may be approved by the board.

(4) The local assets referred to in subsection (1) shall be in value not less than the difference, if any, between the amount of its total demand liabilities and the value of external assets specified in subsection (2).

(5) The local assets shall consist of-

- (a) money at call or on deposit with such local Class "A" banks as may be approved by the board; or
- (b) balances with the Treasury.

(6) The total of the value of the local assets referred to in subsection (5) shall not at any time exceed 25 per cent of the demand liabilities of the Authority.

(7) If at any time the total assets of the Currency Reserve shall be less than 115 per cent of the demand liabilities of the Authority, such deficiency shall be a liability of the government and the government shall appropriate such funds from the general revenue of the Islands as are required to extinguish such deficiency.

(8) The Currency Reserve shall only be used for the compliance by the Authority with its obligations under section 21(1) and the assets of the Currency Reserve shall be segregated from all other assets of the Authority and shall not be chargeable with any liability arising from any other business of the Authority.

Part V - Operations

Relations with
Government

29. The Governor in Council may from time to time, after consultation with the board, give to the Authority in writing such general directions as appear to the

Governor in Council to be necessary in the public interest and the Authority shall act in accordance with such directions.

30. (1) The Authority shall be responsible for the regulation, in accordance with the regulatory Laws or such enactments as may amend or replace them from time to time, of banks, trust companies, companies managers, insurance companies, and mutual funds in the Islands, together with such other financial institutions as may be prescribed in any Law, and the provisions of Schedule I shall have effect for the purposes of such regulation.

Relations with banks and other financial institutions

(2) In the performance of its functions under this Law, and in relation to persons licensed under the Banks and Trust Companies Law, (1995 Revision) the Authority may require any licensee to furnish within such time and in such form as the Authority thinks necessary such information as the Authority may reasonably require to enable the Authority to carry out any duty under subsection (1) except that the Authority shall have no right of access to any information regarding the account, or regarding any matter or thing relating to the affairs, of any individual depositor or other customer of a licensee, or regarding the settlor, name, beneficiaries or title of a trust, without an order of the Grand Court made on the grounds that there are no other reasonable means of obtaining such documents, information, matter or thing.

1995 Revision

(3) In the performance of its functions under this Law, and in relation to persons licensed under the Companies Management Law (1996 Revision) the Authority may at all reasonable times-

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- (a) require a licensee to produce for examination such of his books and records and any other documents; and
- (b) require a licensee to supply such information or explanation,

as it may reasonably require for the purpose of enabling it to carry out any duty under subsection (1) except that the Authority shall have no right of access to any document of a company managed by a licensee or to any information, matter or thing relating to or concerning the affairs of any such company, without the written consent of that company or without an order of the Grand Court made on the grounds that there are no other reasonable means of obtaining such documents, information, matter or thing.

(4) In the performance of its functions under this Law, and in relation to persons licensed under the Insurance Law (1995 Revision) the Authority may at all reasonable times-

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- (a) have access to such books, records, vouchers, documents, policies, contracts, cash and securities of any licensee; and
- (b) call upon the manager or any officer designated by the manager of any licensee for such information or explanation as the Authority may reasonably require for the purpose of enabling him to perform his functions under this Law.

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(5) If requested to do so by the Authority, a promoter or operator of a mutual fund regulated under the Mutual Funds Law (1996 Revision) or a mutual fund administrator licensed under the Mutual Funds Law (1996 Revision) shall give the Authority such information or such explanation in respect of the fund as the Authority may reasonably require to enable it to carry out its duty under this Law and the Mutual Funds Law (1996 Revision) and shall give the Authority access to, or provide at any reasonable time all records relating to the mutual fund or its administration, of which records the Authority may take a copy or extract, and a person giving information or an explanation for the purpose of this subsection shall not give the Authority information or an explanation that he knows or should reasonably know is false or misleading.

(6) Any person who fails to comply with any requirement of the Authority under subsections (2), (3), (4) or (5) shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 and on conviction on indictment to a fine not exceeding \$100,000, and if the offence of which he is convicted is continued after conviction he commits a further offence and is liable to a fine not exceeding \$10,000 for every day on which the offence is so continued.

(7) Where at any time a licensee commits an offence under this section with the consent or connivance of any individual, the individual commits the like offence if at that time-

- (a) he is a director, manager, secretary or similar officer of the licensee; or
- (b) he is purporting to act as such an officer; or
- (c) the licensee is managed by its members of whom he is one.

