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MONETARY AUTHORITY LAW
(2004 Revision)

Law 16 of 1996 consolidated with Laws 14 of 1997, 7 of 1998, 6 of 2000, 12 of 2000, 22 of 2001, 34 of 2002 and 35 of 2003.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Law 16 of 1996-20th September, 1996
Law 14 of 1997-10th June, 1997
Law 7 of 1998-16th March, 1998
Law 6 of 2000-14th July, 2000
Law 12 of 2000-18th September, 2000
Law 22 of 2001-26th July, 2001
Law 34 of 2002-19th December, 2002
Law 35 of 2003-16th December, 2003.

Consolidated and revised this 6th day of July, 2004.

Note (not forming part of the Law): This revision replaces the 2003 Revision which should now be discarded.

**MONETARY AUTHORITY LAW
(2004 Revision)**

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MONETARY AUTHORITY LAW
(2004 Revision)

PART I - Introductory

1. This Law may be cited as the Monetary Authority Law (2004 Revision). Short title
2. In this Law- Definitions
 - “advisory functions” means the functions of the Authority specified in section 6(1) (d);
 - “Authority” means the Cayman Islands Monetary Authority referred to in section 5;
 - “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 11;
 - “building society” means a society incorporated under the Building Societies Law (2001 Revision); 2001 Revision
 - “civil and administrative investigations and proceedings” mean proceedings in any court of law in the jurisdiction of an overseas regulatory authority and investigations undertaken by the overseas regulatory authority preliminary to bringing such proceedings;
 - “Class “A” bank” means a bank which is the holder of a licence under section 6(5)(a) of the Banks and Trust Companies Law (2003 Revision); 2003 Revision
 - co-operative functions” means the functions of the Authority specified in section 6(1)(c);
 - “credit union” means a cooperative society registered under the Cooperative Societies Law (2001 Revision) and having as its objects- 2001 Revision
 - (a) the promotion of thrift among the members of the society by the accumulation of their savings;
 - (b) the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;
 - (c) the use and control of the members savings for their mutual benefit; and
 - (d) the training and education of the members in the wise use of money and in the management of their financial affairs;

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

“Currency Reserve” means the reserve established under section 32;

“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 29(3);

“director” means a director of the Authority appointed under section 12;

“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 services business” means business regulated under any regulatory law;

“financial year” means the financial year of the Authority as defined in section 39;

“General Reserve” means the reserve established under section 8;

“Governor”, means Governor in Cabinet;

“head office” means the head office of the Authority established under section 5(4);

“licensee” means a person holding a licence under the regulatory laws, and includes a building society and a credit union;

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

“Management Committee” means the committee established under section 16(1);

“managing director” means the managing director of the Authority appointed under section 13;

“monetary functions” means the functions of the Authority specified in section 6(1)(a);

2004 Revision

“money laundering” has the meaning given by section 27(7) of the Proceeds of Criminal Conduct Law (2004 Revision);

“money laundering regulations” means regulations made under section 21 of the Proceeds of Criminal Conduct Law (2004 Revision);

“money services business” means-

- (a) the business of providing (as a principal business) any or all of the following services-
 - (i) money transmission;
 - (ii) cheque cashing;
 - (iii) currency exchange;
 - (iv) the issuance, sale or redemption of money orders or travellers cheques; and
 - (v) such other services as the Governor may specify by notice published in the Gazette; or
- (b) the business of operating as an agent or franchise holder of a business mentioned in paragraph (a),

and any question as to whether the provision of a service is the principal business of any person shall be determined by the Authority;

“overseas regulatory authority” means an authority which, in a country or territory outside the Islands, exercises functions corresponding to-

- (a) any of the regulatory functions of the Authority; or
- (b) any additional functions as may be specified in regulations including the conduct of civil and administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority;

“private sector association” means an association specified in the Third Schedule;

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

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

“regulatory handbook” means the handbook issued by the board under section 48;

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

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| (a) Banks and Trust Companies Law (2003 Revision); | 2003 Revision |
| (b) Building Societies Law (2001 Revision); | 2001 Revision |
| (c) Companies Management Law (2003 Revision); | 2003 Revision |
| (d) Cooperative Societies Law (2001 Revision); | 2001 Revision |
| (e) Insurance Law (2004 Revision); | 2004 Revision |
| (f) Money Services Law (2003 Revision); | 2003 Revision |
| (g) Mutual Funds Law (2003 Revision), | 2003 Revision |

and any other laws that may be prescribed by the Governor by regulations made under section 46; and

