



BERMUDA

INVESTMENT BUSINESS AMENDMENT ACT 2022

2022 : 13

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### SCHEDULE

WHEREAS it is expedient to amend the Investment Business Act 2003 to make provision for the prudent regulation and supervision of licensed and registered undertakings, and to provide other consequential and related matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

#### Citation

1 This Act, which amends the Investment Business Act 2003 (the "principal Act"), may be cited as the Investment Business Amendment Act 2022.

#### Amends section 2

2 Section 2(1) of the principal Act is amended—

(a) by inserting in the appropriate alphabetical order the following definitions—

"Class A registered person" means a person registered under section 13A;

"Class B registered person" means a person registered under section 13B;

"incorporated segregated account" has the meaning given in section 2 of the Incorporated Segregated Accounts Companies Act 2019;

"incorporated segregated accounts company" has the meaning given in section 2 of the Incorporated Segregated Accounts Companies Act 2019;

"limited liability company" or "LLC" means a company formed under the Limited Liability Company Act 2016;

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“Non-registrable person” means a person falling within the class of persons designated by the Minister by order made under section 13D;

“recognised regulator” means a regulatory authority recognised by the Authority to be empowered by law to supervise entities conducting investment business in a country or territory outside of Bermuda, which imposes standards equivalent to those established by, or under this or any other Act on persons conducting investment business in Bermuda;

“registered person” means a Class A registered person or a Class B registered person;

“standard licence” has the meaning given in section 16(1B)(a);

“test licence” has the meaning given in section 16(1B)(b);

(b) by repealing the definition of “company” and substituting the following—

“ “company” means a person that is registered or incorporated in Bermuda or elsewhere as—

- (a) a company;
- (b) an incorporated segregated accounts company;
- (c) an incorporated segregated account;
- (d) an LLC; or
- (e) a partnership, which is a body corporate;”;

(c) by deleting the definition of “exempted person”;

(d) in the definition of “investment provider” by inserting after “III” the words “and includes any registered person under this Act”;

(e) in the definition of “minimum criteria” by inserting after “licensing” the words “and registration”.

Amends section 4

3 Section 4 of the principal Act is amended—

(a) in subsection (1) by repealing paragraph (a) and substituting the following—

“(a) is incorporated or formed in Bermuda and carries on investment business; or

(ab) is incorporated or formed outside Bermuda and carries on investment business in or from Bermuda.”;

(b) by repealing subsections (6), (7) and (8).

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Amends section 7

4 Section 7 of the principal Act is amended—

(a) in subsection (3) by inserting after paragraph (f) the following paragraph—

“(g) a manager of an LLC.”;

(b) in subsection (4) by inserting after paragraph (c) the following new subparagraph—

“(d) he is a member, assignee or other person granted an interest in an LLC.”.

Amends section 10

5 The principal Act is amended in section 10 by inserting after “conduct” the words “or practice”, wherever it may occur in the section.

Inserts sections 10A and 10B

6 The principal Act is amended by inserting after section 10 the following—

“Prudential and other returns

10A (1) The Authority may make Rules prescribing prudential and technical standards in relation to—

- (a) cybersecurity;
- (b) financial statements;
- (c) net assets;
- (d) liquidity;
- (e) statutory returns;
- (f) additional capital;
- (g) client money,

which shall be complied with by investment providers as applicable.

(2) The Authority may in such Rules prescribe standards that impose different requirements to be complied with by investment providers in different situations or in respect of different activities.

(3) Audited financial statements and accounts shall be in a prescribed form and different forms of return may be prescribed for investment providers holding different classes of licence or registration.

(4) Not later than four months after the close of its financial year every investment provider shall file with the Authority any information or documents required in relation to any applicable Rule or statutory return required to be prepared by it under this section.

(5) Every investment provider shall keep a copy of the most recent return filed with the Authority at its principal place of business or at the office of its appointed senior representative as applicable, for a period of not less than five years beginning with its filing date under subsection (4).

(6) Every investment provider that fails to file audited financial statements, accounts, any information or documents required in relation to a Rule or statutory return within the time specified in subsection (4) is liable to a civil penalty not exceeding \$5,000 for each week or part of a week that it is in default.

(7) Sections 6, 7 and 8 of the Statutory Instruments Act 1977 shall not apply to Rules made under this section.

