

CAYMAN ISLANDS



BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2019

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A BILL FOR A LAW TO AMEND THE BANKS AND TRUST COMPANIES LAW (2018 REVISION) TO EMPOWER THE MONETARY AUTHORITY TO REQUIRE LICENSEES PROVIDING COMPANY MANAGEMENT SERVICES TO COMPLY WITH PART 8 OF THE LIMITED LIABILITY PARTNERSHIP LAW, 2017; TO REQUIRE A TRUST COMPANY TO DISCLOSE ITS STATUS AS A TRUSTEE; TO REQUIRE BANKS OR A CAYMAN BANKING GROUP TO MAKE PUBLIC DISCLOSURES; 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 (2018 Revision) (“the principal Law”) to empower the Cayman Islands Monetary Authority (“the Authority”) to require licensees providing company management services to comply with Part 8 of the Limited Liability Partnership Law, 2017 and to require a trust company to disclose its status as a trustee. The Bill also seeks to require banks or a Cayman banking group to make public disclosures and provides for incidental and connected purposes.

Clause 1 provides for the short title of the legislation.

Clause 2 seeks to amend section 13 of the principal Law to require an auditor to give notice to the Authority where the auditor suspects that Part 8 of the Limited Liability Partnership Law, 2017 is being contravened by a licensee who is a “corporate services provider” as defined in that Part.

Clause 3 seeks to amend section 15 of the principal Law to provide an obligation which requires a person carrying on trust business when acting in the capacity as a trustee of a trust to disclose that status to persons conducting relevant financial business under Schedule 6 of the Proceeds of Crime Law (2019 Revision) when entering into a business relationship or one-off transaction with such persons.

Clause 4 seeks to amend section 18 of the principal Law to enable the Authority to sanction a licensee that contravenes Part 8 of the Limited Liability Partnership Law, 2017.

Clause 5 seeks to amend the principal Law to introduce a new section 18A which empowers the Authority to require a licensee holding a licence to carry on banking business or a Cayman banking group to make public disclosures as may be specified by the Authority.

Clause 6 seeks to amend section 22 of the principal Law to give a Justice of the Peace the power to issue a search warrant to the Authority where there is reason to believe that an offence has been committed against Part 8 of the Limited Liability Partnership Law, 2017.

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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the Banks and Trust Companies (Amendment) Law, 2019.

Amendment of section 13 of the Banks and Trust Companies Law (2018 Revision) - obligations of auditors

2. The *Banks and Trust Companies Law (2018 Revision)*, in this Law referred to as “the principal Law”, is amended in section 13(1)(e)(ia) by deleting the words “or Part 12 of the *Limited Liability Companies Law (2018 Revision)*” and substituting the words “, Part 12 of the *Limited Liability Companies Law (2018 Revision)* or Part 8 of the *Limited Liability Partnership Law, 2017*”.



Amendment of section 15 - general requirements for trust companies

3. The principal Law is amended in section 15 by inserting after subsection (2), the following subsection —

“(3) Where a trust company acting in its capacity as a trustee of a trust forms a business relationship or enters into a one-off transaction with a person conducting relevant financial business under Schedule 6 of the *Proceeds of Crime Law (2019 Revision)*, the trust company shall —

(a) at the time or before the business relationship is formed; or

(b) at the time or before the transaction is entered into,

take reasonable steps to inform the person that the trust company is carrying on trust business and is acting in its capacity as a trustee of a trust.”.

Amendment of section 18 - additional powers of Authority

4. The principal Law is amended in section 18(1)(ca) by deleting the words “or Part 12 of the *Limited Liability Companies Law (2018 Revision)*” and substituting the words “, Part 12 of the *Limited Liability Companies Law (2018 Revision)* or Part 8 of the *Limited Liability Partnership Law, 2017*”.

Insertion of section 18A - power to require public disclosures

5. The principal Law is amended by inserting after section 18, the following section —

“Power to require public disclosures

18A. The Authority may require a licensee holding a licence to carry on banking business or a Cayman banking group to make public disclosures as may be specified by the Authority.”.

Amendment of section 22 - power of search

6. The principal Law is amended in section 22(1)(a) by deleting the words “or Part 12 of the *Limited Liability Companies Law (2018 Revision)*” and substituting the words



“, Part 12 of the Limited Liability Companies Law (2018 Revision) or Part 8 of the Limited Liability *Partnership Law, 2017*”.

Passed by the Legislative Assembly the day of , 2019.

Speaker

Clerk of the Legislative Assembly