2003 Revision	“relevant financial business” has the meaning given by regulation 4 of the Money Laundering Regulations (2003 Revision).
Determination of fitness and propriety	3. In determining for the purposes of this Law whether a person is a fit and proper person, regard shall be had to all circumstances, including that person’s - (a) honesty, integrity and reputation; (b) competence and capability; and (c) financial soundness.
Private sector consultation	4. (1) When this Law requires private sector consultation in relation to a proposed measure – (a) the Authority shall give to each private sector association a draft of the proposed measure, together with – (i) an explanation of the purpose of the proposed measure; (ii) an explanation of the Authority’s reasons for believing that the proposed measure is compatible with the Authority’s functions and duties under section 6; (iii) an explanation of the extent to which a corresponding measure has been adopted in a country or territory outside the Islands; (iv) an estimate of any significant costs of the proposed measure, together with an analysis of the benefits that will arise if the proposed measure is adopted; and (v) notice that representations about the proposed measure may be made to the Authority within a period specified in the notice (not being less than thirty days or such shorter period as may be permitted by subsection (3)); and (b) before proceeding with the proposed measure, the Authority shall have regard to any representations made by the private sector associations, and shall give a written response, which shall be copied to all the private sector associations. (2) When this Law requires the approval of the Governor in relation to a proposed measure – (a) a copy of the representations made by the private sector associations (or, if not in writing, the Authority’s account of them); and (b) a copy of the Authority’s response to the representations, shall be forwarded to the Financial Secretary for consideration by the Governor. (3) If the Authority considers that a measure is urgently required for the protection of members of the public, the Authority may, with the consent of the Governor, specify a period less than thirty days under subsection (1)(a)(v), or postpone private sector consultation until after the measure has been adopted.

- (4) The Governor may by Order amend the Third Schedule.

PART II - Establishment, Capital And Administration Of Authority

5. (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.

Establishment of
Authority

(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.

6. (1) The principal functions of the Authority are -

Principal functions of
Authority

- (a) monetary functions, namely –
 - (i) to issue and redeem currency notes and coins; and
 - (ii) to manage the Currency Reserve,in accordance with this Law;
- (b) regulatory functions, namely –
 - (i) to regulate and supervise financial services business carried on in or from within the Islands in accordance with this Law and the regulatory laws;
 - (ii) to monitor compliance with the money laundering regulations; and
 - (iii) to perform any other regulatory or supervisory duties that may be imposed on the Authority by any other law;
- (c) co-operative functions, namely, to provide assistance to overseas regulatory authorities in accordance with this Law; and

- (d) advisory functions, namely, to advise the Government on the matters set out in paragraphs (a) to (c) and, in particular, with regard to –
 - (i) whether the regulatory functions and the co-operative functions are consistent with functions discharged by an overseas regulatory authority;
 - (ii) whether the regulatory laws are consistent with the laws and regulations of countries and territories outside the Islands; and
 - (iii) the recommendations of international organisations.
- (2) In performing its functions and managing its affairs, the Authority shall –
 - (a) act in the best economic interests of the Islands;
 - (b) promote and maintain a sound financial system in the Islands;
 - (c) use its resources in the most efficient and economic way;
 - (d) have regard to generally accepted principles of good corporate governance;
 - (e) comply with this and any other law, including any regulations or directions made or given thereunder; and
 - (f) have such ancillary powers as may be required to fulfil the functions set out in paragraphs (a) to (e).
- (3) In performing its regulatory functions and its co-operative functions, the Authority shall, in addition to complying with the requirements of subsection (2) –
 - (a) endeavour to promote and enhance market confidence, consumer protection and the reputation of the Islands as a financial centre;
 - (b) endeavour to reduce the possibility of financial services business or relevant financial business being used for the purpose of money laundering or other crime;
 - (c) recognise the international character of financial services and markets and the necessity of maintaining the competitive position of the Islands, from the point of view of both consumers and suppliers of financial services, while conforming to internationally applied standards insofar as they are relevant and appropriate to the circumstances of the Islands;
 - (d) recognise the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;

- (e) recognise the desirability of facilitating innovation in financial services business; and
- (f) recognise the need for transparency and fairness on the part of the Authority.

(4) In exercising its co-operative functions, the Authority shall, in addition to complying with the requirements of subsection (2) -

- (a) have regard to the matters mentioned in section 50(4); and
- (b) comply with section 50(4).

