

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE MONETARY AUTHORITY LAW
(2013 REVISION) TO REPLACE THE WORD “GOVERNOR” WITH THE
WORD “CABINET” WHEREVER IT APPEARS IN THE LAW; TO
TRANSFER RESPONSIBILITY FOR CERTAIN FUNCTIONS FROM THE
FINANCIAL SECRETARY TO THE MINISTER CHARGED WITH THE
RESPONSIBILITY FOR FINANCIAL SERVICES AND TO THE
MINISTER CHARGED WITH RESPONSIBILITY FOR FINANCE AS THE
CASE MAY BE; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

THE MONETARY AUTHORITY (AMENDMENT) BILL, 2015

MEMORANDUM OF OBJECTS AND REASONS

This Bill would replace the word “Governor”, which is defined as “Governor in Cabinet, with the word “Cabinet” wherever it appears in the Law. It would make provision to transfer responsibility for certain functions from the Financial Secretary to the Minister charged with the responsibility for Financial Services and to the Minister charged with responsibility for Finance as the case may be; and provide for incidental and connected purposes.

Clause 1 of the Bill would set out the short title.

Clause 2 of the Bill would amend section 2 of the Monetary Authority Law (2013 Revision) (the “principal Law”) by removing the definition of the word “Governor” and replacing references to the word “Governor” with references to the word “Cabinet” wherever else the word “Governor” appears in the definition section. It would also replace the word “Governor”, which was defined as “Governor in Cabinet, with the word “Cabinet” wherever it appears in the Law.

Clause 3 of the Bill would amend section 4 of the principal Law, which sets out the procedure for private sector consultation. Under this provision, copies of responses of private sector associations to proposed measures of the Monetary Authority are forwarded to the Financial Secretary together with the corresponding proposed measures. This clause of the Bill would make provision for these copies and proposed measures to be forwarded to the Minister charged with responsibility for Financial Services.

Clause 4 would amend section 13 of the principal Law which permits the Governor in Cabinet, after consultation with the board, to appoint a substitute for the managing director, in the managing director’s absence for any period of time during which the managing director is unable to act in that capacity. This clause would permit the board to appoint a substitute managing director for the aforesaid periods and require that the Minister charged with responsibility for Financial Services to be notified forthwith of an appointment under the foregoing circumstances.

Clause 5 of the Bill would amend section 27 of the principal Law which makes provision for the form, design and production of currency notes and coins to be recommended by the Monetary Authority and approved by the Governor in Cabinet. This clause of the Bill would require the Authority, when seeking

approval from the Cabinet, to forward all communication to the Cabinet through the Minister charged with responsibility for Finance.

Clause 6 of the Bill would amend section 29 of the principal Law which makes provision for the Monetary Authority, with the approval of the Governor in Cabinet, to declare that currency notes and coins cease to be legal tender and to make provision for the calling in of those notes and coins. This clause of the Bill would require the Monetary Authority, when seeking approval from the Cabinet, to forward all communication to the Cabinet through the Minister charged with responsibility for Finance.

Clause 7 of the Bill would amend section 33 of the principal Law which makes provision for the Governor in Cabinet, after consultation with the board of the Monetary Authority, to give general directions, in the public interest, to the Monetary Authority. The section also makes provision for the Monetary Authority to make recommendations with respect to these directions and if required by the Financial Secretary, conduct private sector consultations with respect to the recommendations. This section further makes provision for communication to the Governor from the Monetary Authority to be directed through the Financial Secretary. This clause of the Bill would make the obligations of the Monetary Authority to the Financial Secretary under section 33, obligations to the Minister charged with responsibility for Financial Services.

Clause 8 of the Bill would amend section 34 of the principal Law which makes provision for the Monetary Authority, after private sector consultation and consultation with the Financial Secretary, to issue or amend rules or statements of principle or guidance concerning licensees, officers and employees of licensees, or requirements regarding the laws relating to money laundering regulations and rules or statements of principle or guidance to reduce the risk of financial services being used for money laundering or other criminal purposes. This provision also requires the Monetary Authority to publish the rules or statements of principle or guidance in the Gazette and forward copies of same to the Financial Secretary. This clause of the Bill would make the obligations of the Monetary Authority to the Financial Secretary regarding consultation and publication, obligations to the Minister charged with responsibility for Financial Services.

Clause 9 of the Bill would amend section 41 of the principal Law which makes provision for the appointment of an independent person to review the performance, functions and actions of the Monetary Authority. This section makes provision for the person to submit a report to the Financial Secretary and for the report to be laid before the Legislative Assembly. The section also makes provision for information which the Financial Secretary considers prejudicial to any person or incompatible with public interest of the international obligations, to

be removed from the report prior to the report being laid before the Legislative Assembly. This clause of the Bill would make provision for the abovementioned report to be submitted to the Minister charged with responsibility for Financial Services and would permit him to make changes considered necessary under the Law to the report before submission to the Legislative Assembly.

Clause 10 of the Bill would amend section 47 of the principal Law which permits the Monetary Authority to make rules for its internal regulation and makes provision for a copy of these rules to be forwarded to the Financial Secretary. This clause of the Bill would make provision for a copy of the foregoing rules to be sent to the Minister charged with responsibility for Financial Services.

