

COMPANIES (AMENDMENT) BILL 2016
(BILL NO. 14 OF 2016)

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BILL NO. 14 OF 2016**A BILL**

FOR AN ACT TO AMEND THE COMPANIES ACT 2015

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Companies (Amendment) Act 2016.
- (2) This Act is deemed to have come into force on 1 January 2016.
- (3) In this Act, the Companies Act 2015 is referred to as the “Principal Act”.

Section 3 amended

2. Section 3 of the Principal Act is amended by inserting the following new definitions—
 - ““contributory” means every person liable to contribute to the assets of a company in the event of the company being wound up and, for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory;
 - “Dealer” means a person who carries on the business of buying, selling, dealing, trading, underwriting or retailing of Securities whether or not the person carries on any other business;

“Investor Compensation Fund” means the fund established under the Capital Markets Decree 2009 for the purposes of granting compensation to investors who suffer pecuniary loss as referred to in Part 25A;

“Relation-Back Day” means—

- (a) in respect of a winding up made by an order of the Court, the date that the application for winding up was filed; and
- (b) in any other case, the date that the resolution for winding up was passed;”

Section 13 amended

3. Section 13 of the Principal Act is amended by—

- (a) inserting in subsection (1)(d) “and Part 25A;” after “Part 25”; and
- (b) inserting the following new subsection after subsection (2)—

“(3) Neither the Reserve Bank, the Registrar, the Official Receiver nor any person acting under their authority, shall be liable to any action, suit or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers conferred on them by or under the provisions of this Act or any other law.”

New section 63A inserted

4. The Principal Act is amended by inserting the following new section after section 63—

“Right to inspect and get copies

63A.—(1) A Foreign Company must allow anyone to inspect a register kept under Part 6.

(2) If the register is not kept on a computer, the person inspects the register itself.

(3) If the register is kept on a computer, the person inspects a hard copy of the information on the register.

(4) The requirement in subsection (3) to allow the person to inspect a hard copy of the information on the register does not apply in relation to a register that is kept on a computer if the person and the Foreign Company agree that the person can access the information by computer.

(5) A member of a Foreign Company or a registered Debenture Holder may inspect a register kept under Part 6 without charge.

(6) Other people may inspect the register only on payment of a fee, up to the Prescribed Amount, required by the Foreign Company.

(7) The Foreign Company must give a person a copy of the register, or a part of the register, within 7 days if the person—

- (a) asks for the copy; and

- (b) pays any fee, up to the Prescribed Amount, required by the Foreign Company.
- (8) The Registrar may allow a longer period to comply with the request.
- (9) If the register is kept on a computer and the person asks for the data on a computer disk, the Foreign Company must give the data to the person on a computer disk.
- (10) The data must be readable but the computer disk need not be formatted for the person's preferred operating system.
- (11) The Foreign Company is not required under subsection (1), (2), (3) or (5) to allow a person to see, or to give a person a copy of the register that contains, share certificate numbers.
- (12) The Registrar may grant a Foreign Company an exemption from complying with subsection (1), (2), (3) or (5) in relation to information in a register of Debenture Holders about Debentures that are not convertible into Shares on such conditions, if any, as the Registrar must determine in the Registrar's absolute discretion.
- (13) On application by the Registrar, the Court may order a person who contravenes a condition of the exemption to comply with the condition."

Section 145 amended

5. Section 145 of the Principal Act is amended by—

- (a) inserting in subsection (1)(c) "and" after ";;";
- (b) deleting in subsection (1)(d)(iii) ";; and" and substituting "."; and
- (c) deleting subsection (1)(e).

Section 272 amended

6. Section 272 of the Principal Act is amended by—

- (a) inserting "Dealer," after "business as a Broker,;" and
- (b) inserting "., Dealer" after "representative of a Broker".

New section 280A and Part 25A inserted

7. The Principal Act is amended by inserting the following new section and part after section 280—

"Levies

280A.—(1) In the case of every purchase and sale of Securities recorded on a Securities Exchange or notified to it under its rules, the purchaser and the seller are each liable to pay to the Reserve Bank a levy at such rate as may be specified by order of the Minister to be published in the Gazette as a percentage of the consideration for such purchase and sale; and different rates may be specified in respect of different classes of Securities.

(2) The Securities Exchange must collect and account to the Reserve Bank for the levy referred to in subsection (1).