7. (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.

(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.

8. (1) There shall be a General Reserve of the Authority to which shall be allocated any amounts that may become available under section 10. General Reserve

(2) In the event that the General Reserve, after the allocation of amounts under section 10, 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.

9. 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

10. (1) The net profits of the Authority for each financial year shall be calculated in accordance with section 9 and shall be distributed as follows- Allocation of profits

- (a) firstly, such amount from the net profits of the Authority as the board 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 32(7), be maintained at a level of at least one hundred per cent of the demand liabilities of the Authority;

- (b) secondly, so long as the General Reserve established under section 8 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

11. (1) There shall be a board of directors of the Authority which, subject to this Law, 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 managing director as an *ex officio* director; and
- (b) not more than nine other directors (including the chairman of the board and the deputy chairman of the board),

appointed in accordance with sections 12 and 13, each of whom shall be a fit and proper person and shall have demonstrated to the satisfaction of the Governor substantial knowledge and experience relevant to at least some of the functions of the Authority.

(3) The chairman of the board and the deputy chairman of the board, respectively, shall be designated by the Governor after consultation with the directors appointed in accordance with sections 12 and 13.

Appointment of
directors

12. (1) The directors referred to in paragraph (b) of section 11(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 of three 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 Governor.

(3) Paragraphs (b) and (c) of subsection (2) shall not apply to a director who is appointed managing director under section 13.

(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.

13. (1) The Governor, after consultation with the board, shall appoint a fit and proper person 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, after consultation with the board, 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, after consultation with the board, appoint a person to discharge the duties of the managing director during the period of his absence or inability.

(6) Without prejudice to section 14(3), the Governor, on the recommendation of the board, shall terminate the appointment of the managing director.

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

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 18.

(3) The Governor, in the public interest may terminate the appointment of any director.

Meetings and decisions
of board

15. (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 47.

(2) At a meeting of the board, the chairman of the board or, if he is not present, the deputy chairman or, if he is not present, a director chosen by the directors present, shall act as the chairman of the meeting.

(3) At every meeting of the board, a quorum shall consist of five 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 of the meeting shall, in addition, have a casting vote.

(3) The board may act notwithstanding that a vacancy exists among the members or in the office of chairman or deputy chairman, 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,

(4) The board shall have power to delegate from time to time –

- (a) any of its duties and powers (other than a duty or power expressly imposed or conferred on the board by this Law), to the Management Committee; and
- (b) any of its duties and powers (other than a licensing or supervisory power or duty), to a committee appointed by the board under section 17,

and a decision of the Management Committee or a committee so appointed shall be deemed to be a decision of the board.

(5) A delegation under paragraph (a) or (b) of subsection (4) is revocable at will and does not prevent the exercise by the board of any duties or powers so delegated.

(6) For the purposes of this Law, a director shall be deemed to be present at a meeting of the board if he gains access to the meeting by conference telephone or by some other conference facility.

16. (1) Without prejudice to section 17, there is established a committee to be known as the Management Committee. Establishment of
Management Committee

(2) The Management Committee shall comprise –

- (a) the managing director;
- (b) a deputy managing director;
- (c) the head of each regulatory and each supervisory division within the Authority, or such person as may be designated by the head to act in his absence; and
- (d) such other senior officer of the Authority as the managing director may, with the approval of the board, designate.

(3) The managing director may designate an employee of the Authority to act as secretary to the Management Committee performing such duties as the Management Committee may determine.

(4) The board may, subject to section 15(4), by instrument in writing, delegate to the Management Committee such licensing, supervisory and other powers and duties as the board sees fit; and the Management Committee shall, subject to section 48, exercise and carry out the powers and duties so delegated by the board.

17. (1) The board may appoint committees additional to the Management Committee, to assist the board in exercising the board's management functions under this Law, and shall appoint such persons as it sees fit to be members of the committees. Additional committees

(2) The managing director may designate a member of any such committee to act as secretary to the committee performing such duties as the committee may determine.

(3) The board may, by instrument in writing, delegate to a committee appointed by the board under subsection (1), such powers and duties (other than licensing or supervisory powers or duties) as the board sees fit; and the committee shall exercise and carry out the powers and duties so delegated by the board.

Pecuniary interest of director or committee member.

18. (1) If a director, a member of the Management Committee or a member of a committee appointed under section 17, 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, Management Committee or other committee, as the case may be, 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, Management Committee or other committee, as the case may be.

