

CAYMAN ISLANDS



# **MONETARY AUTHORITY (AMENDMENT AND VALIDATION) BILL, 2024**

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**A BILL FOR AN ACT TO AMEND THE MONETARY AUTHORITY ACT (2020 REVISION) TO PROVIDE FOR THE MAKING OF REGULATIONS PRESCRIBING THE CHARGING OF FEES FOR ADMINISTRATIVE SERVICES PROVIDED BY THE AUTHORITY TO PERSONS REGISTERED UNDER ANY OF THE REGULATORY LAWS; TO PROVIDE THAT FEES MAY BE PRESCRIBED AS NON-REFUNDABLE; TO REPEAL AND REPLACE SCHEDULE 2; TO VALIDATE CERTAIN REVENUE COLLECTION ACTIONS OF THE AUTHORITY; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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



## Memorandum of OBJECTS AND REASONS

This Bill amends the Monetary Authority Act (2020 Revision) (“the principal Act”) to provide for the making of regulations prescribing the charging of fees for administrative services provided by the Authority to persons registered under any of the regulatory laws and to provide that fees may be prescribed as non-refundable.

The Bill also repeals and replaces Schedule 2 to the principal Act and validates certain revenue collection actions of the Authority prior to the commencement of this legislation.

Further, the Bill provides for incidental and connected purposes.

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 46 of the principal Act to empower the Cabinet to make regulations in respect of persons registered under any of the regulatory laws.

Clause 3 also amends section 46 of the principal Act to provide that both regulations which deal with the charging of fees for administrative services and regulations which amend Schedule 2 are subject to affirmative resolution.

Further, the clause amends section 46 of the principal Act to provide that certain fees may be prescribed as non-refundable fees.

Clause 4 amends the principal Act by repealing and substituting Schedule 2.

The substituted Schedule 2 provides for additional administrative services and their corresponding fees. The substituted Schedule 2 also provides that the specified administrative services are non-refundable.

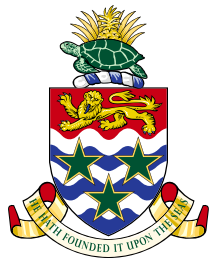
Clause 5 provides for the validation of fees collected by the Authority, without statutory authority, from a person registered under any of the regulatory laws for any administrative service provided by the Authority prior to the commencement of this amending and validating legislation. Where those fees 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 6 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, from a person registered under any of the regulatory laws for any administrative service provided by the Authority prior to the commencement of this amending and validating legislation.

Clause 7 provides the transitional arrangement for administrative services which are pending on the day immediately preceding the commencement of this legislation. The fees for those administrative services will be refundable.



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Arrangement of Clauses

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ENACTED by the Legislature of the Cayman Islands.

## Short title and commencement

1. (1) This Act may be cited as the Monetary Authority (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 Monetary Authority Act (2020 Revision) - references to Parts

2. The *Monetary Authority Act (2020 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 IV” wherever they appear and substituting the words “Part 4”;
- (e) by deleting the words “Part V” wherever they appear and substituting the words “Part 5”;
- (f) by deleting the words “Part VI” wherever they appear and substituting the words “Part 6”;
- (g) by deleting the words “Part VIA” wherever they appear and substituting the words “Part 6A”;
- (h) by deleting the words “Part VII” wherever they appear and substituting the words “Part 7”; and
- (i) by deleting the words “Part VIII” wherever they appear and substituting the words “Part 8”.

### **Amendment of section 46 - regulations**

#### **3. The principal Act amended in section 46 as follows —**

- (a) in subsection (1), by inserting after the word “licensee” the words “, to a person registered under any of the regulatory laws”; and
- (b) by repealing subsections (2) and (3) and substituting the following subsections —
  - “(2) The fees set out in Schedule 2 shall be charged to a licensee, a person registered under any of the regulatory laws or a member of the public upon request, for the administrative services prescribed in that Schedule, and the Cabinet may, by regulations, amend that Schedule.
  - (3) Regulations made under subsection (1) which provide for the charging of fees for administrative services and regulations made under subsection (2) amending Schedule 2 are subject to affirmative resolution.
  - (3A) The fees set out in Schedule 2 or in regulations made under subsection (1) may be prescribed as non-refundable fees.”.

