

CAYMAN ISLANDS



Supplement No. _____
dated _____

published with Gazette No. _____
, 2012.

A BILL FOR A LAW TO AMEND THE MUTUAL FUNDS LAW (2012 REVISION) TO PROVIDE REVISED DEFINITIONS OF VARIOUS TERMS IN THE LAW; TO PROVIDE FOR THE REGISTRATION OF NON-RESIDENT MUTUAL FUND ADMINISTRATORS; TO WIDEN THE POWER TO MAKE REGULATIONS; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

THE MUTUAL FUNDS (AMENDMENT) BILL, 2012

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Mutual Funds Law (2012 Revision) to provide revised definitions of various terms in the Law, to provide for the registration of non-resident mutual fund administrators and to widen the power to make regulations.

Clause 1 of the Bill sets out the short title of the legislation.

Clause 2 amends section 2 of the Mutual Funds Law (2012 Revision) by deleting the current definitions of “feeder fund”, “master fund” and “regulated feeder fund” and substituting new definitions. The amendment clarifies that a master fund means a company, partnership or unit trust that is established or incorporated, as the case may be, in the Islands; issues equity interests to one or more investors; holds investments and conducts trading activities for the principal purpose of implementing the overall investment strategy of the regulated feeder fund; has one or more regulated feeder funds either directly or through an intermediary entity established to invest in the master fund; and is not licensed under the Banks and Trust Companies Law (2009 Revision) or the Insurance Law (2008 Revision), or a person registered under the Building Societies Law (2010 Revision) or the Friendly Societies Law (1998 Revision). The new definition of “master fund” also provides that a master fund is deemed to be a mutual fund for the purposes of the Law. The clause also defines the term “non-resident mutual fund administrator”.

Clause 3 amends the principal Law to insert a new section 18A which provides that a non-resident mutual fund administrator is required to file an annual declaration with the Authority, and pay the prescribed fee to the Authority on or before 31st January of each year.

Clause 4 repeals and replaces section 39 of the principal Law to widen the Regulation making power of the Governor in Cabinet.

THE MUTUAL FUNDS (AMENDMENT) BILL, 2012

ARRANGEMENT OF CLAUSES

1. Short title
2. Amendment of section 2 of the Mutual Funds Law (2012 Revision) - definitions
3. Insertion of section 18A - non-resident mutual fund administrator obligations
4. Repeal and substitution of section 39 - regulations

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE MUTUAL FUNDS LAW (2012 REVISION) TO PROVIDE REVISED DEFINITIONS OF VARIOUS TERMS IN THE LAW; TO PROVIDE FOR THE REGISTRATION OF NON-RESIDENT MUTUAL FUND ADMINISTRATORS; TO WIDEN THE POWER TO MAKE REGULATIONS; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Mutual Funds (Amendment) Law, 2012. Short title

2. The Mutual Funds Law (2012 Revision) is amended in section 2 as follows - Amendment of section 2 of the Mutual Funds Law (2012 Revision) - definitions
 - (a) by deleting the definition of the words “feeder fund” and substituting the following definition -
“ “feeder fund” means a mutual fund that conducts more than 51% of its investing in a master fund either directly or through an intermediary entity; ”;

 - (b) by deleting the definition of the words “master fund” and substituting the following definition -
“ “master fund” means a company, partnership or unit trust that -

- (a) is established or incorporated, as the case may be, in the Islands;
- (b) issues equity interests to one or more investors;
- (c) holds investments and conducts trading activities for the principal purpose of implementing the overall investment strategy of the regulated feeder fund;
- (d) has one or more regulated feeder funds either directly or through an intermediary entity established to invest in the master fund; and
- (e) is not licensed under the Banks and Trust Companies Law (2009 Revision) or the Insurance Law (2008 Revision), or registered under the Building Societies Law (2010 Revision) or the Friendly Societies Law (1998 Revision),

and for the purposes of this Law such master fund shall be deemed to be a mutual fund;”;

- (c) by inserting after the definition of the words “Mutual Fund Licence” the following definition -

“ “non-resident mutual fund administrator” means a person who is domiciled in a country other than the Cayman Islands and who -

- (a) administers a regulated mutual fund from outside of the Islands; and
- (b) is not a licensed mutual fund administrator within the meaning of this Law;”;

- (d) by deleting the definition of the words “regulated feeder fund” and substituting the following definition -

“ “regulated feeder fund” means a regulated mutual fund that conducts more than 51% of its investing in a master fund either directly or through an intermediary entity;”.

Insertion of section 18A - non-resident mutual fund administrator obligations

- 3. The principal Law is amended by inserting after section 18 the following section -

“Non-resident mutual fund administrator obligations

18A. (1) A non-resident mutual fund administrator shall, in respect of any regulated mutual fund that he administers in whole or in part, file an annual declaration with the Authority, and pay the prescribed fee to the Authority on or before 31st January of each year.

- (2) Where a non-resident mutual fund administrator

breaches subsection (1), the Authority may exercise any of its powers as provided under Part V of this Law or under section 36 of the Monetary Authority Law (2011 Revision).

(3) It is the duty of each operator of a regulated mutual fund that is administered in whole or in part by a non-resident mutual fund administrator to ensure that its non-resident mutual fund administrator complies with this Law.”.

4. The principal Law is amended by repealing section 39 and substituting the following section -

Repeal and substitution
of section 39 -
regulations

“Regulations 39. (1) The Governor in Cabinet may make regulations -

- (a) prescribing anything by this Law required to be prescribed;
- (b) exempting any person or class of persons or business or class of business from any provision of this Law;
- (c) prescribing forms to be used;
- (d) prescribing any returns to be made under this Law;
- (e) prescribing any fees payable; and
- (f) providing for such matters as may be necessary or convenient for carrying out or giving effect to this Law and its administration.

(2) Regulations made under this Law may -

- (a) make different provision in relation to different cases or circumstances;
- (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases, and define a class by reference to any circumstances whatsoever; or
- (c) contain such transitional, consequential, incidental or supplementary provisions as appear to the Governor in Cabinet to be necessary or expedient for the purposes of the regulations.

(3) Regulations made under this Law may create an offence punishable by a fine not exceeding ten thousand dollars.

(4) Fees prescribed for the purpose of this Law need bear no relationship to the cost of providing any service.”.

Passed by the Legislative Assembly the day of , 2012.

Speaker.

Clerk of the Legislative Assembly.