

CAYMAN ISLANDS



MUTUAL FUNDS (AMENDMENT AND VALIDATION) BILL, 2024

Supplement No. 9 published with Legislation Gazette No. 41 dated 15th November, 2024.

**A BILL FOR AN ACT TO AMEND THE MUTUAL FUNDS ACT (2021 REVISION) TO
PROVIDE FOR THE CHARGING OF FEES FOR CERTAIN TRANSACTIONS; TO
PROVIDE THAT THE APPLICATION FEE FOR A MUTUAL FUND LICENCE IS NON-
REFUNDABLE; TO VALIDATE CERTAIN REVENUE COLLECTION ACTIONS; AND
FOR INCIDENTAL AND CONNECTED PURPOSES**

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Commerce (FSC)



Memorandum of OBJECTS AND REASONS

This Bill amends the Mutual Funds Act (2021 Revision) (“the principal Act”) to provide for the charging of fees for certain transactions and to provide that the application fee for a Mutual Fund Licence is non-refundable.

The Bill also validates certain revenue collection actions of the Authority prior to the commencement of this legislation.

Clause 1 provides the short title and commencement of the legislation.

Clause 2 amends the principal Act by deleting Roman numerals in references to Parts and substituting Arabic numerals.

Clause 3 amends section 4 of the principal Act by introducing a proposed subsection (11). The proposed subsection (11) provides that a mutual fund shall pay any fees as may be prescribed for the registration of the mutual fund, including fees for administrative services provided in the filing of an application form or the filing of any amendment to an application form.

Clause 4 amends section 5 of the principal Act by providing that an application for a Mutual Fund Licence shall be accompanied by the prescribed non-refundable application fee and any fees as may be prescribed for administrative services provided in respect of the application.

Clause 5 amends section 29 of the principal Act by introducing a proposed subsection (2A). The proposed subsection (2A) provides that a mutual fund shall submit to the Authority a return in the prescribed form and manner, at such intervals as may be prescribed.

The proposed subsection also provides that the return shall be accompanied by the prescribed fee.

Clause 6 amends the principal Act by introducing a proposed section 36A.

The proposed section 36A empowers the Cabinet to waive or reduce any or all of the fees payable under the legislation in relation to any person or group of persons in Cayman Brac or Little Cayman.

Clause 7 provides for the validation of fees collected by the Authority, without statutory authority, for any administrative services provided by the Authority and for the submission of returns prior to the commencement of this amending and validating legislation. Where those fees were charged and collected prior to the commencement of this amending and validating legislation, this clause seeks to validate the collection of those fees by the Authority as if the Authority was empowered to so do under this amending and validating legislation.

Clause 7 also provides for the validation of any returns made, or required to be made, prior to the commencement of this amending and validating legislation.

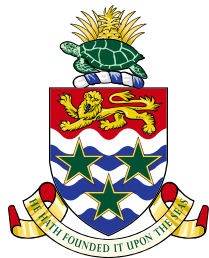
Clause 8 provides that this amending and validating legislation does not affect any order or determination made by a court relating to fees collected by the Authority, without statutory authority, for any administrative services provided by the Authority and for the submission of returns prior to the commencement of this amending and validating legislation.

Clause 8 also provides that this amending and validating legislation does not affect any order or determination made by a court relating to any returns made, or required to be made, prior to the commencement of this amending and validating legislation.

Clause 9 provides the transitional arrangement for applications for Mutual Fund Licences for which decisions are pending on the day immediately preceding the commencement of this legislation. The application fee for those applications will be refundable.



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A BILL FOR AN ACT TO AMEND THE MUTUAL FUNDS ACT (2021 REVISION) TO PROVIDE FOR THE CHARGING OF FEES FOR CERTAIN TRANSACTIONS; TO PROVIDE THAT THE APPLICATION FEE FOR A MUTUAL FUND LICENCE IS NON-REFUNDABLE; TO VALIDATE CERTAIN REVENUE COLLECTION ACTIONS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Mutual Funds (Amendment and Validation) Act, 2024.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet.

General amendments to the Mutual Funds Act (2021 Revision) - references to Parts

2. The *Mutual Funds Act (2021 Revision)*, in this Act referred to as the “principal Act”, is amended as follows —

- (a) by deleting the words “Part I” wherever they appear and substituting the words “Part 1”;
- (b) by deleting the words “Part II” wherever they appear and substituting the words “Part 2”;
- (c) by deleting the words “Part III” wherever they appear and substituting the words “Part 3”;
- (d) by deleting the words “Part IIIA” wherever they appear and substituting the words “Part 3A”;
- (e) by deleting the words “Part IV” wherever they appear and substituting the words “Part 4”;
- (f) by deleting the words “Part V” wherever they appear and substituting the words “Part 5”; and
- (g) by deleting the words “Part VI” wherever they appear and substituting the words “Part 6”.

Amendment of section 4 - regulated mutual funds

3. The principal Act is amended in section 4 by inserting after subsection (10) the following subsection —

“(11)A mutual fund shall pay any fees as may be prescribed for the registration of the mutual fund, including fees for administrative services provided in the filing of an application form or the filing of any amendment to an application form.”.

Amendment of section 5 - Mutual Fund Licences

4. The principal Act is amended in section 5(1) by repealing paragraph (d) and substituting the following paragraph —

“(d) the prescribed non-refundable application fee and any fees as may be prescribed for administrative services provided in respect of the application.”.

Amendment of section 29 - Authority to administer this Act

5. The principal Act is amended in section 29 by inserting after subsection (2) the following subsection —

“(2A) For the purposes of subsection (2)(c), a mutual fund shall submit to the Authority a return in the prescribed form and manner, at such intervals as may be prescribed, and the return shall be accompanied by the prescribed fee.”.

Insertion of section 36A - waiver or reduction of fees by Cabinet

- 6.** The principal Act is amended by inserting after section 36 the following section —



“Waiver or reduction of fees by Cabinet

36A. The Cabinet may waive or reduce any or all of the fees payable under the Act in relation to any person or group of persons in Cayman Brac or Little Cayman.”.

Validation of payment and collection of fees and of returns

7. (1) The payment of fees to, and the charging and collection of fees by, the Authority without statutory authority prior to the commencement of this amending and validating Act, for —
- (a) any administrative service provided by the Authority; and
 - (b) the submission of returns,
- are validated and taken to have been lawfully charged by, paid to and collected by the Authority, as if the Authority was empowered under the principal Act as amended by this amending and validating Act to charge and collect those fees.
- (2) Any returns made, or required to be made, prior to the commencement of this amending and validating Act are taken to have been lawfully made or required to be made as if the returns were made or required to be made under the principal Act as amended by this amending and validating Act.

Orders or determinations by court not affected

8. This amending and validating Act does not affect any order or determination made by a court prior to the commencement of this amending and validating Act with respect to —
- (a) fees charged by, paid to and collected by the Authority without statutory authority for —
 - (i) any administrative service provided by the Authority;
 - (ii) the submission of returns; or
 - (b) any returns made, or required to be made.

9. Notwithstanding section 4 of this amending and validating Act, the application fee for an application for a Mutual Fund Licence for which a decision is pending on the day immediately preceding the commencement of this amending and validating Act shall be refundable.

Speaker