General powers

31. The Authority may -

- (a) purchase and sell gold coin and bullion;
- (b) open and maintain accounts with local banks and with the Treasury of the Islands;
- (c) open and maintain accounts with banks and other depositories outside the Islands and appoint correspondents or agents outside the Islands;

- (d) purchase and sell foreign currencies and purchase, sell, discount and rediscount bills of exchange and Treasury bills drawn in or on places outside the Islands and maturing within 184 days;
- (e) purchase and sell securities, maturing within 10 years, of, or guaranteed by, such foreign governments as may be approved by the board;
- (f) purchase and sell such other securities and investments as may be authorised by the Governor in Council on the recommendation of the board;
- (g) borrow money, on such terms and conditions as may be authorised by the Governor in Council on the recommendation of the board except that such loan shall not exceed \$250,000 or 1 per cent of the paid-up capital of the Authority, whichever shall be the greater;
- (h) undertake the administration and management of securities issued by Government;
- (i) without prejudice to section 32, do any thing which is calculated to facilitate or is incidental to or consequential upon the exercise of the powers of the Authority or the discharge of its duties under this Law.

32. Except as expressly authorised by this Law the Authority may not -

Prohibited activities

- (a) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or other undertaking except such interest as the Authority may acquire in the course of the satisfaction of debts due to it, so, however, that it shall be the duty of the Authority to dispose of any such interest so acquired at the earliest suitable opportunity;
- (b) purchase shares of any company including the shares of any banking company or public corporation;
- (c) make loans to any person; or
- (d) purchase, acquire, or lease real property except so far as the board considers necessary or expedient for the provision or future provision of business premises for the Authority or of any other requirement incidental to the performance of its functions under this Law.

Part VI - Accounts and Statements

33. The financial year of the Authority shall end on the 31st December.

Financial year

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Budget 34. (1) The Authority shall, not later than 2 months before the commencement of each financial year, submit to the Governor in Council for its approval estimates in such form and in such detail as the Governor in Council may require in respect of the Authority's administrative expenditure in that financial year.

(2) The Authority shall submit to the Governor in Council for its approval any proposed amendments to any such estimates as soon as practicable and not later than 1 month after the submission of the estimates.

(3) Such estimates and any amendments, when approved by the Governor in Council for any financial year, shall constitute the Authority's expenditure budget for that financial year.

(4) The Authority shall not, without the approval of the Governor in Council, spend in total in any financial year more than the total amount of expenditure approved by the Governor in Council for that financial year.

Audit 35. (1) The accounts of the Authority shall be prepared and maintained in accordance with the standards recommended for the time being by the International Accounting Standards Committee or by such other body as may be set up in its place.

(2) The accounts of all transactions of the Authority shall be audited annually by the Auditor-General of the Islands who shall have such powers in relation to the Authority, its directors, and the property securities and accounts of the Authority as he has in relation to other public money and public officers by virtue of the Public Finance and Audit Law, 1985.

Law 23 of 1985

(3) On completion of the audit of the Authority's accounts under subsection (2) the Auditor-General shall prepare a report thereon within 3 months of the close of the financial year to which the audited accounts relate.

Publication of accounts and annual report

36. (1) The Authority shall submit annually to the Governor in Council not later than the 30th April, a report on its transactions during the previous financial year, together with an audited balance sheet and income and expenditure accounts as at the close of the previous financial year.

(2) The report and accounts under subsection (1) and the report of the Auditor-General under section 35 shall be laid on the Table of the Legislative Assembly not later than 30th June following the end of the financial year to which they relate, and shall thereupon be gazetted.

(3) The Authority shall publish in the Gazette a statement of its assets and liabilities as at the 31st December and the 30th June of each year.