(8) The Schedules to the Rules made by the Authority under this section shall be published separately on the website of the Authority: [www.bma.bm](http://www.bma.bm), and shall be available for inspection at the offices of the Authority.

Authority may exempt or modify prudential standards or requirements or take necessary actions

10B (1) The Authority may, where it has made a determination or on the application of an investment provider, exempt it from the requirement to comply with any prudential or technical standard requirements or other requirement applicable to it under this Act or modify any such prudential standard or requirement.

(2) In granting an exemption or modification under this section the Authority may impose such conditions on the exemption or modification as it considers appropriate.

(3) The Authority shall not grant an exemption or modification unless it is satisfied that it is appropriate to do so having regard to the nature, scale and complexity of the investment provider.

(4) The Authority may revoke an exemption or vary any modification granted under this section and shall serve notice on the investment provider of its proposal to revoke its approval and the reason for its proposal.

(5) An investment provider served with a notice under subsection (4) may within a period of 28 days from the date of the notice make written representations to the Authority and where such representations have been made, the Authority shall take them into account in deciding whether to revoke its approval.

(6) Without prejudice to its powers under subsection (1), the Authority, where it has made a determination, may take any action necessary or desirable to protect the public, clients or potential clients of the investment provider where the Authority concludes that due to the nature, scale and complexity and risk profile of the investment provider, such action is necessary and in the interest of the public or is required to be taken for the protection of clients or potential clients.

(7) Before taking any such action under subsection (6), the Authority shall serve notice on the investment provider giving its reasons therefore.

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(8) An investment provider served with a notice under subsection (7) may, within a period of 28 days from the date of the notice, make written representations to the Authority; and where such representations are made, the Authority shall take them into account in deciding whether to take the proposed action.

(9) The Authority shall notify an investment provider of any actions it has taken.”.

Amends heading of Chapter 1 of PART III

7 Part III of the principal Act is amended by deleting the heading of Chapter 1 and substituting “REQUIREMENTS FOR A LICENCE, REGISTRATION OR DESIGNATION AS NON-REGISTRABLE”.

Repeals and replaces section 12(1)

8 Section 12 of the principal Act is amended by repealing subsection (1) and substituting the following—

“(1) A person shall not carry on, or purport to carry on, investment business in or from Bermuda unless that person is for the time being—

- (a) licensed;
- (b) registered; or
- (c) designated as a Non-registrable person by the Minister by order made under section 13D.”.

Repeals and replaces section 13 and inserts sections 13A, 13B, 13C and 13D

9 The principal Act is amended by repealing section 13 and substituting the following—

“Minister may by order specify persons required to be Class B Registered persons or designate persons as Non-registrable persons

13 (1) The Minister may, on the advice of the Authority, make an order specifying a person or class of persons who—

- (a) shall register as Class B Registered person; or
- (b) may be designated for the purposes of the Act as a Non-registrable person.

(2) An order made under subsection (1) may provide for a person specified thereunder to be subject to such conditions on the scope of the investment activity or the manner of operating the investment business as the Minister, after consultation with the Authority, may determine to be appropriate having regard to the nature, scale and complexity of the proposed business.

(3) The Minister may, after consultation with the Authority, amend the order to—

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- (a) add a person who is to be; or
  - (b) modify details of, or delete, a person who was,  
specified as a Class B Registered person or a Non-registrable person.
- (4) An order made under this section may include savings and transitional provisions.
- (5) An order made under this section is subject to the negative resolution procedure.
- (6) Where in pursuance of this section a Class B Registered person or a Non-registrable person is subject to a condition upon registration or designation, as the case may be, and the condition is contravened, such registration or designation shall not have effect, and accordingly proceedings may be brought for an offence under section 12.

### Class A Registered persons

13A (1) Any Bermuda formed or incorporated person carrying on investment business—

- (a) that is licensed, authorised or registered by a recognised regulator;  
and
  - (b) which does not maintain a place of business in Bermuda,
- shall be required to make an application for registration to the Authority in accordance with subsection (2) as a Class A Registered person.

(2) Subject to this section, an application for registration as a Class A Registered person may be in such form as may be prescribed and made to the Authority in such manner as the Authority may direct.

