

CAYMAN ISLANDS



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THE DIRECTORS REGISTRATION AND LICENSING LAW, 2014

(LAW 10 OF 2014)

THE DIRECTORS REGISTRATION AND LICENSING LAW, 2014

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CAYMAN ISLANDS

Law 10 of 2014.

I Assent

Franz Manderson

Acting Governor.

14th May, 2014

**A LAW TO MAKE PROVISION FOR THE ESTABLISHMENT OF A
REGISTRATION REGIME FOR DIRECTORS AND A LICENSING
REGIME FOR PROFESSIONAL DIRECTORS AND CORPORATE
DIRECTORS OF MUTUAL FUNDS REGULATED UNDER THE
MUTUAL FUNDS LAW (2013 REVISION) AND PERSONS TO WHOM
PARAGRAPHS 1 AND 4 OF SCHEDULE 4 OF THE SECURITIES
INVESTMENT BUSINESS LAW (2011 REVISION) APPLIES; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**PART I
PRELIMINARY**

1. (1) This Law may be cited as the Directors Registration and Licensing Law, 2014.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Interpretation	2. In this Law -
(2013 Revision)	“Authority” means the Cayman Islands Monetary Authority established under section 5(1) of the Monetary Authority Law (2013 Revision);
(2003 Revision)	“companies management licence” means a companies management licence issued pursuant to the Companies Management Law (2003 Revision);
	“corporate director” means a body corporate appointed as a director for a covered entity;
	“covered entity” means -
(2011 Revision)	(a) a company to which paragraphs 1 and 4 of Schedule 4 of the Securities Investment Business Law (2011 Revision) apply; or
(2013 Revision)	(b) a mutual fund regulated under the Mutual Funds Law (2013 Revision);
(2013 Revision)	“fund manager” means a person providing investment management services or investment advisory services or a promoter under the Mutual Funds Law (2013 Revision);
(Law 32 of 2010)	“insurer” means an insurer licensed under the Insurance Law, 2010 to carry on insurance business within the meaning of that Law or any other insurer acceptable to the Authority;
(2013 Revision)	“mutual fund administrators licence” means a mutual fund administrators licence issued pursuant to the Mutual Funds Law (2013 Revision);
	“professional director” means a natural person appointed as a director for twenty or more covered entities; and
	“registered director” means a natural person who is registered under this Law.
Application	3. This Law applies to a registered director, a professional director and a corporate director of a covered entity in the Islands, whether or not that registered director, professional director or corporate director is resident in the Islands.

**PART II
REGISTERED DIRECTORS**

Prohibition from acting as a director unless registered	4. (1) A natural person appointed as a director of a covered entity shall not, subject to subsection (4), act in that capacity unless registered under this Law.
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(2) A natural person who, on or after the date of commencement of this Law, is proposed to be appointed as a director of a covered entity shall not be appointed to act in that capacity unless registered by the Authority.

(3) Subject to subsection (4) a natural person who, prior to the date of commencement of this Law, is a director of a covered entity shall not continue to act in that capacity on or after that date unless he makes an application for registration, and is registered as a director, by the Authority.

(4) A natural person to whom subsection (3) applies shall not be in contravention of this Law if that person is registered within three months of the date of commencement of this Law.

(5) A natural person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for twelve months, or to both.

5. (1) An application for registration shall be made, in the prescribed form, to the Authority and shall be accompanied by the prescribed application fee.

Application for registration

(2) An applicant shall comply with a request made by the Authority for information -

- (a) that relates to his appointment as a director of a covered entity;
- (b) necessary to the Authority for the purposes of registration; or
- (c) that the Authority may reasonably require for the exercise of its regulatory functions under this Law or the Monetary Authority Law (2013 Revision).

(2013 Revision)

(3) An application fee paid to the Authority for registration is non-refundable.

(4) Upon submitting an application for registration to the Authority, an applicant may continue to act as a director of a covered entity until the applicant is registered by the Authority under section 6 but that applicant shall, in the time prescribed, cease to act as a director of a covered entity if, for any reason, the application for registration is refused.

6. (1) The Authority may register an applicant if satisfied that the applicant has provided to the Authority the information in the prescribed form and paid to the Authority any applicable fees that may be prescribed.

Registration by the Authority

(2) Each registered director shall, on or before the 15th January in each calendar year, provide to the Authority the information in the prescribed form and

pay to the Authority the prescribed annual fee, and there shall be payable by a registered director who fails to pay the prescribed annual fee by that date, a surcharge of one-twelfth of that fee for every month or part of a month after the 15th January in each year that the fee is not paid.

