

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) ACT 2022

WHEREAS it is expedient to amend the Bermuda Monetary Authority Act 1969 to update certain definitions under the Third Schedule and to correct fees incorrectly stated under certain headings of the Fourth Schedule; to make a consequential amendment to the Banks and Deposit Companies (Fees) Act 1975 to correct an annual fee incorrectly stated under Part I of the Second Schedule; and to provide that the Bill shall come into operation with retroactive effect as from 1 January 2022 so as to cause the fees revised under the Bill to be in accordance with the fee structure agreed upon by the Authority and industry for the year 2022;

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 Bermuda Monetary Authority Act 1969 (the "principal Act"), may be cited as the Bermuda Monetary Authority Amendment (No. 2) Act 2022.

Amends Third Schedule

2 The Third Schedule to the principal Act is amended under the heading "Financial Institutions" by—

- (a) deleting the words, "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) deleting the words, "Fund administrators as defined in section 2 of the Investment Funds Act 2006" and substituting the words, "A fund administration provider business as defined in section 2 of the Fund Administration Provider Business Act 2019".

Amends Fourth Schedule

3 The Fourth Schedule to the principal Act is amended under the heading—

- (a) Insurance Act 1978—

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) ACT 2022

- (i) in paragraph 3(a)(xiv)(C) by deleting “\$28,500” and substituting “\$33,600”;
- (ii) in paragraph 3(a)(xiv)(D) by deleting “\$33,600” and substituting “\$38,760”;
- (iii) in paragraph 7(f)(D) by deleting “\$12,000” and substituting “\$9,000”;
- (iv) in paragraph 7(f)(E) by deleting “\$15,000” and substituting “\$11,500”;
- (v) in paragraph 7(g)(C) by deleting “\$30,000” and substituting “\$22,000”;
- (vi) in paragraph 7(h)(C) by deleting “\$30,500” and substituting “\$30,000”;
- (b) Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, by deleting in the end note the reference to “2021”;
- (c) Digital Asset Business Act 2018, by repealing and replacing paragraphs 1, 2 and 3 as follows—

Digital Asset Business Act 2018			
1	Application fees pursuant to section 12—		
	(a)	Class F licence or Class M licence	\$2,266
	(b)	Class T licence	\$1,000
2	Grant of a licence to carry on digital asset business pursuant to section 16(1)(a)—		
	(a)	the fee payable by a licensed undertaking carrying on digital asset business in accordance with section 10(2)(a), 10(2)(b), 10(2)(ca), 10(2)(d) or 10(2)(e), shall be the lower of amounts calculated under paragraphs (i) and (ii) where—	
		(i) equals \$450,000; and	
		(ii) equals the higher of \$15,000 and 0.00075 multiplied by the estimated client receipts	

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) ACT 2022

	(b)	<p>the fee payable by a licensed undertaking carrying on digital asset business activity of maintaining custody of client private keys in accordance with section 10 (2)(c) or 10(2) (da) shall be the lower of amounts calculated under paragraphs (i) and (ii) where—</p> <p>(i) equals \$450,000; and</p> <p>(ii) equals the higher of \$15,000 and 0.00075 multiplied by the estimated client receipts.</p>	
	(c)	<p>the fee payable by a licensed undertaking carrying on digital asset business in accordance with section 10(2)(c) or 10(2) (da) which does not maintain custody of client private keys shall be the lower of amounts calculated under paragraphs (i) and (ii) where—</p> <p>(i) equals \$450,000; and</p> <p>(ii) equals the higher of \$100,000 and 0.00075 multiplied by the estimated client receipts</p>	

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) ACT 2022

	(d)	notwithstanding subparagraphs (a) to (c) above, the fee payable by an undertaking carrying on any digital asset business in accordance with a Class T licence pursuant to section 12(3) shall be \$1,000.	
3	Annual fee pursuant to section 16(1)(b)—		
	(a)	<p>the annual fee payable by a licensed undertaking carrying on digital asset business in accordance with section 10(2)(a), 10(2)(b), 10(2)(ca), 10(2)(d) or 10(2)(e) shall be the lower of amounts calculated under paragraphs (i) and (ii) where—</p> <p>(i) equals \$450,000; and</p> <p>(ii) equals the higher of \$15,000 and 0.00075 multiplied by the client receipts.</p>	
	(b)	<p>the annual fee payable by a licensed undertaking carrying on digital asset business activity of maintaining custody of client private keys in accordance with section 10(2)(c) or 10(2)(da), shall be the lower of amounts calculated under paragraphs (i) and (ii) where—</p> <p>(i) equals \$450,000; and</p>	

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) ACT 2022

		(ii) equals the higher of \$150,000 and 0.00075 multiplied by the client receipts	
	(c)	the annual fee payable by a licensed undertaking carrying on digital asset business in accordance with section 10(2)(c) or 10(2)(da) which does not maintain custody of client private keys shall be the lower of amounts calculated under paragraphs (i) and (ii) where— (i) equals \$450,000; and (ii) equals the higher of \$100,000 and 0.00075 multiplied by the client receipts	
	(d)	notwithstanding subparagraphs (a) to (c) above, the fee payable by an undertaking carrying on any digital asset business in accordance with a Class T licence pursuant to section 12(3) shall be \$1,000.	
Annual Fees in respect of paragraph 3 above are due on or before 31st March. ”.			

Amends Banks and Deposit Companies (Fees) Act 1975

4 The Second Schedule to the Banks and Deposit Companies (Fees) Act 1975 is amended in Part I, in paragraph (d), by deleting the annual fee amount “\$1,250,000” and substituting “\$1,772,680”.

Commencement

5 This Act shall be deemed to have come into operation on 1 January 2022.

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 2) BILL 2022

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Bermuda Monetary Authority Act 1969 to update certain definitions under the Third Schedule and to correct fees incorrectly stated under certain headings of the Fourth Schedule; to make a consequential amendment to the Banks and Deposit Companies (Fees) Act 1975 to correct an annual fee incorrectly stated under Part I of the Second Schedule; and to provide that the Bill shall come into operation with retroactive effect as from 1 January 2022 so as to cause the fees revised under the Bill to be in accordance with the fee structure agreed upon by the Authority and industry for the year 2022.

Clause 1 provides a citation for the Bill.

Clause 2 amends the Third Schedule to the principal Act in relation to the Investment Business Act 2003 under “Financial Institutions” to be in accordance with the definition of “Investment Provider” under the most recent amendments made to the Investment Business Act 2003. Clause 2 further amends the Third Schedule to the principal Act by reassigning the definition of “Fund Administration Provider Business” to the Fund Administration Provider Business Act 2019 and by deleting a reference to the Investment Funds Act 2006.

Clause 3 amends the Fourth Schedule to the principal Act to correct fees incorrectly stated in amendments to the principal Act made in 2021 so as to ensure that all fees previously consulted on by the Authority are correctly referenced. In this regard, corrections are made to certain fees set out under the headings; “Insurance Act 1978” and “Digital Asset Business Act 2018”. Under the heading “Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008” the end note is corrected.

Clause 4 amends the Second Schedule to the Banks and Deposit Companies (Fees) Act 1975, to correct an annual fee incorrectly stated under Part I of the Second Schedule.

Clause 5 provides for the Bill to be deemed to have come into operation on 1 January 2022.