Part VII - General

37. Neither the Authority, nor any director or employee of the Authority shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law unless it is shown that the act or omission was in bad faith. Immunity
38. The functions of the Authority shall be deemed not to be banking business for the purposes of the Banks and Trust Companies Law (1995 Revision). Exemption
1995 Revision
39. The Governor in Council may make such regulations as are required for the effective implementation of the provisions of this Law. Regulations
40. The Authority may, subject to the provisions of this Law, make such rules as it thinks fit to regulate its own internal management. Rules
41. The Governor in Council may, by regulation subject to affirmative resolution, provide for the administration of any statutory function of government by the Authority. Additional powers
42. (1) Subject to subsections (2) and (3) a person who is a director, officer, employee, agent or adviser of the Authority and who discloses any information relating to-
- (a) the affairs of the Authority; or
 - (b) any application made to the Authority or the Government under the provisions of the regulatory Laws; or
 - (c) the affairs of a licensee; or
 - (d) the affairs of a customer, client or policyholder of, or a company or mutual fund managed by, a licensee,
- that he has acquired in the course of his duties or in the exercise of the Authority's functions under this or any other Law, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 and to imprisonment for a term not exceeding 1 year, or both, and on conviction on indictment to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 3 years, or both.
- (2) Subsection (1) does not apply to a disclosure-

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- (a) lawfully required or permitted by any court of competent jurisdiction within the Islands; or
- (b) for the purpose of assisting the Authority to exercise any functions conferred on them by this Law or by any other Law or by regulations made thereunder; or
- (c) in respect of the affairs of a licensee or of a customer, client, or policyholder of, or a company or mutual fund managed by, a licensee, with the authority of the licensee, customer, client policyholder, company or mutual fund, as the case may be which consent has been voluntarily given; or
- (d) for the purpose of enabling or assisting the Governor in Council to exercise any functions conferred on him under this Law or regulations made thereunder or in connection with the dealings between the Governor in Council and the Authority when the Authority exercises its functions under this or any other Law; or
- (e) if the information disclosed is or has been available to the public from any other source; or
- (f) where the information disclosed is in a summary or in statistics expressed in a manner that does not enable the identity of any licensee, or of any customer, client, or policyholder of, or company or mutual fund managed by, a licensee to which the information relates to be ascertained; or
- (g) for the purposes of any legal proceedings in connection with-
 - (i) the winding-up or dissolution of a licensee; or
 - (ii) the appointment or duties of a receiver of a licensee.

(3) Subject to subsection (4), the Authority may disclose to a financial services supervisory authority outside the Islands information necessary to enable that authority to exercise functions corresponding to those exercised in respect of licensees by the Authority or Government under the regulatory Laws including, in particular, any information which will assist that authority in its consolidated supervision of a banking, insurance or commercial financial group which controls a licensee.

(4) Nothing in subsection (3) authorises a disclosure by the Authority unless-

- (a) the Authority has satisfied itself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; and
- (b) the disclosure does not relate to customers, clients or policyholders of, or to companies or mutual funds managed by,

or to settlors or beneficiaries of trusts managed by, a licensee other than information relating to large credit exposures of the licensee.

43. (1) The amendments set out in Part 1 of Schedule 2 shall have effect.
- (2) The transitional provisions and savings set out in Part 2 of Schedule 2 shall have effect.
- (3) The repeals set out in Part 3 of Schedule 2 shall have effect.
- (4) An Order under section 1 may make such transitional provisions or savings as appear to the Governor in Council to be necessary or expedient in connection with the provisions brought into force by the order, including-
- (a) provisions adding to or modifying the provisions of Schedule 2, including consequential amendments to any other Law; and
 - (b) such adaptations-
 - (i) of the provisions brought into force by the order; and
 - (ii) of any provisions of this Law then in force, as appear to him to be necessary or expedient in consequence of the partial operation of this Law.

Amendments,
transitional provisions,
savings and repeals

SCHEDULES

SCHEDULE 1

Section 30(1)

Regulation of Banks, Trust Companies, Company Management, Insurance Companies and Mutual Funds

From the date that section 30 is brought into force the powers, functions and duties of Government and of the Authority shall be such as are provided in the regulatory Laws as replaced or amended from time to time and in any subordinate legislation made thereunder. Any reference in any Law other than the regulatory Laws, or in any other subordinate legislation, to the Inspector of Financial Services appointed under section 12(1) of the Banks and Trust Companies Law (1995 Revision) is to be read as a reference to the Authority.