(3) The amount of any levy payable under this section is recoverable as a civil debt due to the Reserve Bank.

(4) The Minister may make rules providing for—

- (a) the payment of the levies under this section; and
- (b) the keeping, examination and audit of the accounts of a Securities Exchange relating to the collection of such levies.

(5) For the purposes of subsection (1), the rate of percentage that applied under the Capital Markets Decree 2009 immediately before the commencement date is taken to be the rate of percentage that applies from the commencement date unless specified by order of the Minister published in the Gazette.

PART 25A—INVESTOR COMPENSATION FUND

Investor Compensation Fund

280B.—(1) The Investor Compensation Fund established under the Capital Markets Decree 2009 continues for the purposes of granting compensation to investors who suffer pecuniary loss resulting from the failure of a holder of a Securities Industry Licence to meet its contractual obligations.

(2) The Investor Compensation Fund comprises—

- (a) such money as is required to be paid into the Investor Compensation Fund by a holder of a Securities Industry Licence;
- (b) such sums of money as are paid in respect of an order of the Court in respect of a contravention of Part 42 or Division 3 of Part 43;
- (c) such sums of money as accrue from interest and profits from money placed in the Investor Compensation Fund;
- (d) such sums of money recovered by or on behalf of the Reserve Bank from entities whose failure to meet their obligations to investors result in payments from the Investor Compensation Fund; and
- (e) such sums of money as are received for the purposes of the Investor Compensation Fund from any other source approved by the Minister.

(3) Money which has accumulated in the Investor Compensation Fund may be invested by the Reserve Bank in such manner as may be determined by the Reserve Bank.”

Section 284 amended

8. Section 284 of the Principal Act is amended by—

- (a) inserting “—(1)” before “Every”; and

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

“(2) The Reserve Bank may grant an exemption from a requirement of subsection (1) on a case by case basis as it thinks fit.”

Section 286 amended

9. Section 286 of the Principal Act is amended by—

(a) inserting “—(1)” before “Every”; and

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

“(2) The Reserve Bank may grant an exemption from a requirement of subsection (1) on a case by case basis as it thinks fit.”

Section 287 amended

10. Section 287 of the Principal Act is amended by—

(a) deleting the heading and substituting “*Validity of Prospectus or Offer Document*”; and

(b) deleting “only” and substituting “valid for the length of time specified by the Reserve Bank in the certificate given under section 290(4), but if no length of time is specified, is”.

Section 290 amended

11. Section 290(4) of the Principal Act is amended by inserting “or Offer Document” before “has been”.

Section 292 amended

12. Section 292 of the Principal Act is amended by—

(a) deleting “A” and substituting “—(1) Subject to subsection (2), a”; and

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

“(2) Supplementary information may be annexed to a Registered Prospectus or Registered Offer Document if the document containing the supplementary information is approved by the Reserve Bank, on such conditions as the Reserve Bank considers necessary.”

Section 371 amended

13. Section 371(1) of the Principal Act is amended by deleting “or within a period extended by the Registrar,”.

Section 388 amended

14. Section 388 of the Principal Act is amended by inserting the following new subsection after subsection (2)—

“(2A) A Medium Private Company must prepare Financial Statements if it is directed to do so by Members with at least 10% of the votes under section 389.”

Section 389 amended

15. Section 389 of the Principal Act is amended by—

- (a) inserting in the heading “Medium Private Company or” before “Small”;
- (b) renumbering subsection “(1)” as “(1A)” and inserting the following new subsection before subsection (1A)—

“(1) Members with at least 10% of the votes in a Medium Private Company may give the Company a direction to—

- (a) prepare Financial Statements for a Financial Year; and
- (b) send them to all Members.”;
- (c) deleting in subsection (2) “The direction” and substituting “A direction under subsection (1) or (1A)”;
- (d) deleting in subsection (3) “The direction” and substituting “A direction under subsection (1) or (1A)”.

Section 391 amended

16. Section 391(2) of the Principal Act is amended by deleting “correct” and substituting “fair”.

Section 393 amended

17. Section 393(2) of the Principal Act is amended by inserting “Medium Private Company or a” before “Small”.

Section 400 amended

18. Section 400(4) of the Principal Act is amended by inserting “Medium Private Company or a” before “Small”.

Section 403 amended

19. Section 403 of the Principal Act is amended by—

- (a) inserting in subsection (1) “or Proforma Financial Statements” before “with”;
- (b) renumbering subsection “(2)” as “(2A)” and inserting the following new subsection before subsection (2A)—

“(2) Subsection (1) does not apply to a Medium Private Company that prepares Financial Statements and a Directors’ Report in response to a Member’s direction under section 389.”; and

- (c) inserting in subsection (3) “or Proforma Financial Statement” after “Report”.