(3) An application for registration under subsection (2) shall be accompanied by—

- (a) a business plan setting out the nature and scale of the investment business which is to be carried out by the applicant;
  - (b) such application fee and such other fee as may be prescribed under the Bermuda Monetary Authority Act 1969;
  - (c) such other information, documents and reports as the Authority may require for the purpose of considering the application.
- (4) For the purposes of this section, a person maintains a place of business in Bermuda—
- (a) in the case of an individual who is a sole trader, if he carries on investment business from premises he occupies in Bermuda, for that purpose;

(b) in any other case, if it carries on investment business from premises it occupies in Bermuda, for that purpose, at which it employs staff and pays salaries and other expenses in connection with that business.

(5) The Minister may, after consultation with the Authority, make an order amending the meaning of maintaining a place of business.

(6) An order made under subsection (5) may include saving and transitional provisions.

(7) An order made under this section is subject to the negative resolution procedure.

#### Class B Registered persons

13B (1) Any person falling within the class of persons specified by the Minister by order made under section 13(1), shall be required to make an application for registration to the Authority in accordance with subsection (2) as a Class B Registered person.

(2) Subject to this section, an application for registration as a Class B Registered person may be in such form as may be prescribed and made to the Authority in such manner as the Authority may direct.

(3) An application for registration under subsection (2) shall be accompanied by—

- (a) a business plan setting out the nature and scale of the investment business which is to be carried out by the applicant;
- (b) such application fee and such other fee as may be prescribed under the Bermuda Monetary Authority Act 1969;
- (c) such other information, documents and reports as the Authority may require for the purpose of considering the application.

#### Principal place of business - Class B Registered persons

13C (1) Every Class B Registered person shall maintain a place of business in Bermuda, which shall be its principal place of business.

(2) For the purposes of this section, “maintain a place of business in Bermuda” shall mean—

- (a) in the case of an individual who is a sole trader, if he carries on investment business from premises he occupies in Bermuda for that purpose;
- (b) in any other case, if it carries on investment business from premises it occupies in Bermuda, for that purpose, at which it employs staff and pays salaries and other expenses in connection with that business.



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(3) The Minister may, after consultation with the Authority, make an order amending the meaning of “maintain a place of business”.

(4) An order made under subsection (3) may include saving and transitional provisions.

(5) An order made under this section is subject to the negative resolution procedure.

### Non-registrable persons

13D (1) The Minister may by order designate any person as falling within the class of persons, for whom there is no requirement to be licensed or registered under this Act and such person shall be regarded by the Authority for the purposes of this Act as a Non-registrable person.

(2) An order made under subsection (1) is subject to the negative resolution procedure.”.

### Amends section 14

10 Section 14 of the principal Act is amended—

(a) by deleting the section heading and substituting “Class B registered and Non-registrable persons may apply to be licensed”;

(b) by repealing subsection (1) and substituting the following—

“(1) A person falling within a class of persons specified by an order made by the Minister under section 13, may make an application under section 16 for a licence.”;

(c) in subsection (2), by deleting “an exempted” wherever it occurs and substituting “a Class B registered or Non-registrable person”.

### Amends section 15

11 Section 15 of the principal Act is amended by deleting the section heading and substituting “Agreements of persons that are not licensed, registered or designated as Non-registrable”.

### Amends section 16

12 Section 16 of the principal Act is amended—

(a) in subsection (1) by inserting before “licence” the words “standard or test”;

(b) by inserting after subsection (1) the following—

“(1A) An application shall state the class of investment business licence required.

(1B) The classes of investment business licence referred to in subsection (1A) which may be applied for under this Act are a—

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- (a) standard licence, under which a person shall be licensed to engage in any or all investment activities; or
- (b) test licence, under which a person shall be licensed to engage in any or all investment activities for a defined period determined by the Authority subject to such restrictions as the Authority may determine.

(1C) The Authority, where it has made a determination or on the application of a person, may extend the defined period of a test licence for such additional period of time as it deems appropriate.

(1D) An application in respect of any extension to the defined period of a test licence in accordance with subsection (1C) shall be in such form as the Authority may direct, accompanied by such information as the Authority may require and the application fee of such amount prescribed by the Authority under the Bermuda Monetary Authority Act 1969.”;

- (c) in subsection (2) by inserting before “licence” the words “standard or test”;
- (d) in subsection (3) by inserting before “licence” the words “standard or test”;
- (e) in subsection (4) by inserting after “application” the words “for a standard or test”.