1995 Revision

SCHEDULE 2

Amendments, Transitional Provisions and Savings, and Repeals

PART 1

Section 43(1)

Amendments

Section 1

1995 Revision

Amendments to the Banks and Trust Companies Law (1995 Revision)

1. Section 2 is amended-
 - (a) by repealing the definition of “Inspector”; and
 - (b) by inserting the following definition-

“ “Authority” means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary Authority Law, 1996 and includes any employee of the Authority acting under the Authority’s authorisation;”.
2. The Law is amended by repealing “Inspector” wherever it occurs and substituting “Authority” except that in section 5(8) “Inspector” is substituted by “Financial Secretary”.
3. In all cases in the Law where the pronoun, referring to “Inspector” is “he” and by virtue of paragraph 2 “Inspector” has been substituted by “Authority”, the pronoun is altered to “it” and corresponding changes are made to the pronominal adjectives.
4. Section 5(1) is amended-
 - (a) by repealing “shall contain” and substituting “shall be sent to the Authority accompanied by”;
 - (b) by repealing “shall be accompanied by such”; and
 - (c) by inserting after “which” the following-

“the Authority shall forward to the Financial Secretary for the benefit of the revenue and which”.
5. Section 5(7) is amended by inserting after “pay” the following-

“to the Financial Secretary for the benefit of the revenue”.

6. Section 5(8) is amended-
 - (a) by inserting after “pay” the following-
“to the Financial Secretary for the benefit of the revenue”; and
 - (b) by inserting after “payable” the following-
“to the Financial Secretary for the benefit of the revenue”.

7. Section 12 is amended-
 - (a) by repealing subsection (1); and
 - (b) in subsection (2) by repealing “and” at the end of paragraph (d) and by repealing paragraph (e);
 - (c) by inserting after subsection (2) the following subsection-
“(2a) The Authority may-
 - (a) examine and make recommendations to the Governor with respect to applications for licences;
 - (b) examine all proposals and make recommendations to the Governor in respect of the exercise of his powers under sections 14, 15 and 16; and
 - (c) act as the adviser to the Governor and to take all necessary action, including, with the approval of the Governor, originating applications to the Grand Court, to ensure the proper and just implementation of every provision of this Law.”; and
 - (d) in subsection (4) by repealing “with the approval of the Governor”.

Section 2

Amendments to the Insurance Law (1995 Revision)

1995 Revision

8. Section 2 is amended-
 - (a) by repealing the definition of “Superintendent”; and
 - (b) by inserting the following definition -
“ “Authority” means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary Authority Law, 1996 and includes any employee of the Authority acting under the Authority’s authorisation;”.

9. The Law is amended-

- (a) by repealing "Superintendent" wherever it occurs and substituting "Authority";
- (b) by repealing "Superintendent of Insurance" in the Schedule;
- (c) by repealing "Governor" wherever it occurs, except in sections 2, 4(1), (2), (7), (10) and (12), 4, 5, 6, 7(1), 12, 13, 14, and 16, and substituting "Authority".

10. In all cases in the Law where the personal pronoun, referring to "Superintendent" or "Governor" is "he" and by virtue of paragraph 9 "Superintendent" or "Governor" has been substituted by "Authority", the pronoun is altered to "it" and corresponding changes are made to the pronominal adjectives.

11. Section 4(2) is amended-

- (a) by inserting after "prescribed and" the following-
"sent to the Authority"; and
- (b) by inserting after "to be" the following-
"forwarded by the Authority to the Financial Secretary for the benefit of the revenue".

12. Section 5 is amended-

- (a) in subsection (1) by repealing paragraph (d) and substituting the following-
 - "(d) to examine and make recommendations to the Governor with respect to-
 - (i) applications for approval, and the use of words or representations which require approval, under section 6 (1);
 - (ii) proposals for the revocation of licences under section 6 (3);
 - (iii) prescription of investments under section 7 (1);
 - (iv) cases of suspected insolvency. and the exercise of powers under section 12;
 - (v) proposals for regulations to be made under section 16;"; and
- (b) by inserting after subsection (1) the following subsection-
"(1a) The Authority may-

- (a) examine and make recommendations to the Governor with respect to applications for licences under section 4; and
- (b) act as the adviser to the Governor, and to take all necessary action to ensure the proper and just implementation of every provision under this Law.”.

Section 3

Amendments to the Companies Management Law (1996 Revision)

1996 Revision

13. Section 2 is amended-

- (a) by repealing the definition of “Inspector”; and
- (b) by inserting the following definition -

“ “Authority” means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary Authority Law, 1996 and includes any employee of the Authority acting under the Authority’s authorisation;”.