(4) No act or proceeding of the board, Management Committee or other committee, shall be questioned on the ground that a director of the board or a member of the Management Committee or other committee, as the case may be, has contravened this section.

Pecuniary interests for the purposes of section 18

19. (1) For the purposes of section 18, a director, a member of the Management Committee or a member of a committee appointed under section 17, shall be treated, subject to subsections (2) and (3) and to section 20, as having indirectly a pecuniary interest in a contract, proposed contract, licence or other matter if -

- (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 this section to be also the interest of the other.

20. (1) The Governor may, in the public interest 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 18 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 18 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 18 shall 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 18 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.

21. (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, including one or more deputy managing directors as the board considers necessary for the performance of the functions of the Authority.

Power to employ staff, etc.

(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

Unit of currency

22. (1) The unit of currency of the Islands shall continue to be the Cayman dollar divided into one hundred 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 may, in accordance with the advice of the Authority, by Order made under this section, prescribe.

(3) An Order made under subsection (2) shall come into operation at such time and day as may be specified in such Order.

(4) An Order made under subsection (2) 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.

2003 Revision

(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 (2003 Revision).

Contracts, etc., to be made in currency

23. 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.

24. (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.

25. (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 22 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.

26. The Authority shall-

Provisions relating to
issue of currency

- (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.

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

Denominations and
forms of currency

(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	28. (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	29. (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. (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.
Mutilated, etc., currency	30. 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.
Defacing, etc., of notes or coins	31. 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.

PART IV - Currency Reserve

32. (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) marketable securities issued by such government agencies as may be approved by the Governor on the recommendation of the board; and
 - (vii) such other securities and investments not exceeding twenty-five per cent of the value of the Currency Reserve assets as may be authorised by the Governor on the recommendation of the board.

(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 money at call or on deposit with such Class "A" banks as may be approved by the board.

(6) The total of the value of the local assets referred to in subsection (5) shall not, at any time, exceed ten 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 25(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.

(9) For the avoidance of doubt, it is hereby declared that the assets of the Currency Reserve shall not be the subject of any order for injunction, attachment, execution or similar order in any proceedings before any court or tribunal.

PART V - Operations

Relations with
Government

33. (1) 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.

(2) If it appears to the Authority that the regulatory laws, or any regulations or directions made or issued thereunder, are to any extent inconsistent with the Authority's regulatory functions, the Authority shall make recommendations to the Governor and, if so required by the Financial Secretary, shall conduct private sector consultation with respect to such recommendations.

(3) In its relations with the Governor, the Authority shall direct its communication in writing through the Financial Secretary.

Relations with banks
and other financial
institutions

34. (1) After private sector consultation and with the approval of the Governor, the Authority may –

- (a) issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees;

- (b) issue or amend statements of guidance concerning the requirements of the money laundering regulations; and
- (c) issue or amend rules or statements of principle or guidance to reduce the risk of financial services business being used for money laundering or other criminal purposes.

(2) The approval of the Governor may be given specifically with regard to a proposed measure or generally with regard to measures of a specified description.

(3) Rules or statements of principle or guidance issued under subsection (1) shall be consistent with this Law and the regulatory laws and with any regulations or directions made or given thereunder.

(4) The guidance notes referred to as “The Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands” issued on the 26th April, 2001, shall be deemed to have been issued under subsection (1).

(5) The Authority shall, without delay, publish in the Gazette notice of –

- (a) the issue or amendment of rules or statements of principle or guidance under subsection (1); and
- (b) any approval of the Governor under subsection (2).

(6) A breach of the rules or statements of principle or guidance issued under subsection (1) shall not constitute an offence, or of itself give rise to any right of action by persons affected, or affect the validity of any transaction.

(7) Rules made under subsection (1) may provide for the imposition by the Authority of penalties for breach of such rules, but-

- (a) no penalty shall exceed one thousand dollars; and
- (b) the rules shall establish the procedure and policy for imposing the penalty.

(8) The Authority may at all reasonable times, by notice in writing given-

- (a) to a person regulated under the regulatory laws;
- (b) to a connected person; or
- (c) to a person reasonably believed to have information relevant to an enquiry by the Authority,

require him-

- (i) to provide specified information or information of a specified description; or
- (ii) to produce specified documents or documents of a specified description,

as it may reasonably require in connection with the exercise by the Authority of its regulatory functions.