(3) If there is any change in the information provided to the Authority for the registration of a director, the registered director shall within twenty-one days of the change, inform the Authority of the change.

(4) A registered director who acts in contravention of subsection (3) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Authority may refuse to register

7. The Authority may refuse to register an applicant if the Authority has information that the applicant -

- (a) has been convicted of a criminal offence involving fraud or dishonesty; or
- (b) is the subject of an adverse finding, financial penalty, sanction or disciplinary action by a regulator, self-regulatory organization or a professional disciplinary body.

Consequence of refusal of registration

8. (1) Where the Authority refuses to register an applicant under this Part, the applicant shall not serve as a director for any covered entity.

(2) Notwithstanding subsection (1), a person who is refused registration by the Authority may re-apply for registration if there is a material change in the circumstances relevant to the application.

PART III PROFESSIONAL DIRECTORS

Prohibition from acting as professional director unless licensed

9. (1) No natural person shall be a professional director unless, subject to subsection (4), that person holds a valid licence issued under this Law.

(2) A natural person who, on or after the date of commencement of this Law, proposes to be a professional director shall not be or carry on business as a professional director unless that person holds a valid licence issued under this Law by the Authority.

(3) Subject to subsection (4) a natural person who, prior to the date of commencement of this Law, is a professional director shall not continue to act in that capacity on or after that date unless he is licensed by the Authority.

(4) A natural person to whom subsection (3) applies shall not be in contravention of this Law if that person is licensed within three months of the date of commencement of this Law.

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for twelve months, or to both.

(6) The Cabinet may by Order amend the Schedule.

10. (1) An application for a licence shall be made to the Authority, in the prescribed form and shall be accompanied by the prescribed application fee.

Application for a licence
as a professional director

(2) An applicant shall comply with any requests made by the Authority for information -

- (a) that relates to his appointment as a director of a covered entity;
- (b) necessary to the Authority for the purposes of licensing; or
- (c) that the Authority may reasonably require for the exercise of its regulatory functions under this Law or the Monetary Authority Law (2013 Revision).

(2013 Revision)

(3) An application fee paid to the Authority for licensing as a professional director is non-refundable.

(4) Upon submitting an application for a licence under this Part to the Authority, an applicant may continue to act as a professional director until the applicant is granted a licence by the Authority under section 11 but that applicant shall in the time prescribed cease to act as a professional director if, for any reason, the application for a licence is refused.

11. (1) The Authority may grant a licence with or without conditions as the Authority may consider appropriate.

Licensing by the
Authority

(2) The Authority may not grant a licence to an applicant unless it is satisfied -

- (a) that the applicant has sufficient capacity to carry out the applicant's duties as a professional director; and
- (b) that the applicant is a fit and proper person for licensing as a professional director.

12. In determining for the purposes of this Part whether a natural person is a fit and proper person, regard shall be had to all circumstances, including that person's -

Determination of fitness
and propriety

- (a) honesty, integrity and reputation;
- (b) competence and capability; and
- (c) financial soundness.

Consequence of refusal to license a professional director

13. (1) Where the Authority refuses to grant a licence to an applicant under this Part, the applicant shall not serve as a professional director for any covered entity.

(2) Notwithstanding subsection (1), if there is a material change in the circumstances relevant to an application, a professional director who is refused a licence by the Authority may re-apply for a licence.

Licence fees

14. (1) A professional director who is granted a licence under this Part shall upon the grant of the licence -

- (a) pay the prescribed licence fee to the Authority; and
- (b) comply with the conditions of the licence.

(2) Each licensed professional director shall, on or before the 15th January in each calendar year, provide to the Authority the information in the prescribed form and pay to the Authority the prescribed annual fee, and there shall be payable by a licensed professional director who fails to pay the prescribed annual fee by that date, a surcharge of one-twelfth of that fee for every month or part of a month after the 15th January in each year that the fee is not paid.

(3) If there is any change in the information provided to the Authority for the grant of a licence, a professional director shall within twenty-one days of the change, inform the Authority of the change.

(4) A professional director who acts in contravention of subsection (3) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Insurance

15. (1) A professional director shall at all times be covered by insurance with an insurer, to cover loss arising from claims in respect of civil liability incurred in connection with the business of the professional director, in an amount which is a minimum aggregate cover of one million dollars and a minimum cover of one million dollars for each and every claim.