14. The Law is amended by repealing “Inspector” wherever it occurs and substituting “Authority”.

15. In all cases in the Law where the personal pronoun, referring to “Inspector” is “he” and by virtue of paragraph 14 “Inspector” has been substituted by “Authority”, the pronoun is altered to “it” and corresponding changes are made to the pronominal adjectives.

16. Section 4 is amended-

- (a) in subsection (4)-
 - (i) by inserting after “subsection (2) shall” the following-

“be sent to the Authority and shall”; and
 - (ii) by inserting after “dollars” the following-

“which shall be forwarded by the Authority to the Financial Secretary for the benefit of the revenue”;
- (b) in subsection (6) by inserting after “pay” the following-

“to the Financial Secretary for the benefit of the revenue”; and

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- (c) in subsection (7) by repealing “Governor” and substituting “Authority”.

17. Section 5 is amended-

- (a) in subsection (1) by repealing paragraph (d) and substituting the following-

“(d) examine and make recommendations to the Governor with respect to-

- (i) the qualifications of auditors;
- (ii) all applications for approval of the issue or transfer of shares under section 6;
- (iii) the conditions to be attached to all exemptions to the requirements of section 6;
- (iv) the use of words which might infringe the provisions of section 7(1);
- (v) the use of names by licensees and requirements to be imposed in respect thereof under section 7(2);
- (vi) all proposals for the suspension of licences under section 13;
- (vii) all proposals for the revocation of licences under section 14;
- (viii) all proposals for regulations to be made under section 17; and
- (ix) all proposals by applicants in respect of capital under paragraph 5(1) of the Schedule;”;

- (b) by inserting after subsection (1) the following subsection-

“(1a) The Authority may-

- (a) examine and make recommendations to the Governor with respect to applications for licences under section 4; and
- (b) act as the adviser to the Governor and to take all necessary action to ensure the proper and just implementation of every provision of this Law.”.

18. Section 10 is amended-

- (a) in subsection (2) by repealing “the Inspector or any other” and substituting “a”; and

- (b) in subsection (4) by repealing “the Inspector or any other” and substituting “an”.
19. Section 11 is amended by repealing “Financial Secretary” wherever it occurs and substituting “Authority”, and corresponding changes are made to the Arrangement of Sections and to the marginal note.
20. The Schedule is amended in line 2 by repealing “Governor” and substituting “Authority”.

Section 4

Amendments to the Mutual Funds Law (1996 Revision)

1996 Revision

21. Section 2 is amended-
- (a) by repealing the definition of “Inspector”; and
 - (b) by inserting the following definition -
 - “ “Authority” means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary Authority Law, 1996 and includes any employee of the Authority acting under the Authority’s authorisation;”.
22. The Law is amended by repealing “Inspector” wherever it occurs and substituting “Authority” except that-
- (a) in sections 8 and 13(5) “Inspector” is substituted by “Financial Secretary”;
 - (b) in sections 12, 17, 34(1), 34(2)(b), 34(2)(d), 34(3), 34(4), 34(9) (where it occurs for the second time), 34(10), 34(11), 34(12) (where it occurs for the second time), and 34(13), “Inspector” is substituted by “Governor”;
 - (c) in section 34(8)(b) “Inspector” is substituted by “Governor and the Authority”; and
 - (d) in section 34(12) (where it occurs for the first time) “Inspector” is substituted by “Governor or the Authority”.
23. In all cases in the Law where the personal pronoun, referring to “Inspector” is “he” and by virtue of paragraph 22 “Inspector” has been substituted by “Authority”, the pronoun is altered to “it” and corresponding changes are made to the pronominal adjectives.
24. Section 8 is amended-