(9) Where, in accordance with section 50, the Authority is satisfied that assistance should be provided in response to a request by an overseas regulatory authority it may in writing direct-

- (a) a person regulated under the regulatory laws;
- (b) a connected person;
- (c) a person that is engaging in an activity that is subject to regulation under the regulatory laws; or
- (d) a person reasonably believed to have information relevant to enquiries to which the request relates,

within a stated time, to-

- (i) provide the Authority with specified information or information of a specified description with respect to any matter relevant to the inquiries to which the request relates;
- (ii) produce specified documents or documents of a specified description relevant to those inquiries; or
- (iii) give to the Authority such assistance in connection with those inquiries as the Authority may specify in writing.

(10) Where a person fails to comply with a requirement under subsection (8) or a direction given under subsection (9) within three days from the date of the requirement or direction or such longer period as the Authority may permit, the Authority may apply to the court for an order requiring the person to comply with the requirement or direction.

(11) Where, in connection with a requirement under subsection (8) or a direction given under subsection (9), the Authority considers it necessary to examine a person on oath, the Authority may apply to a court of summary jurisdiction to have that person examined by the court and to have the results of that examination sent to the Authority.

(12) The court shall process an application under subsection (11) within seven days of its receipt and shall send the results of the examination to the Authority within fourteen days of the examination.

(13) Where documents are produced pursuant to subsection (8) or (9), the Authority may take copies of them or extracts from them.

(14) A person shall not be required under this section to disclose information or to produce a document which he would be entitled to refuse to disclose or to produce on the grounds of legal professional privilege in court

proceedings except that an attorney-at-law may be required to provide the name and address of his client or principal.

(15) Where a person claims a lien on a document, its production under this section is without prejudice to his lien.

(16) (a) In this section-

“document” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, the power to require its production includes power to require the production of a copy of it in legible and intelligible form.

- (b) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated or given to him-
 - (i) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;
 - (ii) by, or by a representative of, a person seeking legal advice from the adviser; or
 - (iii) by any person-
 - (A) in contemplation of, or in connection with, legal proceedings; and
 - (B) for the purpose of those proceedings.
- (c) No information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.
- (d) For the purposes of subsections (8) and (9), a person is connected with a person regulated under the regulatory laws (“A”) if he is or has at any relevant time been-
 - (i) a member of A’s group;
 - (ii) a controller of A;
 - (iii) any other member of a partnership of which A is a member; or
 - (iv) a member, officer, manager, employee or agent of A.

(17) Whoever, without reasonable cause-

- (a) fails to comply with a requirement of the Authority under subsection (8) or a direction of the Authority under subsection (9);
- (b) with intent to avoid the provisions of subsection (8) or (9) destroys, mutilates, defaces, hides or removes a document; or
- (c) wilfully obstructs an inquiry by the Authority, made in accordance with subsection (8) or (9),

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 of ten thousand dollars for every day on which the offence is so continued.

(18) (a) Where an offence under this section, which has been committed by a body corporate, is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

(b) Where the affairs of a body corporate are managed by its members, paragraph (a) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(19) Where a person complies with a requirement under subsection (8), a direction under subsection (9) or an order under subsection (10), or gives evidence under subsection (11), such compliance shall not be treated as a breach of any restriction upon disclosure of information by or under any law and shall not give rise to any civil liability.

Assistance in obtaining
information

35. (1) Where, in accordance with section 50, the Authority is satisfied that assistance should be provided in response to a request by an overseas regulatory authority, and that such assistance cannot be provided satisfactorily by means of its powers in section 34(1), the Authority may -

- (a) authorise a competent person to exercise any of its co-operative functions; and
- (b) seek the assistance of the Commissioner of Police in the exercise of those functions.

(2) No such assistance shall be sought or authority granted under subsection (1) except for the purpose of investigating -

- (a) the affairs, or any aspect of the affairs, of a person specified by the Authority; or
- (b) a subject matter specified by the Authority,

being a person who, or a subject matter which, is the subject of the inquiries being carried out by or on behalf of an overseas regulatory authority.

(3) No person shall be bound to comply with a requirement imposed by a person exercising powers by virtue of an authority granted under this section unless he has, if required, produced evidence of his authority.

(4) Where the Authority seeks assistance or grants an authority under subsection (1), the assistance or authority shall be provided or executed in such manner as the Authority may determine; and where the Authority grants such an authority to a person, he shall make a report to the Authority in such manner as the Authority may require on the exercise of that authority and the results of exercising it.