Amends section 17

13 The principal Act is amended by repealing subsections (6) and (7) of section 17.

Inserts sections 17A, 17B, 17C and 17D

14 The principal Act is amended by inserting after section 17 the following new sections—

“Principal place of business- Licensed persons

17A (1) Every person licensed under section 17 shall maintain a place of business in Bermuda, which shall be its principal place of business.

(2) For the purposes of this section, “maintain a place of business in Bermuda” means —

- (a) in the case of an individual who is a sole trader, if he carries on investment business from premises he occupies for that purpose;
- (b) in any other case, if it carries on investment business from premises it occupies for that purpose, at which it employs staff and pays salaries and other expenses in connection with that business.

(3) The Minister may, after consultation with the Authority, make an order amending the meaning of “maintain a place of business”.

(4) An order made under subsection (3) may include saving and transitional provisions.

(5) An order made under this section is subject to the negative resolution procedure.

Grant and refusal of an application for registration

17B (1) Subject to this section, the Authority may on an application duly made in accordance with section 13A or 13B and after being provided with all such information, documents and reports as it may reasonably require, grant or refuse the application for registration.

(2) A registration issued under this section may be subject to such limitations on the scope of the investment activity or the manner of operating the investment business as the Authority may determine to be appropriate having regard to the nature and scale of the proposed business.

(3) The Authority may, on application made by a registered person vary or remove any limitation imposed on the scope of its registration.

(4) An application under this section shall be in such form, shall contain such information and shall be accompanied by such documents as the Authority may require.

Senior representative

17C (1) Every Class A registered person shall appoint a senior representative that satisfies the requirements of subsection (2).

(2) The senior representative shall be a person approved by the Authority to act in such capacity on behalf of the Class A registered person.

(3) The approved senior representative shall maintain an office in Bermuda.

(4) At the time of registration, Class A registered persons shall provide written notice to the Authority of the—

- (a) location of the senior representative's office; and
- (b) particulars of the senior representative.

(5) If any information required by notification in accordance with subsection (4) is altered, Class A registered persons shall give particulars of the alteration in writing within 14 days of the date the alteration was made.

(6) Without reason acceptable to the Authority—

- (a) a Class A registered person shall not terminate the appointment of its senior representative; and
- (b) a senior representative shall not cease to act as such,

until he gives 30 days' notice in writing to the Authority of the intention to do so.

(7) If a senior representative wilfully fails to give notice required in accordance with subsection (6) to the Authority he commits an offence.

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### Senior representative to report certain events

17D (1) A senior representative shall forthwith notify the Authority, in such manner as it may direct—

- (a) on his reaching a view that there is a likelihood of the registered person for which he acts becoming insolvent; or
- (b) on it coming to his knowledge, or his having reason to believe, that an event, referred to in subsection (3), to which this section applies has occurred.

(2) Within 14 days of such notification, the senior representative shall furnish the Authority with a report in writing setting out all the particulars of the case that are available to him.

(3) As respects any senior representative, this section applies to the following events, being events in which the investment provider for which he acts as senior representative is involved, that is to say—

- (a) failure by a registered person to comply substantially with a condition imposed upon the investment provider by the Authority;
- (b) failure by a registered person to comply with a modified provision, or with a condition, being a provision or condition specified in a direction given to the investment provider by the Authority;
- (c) involvement of a registered person in any criminal proceedings whether in Bermuda or outside Bermuda;
- (d) the registered person ceasing to be registered in or from within Bermuda.”.

### Amends section 18

15 Section 18 of the principal Act is amended—

- (a) by deleting the section heading and substituting “Display of licences and registrations”;
- (b) in subsection (1), by inserting after “licence” the words “or registration”;
- (c) by repealing subsection (2) and substituting the following—

“(2) An investment provider shall at all times keep the licence or registration on display in Bermuda at its principal place of business, the offices of its appointed senior representative or at its registered office.”;

- (d) by repealing subsections (3) and (4) and substituting the following—

“(3) The Authority shall publish on its website—

- (a) a list of every investment provider; and

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- (b) such particulars of each licence and registration of every investment provider as the Authority shall determine.”.