Section 420 amended

20. Section 420 in the Principal Act is amended by—

- (a) renumbering section “420” as “420A”; and

(b) inserting the following new section before section 420A—

“Appointment of auditors

420.—(1) Subject to subsection (2), an Auditor or Auditors, a firm or firms, or an Auditor or Auditors and a firm or firms may be appointed as the auditor or auditors of a Company or Managed Investment Scheme.

(2) A firm may only be appointed as an auditor of a Company or a Managed Investment Scheme if—

- (a) at least one member of the firm is registered as an Auditor under this Act;
- (b) a member of the firm, who is registered as an Auditor under this Act, is nominated to sign all documents lodged with the Registrar arising from the appointment as auditor of the Company or Managed Investment Scheme; and
- (c) details of the Auditor referred to in paragraph (b) are given to the Registrar in writing.

(3) Any change to the details of the firm or the Auditor nominated under subsection (2) must be given to the Registrar within 14 days of the change.”

Section 473 amended

21. Section 473(2) of the Principal Act is amended by deleting “\$600” and substituting “\$6,000”.

Section 505 amended

22. The Principal Act is amended by deleting section 505 and substituting the following—

“Information as to pending liquidations

505.—(1) If, where a Company is being wound up, the winding up is not concluded within one year after its commencement, the liquidator must, within 3 months from the end of the year beginning on the day on which the Company was wound up and each succeeding year, prepare a report which complies with subsection (2).

(2) The report referred to in subsection (1) must set out—

- (a) an account of the liquidator’s acts and dealings and of the conduct of the winding up during the preceding year;
- (b) a description of the acts and dealings that remain to be carried out by the liquidator in order to complete the winding up; and
- (c) an estimate of when the winding up is likely to be completed.

(3) The liquidator must, no later than 7 days after the end of the 3 month period referred to in subsection (1), lodge the report with the Registrar.”

Section 522 amended

23. Section 522(1)(c) of the Principal Act is amended by deleting “on an application presented by the Official Receiver, unless it is satisfied that the liquidator or provisional liquidator of the Foreign Company in the country or territory where winding up proceedings have been commenced in respect of it has, in the manner prescribed by regulations made under this Act, required the Official Receiver to present the application” and substituting “in relation to an application for the winding up of a Foreign Company unless it is satisfied that the liquidator or provisional liquidator of the Foreign Company has requested, in writing, that an application be made to the Court for the winding up of the Foreign Company”.

Section 712 amended

24. Section 712 of the Principal Act is amended by inserting the following new subsection after subsection (2)—

“(3) For the purposes of this Act, a person must Lodge a document in the form and manner prescribed by regulations.”

New section 714A inserted

25. The Principal Act is amended by inserting the following new section after section 714—

“Correction of instrument issued in error

714A.—(1) If it appears to the Registrar or the Reserve Bank that any certificate of registration, licence or other instrument has been issued in error, or that any entry or endorsement has been made in error on any such instrument, or that any such instrument, entry or endorsement has been fraudulently or wrongfully obtained, or that any such instrument is fraudulently or wrongfully retained, he or she may summon the person to whom such instrument has been so issued, or by whom it has been so obtained or is retained, to deliver up the same for the purpose of being cancelled or corrected as the case may require, and, in case such person refuses or neglects to comply with such summons or cannot be found, the Registrar or the Reserve Bank may apply to the Court to issue a summons for such person to appear before the Court and show cause why such instrument should not be delivered to be so cancelled or corrected, and, if such person when served with such summons neglects or refuses to attend before the Court at the time therein appointed, it shall be lawful for the Court to issue a warrant authorising and directing the person so summoned to be apprehended and brought before the Court for examination.

(2) Upon the appearance before the Court of any person summoned or brought up by virtue of a warrant issued under the provisions of subsection (1), the Court may examine such person upon oath and may order such person to deliver up such certificate of registration, licence or other instrument, and, upon refusal or neglect by such person to deliver up the same pursuant to such order, the Court may direct the Registrar or the Reserve Bank to cancel or correct any such instrument or any entry or memorial in the register or of any endorsement relating to the person, and to substitute and issue such other instrument or make such entry or endorsement as the circumstances of the case may require, and the Registrar or Reserve Bank must give effect to such order.”