36. The Authority may -

General powers

- (a) purchase and sell gold coin and bullion;
- (b) open and maintain accounts with local banks;
- (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 board;
- (g) borrow money, on such terms and conditions, as may be authorised by 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 37, 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.

37. 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

Funds and resources of the Authority

38. The funds and resources of the Authority shall comprise –

- (a) such monies as may be appropriated by law for the purposes of the Authority;
- (b) monies paid and property provided to the Authority by way of grants, rent, interest and other income derived from the investment of the Authority's funds;
- (c) monies derived from the disposal of or dealing with real or personal property held by the Authority;
- (d) monies borrowed by the Authority in accordance with this Law; and
- (e) any property lawfully received or made available to the Authority.

Financial year

39. The financial year of the Authority shall end on the 30th June.

Application of the Public Management and Finance Law (2003 Revision)

40. The Authority is a statutory authority as defined in section 3 of the Public Management and Finance Law (2003 Revision) and accordingly that law applies, among other things, to -

- (a) the Authority's expenditure budget for each financial year; and
- (b) the preparation, maintenance, auditing and publication of the Authority's accounts.

Independent review of Authority's performance

41. (1) The Governor may, at any time, appoint an independent person to-

- (a) review the Authority's performance of any of its functions, including its observance of its general duties under section 4 and the regulatory handbook established under section 48; or
- (b) enquire into any action or inaction of the Authority which appears to raise questions of importance to the public interest,

and such appointment may include directions concerning the scope and conduct of the review or enquiry and the making of interim reports.

(2) The person appointed under subsection (1) (“the appointed person”) may, subject to any directions given in his appointment-

- (a) obtain such information from such persons and in such manner as he thinks fit;
- (b) review or enquire into such matters as he thinks fit; and
- (c) determine the procedure to be followed in connection with the review or the enquiry.

(3) The appointed person may require any person who, in his opinion, is able to provide any information or produce any document which is relevant to the review or enquiry to provide any such information or produce any such document, and for this purpose the appointed person shall have the same powers as the Grand Court in respect of the attendance and examination of witnesses (including the examination of witnesses abroad) and in respect of the production of documents.

(4) Where a person fails to comply with a requirement imposed on him under subsection (3), the appointed person may refer the matter to the Grand Court which may enquire into the matter and, if satisfied after hearing –

- (a) any witness who may be produced against or on behalf of the person who fails to comply; and
- (c) any statement made by or on behalf of such person,

that such person would have been in contempt of court if the review or enquiry had been proceedings before the court, such person may be dealt with by the court in the same manner as if he were in contempt of court.

(5) The appointed person shall, upon the completion of the review or enquiry, make a written report to the Financial Secretary setting out the result of the review or enquiry and making such recommendations (if any) as he considers appropriate.

(6) The report under subsection (5) shall be laid before the Legislative Assembly, subject to the removal of any material-

- (a) which the Financial Secretary considers to relate to the affairs of a particular person whose interests would be seriously and unfairly prejudiced by the publication; or
- (b) whose disclosure, in the Financial Secretary’s opinion, would be incompatible with the public interest or an international obligation of the Islands.

(7) Expenses reasonably incurred in conducting a review or enquiry shall be paid out of the revenue of the Islands.

Surplus	42. Where there is a surplus on the budget approved for the Authority's expenditure for any financial year, such surplus shall be paid into the General Reserve unless otherwise agreed upon with the Governor.
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PART VII - General

Immunity	43. 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 and the regulatory laws unless it is shown that the act or omission was in bad faith.
Indemnity	44. The Authority shall indemnify a director against all claims, damages, costs, charges or expenses incurred by that director in the discharge or purported discharge of his functions or duties under this Law and the regulatory laws, except claims, damages, costs, charges or expenses caused by the bad faith of that director.
Exemption 2003 Revision	45. The functions of the Authority shall be deemed not to be banking business for the purposes of the Banks and Trust Companies Law (2003 Revision).
Regulations	46. The Governor may make regulations providing for such matters as may be contemplated by, or necessary for giving full effect to, this Law and for its administration including the charging of fees for any administrative service provided by the Authority to a licensee or to members of the public upon request. (1) Without prejudice to subsection (1), the fees prescribed in the Second Schedule shall be charged for the administrative services specified in relation thereto, and the Governor may, by regulations, amend that Schedule. (2) Regulations made under subsection (1) and providing for the charging of fees for administrative services, are subject to affirmative resolution of the Legislative Assembly.
Rules	47. (1) The Authority may, subject to this Law, make such rules as it thinks fit to regulate its own internal management. (2) A copy of rules made under subsection (1) shall be forwarded to the Financial Secretary.
Regulatory handbook	48. (1) The board shall issue, and may amend, a regulatory handbook setting out, as far as is practicable, the policies and procedures to be followed by the Authority, its committees and its officers in performing the Authority's regulatory functions and co-operative functions.