### Amends section 19

16 Section 19 of the principal Act is amended—

- (a) in subsections (1)(a) and (b) by inserting after “licence” the words “or registration”;
- (b) by inserting after subsection (1)(b) the following new paragraphs—
  - “(c) on an application for approval to exempt or modify prudential or technical standard requirements applicable to an investment provider in accordance with the provisions of section 10B;
  - (d) on an application made by an investment provider to surrender a licence or registration in accordance with section 26(1),”.

### Amends section 19D

17 Section 19D(c) of the principal Act is amended by deleting “exemption under section 13” and substituting the words “registration under sections 13A or 13B”.

### Amends section 20

18 Section 20 of the principal Act is amended—

- (a) by deleting the section heading and substituting “Restriction of licence or registration”;
- (b) in subsections (1), (2), (4) and (6) by inserting after “licence” the words “or registration” wherever it occurs.

### Amends section 21

19 Section 21 of the principal Act is amended—

- (a) by deleting the section heading and substituting “Revocation of licence or registration”;
- (b) by inserting after “licence” the words “or registration” wherever it occurs.

### Amends section 22

20 Section 22 of the principal Act is amended—

- (a) by deleting the section heading and substituting “Notice of restriction or revocation of licence or registration”;
- (b) in subsections (1) and (4A) by inserting after “licence” the words “or registration” wherever it occurs.

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Amends section 23

21 Section 23(1) of the principal Act is amended by inserting after “licence” the words “or registration”.

Amends section 24

22 Section 24(1) of the principal Act is amended by inserting after “licence” the words “or registration”.

Repeals and replaces section 26

23 Section 26 of the principal Act is repealed and substituted by the following—

“Surrender of licence or registration

26 (1) An investment provider may make an application to the Authority to surrender its licence or registration.

(2) An application shall be in such form as the Authority may determine and shall be accompanied by such documents and information as the Authority may require.

(3) The surrender of a licence or registration shall be irrevocable unless it is expressed to take effect at a later date and before that date the Authority by notice in writing allows it to be withdrawn.”.

Amends section 33

24 Section 33 of the principal Act is amended —

(a) by inserting after subsection (1) the following—

“(1A) This Chapter does not apply to a person granted a test licence under section 17.”;

(b) in subsections (1) and (5) by inserting after “licence” the words “or registration” wherever it occurs.

Amends section 35

25 Section 35(3)(b) of the principal Act is amended by inserting after “licence” the words “or registration”.

Amends section 38

26 Section 38 of the principal Act is amended by inserting after subsection (5) the following—

“(6) Notwithstanding subsection (1), the Authority may require an investment provider to prepare financial statements or accounts in such manner as it may direct.”.

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Inserts sections 38A and 38B

27 The principal Act is amended by inserting after section 38 the following new sections—

“Duty to prepare annual returns

38A (1) Every investment provider shall prepare annual returns in such form and containing such information as the Authority may determine.

(2) Every investment provider shall keep a copy of an annual return prepared in accordance with subsection (1), at its registered office, or principal office, or office of its senior representative, for the period of five years commencing from the date of preparation.

(3) Annual returns must be signed by any combination of two directors, senior executives or chief executive of the investment provider.

Duty to prepare quarterly returns

38B (1) Quarterly returns in such form and containing such information as determined by the Authority, shall be prepared by—

- (a) every licensed investment provider issued a standard licence; and
- (b) Class A Registered persons required by the Authority to maintain a minimum net asset requirement, or additional capital of a fixed higher amount.

(2) Quarterly returns prepared in accordance with subsection (1) —

- (a) shall be submitted to the Authority within 21 days of the end of each quarter of a calendar year (“submission date”); and
- (b) must be signed by any combination of two directors, senior executives or chief executive of the investment provider.

(3) Every person under subsections (1)(a) and (b), shall maintain a copy of a quarterly return submitted to the Authority in accordance with subsection (2)(a), at its registered office, or principal office, or office of its senior representative for the period of five years commencing from the submission date.”.

Amends section 40

28 The principal Act is amended by repealing section 40(4) and substituting the following—

“(4) For the purposes of this section—

“institution” means a company carrying on deposit-taking business within the meaning of the Banks and Deposit Companies Act 1999 approved by the Authority for the purposes of this section;

“investment provider” means all investment providers other than a Class B registered person.”.

