



No. 6 of 2010

INVESTMENT FUNDS (AMENDMENT) ACT, 2010

AN ACT TO AMEND THE INVESTMENT FUNDS ACT TO REDEFINE AND CLARIFY CERTAIN WORDS AND PHRASES AND FOR CONNECTED PURPOSES.

[Date of Assent - 16th March, 2010]

Enacted by the Parliament of The Bahamas.

1. Short title and commencement.

- (1) This Act, which amends the Investment Funds Act ¹, may be cited as the Investment Funds (Amendment) Act, 2010.
- (2) This Act shall come into force on such date as the Minister may appoint by notice, published in the Gazette.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) in sub-paragraph (i) of paragraph (a) of the definition of “investment fund” or “fund” —
 - (i) by the deletion of the comma immediately after the word “trustee” and the insertion of the word “or”; and
 - (ii) by the deletion after the word “administrator” of the words “, the investment advisor or the investment manager”;
- (b) in paragraph (b) of the definition of “investment fund” or “fund” —
 - (i) in sub-paragraph (ii), by the deletion, after the word “administrator”, of the words “, the investment advisor or the investment manager”; and
 - (ii) by the deletion of sub-paragraph (iii);
- (c) in paragraph (c) of the definition of “investment fund” or “fund” —

¹(Ch. 369A)

- (i) in sub-paragraph (ii), by the deletion of the word "or" immediately after the words ", The Bahamas"; and
- (ii) by the deletion of sub-paragraph (iii);
- (d) in sub-paragraph (ii) of the definition of "non-Bahamas based investment fund", by the insertion after the word "custodian" of the words ", investment manager or investment advisor incorporated, registered or operating";
- (e) in the definition of "professional fund" —
 - (i) in paragraph (a), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
 - (ii) by the repeal and replacement of paragraph (b) as follows —
 "(b) any registered firm under the Securities Industry Act or pursuant to the laws of another jurisdiction;";
 - (iii) in paragraph (c), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
 - (iv) in paragraph (d), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
 - (v) in paragraph (h), by the insertion of the word "or" immediately after the semi-colon;
 - (vi) by the insertion, immediately after paragraph (h), of a new paragraph (i) as follows —
 "(i) any entity with net assets in excess of five million dollars;";
- (f) in the definition of "recognized foreign fund" —
 - (i) in paragraph (a), by the deletion of the word "or";
 - (ii) in paragraph (b), by the insertion of the word "or" immediately after the semi-colon;
 - (iii) by the insertion, immediately after paragraph (b), of the following —
 "(c) it is incorporated or established and is in good standing in a jurisdiction prescribed by the Commission by notice in the Gazette;".

3. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended —

- (i) by the insertion immediately after paragraph (b) of the following —
 "(c) is incorporated or established and is in good standing in a jurisdiction prescribed by the Commission; and";
- (ii) by re-lettering paragraphs (c) and (d) as paragraphs (d) and (e).

4. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended by the repeal and replacement of subsection (2) as follows —

- “(2) An application for registration with the Commission as a recognised foreign fund shall be in the prescribed form and shall be accompanied by —
- (a) evidence of the recognised foreign fund being licensed or registered in a prescribed jurisdiction;
 - (b) evidence of its listing on a prescribed securities exchange; or
 - (c) a copy of its certificate of incorporation or deed of establishment in a prescribed jurisdiction;
 - (d) evidence of its good standing in a prescribed jurisdiction; and
 - (e) such other information and documentation as may be required for the purpose of satisfying the Commission that the investment fund meets the conditions for being classified as a recognised foreign fund; and
 - (f) the prescribed application fee.”

5. Amendment of section 19 of the principal Act.

Section 19 of the principal Act is amended in subsection (2) —

- (a) by the deletion of the word “any” and the substitution of the word “its”; and
- (b) by the deletion, immediately after the word “administrator”, of the words “, investment manager and investment advisor”.

6. Amendment of section 31 of the principal Act.

Section 31 of the principal Act is amended in subsection (2) by the deletion of the word “four” and the substitution of the word “six”.

7. Insertion of new section 62A into the principal Act.

The principal Act is amended by the insertion, immediately after section 62, of the following —

- “62A. The Commission may publish guidelines of any provision of this Act or of any regulation or rule made under this Act.”