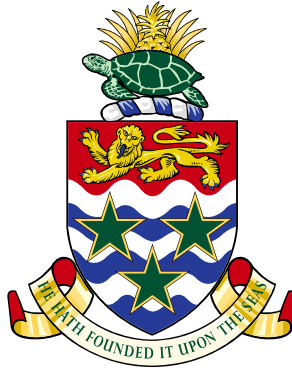


CAYMAN ISLANDS



BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2020

Supplement No. 5 published with Legislation Gazette No. 31 dated 28th April, 2020.

A BILL FOR A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW (2020 REVISION) TO CLARIFY THAT A PERSON MUST HAVE A LICENCE TO CARRY ON TRUST BUSINESS; TO CLARIFY THE DEFINITION OF RELEVANT FINANCIAL BUSINESS; TO EMPOWER THE AUTHORITY TO IMPOSE ADMINISTRATIVE FINES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Home Affairs (FSHA)



Memorandum of OBJECTS AND REASONS

This Bill seeks to amend the Banks and Trust Companies Law (2020 Revision) (“the principal Law”) to clarify that a person must have a licence to carry on trust business and to clarify the interpretation of term “relevant financial business”. The Bill would also empower the Authority to impose administrative fines and provide for incidental and connected purposes.

Clause 1 provides the short title of the legislation.

Clause 2 seeks to amend section 5 of the principal Law by repealing and substituting subsection (2) in order to prohibit a person from carrying on, purporting to carry on, or arranging for another person to carry on trust business unless the person holds a valid licence granted by the Authority under the principal Law authorising that person to carry on such business or is exempt under regulations made under subsection (2B) from holding such licence. The provision also clarifies that an individual shall not carry on, purport to carry on, or arrange for another person to carry on, trust business in or from within the Islands.

Clause 3 seeks to amend section 15 of the principal Law to clarify that the term “relevant financial business” has the same meaning given to that term under section 2(1) of the Proceeds of Crime Law (2020 Revision).

Clause 4 seeks to amend section 18 of the principal Law to provide for the power of the Authority to impose administrative fines.

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BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2020

Arrangement of Clauses

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CAYMAN ISLANDS

**BANKS AND TRUST COMPANIES
(AMENDMENT) BILL, 2020**

A BILL FOR A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW (2020 REVISION) TO CLARIFY THAT A PERSON MUST HAVE A LICENCE TO CARRY ON TRUST BUSINESS; TO CLARIFY THE DEFINITION OF RELEVANT FINANCIAL BUSINESS; TO EMPOWER THE AUTHORITY TO IMPOSE ADMINISTRATIVE FINES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the Banks and Trust Companies (Amendment) Law, 2020.

Amendment of section 5 of the Banks and Trust Companies Law (2020 Revision) - licence or registration required to carry on banking or trust business

2. The *Banks and Trust Companies Law (2020 Revision)*, in this Law referred to as the “principal Law”, is amended in section 5 as follows —

(a) by repealing subsection (2) and substituting the following subsections —

“(2) A person shall not —

- (a) carry on, or purport to carry on, trust business; or
- (b) arrange for another person to carry on trust business,

from within the Islands, whether or not such business is carried on in the Islands, unless that person is a person referred to in subsection (2A) and holds a valid licence granted by the Authority under this Law authorising the person to carry on trust business or is exempt under regulations made under subsection (2B) from holding such licence.

(2A) Subject to subsection (3), a person who carries on trust business under this Law shall be —

- (a) a company incorporated under the *Companies Law (2020 Revision)*;
- (b) a general partnership established under the *Partnership Law (2013 Revision)*;
- (c) a limited partnership registered under the *Partnership Law (2013 Revision)*;
- (d) an exempted limited partnership registered under the *Exempted Limited Partnership Law (2018 Revision)*;
- (e) a foreign company registered under Part IX of the *Companies Law (2020 Revision)*;
- (f) a limited liability company formed and registered under the *Limited Liability Companies Law (2020 Revision)*; or
- (g) a limited liability partnership formed and registered under the *Limited Liability Partnership Law, 2017 (Law 13 of 2017)*.

(2B) The Cabinet may make regulations to provide for exemptions and conditions in relation to the requirements of subsection (2).

(2C) Notwithstanding any provision of this Law or any other Law, an individual shall not —

- (a) carry out trust business; or
- (b) arrange for another person to carry out trust business, in or from within the Islands, under this Law.”; and

- (b) in subsection (6) by deleting the words “subsection (2)” and substituting the words “subsection (2B)”.

Amendment of section 15 - general requirements for trust companies

3. The principal Law is amended in section 15(3) by deleting the words “under Schedule 6” and substituting the words “as defined under section 2(1)”.



Amendment of section 18 - additional powers of Authority

4. The principal Law is amended in section 18(1) by inserting after subparagraph (ic), the following subparagraph —

“(id) impose an administrative fine in accordance with section 42A of the *Monetary Authority Law (2020 Revision)*”.

Passed by the Legislative Assembly the day of , 2020.

Speaker

Clerk of the Legislative Assembly