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### Amends section 41

29 Section 41 of the principal Act is amended—

- (a) in subsection (1) by inserting after “licence” the words “or registration”;
- (b) by inserting after subsection (1) the following new subsections—

“(1A) Financial statements of investment providers shall be audited by an approved auditor in accordance with generally accepted auditing standards for Canada, the United Kingdom, the United States of America, International Financial Reporting Standards or such standards as the Authority may recognise; and the approved auditor shall be required to provide an auditor’s report in respect thereof.

(1B) Every investment provider shall submit a copy of its auditor’s management letter and management’s response letter, to the Authority upon request made by the Authority.

(1C) Every investment provider is required to notify the Authority in writing of a qualification made by its approved auditor in relation to his audit report within five days of receipt of such qualification.”;

- (c) by repealing subsection (5) and substituting the following—

“(5) For the purposes of this section—

“approved auditor” means an auditor who is a person entitled to practice as a public accountant and is a member of a professional body approved by the Authority for the purposes of this Act;

“investment provider” means all investment providers other than a Class B registered person.”.

### Amends section 44

30 Section 44(1)(c) of the principal Act is amended by inserting after “licence” the words “or registration”.

### Amends section 45

31 Section 45(1)(a) of the principal Act is amended by inserting at the end of the paragraph the words “and any code of conduct or practice, and for safeguarding the interests of clients and potential clients of the investment provider”.

### Amends section 49A

32 Section 49A of the principal Act is amended—

- (a) in subsection (1) by repealing paragraph (b) and substituting the following—

“(b) a Non-registrable person has contravened any condition imposed by the Authority on it in relation to the manner in which it may



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carry on investment business or conduct any investment activity;”;

- (b) in subsection (2) by inserting the words “or registered” after “licensed” where it occurs.

### Amends section 52

33 Section 52(1)(a) of the principal Act is amended by deleting “by virtue of an exemption order made under section 13” and substituting “by the Minister under the order made under section 13D”.

### Amends section 55A

34 Section 55A of the principal Act is amended in—

- (a) subsection (1) by inserting after “licensed” the words “or registered”;
- (b) subsection (8) by deleting “an exempt” and substituting “a Non-registrable”;
- (c) subsection (10) by deleting the definition of “exempt person”.

### Amends section 61

35 Section 61(1)(a) of the principal Act is amended by inserting after “licensed” the words “or registered”.

### Amends section 64

36 Section 64(2)(a) of the principal Act is amended by inserting after “licence” the words “or registration”.

### Amends section 66

37 Section 66 of the principal Act is amended by inserting after “licence” the words “or registration” wherever it occurs.

### Amends section 84

38 Section 84(3) of the principal Act is amended in paragraphs (a) and (b) by inserting after “business” the words “, senior representative’s office where applicable”.

### Amends First Schedule

39 The First Schedule to the principal Act is amended—

- (a) in Part 1 by deleting the heading of paragraph 4 and substituting “INVESTMENT FUNDS”;
- (b) in Part 2—
- (i) by repealing paragraph 1(6)(a) and substituting the following—
- “(a) licensed, registered or Non-registrable persons;”;

- (ii) in paragraph 2(5)(a) by deleting “exempted” and substituting “Non-registrable”;
- (iii) in paragraph 5(8)(b) by deleting “an exempted” and substituting “a Non-registrable”;
- (iv) by inserting after paragraph 5 the following new paragraph—

“PROMOTION OF INVESTMENTS TO THE PUBLIC

- 6 (1) Promotion to members of the public includes—
- (a) advertising or agreeing to advertise, material or information which promotes an investment to members of the public;
  - (b) issuing or agreeing to issue a prospectus, application form or proposal form in relation to an investment, to members of the public;
  - (c) distributing, circulating or agreeing to distribute, circulate or make available, material relating to an investment, to members of the public;
- (2) This paragraph applies to a person as principal or agent only if he continuously solicits members of the public for the purpose of inducing them to enter as principals or agents into transactions.
- (3) For the purposes of this paragraph, “members of the public” has the meaning given in paragraph 1(6).”.