(2) A professional director shall file with the Authority current details of the insurance required under subsection (1).

Exemption from licensing

16. (1) A director of a covered entity who is a natural person and is a director, an employee, a member, an officer, a partner, or a shareholder of a holder of a

companies management licence or a mutual funds administrators licence is not required to be licensed as a professional director but is required to be registered under section 6.

(2) A director of a covered entity who is a natural person and is a director, an employee, a member, an officer, a partner, or a shareholder of a fund manager of a mutual fund regulated under the Mutual Funds Law (2013 Revision) and that fund manager is registered or licensed by an overseas regulatory authority listed in the Schedule, is not required to be licensed as a professional director if the person -

(2013 Revision)

- (a) acts as a director for a covered entity by virtue of the person's relationship to that fund manager; and
- (b) is registered pursuant to section 6.

PART IV CORPORATE DIRECTORS

17. (1) A corporate director appointed as a director of a covered entity shall not, subject to section 22, act in that capacity unless licensed as a corporate director under this Law.

Corporate directors

(2) A corporate director who, on or after the date of commencement of this Law, is proposed to be appointed as a director of a covered entity shall not be appointed to act in that capacity unless licensed as a corporate director under this Law.

(3) A corporate director that contravenes this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

(4) An offence is not committed under subsection (3) by the holder of -

- (a) a companies management licence; or
- (b) a mutual fund administrators licence,

if the holder of the licence is providing directors to or acting as a director for a client which is a covered entity.

18. (1) The Authority may grant a licence under this Law to a corporate director with or without conditions as the Authority may consider appropriate.

Application for a licence
as a corporate director

(2) The Authority may not grant a licence to an applicant unless the Authority is satisfied -

- (a) that the applicant has sufficient capacity to carry out the applicant's duties as a corporate director; and

(b) that the applicant is a fit and proper person for licensing as a corporate director.

(3) An application for a licence by a corporate director shall be made to the Authority, in the prescribed form and shall be accompanied by the prescribed fee.

(4) An application fee paid to the Authority for licensing as a corporate director is non-refundable.

(5) An applicant shall comply with any requests made by the Authority for information -

- (a) that relates to the applicant's appointment as a director of a covered entity;
- (b) necessary to the Authority for the purposes of licensing; or
- (c) that the Authority may reasonably require for the exercise of its regulatory functions under this Law.

(6) Upon submitting an application for a licence under this Part to the Authority, an applicant may continue to act as a corporate director until the applicant is granted a licence by the Authority under subsection (1) but that applicant shall, in the time prescribed, cease to act as a corporate director if, for any reason, the application for a licence is refused.

(7) Each licensed corporate director shall, on or before the 15th January in each calendar year, provide to the Authority the information in the prescribed form and pay to the Authority the prescribed annual fee, and there shall be payable by a licensed corporate director who fails to pay the prescribed annual fee by that date, a surcharge of one-twelfth of that fee for every month or part of a month after the 15th January in each year that the fee is not paid.

(8) If there is any change in the information provided to the Authority for the grant of a licence under this Part, a corporate director shall within twenty-one days of the change, inform the Authority of the change.

(9) A corporate director who acts in contravention of subsection (8) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Consequence of refusal to license a corporate director

19. (1) Where the Authority refuses to grant a licence to an applicant under this Part, the applicant shall not serve as a corporate director for any covered entity.

(2) Notwithstanding subsection (1), if there is a material change in the circumstances relevant to an application, a corporate director who is refused a licence by the Authority may re-apply for a licence.

20. (1) In addition to any other requirements under section 18, a corporate director shall - Corporate director
licensing regime

- (a) be registered as an ordinary resident company, an ordinary non-resident company, an exempted company or foreign company in accordance with the Companies Law (2013 Revision); (2013 Revision)
- (b) appoint to its board at least two natural persons who are registered or licensed under this Law;
- (c) before the appointment of any new or additional person to its board, apply to the Authority for its written approval of that appointment.

(2) A corporate director is not required to be registered under section 5 of the Securities Investment Business Law (2011 Revision) where that registration is required solely as a result of registration as a foreign company pursuant to subsection (1)(a). (2011 Revision)

(3) A person to whom subsection (1)(c) refers shall be registered or licensed as required under this Law.

(4) The Authority may refuse an appointment under subsection (1)(b) or (c) if the Authority is of the opinion that the person is not a fit and proper person.

