



I assent,

SAMUEL WEYMOUTH TAPLEY SEATON
Governor-General
27th December, 2018.

SAINT CHRISTOPHER AND NEVIS

AN ACT to amend the Financial Services Regulatory Commission Act, Cap. 21.10.

[Published 28th December 2018, Extra-Ordinary Gazette No. 67 of 2018.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis and by the authority of the same as follows:

1. **Short title.**

This Act may be cited as the Financial Services Regulatory Commission (Amendment) Act, 2018.

2. **Interpretation.**

In this Act the expression “Act” means the Financial Services Regulatory Commission Act, Cap 21.10.

3. **Amendment of section 2.**

Section 2 of the Act is amended by inserting, in the correct alphabetical order the following new definitions:

.....

“ “authorised person” means a natural or legal person licensed by the Commission to carry on finance business;

“designated non-financial businesses and professions” includes:

- (a) casinos and other gaming entities;
- (b) real estate agents;
- (c) jewellers and dealers in precious metals and precious stones;
- (d) lawyers, notaries, other independent legal professionals and accountants;
- (e) car dealers and car rental agencies;
- (f) trusts and corporate service providers providing the business of the

Financial Services Regulatory Commission (Amendment) Act, 2018 - 12.

following:

- (i) acting as a formation agent of legal persons;
- (ii) acting as or arranging for another person to act as a director or secretary of a company, a partner of a partnership or a similar position in relation to other legal persons;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- (iv) acting as or arranging for another person to act as a trustee of an express trust or performing the equivalent function for another form of legal arrangement;
- (v) acting as or arranging for another person to act as a nominee shareholder for another person.

“finance business” means trust business or corporate business carried on for profit or reward in or from within the Federation;

“financial services or related products” includes any activity involving

- (a) financial services business, with the exception of prudential banking business pursuant to the Banking Act, No. 1 of 2015;
- (b) finance business;
- (c) the use, management and sale of virtual assets;
- (d) business carried on pursuant to any of the enactments set out in Schedule 1;
- (e) the business of an authorised person for the purposes of this Act, its Regulations and the Citizenship by Investment Regulations;
- (f) the business of designated non-financial businesses and professions for the purposes of this Act, its Regulations, the Financial Services (Implementation of Industry Standards) Regulations No. 51 of 2011, the Anti-Money Laundering Regulations No. 46 of 2011 and the Anti-Terrorism Regulations No. 47 of 2011;
- (g) any other business related to finance business or financial services business that the Minister may by Order prescribe;

“person” means a natural person or a legal person;

“virtual asset” means a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes.”.

4. **Amendment of section 33.**

Section 33 of the Act is amended by replacing subsection (4) as follows:

Financial Services Regulatory Commission (Amendment) Act, 2018 - 12.

“ (4) Where a regulated entity acts in contravention of subsection (1), it shall be liable to a fee as set out in Schedule 5.

5. Amendment of section 42.

Section 42 of the Act is amended in subsection (1) by replacing the expression, “a fee of a prescribed amount”, with the expression, “the fee set out in Schedule 5”.

6. Insertion of section 43A.

The Act is amended by inserting immediately after section 43, a new section 43A as follows:

“ **43A. All Financial Services to be licensed.**

(1) A person shall not offer financial services or related products from within St. Kitts and Nevis unless first licensed by the Commission to do so.

(2) A person who acts in contravention of subsection (1), commits an offence and is liable on conviction on indictment to a fine not exceeding one hundred thousand dollars or to a term of imprisonment not exceeding two years.

(3) Where a legal person acts in contravention of sub-section (1), every person who at the time of the commission of the offence was a Director, Manager, Secretary or other officer of the legal person commits an offence, and is liable on conviction on indictment to a fine not exceeding two hundred and seventy five thousand dollars (275,000.00) or to a term of imprisonment not exceeding five years.”.

7. Amendment of section 45.

Section 45 of the Act is amended by replacing it as follows:

“ **45. General penalties.**

A person who commits an offence under this Act for which no penalty is given shall be liable on summary conviction to a fine not exceeding fifty thousand dollars.

8. Amendment of section 50.

The Act is amended in section 50 by replacing it as follows:

“ **50. Amendment of Schedules.**

The Minister may by Order published in the *Gazette* amend the Schedules.”.

9. Amendment of section 51.

The Act is amended in section 51 by

- (a) renumbering the section as 51 subsection (1); and
- (b) by inserting the following new subsections as follows:

“ (2) Notwithstanding the generality of subsection (1), the Minister may

Financial Services Regulatory Commission (Amendment) Act, 2018 - 12.

make regulations to provide for

- (a) the supervision of persons carrying on any finance business;
- (b) the supervision of any person carrying on financial services business or related business;
- (c) the payment of fees; and
- (d) for the imposition of fines and daily default fines for breaches of the matters specified in the Regulations.

(3) Regulations made under this section may provide that the contravention of any provision constitutes an offence and may prescribe penalties for any offence not exceeding one hundred thousand dollars or to imprisonment for a period not exceeding two years or both.”.

10. Amendment of Schedules.

The Act is amended by inserting immediately after Schedule 4 the following new Schedule Five:

“ **Schedule 5.**

- | | |
|------------------------------------|--------------|
| (a) Late Fee | 10,000.00 |
| (b) Failure to provide information | 10,000.00.”. |

ANTHONY MICHAEL PERKINS

.....
Speaker

Passed by the National Assembly this 19th day of December, 2018.

SONIA BODDIE-THOMPSON
Clerk of the National Assembly