Section 730 amended

26. Section 730 of the Principal Act is amended by—

- (a) inserting “—(1)” before “The”; and
- (b) inserting the following new subsection after subsection (1)—

“(2) If a person is a Director or secretary of an Existing Company immediately before the commencement date and that person is not entitled to be appointed as a Director or secretary under section 93, the person may—

- (a) continue to act as a Director or secretary of the Company for up to 3 months after the commencement date; and
- (b) must resign within 3 months after the commencement date.”

Section 742 amended

27. Section 742 of the Principal Act is amended by—

- (a) deleting in subsection (2) “notwithstanding the repeal of the Repealed Act.” and substituting “notwithstanding the repeal of the Repealed Act and must pay—

- (a) if there is an equivalent requirement under this Act, the applicable fee (if any) prescribed by this Act; or
- (b) if there is no equivalent requirement under this Act, the applicable fee (if any) prescribed by the Repealed Act.”;

- (b) inserting the following new subsections after subsection (2)—

“(2A) Where a Company or Foreign Company fails to comply with a requirement of the Repealed Act within the time period prescribed by the Repealed Act, the Company or Foreign Company must comply with that requirement notwithstanding the repeal of the Repealed Act and must pay the applicable late fee prescribed by this Act and—

- (a) if there is an equivalent requirement under this Act, the applicable fee (if any) prescribed by this Act; or
- (b) if there is no equivalent requirement under this Act, the applicable fee (if any) prescribed by the Repealed Act.

(2B) Where a Company or Foreign Company fails to comply with a requirement of the Repealed Act within one year of the commencement date, the Registrar may deregister the Company or strike off the Foreign Company’s name from the register of Foreign Companies.

(2C) If the Registrar decides to deregister a Company or strike off a Foreign Company under this section, it must give notice of the proposed deregistration or striking off—

- (a) to the Company or Foreign Company;

- (b) to the Company or Foreign Company’s directors;
- (c) on the register of Companies or Foreign Companies maintained by the Registrar; and
- (d) in the Gazette.

(2D) When 2 months have passed since the Gazette notice and the Company or Foreign Company has not remedied the non-compliance which is the basis upon which the notice was issued, the Registrar may deregister the Company or strike off the Foreign Company’s name from the register of Foreign Companies.

(2E) The Registrar must give notice of the deregistration or striking off to everyone who was notified of the proposed deregistration under subsection (2C)(a) or (b).”;

- (c) inserting in subsection (4) “, individual or Firm” after “person” wherever it appears;
- (d) deleting in subsection (4) “notwithstanding the repeal of the Repealed Act.” and substituting “notwithstanding the repeal of the Repealed Act and must pay—
 - (a) if there is an equivalent requirement under this Act, the applicable fee (if any) prescribed by this Act; or
 - (b) if there is no equivalent requirement under this Act, the applicable fee (if any) prescribed by the Repealed Act.”; and
- (e) inserting the following new subsection after subsection (4)—

“(4A) Where a relevant person, individual or Firm fails to comply with a requirement of the Repealed Act within the time period prescribed by the Repealed Act, the relevant person, individual or Firm must comply with that requirement notwithstanding the repeal of the Repealed Act and must pay the applicable late fee prescribed by this Act and—

- (a) if there is an equivalent requirement under this Act, the applicable fee (if any) prescribed by this Act; or
- (b) if there is no equivalent requirement under this Act, the applicable fee (if any) prescribed by the Repealed Act.”

Section 743 amended

28. Section 743 of the Principal Act is amended by inserting the following new subsection after subsection (2)—

“(3) A unit trust established under the Unit Trusts Act (Cap. 228) immediately before the commencement date is taken to have complied with the provisions of this Act in relation to Managed Investment Schemes until 6 months after the commencement date.”

Section 747 amended

29. Section 747 of the Principal Act is amended by inserting the following new subsection after subsection (3)—

“(4) An application for a licence, registration or approval lodged under a Repealed Act prior to the commencement date is taken to be an application in relation to the same matter for an equivalent licence, registration or approval under this Act.”