(2) The regulatory handbook shall be consistent with any law or any regulations or policy directions given or made thereunder.

(3) The regulatory handbook shall include policies and procedures for -

- (a) giving warning notices to persons affected adversely by proposed actions of the Authority;
- (b) giving reasons for the Authority's decisions; and
- (c) receiving and dealing with complaints against the Authority's actions and decisions.

(4) In cases where the regulatory handbook would have the effect of creating, directly or indirectly, rules or statements of principle or guidance concerning the conduct of licensees or their officers or employees, the Authority shall consult with the private sector associations and seek the approval of the Governor.

(4) The regulatory handbook may provide for exceptions from its own requirements to be made by the board or a specified committee or officer of the Authority.

(5) The Authority shall publish the regulatory handbook and any amendments to it in the Gazette, and the regulatory handbook and any such amendments shall take effect and come into operation on the date of such publication.

(6) It shall be a duty of the board to ensure that the regulatory handbook is observed by the committees and officers of the Authority, to keep the regulatory handbook under continuing review, and to consult the Financial Secretary and the private sector associations on the extent to which the regulatory handbook could be made more consistent with section 4.

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

50. (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, member, 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) shall 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, member, client or policyholder of, or a company or mutual fund managed by, a licensee, with the authority of the licensee, customer, member, 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, member, client or policyholder of, or company or mutual fund managed by, a licensee to which the information relates to be ascertained;
 - (g) lawfully made -
 - (i) to the Attorney-General or a law enforcement agency in the Islands, with a view to the institution of or for the purpose of criminal proceedings;
 - (ii) to a person pursuant to the money laundering regulations; or
 - (iii) to an overseas regulatory authority under subsection (3); or
 - (h) 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 (9) -
 - (a) where the Authority is satisfied that a request for assistance from an overseas regulatory authority is a routine regulatory request, the Authority may disclose to the overseas regulatory authority the requested information, but shall keep a record of all such

requests and disclosures and an inventory of the information disclosed, and shall make the records and inventory available to the Attorney-General or the Financial Secretary upon request;

- (b) where the Authority is not satisfied that a request for assistance from an overseas regulatory authority is a routine regulatory request, the Authority, after having sent a copy of the request to the Attorney-General and to the Financial Secretary in accordance with subsection (10), may disclose to the overseas regulatory authority information necessary to enable the overseas regulatory authority to exercise regulatory functions including the conduct of civil and administrative investigations and proceedings to enforce laws, regulations and rules administered by the overseas regulatory authority; and
- (c) where the Authority has provided information under paragraph (a) or (b) and the Authority has received the advice of the Attorney-General that there are reasonable grounds for believing that an offence specified in an overseas regulatory authority's request for assistance has been committed and -
 - (i) the information already provided by the Authority to the overseas regulatory authority relates to the offence; or
 - (ii) the Cayman Authority, under a treaty for the provision of mutual assistance between the authorities in the Islands and the relevant country or territory, has given permission for disclosure of the information,

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

(4) In deciding whether or not to assist an overseas regulatory authority (whether by use of the Authority's powers under subsection (3), section 34, section 35, or otherwise), the Authority shall take into account -

- (a) whether corresponding assistance would be given in the relevant country or territory to the Authority;
- (b) whether the inquiries relate to the possible breach of a law or other requirement which has no close parallel in the Islands or involve the assertion of a jurisdiction not recognised by the Islands;
- (c) the seriousness of the matter to which the inquiries relate, the importance to the inquiries of the information sought in the Islands; and
- (d) except in the case of a routine regulatory request, whether in the light of advice from the Attorney-General or the Financial

Secretary, it is not in the public interest to give the assistance sought.

(5) For the purposes of paragraph (a) of subsection (4), the Authority may require an overseas regulatory authority which requests assistance to give a written undertaking, in such form as the Authority may require, to provide corresponding assistance to the Authority.

(6) Where an overseas regulatory authority fails to comply with a requirement of the Authority under subsection (5), the Authority may refuse to provide the assistance sought.

(7) The Authority may decline to exercise its power under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the costs of the exercise as the Authority considers appropriate.