(5) In determining for the purposes of this Part whether a person is a fit and proper person, regard shall be had to all circumstances, including that person's -

- (a) honesty, integrity and reputation;
- (b) competence and capability; and
- (c) financial soundness.

21. (1) The subsidiary, whether wholly owned or otherwise, of - Further requirements

- (a) a corporate director;
- (b) the holder of a mutual funds administrators licence; or
- (c) the holder of a companies management licence,

that is appointed to act as a director of a covered entity shall be licensed under this Law unless that subsidiary holds a mutual funds administrators licence or a companies management licence.

(2) A corporate director shall at all times be covered by insurance with an insurer, to cover loss arising from claims in respect of civil liability incurred in connection with the business of the corporate director, in an amount which is a minimum aggregate cover of one million dollars and a minimum cover of one million dollars for each and every claim.

(3) A corporate director shall file with the Authority current details of the insurance required under subsection (2).

Transition of corporate director

22. A corporate director who, prior to the date of commencement of this Law, is a corporate director of a covered entity shall not be in contravention of this Law if that corporate director, within six months of the commencement of this Law, takes all necessary steps to comply with this Law.

PART V

POWERS AND DUTIES OF THE AUTHORITY

Duty to maintain register

23. The Authority shall maintain a register of directors of covered entities which shall contain the particulars of each registered director, professional director or corporate director, under this Law which may include but are not limited to -

- (a) the name and address;
- (b) the location of the registered office;
- (c) the date of registration or the date on which a licence was issued, whichever is applicable; and
- (d) any other information that may be prescribed.

Powers of the Authority

24. (1) The Authority shall -

- (a) maintain a general review of the requirements for the qualification of directors of covered entities in the Islands and make recommendations to the Cabinet necessary with respect to the making of regulations under this Law;
- (b) examine the capacity of registered directors, professional directors and corporate directors to carry out their duties and responsibilities as directors of covered entities and to give directions where necessary;
- (c) examine and determine applications for registration and licences;
- (d) act as the adviser to the Cabinet and take all necessary action to ensure the proper and just implementation of this Law; and
- (e) whenever the Authority considers it necessary, examine, by way of scrutiny of prescribed regular returns or on-site inspections, or in such other manner as the Authority may determine, the affairs

or business of any registered director, professional or corporate director for the purpose of a general review of directorship services in the Islands or for the purpose of satisfying itself that this Law and any regulation made under this Law are being complied with.

(2) In the performance of its functions under this Law, the Authority may, at all reasonable times, require -

- (a) a person whom the Authority reasonably believes is acting as a director of a covered entity in contravention of this Law;
- (b) a registered director, professional director or corporate director; or
- (c) any person whom the Authority reasonably believes has relevant information relating to (a) or (b),

to provide access to and allow copies to be made of any books, records or documents that the Authority may reasonably require and to furnish any information or explanation the Authority may reasonably require for the performance of its functions under this Law or the Monetary Authority Law (2013 Revision).

(3) If the Authority considers there are reasonable grounds for believing that an offence against this Law has been committed, the Authority may apply to the Court for any order which is necessary to facilitate the investigation of the offence.

(4) A person who fails to comply with any requirement of the Authority under subsection (2) commits an offence and is liable on summary conviction to a fine of ten thousand dollars, and on conviction on indictment to a fine of one hundred thousand dollars, and if the offence of which he is convicted is continued after conviction he commits a further offence and is liable to a fine of ten thousand dollars for every day on which the offence is so continued.

(5) A person to whom subsection (2) applies who knowingly or recklessly, furnishes any information, provides any explanation or makes any statement to the Authority which is false or misleading in a material particular commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for six months, or to both, or on conviction on indictment to a fine of one hundred thousand dollars or to imprisonment for five years, or to both.

Additional powers of the Authority

25. (1) The Authority may take any of the actions in subsection (2) if the Authority is of the opinion that a registered director, professional director or corporate director -

- (a) is carrying on business in a manner detrimental to the public interest or to the interests of the covered entities for which the registered director, professional director or corporate director is appointed;
- (b) has contravened this Law or any regulations made under this Law;
- (c) has failed to comply with a condition of registration or licence;
- (d) is not carrying on business as a registered director, professional director or corporate director in a manner that is fit and proper;
- (e) is a person that is not a fit and proper person to hold a position as a registered director, professional director or corporate director; or
- (f) has failed to comply with any directions given by the Authority under section 24(1)(b).