Section 751 amended

30. Section 751 of the Principal Act is amended by—

(a) inserting “—(1)” before “If”; and

(b) inserting the following new subsections after subsection (1)—

“(2) If, after the commencement date, the Registrar or the Reserve Bank has in error charged fees or accepted forms that are not in accordance with this Act or the regulations (whether pursuant to a Repealed Act or otherwise), the Registrar or the Reserve Bank, may summon the person who paid the fee or lodged the form to rectify the error by paying the fee prescribed by regulations or lodging the Prescribed Form.

(3) If the person summoned under subsection (2) rectifies the error within 21 days of being summoned, the date of lodgement of the Prescribed Form or the date of payment of the prescribed fee will be deemed to be the date that the incorrect form or fee was lodged or paid and any registration, certificate of registration, licence or other instrument issued by the Registrar or the Reserve Bank will preserve the date of the registration, certificate of registration, licence or other instrument that was issued in error.

(4) If the person summoned under subsection (2) fails to rectify the error within 21 days of being summoned, any registration, certificate of registration, licence or other instrument that has been issued in error due to the acceptance of forms or fees that do not comply with the Act or regulations, will be revoked or cancelled and any registration, including the registration of a business name or a company under this Act will be deemed invalid.

(5) If the registration of a company or business name is deemed invalid under subsection (4), the Registrar must deregister the company or business name.”

Schedule 3 amended

31. Schedule 3 to the Principal Act is amended by—

(a) inserting “PART A—MINIMUM REQUIREMENTS FOR A PROSPECTUS OF A COMPANY” after the heading “MINIMUM CONTENT REQUIREMENTS FOR A PROSPECTUS”;

- (b) in paragraph 1—
- (i) deleting in subparagraph (1)(a) “and” after “;”;
 - (ii) deleting in subparagraph (1)(b) “.” and substituting “; and”; and
 - (iii) inserting the following new subparagraph after subparagraph (1)(b)—
“(c) a brief background and history of the company.”;
- (c) in paragraph 2—
- (i) deleting in subparagraph (1)(h) “and” and substituting “;”;
 - (ii) inserting in subparagraph (1)(h) “and the timeframe for full utilisation of the proceeds” after “the proceeds”;
 - (iii) inserting in subparagraph (4) “and the industry in which it operates” before “such”; and
 - (iv) inserting the following new subparagraph after subparagraph (4)—
“(5) Explain the steps proposed by the company to mitigate or manage the risks identified.”;
- (d) in paragraph 3—
- (i) inserting in subparagraph (a) “occupation,” after “age,”;
 - (ii) deleting in subparagraph (f) “any Director” and substituting “a Director or a member of senior management meets the fit and proper requirements as determined by the Reserve Bank and”;
 - (iii) deleting in subparagraph (f)(i) “a application” and substituting “an application”; and
 - (iv) deleting in subparagraph (f)(i) “was” after “laws”;
- (e) in paragraph 4—
- (i) inserting “—(1)” before “State”; and
 - (ii) inserting the following new subparagraph after subparagraph (1)—
“(2) An expert report that forms part of the Prospectus must be signed and dated by the expert.”;
- (f) in paragraph 5—
- (i) inserting in subparagraph (2)(c) “if available” after “reports”;
 - (ii) deleting subparagraph (2)(d);
 - (iii) deleting in subparagraph (2)(h) “, and whether employees are members of any unions and, if so, to name the unions”;

- (iv) deleting in subparagraph (2)(j) “production/operating capacities and”;
- (v) deleting subparagraph (2)(k);
- (vi) deleting in subparagraph (2)(p) “or proposed”; and
- (vii) renumbering subparagraphs (2)(e) to (t) as subparagraphs (2)(d) to (r) respectively;
- (g) in paragraph 6, deleting “Provide” and substituting “Where information is available, provide”;
- (h) in paragraph 7—
 - (i) inserting in subparagraph (1) “the most recent 3 years of” after “Include”;
 - (ii) deleting subparagraph (1)(d);
 - (iii) renumbering subparagraphs (1)(e) to (g) as subparagraphs (1)(d) to (f) respectively;
 - (iv) deleting “less” in subparagraph (2) and substituting “more”; and
- (i) inserting the following new part after paragraph 10—

**“PART B—MINIMUM REQUIREMENTS OF A
MANAGED INVESTMENT SCHEME**

11. Every Prospectus in relation to a Managed Investment Scheme must meet the minimum content requirements set out in the policy issued by the Reserve Bank from time to time.”

