

CAYMAN ISLANDS



PRIVATE FUNDS (AMENDMENT AND VALIDATION) BILL, 2024

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A BILL FOR AN ACT TO AMEND THE PRIVATE FUNDS ACT (2021 REVISION) TO PROVIDE FOR THE CHARGING OF FEES FOR CERTAIN TRANSACTIONS; TO PROVIDE FOR A NON-REFUNDABLE APPLICATION FEE FOR AN APPLICATION BY A PRIVATE FUND TO BE REGISTERED UNDER THE ACT; 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 Private Funds Act (2021 Revision) (“the principal Act”) to provide for the charging of fees for certain transactions and to provide for a non-refundable application fee in respect of an application by a private fund to be registered under the Act. 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 section 6 of the principal Act by introducing a prescribed fee for an application by a private fund to be registered under the principal Act.

Clause 3 amends section 11 of the principal Act by introducing a prescribed fee for filing with the Authority details of changes in respect of a private fund.

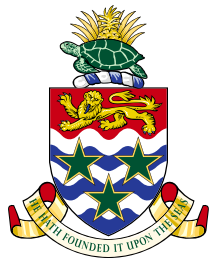
Clause 4 amends section 14 the principal Act by introducing a prescribed fee for the filing of annual returns by private funds.

Clause 5 provides for the validation of fees collected by the Authority, without statutory authority, for the registration of private funds, the filing of the details of changes related to private funds and the submission of annual 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 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, for the registration of private funds, the filing of the details of changes related to private funds and the submission of annual returns prior to the commencement of this amending and validating legislation.

Clause 7 provides the transitional arrangement for applications for registration of private funds for which decisions are pending on the day immediately preceding the commencement of this legislation. The fee for those applications will be refundable.

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Arrangement of Clauses

Clause	Page
1. Short title and commencement	7
2. Amendment of section 6 of the Private Funds Act (2021 Revision) - application to be registered	8
3. Amendment of section 11 - Authority to be informed of changes.....	8
4. Amendment of section 14 - annual return	8
5. Validation of payment and collection of fees	8
6. Orders or determinations by court not affected	8
7. Transitional.....	9



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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 Private 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.

Amendment of section 6 of the Private Funds Act (2021 Revision) - application to be registered

2. The *Private Funds Act (2021 Revision)*, in this Act referred to as the “principal Act”, is amended in section 6(1) by inserting after the word “Act” the words “, and the application shall be accompanied by the prescribed non-refundable application fee”.

Amendment of section 11 - Authority to be informed of changes

3. The principal Act is amended in section 11(1) by inserting after the words “the details of the change” the words “which shall be accompanied by the prescribed fee.”.

Amendment of section 14 - annual return

4. The principal Act is amended in section 14 by inserting after the word “form” the words “which shall be accompanied by the prescribed fee.”.

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 prior to the commencement of this amending and validating Act for —

- (a) the registration of a private fund;
- (b) the filing of the details of changes related to a private fund; and
- (c) the submission of annual 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.

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 prior to the commencement of this amending and validating Act for —

- (a) the registration of a private fund;
- (b) the filing of the details of changes related to a private fund; or
- (c) the submission of annual returns.



7. Notwithstanding section 2 of this amending and validating Act, and further to section 5(a) of this amending and validating Act, the fee for an application for registration of a private fund for which a decision is pending on the day immediately preceding the commencement of this amending and validating Act shall be refundable.

Speaker