### **Repeal and substitution of Schedule 2 - fees**

#### **4. The principal Act is amended by repealing Schedule 2 and substituting the following Schedule —**



**“SCHEDULE 2****(section 46)****Fees for administrative services**

| <b>Column 1<br/>Item</b> | <b>Column 2<br/>Description of administrative service</b>                                                                                                                          | <b>Column 3<br/>Fee (KYD)</b> |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| 1.                       | Letter from the Authority confirming registration or licensed status of regulated entity and status of regulatory filings, the fee for which is non-refundable                     | \$1,000                       |
| 2.                       | Approval by the Authority of the appointment of a new Director of a licensee or a person registered under a regulatory law, the fee for which is non-refundable                    | \$1,250                       |
| 3.                       | Voluntary surrender of a licence or registration (with or without a registration certificate) to the Authority, the fee for which is non-refundable                                | \$750                         |
| 4.                       | Application for a change in shareholding of a licensee or a person registered under a regulatory law, the fee for which is non-refundable                                          | \$1,250                       |
| 5.                       | Application for the appointment of a Senior Officer or Manager to a licensee or a person registered under a regulatory law, the fee for which is non-refundable                    | \$1,250                       |
| 6.                       | Application for the variation of the terms of a licence or the terms of registration in respect of a person registered under a regulatory law, the fee for which is non-refundable | \$1,250                       |
| 7.                       | Application for change of business plan of a licensee or a person registered under a regulatory law, the fee for which is non-refundable                                           | \$1,250                       |
| 8.                       | Application for a certified copy of a licence or certificate, the fee for which is non-refundable                                                                                  | \$375                         |
| 9.                       | Application for an extension to the filing of audited financial statements, the fee for which is non-refundable                                                                    | \$625                         |

| <b>Column 1<br/>Item</b> | <b>Column 2<br/>Description of administrative service</b>                                                                                                                                                          | <b>Column 3<br/>Fee (KYD)</b> |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| 10.                      | Application for an extension to the filing of annual return, the fee for which is non-refundable                                                                                                                   | \$625                         |
| 11.                      | Application for an exemption or waiver, the fee for which is non-refundable                                                                                                                                        | \$625                         |
| 12.                      | Application for the use of a restricted word, the fee for which is non-refundable                                                                                                                                  | \$750                         |
| 13.                      | Application for a change of an appointed service provider to a licensee or a person registered under a regulatory law, including a change of an outsourced service provider, the fee for which is non-refundable   | \$625                         |
| 14.                      | Application for a change of name, the fee for which is non-refundable                                                                                                                                              | \$625                         |
| 15.                      | Filing for amendments or supplements of offering documents, the fee for which is non-refundable                                                                                                                    | \$125                         |
| 16.                      | Photocopying of —<br>(a) applications for registering or licensing mutual funds;<br>(b) reporting forms;<br>(c) offering documents; or<br>(d) other constitutive documents,<br>the fee for which is non-refundable | \$30                          |
| 17.                      | Auditor's application for approval for local audit sign-off, the fee for which is non-refundable                                                                                                                   | \$18,750                      |
| 18.                      | Application for approval of large exposures for banks incorporated under the <i>Companies Act (2023 Revision)</i> , the fee for which is non-refundable                                                            | \$1,500                       |
| 19.                      | Application for dividends and distributions where applicable, the fee for which is non-refundable                                                                                                                  | \$1,500                       |
| 20.                      | Application to open a new subsidiary, branch, agency or                                                                                                                                                            | \$1,500                       |



| Column 1<br>Item | Column 2<br>Description of administrative service                                                    | Column 3<br>Fee (KYD) |
|------------------|------------------------------------------------------------------------------------------------------|-----------------------|
|                  | representative office in or outside the Islands, the fee for which is non-refundable                 |                       |
| 21.              | Application for extensions for remediating inspection findings, the fee for which is non-refundable: |                       |
|                  | (a) Application for first extension                                                                  | \$125                 |
|                  | (b) Application for second extension                                                                 | \$250                 |
|                  | (c) Application for third extension                                                                  | \$375                 |
|                  | (d) Application for any subsequent extension                                                         | \$500”.               |

### Validation of payment and collection of fees

5. The payment of fees to, and the charging and collection of fees by, the Authority without statutory authority from a person registered under any of the regulatory laws for any administrative service provided by the Authority prior to the commencement of this amending and validating Act, are —

- (a) validated; and
- (b) 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.

### Orders or determinations by court not affected

6. This amending and validating Act does not affect any order or determination made by a court with respect to fees charged by, paid to and collected by the Authority without statutory authority from a person registered under any of the regulatory laws for any administrative service provided by the Authority prior to the commencement of this amending and validating Act.

7. Notwithstanding sections 3 and 4 of this amending and validating Act, the fee for an administrative service which is pending on the day immediately preceding the commencement of this amending and validating Act shall be refundable.

*Speaker*

*Clerk of the Parliament*