Schedule 4 amended

32. Schedule 4 to the Principal Act is amended by—

- (a) inserting “PART A—MINIMUM REQUIREMENTS FOR OFFER DOCUMENT OF A COMPANY” after the heading “MINIMUM CONTENT REQUIREMENTS FOR OFFER DOCUMENT”;
- (b) in paragraph 1—
 - (i) deleting in subparagraph (a) “and” after “;”;
 - (ii) deleting in subparagraph (b) “.” and substituting “; and”; and
 - (iii) inserting the following new subparagraph after subparagraph (b)—

“(c) a brief background and history of the company.”;
- (c) in paragraph 2—
 - (i) deleting in subparagraph (1)(h) “and” and substituting “;”;

- (ii) inserting in subparagraph (1)(h) “and the timeframe for full utilisation of the proceeds” after “the proceeds”;
 - (iii) inserting in subparagraph (4) “and the industry in which it operates” before “such”; and
 - (iv) inserting the following new subparagraph after subparagraph (4)—
 - “(5) Explain the steps proposed by the company to mitigate or manage the risks identified.”;
- (d) in paragraph 3—
- (i) inserting in subparagraph (a) “occupation,” after “age.”;
 - (ii) deleting in subparagraph (c) “and”;
 - (iii) deleting in subparagraph (d) “.” and substituting “; and”;
 - (iv) inserting the following new subparagraph after subparagraph (d)—
 - “(e) whether or not a Director or a member of senior management meets the fit and proper requirements as determined by the Reserve Bank and, is or has been—
 - (i) involved in an application under any bankruptcy or Insolvency laws filed and not struck out against such person or any partnership in which he or she was a partner or any Company of which he or she was a Director;
 - (ii) convicted in a criminal proceeding or is a named subject of a pending criminal proceeding; or
 - (iii) subject of any order, judgment or ruling of any Court of competent jurisdiction or the Reserve Bank temporarily enjoining him or her from acting as an Investment Adviser, Dealer, Director or employee of a Financial Institution and engaging in any type of business practice or activity.”;
- (e) in paragraph 4—
- (i) inserting “—(1)” before “State”; and
 - (ii) inserting the following new subparagraph after subparagraph (1)—
 - “(2) An expert report that forms part of the Offer Document must be signed and dated by the expert.”;
- (f) in paragraph 5—
- (i) deleting in subparagraph (1) “Include a” and substituting “Include the most recent 3 years of”;

- (ii) deleting in subparagraph (1) “has been” and substituting “have been”;
- (iii) deleting subparagraph (1)(d);
- (iv) renumbering subparagraphs (1)(e) to (g) as (1)(d) to (f) respectively;
- (v) deleting in subparagraph (2) “Prospectus” and substituting “Offer Document”; and
- (vi) deleting in subparagraph (2) “less” and substituting “more”; and
- (g) inserting the following new part after paragraph 8—

**“PART B—MINIMUM REQUIREMENTS OF A MANAGED
INVESTMENT SCHEME**

9. Every Offer Document in relation to a Managed Investment Scheme must meet the minimum content requirements set out in the policy issued by the Reserve Bank from time to time.”

Schedule 5 amended

33. Schedule 5 to the Principal Act is amended by—

- (i) inserting the following new items in the table after Item 2—

<i>Item</i>	<i>Provision</i>	<i>Prescribed Amount</i>
“2A.	Section 63A(6)	\$20
2B.	Section 63A(7)	\$50”

- (ii) in Item 13 of the table, deleting “\$500” and substituting “\$40,000”.

Revocation

34. The Companies (Transitional) Regulations 2015 is hereby revoked.

COMPANIES (AMENDMENT) BILL 2016

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Companies (Amendment) Bill 2016 (**‘Bill’**) seeks to amend the Companies Act 2015 (**‘Act’**).
- 1.2 The Act came into force on 1 January 2016 except for section 713 which had come into force on 23 December 2015 to enable the Minister to prescribe the subsidiary legislation before the commencement of the Act.
- 1.3 Prior to the commencement of the Act, the Companies (Transitional) Regulations 2015 (**‘Regulations’**) was prescribed to provide additional provisions to support the operation of the Act.
- 1.4 As such, there is a need to amend the Act to incorporate these provisions into the Act.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement date.
- 2.2 Clause 2 of the Bill provides the definitions of “contributory”, “Dealer”, “Investor Compensation Fund” and “Relation-Back Day”.
- 2.3 Clause 3 of the Bill amends the Act by providing a new subsection to limit the liability of the Registrar, the Reserve Bank and the Official Receiver.
- 2.4 Clause 4 of the Bill amends the Act to provide for the right to inspect and obtain copies of a register kept by a Foreign Company under Part 6 of the Act.
- 2.5 Clause 5 of the Bill amends the Act by removing the requirement to include copies of Financial Statements for notices of all meetings.

