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No. 5 of 2010

IBC (Amend) Act, 2010

No. 6 of 2010

# INVESTMENT FUNDS (AMENDMENT) ACT, 2010

## Arrangement of Sections

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No. 6 of 2010

## INVESTMENT FUNDS (AMENDMENT) ACT, 2010

AN ACT TO AMEND THE INVESTMENT FUNDS ACT TO REDEFINE  
AND CLARIFY CERTAIN WORDS AND PHRASES AND FOR  
CONNECTED PURPOSES.

[Date of Assent - 16<sup>th</sup> March, 2010]

Enacted by the Parliament of The Bahamas.

### 1. Short title and commencement.

- (1) This Act, which amends the Investment Funds Act <sup>1</sup>, may be cited as the Investment Funds (Amendment) Act, 2010.
- (2) This Act shall come into force on such date as the Minister may appoint by notice, published in the Gazette.

### 2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) in sub-paragraph (i) of paragraph (a) of the definition of “investment fund” or “fund” —
  - (i) by the deletion of the comma immediately after the word “trustee” and the insertion of the word “or”; and
  - (ii) by the deletion after the word “administrator” of the words “, the investment advisor or the investment manager”;
- (b) in paragraph (b) of the definition of “investment fund” or “fund” —
  - (i) in sub-paragraph (ii), by the deletion, after the word “administrator”, of the words “, the investment advisor or the investment manager”; and
  - (ii) by the deletion of sub-paragraph (iii);
- (c) in paragraph (c) of the definition of “investment fund” or “fund” —

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<sup>1</sup>(Ch. 369A)

- (i) in sub-paragraph (ii), by the deletion of the word "or" immediately after the words ", The Bahamas"; and
- (ii) by the deletion of sub-paragraph (iii);
- (d) in sub-paragraph (ii) of the definition of "non-Bahamas based investment fund", by the insertion after the word "custodian" of the words ", investment manager or investment advisor incorporated, registered or operating";
- (e) in the definition of "professional fund" —
  - (i) in paragraph (a), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
  - (ii) by the repeal and replacement of paragraph (b) as follows —  
 "(b) any registered firm under the Securities Industry Act or pursuant to the laws of another jurisdiction;";
  - (iii) in paragraph (c), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
  - (iv) in paragraph (d), by the deletion of the words "in a prescribed jurisdiction" and the substitution of the words "pursuant to the laws of another jurisdiction";
  - (v) in paragraph (h), by the insertion of the word "or" immediately after the semi-colon;
  - (vi) by the insertion, immediately after paragraph (h), of a new paragraph (i) as follows —  
 "(i) any entity with net assets in excess of five million dollars;";
- (f) in the definition of "recognized foreign fund" —
  - (i) in paragraph (a), by the deletion of the word "or";
  - (ii) in paragraph (b), by the insertion of the word "or" immediately after the semi-colon;
  - (iii) by the insertion, immediately after paragraph (b), of the following —  
 "(c) it is incorporated or established and is in good standing in a jurisdiction prescribed by the Commission by notice in the Gazette;".

### 3. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended —

- (i) by the insertion immediately after paragraph (b) of the following —  
 "(c) is incorporated or established and is in good standing in a jurisdiction prescribed by the Commission; and";
- (ii) by re-lettering paragraphs (c) and (d) as paragraphs (d) and (e).

**4. Amendment of section 11 of the principal Act.**

Section 11 of the principal Act is amended by the repeal and replacement of subsection (2) as follows —

- “(2) An application for registration with the Commission as a recognised foreign fund shall be in the prescribed form and shall be accompanied by —
- (a) evidence of the recognised foreign fund being licensed or registered in a prescribed jurisdiction;
  - (b) evidence of its listing on a prescribed securities exchange; or
  - (c) a copy of its certificate of incorporation or deed of establishment in a prescribed jurisdiction;
  - (d) evidence of its good standing in a prescribed jurisdiction; and
  - (e) such other information and documentation as may be required for the purpose of satisfying the Commission that the investment fund meets the conditions for being classified as a recognised foreign fund; and
  - (f) the prescribed application fee.”.

**5. Amendment of section 19 of the principal Act.**

Section 19 of the principal Act is amended in subsection (2) —

- (a) by the deletion of the word “any” and the substitution of the word “its”; and
- (b) by the deletion, immediately after the word “administrator”, of the words “, investment manager and investment advisor”.

**6. Amendment of section 31 of the principal Act.**

Section 31 of the principal Act is amended in subsection (2) by the deletion of the word “four” and the substitution of the word “six”.

**7. Insertion of new section 62A into the principal Act.**

The principal Act is amended by the insertion, immediately after section 62, of the following —

- “62A. The Commission may publish guidelines of any provision of this Act or of any regulation or rule made under this Act.”