Amends Second Schedule

40 The Second Schedule to the principal Act is amended by deleting the Schedule heading and substituting “MINIMUM CRITERIA FOR LICENSING AND REGISTRATION”.

Transitional provisions

41 (1) All existing investment providers shall be deemed by the Authority to hold a standard licence, and shall be further deemed to satisfy all criteria in connection with the holding of such licence, immediately upon the date of the coming into operation of this Act.

(2) There shall be no application required to be submitted to the Authority or new or additional fees payable by any investment provider under subsection (1), in connection with the change to its licence class.

(3) Every exempted person or any person conducting investment business that is not licensed prior to the date of the coming into operation of this Act, shall be required to make an application to the Authority to become licensed, or registered, as the case may be, within 12 months of the date of the coming into operation of this Act.

(4) Notwithstanding subsection (3), Non-registrable persons shall not be required to apply to be registered.

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- (5) An application under subsection (3) shall—
- (a) be made to the Authority in accordance with applicable provisions relating to the licensing and registration of persons under sections 13, 13A and 13B of the Act; and
  - (b) clarify at the time of submission of the application, whether a standard or test licence is required.

### Consequential amendments

42 The Schedule has effect with respect to consequential amendments to the—

- (a) Investment Business (Exemptions) Order 2004;
- (b) Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;
- (c) Bermuda Monetary Authority Act 1969.

### Commencement

43 This Act shall come into operation on such day as the Minister of Finance may appoint by notice published in the Gazette.

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SCHEDULE

(section 43)

CONSEQUENTIAL AMENDMENTS

Revokes Investment Business (Exemptions) Order 2004

1 The Investment Business (Exemptions) Order 2004 is revoked.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

2 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended in section 2(1), in the definition of “licensed AML/ATF regulated financial institution” by inserting after “licensed” the words “or registered”.

Amends Bermuda Monetary Authority Act 1969

3 Bermuda Monetary Authority Act 1969 is amended—

(a) in the Third Schedule, by deleting “An investment provider licensed under the Investment Business Act 2003” and substituting the words “An Investment provider as defined in section 2 of the Investment Business Act 2003”;

(b) in the Fourth Schedule, by deleting contents of the table under the heading “Investment Business Act 2003” and substituting the following—

“

Investment Business Act 2003		
1	Applying:	
	(a)	to be granted an extension to the filing deadline under section 10A(4) for:
		(i) first month past filing deadline
		\$750
		(ii) second month past filing deadline
		\$750
		(iii) third month past filing deadline
		\$750
	(b)	for an exemption or modification from a standard or requirement under section 10B(1)
		\$710
	(c)	for variation or deletion of conditions under section 17(4)
		\$1,420
	(d)	for variation or deletion of conditions under section 17B(3)
		\$1,420
2	Applying:	
	(a)	for a registration pursuant to section 13A
		\$2,840

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	(b)	for a registration pursuant to section 13B	\$2,840
	(c)	for a licence pursuant to section 16(1)	\$2,840
3	Annual fee pursuant to section 19(1)(b):		
	(a)	where the investment provider carries on:	
		(i) an investment activity of a kind specified in paragraph 2 of Part 2 of the First Schedule to the Act in connection with shares or units in an investment fund	\$2,710
		(ii) an investment activity of a kind specified in paragraph 4 of Part 2 of the First Schedule to the Act	\$2,710
		(iii) an investment activity not falling within (i) and (ii) above	\$2,710
	(b)	where the investment provider carries on an investment activity of a kind specified in paragraphs 1, 2 and 3 of Part 2 of the First Schedule to the Act but is not licensed to hold client assets	\$6,780
	(c)	where the investment provider carries on an investment activity of a kind specified in Part 2 of the First Schedule to the Act and is licensed to hold client assets	\$13,560
4	Annual licence fee payable pursuant to section 19(1)(b) where an investment provider falls within paragraphs (2)(a), (b) or (c) and is part of a group which is subject to consolidated supervision by the Authority as home regulator under the Investment Business Act 2003, and that group:		
	(a)	has controlled net assets not exceeding \$500 million	\$78,330
	(b)	has consolidated net assets exceeding \$500 million	\$313,240
Annual fees in respect of (3) and (4) above are due on or before 31st March in every year.			

[Assent Date: 01 April 2022]

[Operative Date: 27 July 2022]