Clause 11 of the Bill would amend section 48 of the principal Law which requires the board to issue a regulatory handbook and sets out the out the circumstances under which the Monetary Authority would be under obligation to consult with the private sector and the Financial Secretary. This clause of the Bill would replace the obligation to consult with the Financial Secretary with an obligation to consult with the Minister charged with responsibility for Financial Services.

Clause 12 of the Bill would amend section 51 of the principal Law which would permit the Monetary Authority to, after consultation with the Financial Secretary, enter into memoranda of understanding with overseas regulatory authorities to assist cross border supervision. This clause of the Bill would replace the obligation to consult with the Financial Secretary with an obligation to consult with the Minister charged with responsibility for Financial Services.

THE MONETARY AUTHORITY (AMENDMENT) BILL, 2015

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of sections 2, 4, 7, 11, 12, 13, 14, 20, 21, 22, 25, 27, 29, 32, 33, 41, 42, 46, 49 and 50
3. Amendment of section 4 - Private Sector Consultation
4. Amendment of section 13 - Appointment of managing director
5. Amendment of section 27 - Denominations and forms of currency
6. Amendment of section 29 - Calling-in of currency
7. Amendment of section 33 - Relations with Government
8. Amendment of section 34 - Relations with banks and other financial institutions
9. Amendment of section 41 - Independent review of Authority's performance
10. Amendment of section 47 - Rules
11. Amendment of section 48 - Regulatory handbook
12. Amendment of section 51 - Memoranda of understanding

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Monetary Authority (Amendment) Law, 2015.

Short title

2. The Monetary Authority Law, (2013 Revision), in this Law referred to as the “principal Law”, is amended -

Amendment of the Monetary Authority Law (2013 Revision) - sections 2, 4, 7, 11, 12, 13, 14, 20, 21, 22, 25, 27, 29, 32, 33, 41, 42, 46, 49 and 50

- (a) in section 2 -
 - (i) by deleting the definition for the word “Governor”;
 - (ii) in the definition of the term “money services business” by deleting the word “Governor” and substituting the word “Cabinet” wherever it appears in the definition; and
 - (iii) in the definition of the term “regulatory laws” by deleting the word “Governor” and substituting the word “Cabinet” wherever it appears in the definition; and
- (b) in sections 4, 7, 11, 12, 13, 14, 20, 21, 22, 25, 27, 29, 32, 33, 41, 42, 46, 49 and 50 by deleting the word “Governor” and

substituting the word “Cabinet” wherever it appears in these sections.

Amendment of section 4 - private sector consultation

3. The principal Law is amended in section 4(2) by deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services” wherever it appears.

Amendment of section 13 - appointment of managing director

4. The principal Law is amended in section 13 by deleting subsections (5) and (6) and substituting the following subsections -

“(5) In the event of the absence or inability to act of the managing director, the board -

- (a) may appoint a person to discharge the duties of the managing director during the period of the managing director’s absence or inability; and
- (b) shall forthwith notify the Minister charged with responsibility for Financial Services of an appointment made under paragraph (a).”.

(6) An appointment made by the board under subsection (5) shall not exceed three months and in the event that the absence of the managing director or the inability of the managing director to act is anticipated to be for a period exceeding three months, the Cabinet may, after consultation with the board, appoint a person to discharge the duties of the managing director for the duration of the managing director’s absence or inability.

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

Amendment of section 27 - denominations and forms of currency

5. The principal Law is amended in section 27 by inserting after subsection (2) the following subsection -

“(3) When seeking approval from the Cabinet under this section, the Authority shall direct its communication in writing through the Minister charged with responsibility for Finance.”.

Amendment of section 29 - calling-in of currency

6. The principal Law is amended in section 29 by inserting after subsection (3) the following subsection -

“(4) When seeking approval from the Cabinet under this section, the Authority shall direct its communication in writing through the Minister charged with responsibility for Finance.”.

7. The principal Law is amended in section 33 by - Amendment of section 33 - relations with Government
- (a) in subsection (2) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”; and
 - (b) in subsection (3) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”.
8. The principal Law is amended in section 34 by - Amendment of section 34 - relations with banks and other financial institutions
- (a) in subsection (1) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”; and
 - (b) in subsection (5) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”.
9. The principal Law is amended in section 41 by - Amendment of section 41 - independent review of Authority’s performance
- (a) in subsection (5) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”;
 - (b) in paragraph (6)(a) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”; and
 - (c) in paragraph (6)(b) deleting the words “Financial Secretary’s opinion” and substituting the words “opinion of the Minister charged with responsibility for Financial Services”.
10. The principal Law is amended in section 47(2) by deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”. Amendment of section 47 - rules
11. The principal Law is amended in section 48(4) by deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”. Amendment of section 48 - regulatory handbook
12. The principal Law is amended in section 51 by - Amendment of section 51 - memoranda of understanding
- (a) in subsection (1) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”; and
 - (b) in subsection (3) deleting the term “Financial Secretary” and substituting the term “Minister charged with responsibility for Financial Services”.

The Monetary Authority (Amendment) Bill, 2015

Passed by the Legislative Assembly the day of , 2015.

Speaker.

Clerk of the Legislative Assembly.