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THE MONETARY AUTHORITY LAW (16 OF 1996)
(1998 Revision)

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MONETARY AUTHORITY LAW

(1998 Revision)

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MONETARY AUTHORITY LAW

(1998 Revision)

PART I -Introductory

1. This Law may be cited as the Monetary Authority Law (1998 Revision). Short title
2. In this Law- Definitions
 - “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 ten 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;
 - “Governor”, except in sections 12(3) and 16, means Governor in Council;

“head office” means the head office of the Authority established under 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; and

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

- (a) the Banks and Trust Companies Law (1995 Revision);
- (b) the Companies Management Law (1998 Revision);
- (c) the Insurance Law (1998 Revision);
- (d) the Mutual Funds Law (1996 Revision),

and any other laws that may be prescribed by the Governor 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.

4. The principal objects of the Authority shall be -

Principal objects of Authority

- (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 one hundred million dollars and may be increased, from time to time, by regulations made by the Governor.

Authorised capital

(2) On the establishment of the Authority such portion of the authorised capital, as the Governor 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 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 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 fifteen 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

Allocation of 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-

- (a) firstly, such amount from the net profits of the Authority as the board, with the approval of the Governor, 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 one hundred 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 fifteen 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 fifteen 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) six other directors, appointed in accordance with sections 10 and 11, all of whom shall have demonstrated to the satisfaction of the Governor 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 paragraph (b) of section 9(2) shall be appointed by the Governor.

(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;

- (b) shall hold office for a term not less than three years and not exceeding five years and shall be eligible for re-appointment; 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, 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 for the unexpired period of the term of office of the director in whose place he is appointed.

11. (1) The Governor 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 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 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 shall terminate the appointment of any director who -

- (a) resigns his office;
- (b) becomes of unsound mind or incapable of carrying out his duties;
- (c) becomes bankrupt, suspends payment to or compounds with his creditors;
- (d) is convicted in the Islands or in any other jurisdiction of an offence involving dishonesty, fraud or any indictable offence;
- (e) is guilty of serious misconduct in relation to his duties;

- (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.

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 three 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 four 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.

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) Whoever fails to comply with subsection (1) is guilty of an offence and liable -

- (a) on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years; or

- (b) on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for five years,

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 subsections (2) and (3) 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;
- (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 one thousand dollars 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.

(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 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

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

(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 may, in accordance with the advice of the Authority, by Order made in accordance with this section, prescribe.

(3) An Order made under subsection (1) shall come into operation at such time and day as may be specified in such Order.

(4) An Order made under subsection (1) shall be given such publicity immediately after it is subscribed in writing by the Governor 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). 1995 Revision

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 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 (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, of such form and design, 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 .

(2) Coins issued under this Law shall be of such denominations, of such form and design, 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 .

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.

25. (1) The Authority may, with the approval of the Governor, 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. Calling-in of currency

(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, 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 may, at its discretion, transfer to the general revenue of the Islands, ten 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. Whoever, 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 of one thousand dollars and to imprisonment for three months. 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 ninety per cent of the demand liabilities of the Authority; and
- (b) shall consist of all or any of -

- (i) gold coin or bullion;
- (ii) notes and coins, in such currencies as may be approved by the board;
- (iii) money at call and deposits with such banks and in such countries as may be approved by the board;
- (iv) treasury bills maturing within one hundred and eighty four days issued by such foreign governments as may be approved by the board;
- (v) marketable securities issued or guaranteed by such foreign governments or international financial institutions as may be approved by the board and maturing within ten years;
- (vi) such other securities and investments not exceeding twenty per cent of the value of the external assets as may be authorised by the Governor on the recommendation of the Authority.

(3) An amount equivalent to not less than twenty 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 twenty-five 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 one hundred per cent of the demand liabilities of the Authority, such deficiency shall, so far as possible, be met by transfer from the General Reserve and, to the extent that such deficiency is not thereby removed, it 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 not be chargeable with any liability arising from any other business of the Authority.

Part V - Operations

29. The Governor may, from time to time, after consultation with the board, give to the Authority in writing such general directions as appear to the Governor to be necessary in the public interest, and the Authority shall act in accordance with such directions. Relations with Government

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 Schedule 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

1998 Revision (3) In the performance of its functions under this Law, and in relation to persons licensed under the Companies Management Law (1998 Revision), the Authority may at all reasonable times-

- (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.

1998 Revision

(4) In the performance of its functions under this Law, and in relation to persons licensed under the Insurance Law (1998 Revision) the Authority may, at all reasonable times-

- (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.

1996 Revision

(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) Whoever fails to comply with any requirement of the Authority under subsection (2), (3), (4) or (5) is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to a fine of one hundred thousand dollars, and if the offence of which he is convicted is continued after conviction he commits a further offence and is liable to a fine ten thousand dollars 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;
- (b) he is purporting to act as such an officer; or
- (c) the licensee is managed by its members of whom he is one.

31. The Authority may -

General powers

- (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 one hundred and eighty-four days;
- (e) purchase and sell securities, maturing within ten 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 on the recommendation of the board;
- (g) borrow money, on such terms and conditions, as may be authorised by the Governor on the recommendation of the board, except that such loan shall not exceed two hundred and fifty thousand dollars or one 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; and
- (i) without prejudice to section 32, do any thing which is calculated to facilitate, is incidental to or consequential upon the exercise of the powers of the Authority or the discharge of its duties under this Law.

Prohibited activities

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

- (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

Financial year

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

Budget

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

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

(3) Such estimates and any amendments, when approved by the Governor 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, spend in total in any financial year more than the total amount of expenditure approved by the Governor 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 (1997 Revision).

1997 Revision

(3) On completion of the audit of the Authority's accounts under subsection (2) the Auditor-General shall prepare a report thereon within three 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 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~~ Exemption

39. The Governor may make such regulations as are required for the effective implementation of this Law. Regulations

40. The Authority may, subject to this Law, make such rules as it thinks fit to regulate its own internal management. Rules

Additional powers

41. The Governor may, by regulation subject to affirmative resolution, provide for the administration of any statutory function of government by the Authority.

42. (1) Subject to subsections (2) and (3), whoever is a director, officer, employee, agent or adviser of the Authority and who discloses any information relating to- Confidentiality

- (a) the affairs of the Authority;
- (b) any application made to the Authority or the Government under the regulatory laws;
- (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, is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and to imprisonment for one year, and on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for three years.

- (2) Subsection (1) does not apply to a disclosure-
- (a) lawfully required or permitted by any court of competent jurisdiction within the Islands;
 - (b) for the purpose of assisting the Authority to exercise any functions conferred on them by this Law, by any other law or by regulations made thereunder;
 - (c) in respect of the affairs of a licensee or of a customer, client, 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;
 - (d) for the purpose of enabling or assisting the Governor to exercise any functions conferred on him under this Law or regulations made thereunder or in connection with the dealings between the Governor and the Authority when the Authority exercises its functions under this or any other law;
 - (e) if the information disclosed is or has been available to the public from any other source;
 - (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.

SCHEDULE

Section 30(1)

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

From the 1st January, 1997, 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

Publication in consolidated and revised form authorised by the Governor in Council this 7th day of July, 1998.

Carmena H. Parsons
Clerk of Executive Council