- 2.6 Clause 6 of the Bill amends the Act by including that a Dealer or representative of a Dealer is also required to be a holder of a Securities Industry Licence in order to deal in Securities.
- 2.7 Clause 7 of the Bill amends the Act to extend the Reserve Bank's powers to impose levies on every trade on a Securities Exchange which was previously included in the repealed Capital Markets Decree 2009. It also inserts a new part that provides for provisions dealing with the continuation of the Investor Compensation Fund which was established under the repealed Capital Markets Decree 2009.
- 2.8 Clauses 8 and 9 of the Bill amend the Act to give the Reserve Bank the power to grant an exemption from a requirement of a Prospectus or Offer Document.
- 2.9 Clause 10 of the Bill amends the Act by granting the Reserve Bank powers to ascertain the validity period of a Registered Prospectus or Registered Offer Document.
- 2.10 Clause 11 of the Bill amends the Act by including a reference to Offer Documents.
- 2.11 Clause 12 of the Bill amends the Act to allow supplementary information to be annexed to a Registered Prospectus or Registered Offer Document.
- 2.12 Clause 13 of the Bill amends the Act by removing the Registrar's ability to extend the period for lodgement of a Charge as this is a decision for the Court.
- 2.13 Clauses 14, 15, 17, 18 and 19 of the Bill amend the Act to require Medium Private Companies to prepare Financial Statements if requested by 10% of the Company's Members.
- 2.14 Clause 16 of the Bill amends the Act to refer to the phrase "true and fair" which is consistent with the sign-off language used by auditors.
- 2.15 Clause 20 of the Bill amends the Act to provide for the appointment of firms as auditors.
- 2.16 Clause 21 of the Bill amends the Act by increasing the preferential payment to employees from \$600 to \$6,000.
- 2.17 Clause 22 of the Bill amends the Act by replacing section 505 to clarify the reporting requirements with respect to pending liquidations.
- 2.18 Clause 23 of the Bill amends section 522 of the Act by clarifying the obligations of the Official Receiver regarding the winding up of a Foreign Company.
- 2.19 Clause 24 of the Bill amends the Act to enable lodgement of a document in the form and manner prescribed by regulations.

- 2.20 Clause 25 of the Bill amends the Act to provide the Registrar and Reserve Bank powers to correct instruments issued in error.
- 2.21 Clause 26 of the Bill amends the Act to enable a Director of an Existing Company who is not eligible to be a Director under the Act to continue as a Director for 3 months from the commencement of the Act.
- 2.22 Clause 27 of the Bill amends the Act to provide provisions to deal with companies that fail to comply with the timeframes set out in a Repealed Act.
- 2.23 Clause 28 of the Bill amends the Act to deem unit trusts established under the Unit Trusts Act (Cap. 228) to be in compliance with the Act for 6 months from the commencement of the Act.
- 2.24 Clause 29 of the Bill amends the Act by inserting a new subsection which deems any application for a licence, registration or approval lodged under a Repealed Act to be considered under the Act.
- 2.25 Clause 30 of the Bill amends the Act by inserting new subsections to enable the Registrar and the Reserve Bank to rectify errors with forms lodged with the Registrar or the Reserve Bank.
- 2.26 Clauses 31 and 32 of the Bill amend Schedules 3 and 4 to the Act by modifying the minimum requirements for a Prospectus or Offer Document of a Company or Managed Investment Scheme.
- 2.27 Clause 33 of the Bill amends Schedule 5 to the Act by providing the required Prescribed Amount as stipulated in the new items.
- 2.28 Clause 34 of the Bill revokes the Companies (Transitional) Regulations 2015.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act shall be the responsibility of the minister responsible for companies.

A. SAYED-KHAIYUM
Attorney-General