

**Financial Services Authority**

Press release

*Victoria – August 2021*

**New amendments to Financial Services Legislations**

Following the approval of the National Assembly to the proposed amendments to several legislations related to the Financial Services, the President of the Republic, Mr. Wavel Ramkalawan assented to the amendments earlier this week, which has then been gazetted on the 6th August 2021.

Several amendments were proposed pertaining to the International Corporate Service Providers (ICSP) Act, which governs businesses known as Corporate Service Providers, which have been licensed to provide services to businesses operating in the offshore sector. Particularly, new amendments introduce the Private Trust Companies, which comes as a consequential amendment to the new Trusts Act and amendments to the International Business Companies Act. Another amendment gives the Financial Services Authority (FSA), the power to pro-rate or give a reduction to the license fee which a CSP pays to get its first licence, this is to ensure that the CSP is not at a disadvantage depending on the time of the year the application is made; for instance, the CSP will pay the full fee in January, but will get the pro-rated fee if they apply in July or December.

The new Trust Act, replaces the old International Trusts Act 1994, which was one of the first Act to be enacted along with the International Business Companies Act 1994 and the International Trade Zone Act 1995 to launch the seychelles offshore sector. During the past 25 years there has not been any substantial amendments made to this particular law, hence there was a real necessity to bring forth a new Act to modernize the product and therefore enabling Seychelles to retain its competitive advantage over other jurisdictions offering the same product. Other prominent amendments included that of the Trust’s Protectors, Power of a settlors, financial records to be kept in Seychelles, the preservation of information, etc.

Amendments to the Companies (Special Licenses) Act (CSL Act) comes in an effort to improve the supervision of the FSA towards these companies and also to improve the business environment which these companies are operating in. In the past the Authority could not oblige these companies to pay their license fees as there was no sanctions. Additionally, the industry felt that certain provisions was not practical for them to meet, for example the 3 months’ period to submit their annual report and financial statements was too short. Other new amendments gear towards the application for a special licence and validity of the special license, the procedures to cancel or surrender the special license and so on.

The Foundations Act, permits Foundations to be registered with the FSA. A foundation in this context is similar to a hybrid company and trust. A foundation is a separate legal entity, which is created when a person known as a “founder” transfers his assets to a foundation for the benefits of his beneficiaries. The amendments follow the Report Global Forum (OECD) which was published in April 2020, whereby Seychelles went from “Largely Compliant” to “Partially Compliant”. These standards pertain to the transparency and exchange of tax related information. Amendments included making it an obligation for the Foundations to maintain their accounting records in Seychelles, alongside record of their councilors, agents and beneficiaries. The Foundations will also face a penalty of maximum $10,000 for failing to meet their obligations.

Many amendments have also been made to the International Business Companies (IBC Act). One such amendments were the obligation for the service providers to preserve information of all IBCs under their administration for a minimum period of 7 years. The information includes the registers which the companies is required to keep as well as their accounting records. The information is also extended to companies which has been dissolve and “struck off”. The information will then be handed over to FSA when the services providers ceases to operate. This will ensure that information being requested by Foreign authorities are always accessible. Their financial record will also be kept in Seychelles. In order to ensure that struck-off companies restored by the Court and the FSA remedy any previous contravention to record keeping obligations, new amendments requires the Court and the FSA to only restore a company if it is satisfied that the company is in compliance with its obligations relating to accounting records, register of members, register of directors and register of beneficial owners. Similar amendments have also been made under the Foundations Act and Limited Partnerships Act.

Lastly, there were a couple of amendments made to the Limited Partnerships Act, 2003. Similarly, to the provisions under the IBC Act and Foundations Act, new obligation has been introduced for the Registered Office of the Limited Partnership to be the principal address of their agents or CSP in Seychelles. It is also now a legal obligation for the Limited Partnership to appoint a licensed CSP as their registered agents here in Seychelles.

The amendments make the necessary provision for Seychelles to be in compliance with the international standards for exchange of information on tax matters relating to financial products. The amendments are also in line with the good conduct and best international practices which has been adopted by other financial services jurisdictions.

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