- (a) in subsection (1) by inserting after “pay” the following-
 - “to the Financial Secretary for the benefit of the revenue”;
 - and
 - (b) in subsection (2) by inserting after “pay” the following-
 - “to the Financial Secretary for the benefit of the revenue”.
25. Section 11 is amended-
- (a) in subsection (1)-
 - (i) by repealing “made to the Clerk of the Executive Council” and substituting “sent to the Authority”;
 - (ii) by repealing “Clerk” in line 3 and substituting “Authority”;
 - and
 - (iii) by inserting at the end the following-
 - “which shall be forwarded by the Authority to the Financial Secretary for the benefit of the revenue.”;
 - and
 - (b) in subsection (8) by inserting after “supply to the” the following-
 - “Authority or to the”.
26. Section 13 is amended-
- (a) in subsection (1) by inserting after “pay the prescribed fee in respect of the mutual fund” the following-
 - “which the Authority shall forward to the Financial Secretary for the benefit of the revenue”;
 - (b) in subsection (2) by inserting at the end the following-
 - “to the Financial Secretary for the benefit of the revenue”;
 - and
 - (c) in subsection (3) by inserting at the end the following-
 - “to the Financial Secretary for the benefit of the revenue.”.
27. Section 32 is amended by inserting at the end the following-
- “and in particular to examine and make recommendations to the Governor and the Executive Council with respect to-
 - (i) applications for mutual fund administrators’ licences under sections 10 and 11;

- (ii) proposals for exemptions under section 9(2);
- (iii) proposals for exemptions under section 9(4);
- (iv) proposals for waivers under section 11 (3);
- (v) proposals for approvals or waivers under section 12;
- (vi) proposals for refusals or directions under section 17;
and
- (vii) requirements and applications under sections 34(10)
and (11)."

28. Section 33(6) is amended by inserting after "Government" wherever it occurs the following-

"or the Authority".

29. Section 34 is amended-

- (a) in subsection (4) by repealing "he" in the first line and substituting the following-
"the Authority";
- (b) in subsection (5) by inserting after "Government" wherever it occurs the following-
"or the Authority";
- (c) in subsection (11) by repealing "he" in the first line and substituting the following-
"the Authority".

PART 2

Transitional Provisions and Savings

Section 43(2)

1. There is vested in the Authority without further assurance or transfer the assets of the currency fund maintained by the Currency Board under section 4 of the Currency Law (1995 Revision) together with such interests in land and buildings, movable property, assets, rights, interests, privileges, debts, liabilities and obligations as were, before the coming into force of this Law, vested in Government or the Currency Board or to which Government or the Currency Board were liable or subject, in relation to their functions, powers or duties under the Currency Law (1995 Revision).

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2. On the vesting of the items mentioned in paragraph 1 they shall be listed and entered appropriately into the accounts of the Authority.
- 1995 Revision 3. The notes and coins of the Currency Board that, prior to the coming into force of this Law, had been issued in accordance with section 12 of the Currency Law (1995 Revision) shall be deemed to be legal tender and issued in all respects in accordance with section 20 of this Law.
- 1995 Revision 4. Where in any document, transaction or legal proceedings made or taken under the provisions of the regulatory Laws or the Currency Law (1995 Revision) there is a reference to Government, the Currency Board, a member of the Executive Council or the Inspector of Financial Services in connection with or related to the performance of any of the functions, duties or powers of Government or the Currency Board under those laws the document or transaction shall have effect or the legal proceedings shall continue as if the Authority were referred to instead of the Government, Currency Board, Member of the Executive Council or Inspector of Financial Services as the case may be.
5. There is vested in the Authority without further assurance or transfer the interests in land and buildings, movable property, assets, rights, interests, privileges, debts, liabilities and obligations as were before the coming into force of this Law, vested in Government or to which Government were liable or subject, in relation to their regulatory functions, powers and duties under the regulatory Laws.
6. The Cayman Islands Currency Regulations 1973 and the Cayman Islands Currency Order 1974 shall, insofar as they are not inconsistent with the provisions of this Law, continue in force as if made under this Law.

Section 43(3)

PART 3

Repeals

- 1995 Revision The Currency Law (1995 Revision)
- 1995 Revision Sections 12(3)(c) and (6), 13 and the words “the Cayman Islands Currency Board or” in section 3(2), of the Banks and Trust Companies Law (1995 Revision)
- 1996 Revision Sections 5(2) and 12 of the Companies Management Law (1996 Revision)
- 1995 Revision Sections 5 (2) and (4) and 11 of the Insurance Law (1995 Revision)

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Sections 23, 24, 28, 29, 37 and 38 of the Mutual Funds Law (1996 Revision) 1996 Revision

Section 13 of the Public Loans Law (1996 Revision). 1996 Revision

Passed by the Legislative Assembly the 20th day of September, 1996.

Sybil McLaughlin
Speaker.

Georgette Myrie
Clerk of the Legislative Assembly.

(Price \$7.20)