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

(9) In this section -

1999 Revision

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

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

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

(10) The Authority shall not give to an overseas regulatory authority any assistance involving the disclosure or gathering of, or the giving of access to, information or documents 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; or

- (b) the Authority has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Authority; and
- (c) the Authority is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of the overseas regulatory authority's regulatory functions including the conduct of civil and administrative investigations or proceedings to enforce laws corresponding to the regulatory laws and administered by that authority; and
- (d) the Authority is satisfied that information provided following the exercise of its powers under subsection (3) will not be used in criminal proceedings against the person providing the information, other than proceedings for an offence under section 34(17) or an offence of perjury.

(11) Where the Authority is not satisfied that a request for assistance from an overseas regulatory authority is a routine regulatory request, the Authority shall notify the Attorney-General and the Financial Secretary immediately the request is received, with particulars of the request, and shall send them copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings in the Islands, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(12) For the purposes of this section and subject to any general direction given by the Governor under section 33, a "routine regulatory request" in relation to an overseas regulatory authority is a request for the purpose of allowing the overseas regulatory authority to carry out its day to day functions of approval of licences, approval of persons subject to regulation and registration of applicants.

51. (1) The Authority may in the exercise of its co-operative functions, with the approval of the Governor, enter into memoranda of understanding with overseas regulatory authorities for the purpose of assisting consolidated supervision with such authorities or for such other purposes as the Governor may deem fit.

Memoranda of
understanding

(2) No memorandum of understanding may call for assistance beyond that which is provided for by this Law, or relieve the Authority of any of its functions or duties under this Law.

(3) The Authority shall notify the Financial Secretary of each memorandum of understanding and promptly publish the memorandum of understanding in the Gazette.

FIRST SCHEDULE

section 34(1)

Regulation of Banks, Trust Companies, Company Management, Insurance Companies, Mutual Funds, Money Services Businesses, Credit Unions and Building Societies

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 (2001 Revision) is to be read as a reference to the Authority.

SECOND SCHEDULE

Fees

Column 1	Column 2	Column 3
Item	Description of Fee	Fee
1.	Fee for letter confirming registration or licensed status of company, etc. and status of regulatory filings	\$200
2.	Fee for the approval by the Authority of the appointment of a new director of a licensee	\$200
3.	Fee for voluntary surrender of a licence or registration certificate to the Authority.	\$200

THIRD SCHEDULE

(Sections 2 and 4(4))

Private Sector Associations

Cayman Islands Bankers Association
Cayman Islands Company Managers Association
Cayman Islands Fund Managers Association

Cayman Islands Insurance Managers Association
Cayman Islands Law Society
Cayman Islands Society of Professional Accountants
Caymanian Bar Association
Compliance Association
Society of Trust and Estate Practitioners (Cayman Islands)

Publication in consolidated and revised form authorised by the Governor in Cabinet this 6th day of July, 2004.

Carmena Watler
Clerk of Cabinet

Note (not forming part of the Law):

Under sections 27 and 28 of Law 30 of 2002 provisions regarding validation, savings and transitional provisions were made to the following effect –

(1) Any direction, guidance note, statement of principle or guidance, rule, code of practice, code of conduct or other instrument issued by the Authority or the board in purported exercise of powers conferred by the 2002 Revision, insofar as it is not inconsistent with this Revision, is validated and is to be taken to have been lawfully issued and to continue in force as if made under the relevant provisions of this Revision.

(2) This Revision does not affect any order or determination made by a court prior to the 12th March, 2003.

(3) A person, other than the Financial Secretary, who immediately before the 12th March, 2003 was a director of the Authority under the 2002 Revision, continues to be a director of the Authority under and for the purposes of this Revision for a term expiring on the day on which the appointment of the person would have expired under the 2002 Revision.

(4) The person who immediately before the 12th March, 2003 was the managing director of the Authority under the 2002 Revision, continues to be the managing director of the Authority under and for the purposes of this Revision for

a term expiring on the day on which the appointment of the person would have expired under the 2002 Revision.

- (5) Notwithstanding the amendments effected by Part VI of this Revision –*
 - (a) the first financial year ending on the 30th June shall be the financial year ending on the 30th June, 2004;*
 - (b) the financial year immediately prior to the year ending on the 30th June, 2004 shall be for a period of six months ending on the 30th June, 2003; and*
 - (c) the financial years prior to that defined in paragraph (b) shall be for a year ending on the 31st December.*

(Price \$ 8.00)