(2) For the purposes of subsection (1), the Authority may -

- (a) cancel or suspend the registration of a registered director;
- (b) suspend or revoke the licence of a professional director or corporate director;
- (c) impose on a registered director, professional director or corporate director any conditions or further conditions and amend or revoke those conditions;
- (d) require any action the Authority considers necessary to be taken by the registered director, professional director or corporate director; and
- (e) direct a registered director, professional director or corporate director to cease from committing any act or to pursue any course of conduct and to perform any act which in the opinion of the Authority is in the foregoing circumstances, necessary .

(3) Notwithstanding any other provision in this Law, the Authority may cancel the registration of a registered director or revoke the licence of a professional director or a corporate director if that registered director or professional director or corporate director has ceased to act in their appointed role.

(4) A registered director, professional director or corporate director may surrender the registration or licence of that registered director, professional director or corporate director upon application to the Authority in the prescribed form and payment to the Authority of the prescribed fee.

26. Whenever the Authority suspends or cancels a registration or suspends or revokes a licence under section 25 notice of the suspension, cancellation or revocation shall forthwith be gazetted. Publication of revocation

**PART VI
MISCELLANEOUS**

27. (1) Where, in respect of a person who is a director of a covered entity upon the date of commencement of this Law, in this section referred to as an “existing director”, the Authority - Appeals

- (a) refuses to register the existing director as a director pursuant to Part II; or
- (b) refuses to grant a licence to the existing director pursuant to either Part III or Part IV,

then the Authority shall give the existing director who is the subject of the refusal, in this section referred to as “the refusal”, written notice of the refusal together with reasons for the refusal, in this section referred to as “the refusal notice”.

(2) The existing director who is the subject of the refusal may, within fourteen days of the receipt of the refusal notice, provide a written notice to the Authority requesting reconsideration of the refusal, in this section referred to as a “reconsideration request”, which shall include a response to the reasons set out in the refusal notice.

(3) Where a reconsideration request is received by the Authority pursuant to subsection (3), the Authority shall, within twenty-one days from receipt of the reconsideration request -

- (a) reconsider the refusal, taking into account the response set out in the reconsideration request; and
- (b) communicate the result of the reconsideration and by written notice to the existing director, provide reasons for the result.

(4) Where a reconsideration request is received by the Authority pursuant to subsection (3), no refusal shall be deemed to have taken place in respect of the relevant existing director pursuant to this Law -

- (a) unless the reconsideration process has been concluded; and
- (b) until the decision of the Authority to refuse registration or to refuse to grant a licence has been confirmed by the Authority.

(5) Where the Authority cancels or suspends registration, or revokes or suspends a licence, a registered director, professional director or corporate director may, within twenty-one days of the effective date of the revocation,

appeal to the Grand Court against the decision of the Authority to revoke the licence but the appeal shall not suspend the execution of the decision.

Offences by corporations

28. (1) Where a body corporate is found guilty of an offence under this Law, every director or other officer concerned in the management of the body corporate is guilty of that offence unless the director or other officer proves that the offence was committed without the consent or connivance of that director or other officer or that the director or other officer exercised reasonable diligence to prevent the commission of the offence.

(2) In subsection (1), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

Regulations

29. (1) The Cabinet, after consultation with the Authority, may make regulations -

- (a) prescribing anything which is to be prescribed under this Law; and
- (b) generally for carrying the purposes and provisions of this Law into effect.

(2) Regulations made under this Law may provide that the contravention of any provision constitutes an offence and may prescribe penalties for any such offence not exceeding the maximum fine and term of imprisonment prescribed in this Law for any offence under this Law.

SCHEDULE

(Section 9)

LIST OF OVERSEAS REGULATORY AUTHORITIES

1. U. S. Securities and Exchange Commission (SEC)
2. U. S. Commodity Futures Trading Commission (CFTC)
3. U. S. Financial Industry Regulatory Authority (FINRA)
4. Hong Kong Securities and Futures Commission (SFC)
5. Japan Financial Services Agency (FSA)
6. Monetary Authority of Singapore (MAS)
7. U. K. Financial Conduct Authority (FCA)
8. German Federal Financial Supervisory Authority (BaFin)
9. French Autorité des Marchés Financiers (France) (AMF)
10. Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten, AFM)
11. The Central Bank of Ireland (CBI)
12. Luxembourg Commission de Surveillance du Secteur Financier (CSSF)

13. Dubai Financial Services Authority (DFSA)
14. Brazilian Comissão de Valores Mobiliários (CVM).

Passed by the Legislative Assembly the 11th day of April, 2014.

Juliana Y. O'Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.