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No. 23 of 2006

**AN ACT TO AMEND THE CENTRAL BANK OF
THE BAHAMAS ACT**

[Date of Assent – 21st December, 2006]

Enacted by the Parliament of The Bahamas

Short title	1.(1)	This Act which amends the Central
and		Bank of The Bahamas Act, may be cited as the Central Bank
commence-		of The Bahamas (Amendment) Act, 2006.
ment.	(2)	This Act shall come into force on such
Ch. 351.		date as the Minister may appoint by Notice in the Gazette.
Amends	2.	Section 2 of the principal Act is
section 2		amended by the insertion in the appropriate place of the
of the		following:
principal		“Registered Representative means a
Act.		licensee or a Financial and
		Corporate Service Provider
		approved by the Governor,
		which provides to a private trust
		company, the services of -

- (i) secretary;
- (ii) director;
- (iii) Bahamas Agent,

and is resident in The Bahamas.

**Amends
section 35
of the
Principal
Act.**

3. Section 35 of the principal Act is amended by the repeal of subsection (1) and the replacement of the following -

“(1) The Bank may require any financial institution, trust company, Registered Representative or any director, officer or servant of such an institution or company, to supply to the Bank in such form and within such time as the Bank may determine such information as the Bank considers necessary to enable the Bank to carry out its functions under this Act.”.

**Amends
section 38**

4. Section 38 of the principal Act is amended -
(a) (i) in subsection (1) (c), by deleting the

**of the
Principle
Act.**

word "or" at the end thereof;

(ii) in subsection (1) (d), by deleting the comma at the end thereof and substituting therefor the word "; or"

(b) by inserting immediately after paragraph (d) the following -

"(e) the affairs of Registered Representative".

(c) by deleting subsection (2) and substituting therefore the following:

"(2) Subsection (1) shall not apply to a disclosure-

(a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;

(b) for the purpose of assisting the Bank to exercise any functions conferred on it by this Act, by any other Act or by regulations made thereunder;

(c) in respect of the affairs of a bank or trust company, or of a customer,

client, policy-holder of, or a company or mutual fund managed by a bank or trust company, with the authority of the bank or trust company, customer, client, policy-holder, company or mutual fund, as the case may be which consent has been voluntarily given;

(d) if the information disclosed is or has been available to the public from any other source;

(e) where the information disclosed is in a manner that does not enable the identity of any bank or trust company or of any customer, client, or policyholder of, or company or mutual fund managed by, a bank or trust company to which the information relates to be ascertained;

(f) in respect of the affairs of a Registered Representative or of a

customer or client of the Registered Representative, with authority of the Registered Representative, customer or client, as the case may be which consent has been voluntarily given;

(g) where the information disclosed is in a manner that does not enable the identity of any Registered Representative or of any client or customer of a Registered Representative to which the information relates to be ascertained;

(h) to a person with a view to the institution of, or for the purpose of -

(i) criminal proceedings;

(ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by

- a counsel and attorney,
auditor, accountant,
valuer or actuary of his
professional duties; or
- (iii) disciplinary proceedings
relating to the discharge
by a public
officer, or a member or
employee of the Bank of
his duties;
- (i) for the purposes of any legal
proceedings in connection with –
 - (i) the winding-up or
dissolution of a
bank, trust company, or
Registered Representative;
or
 - (ii) the appointment or duties
of a receiver of a bank,
trust company or
Registered Representative.



No. 24 of 2006

**AN ACT TO AMEND THE BANKS AND
TRUST COMPANIES REGULATION ACT**

[Date of Assent – 21st December, 2006]

Enacted by the Parliament of The Bahamas

Short title	1.(1)	This Act, which amends the Banks and Trust
and		Companies Regulation Act, may be cited as the Banks and
commence-		Trust Companies Regulation (Amendment) Act, 2006.
ment.	(2)	This Act shall come into force on such date as
Ch.316.		the Minister may appoint by Notice published in the
		Gazette.
Amends	2.	Section 2 of the principal Act is amended –
section 2	(a)	by the insertion in the appropriate
of the		alphabetical position of the following –
Principal		“Bahamas Agent” means a Registered

Act.

Representative who provides
administrative services to a private trust
company under a service agreement;

“Designated Person” means the individual or
individuals (whether living or deceased)
described as such within a Designating
Instrument provided that if more than
one Designated Person is described as
such each Designated Person must be
related to a Designated Person so
described by consanguinity or some
other family relationship;

“Designating Instrument” means
an instrument in the form specified
in the First Schedule to the Banks
and Trust Companies (Private Trust
Companies) Regulations, 2006
(“Private Trust Companies
Regulations”);

“Other family relationships” means personal
relationship between two persons -

(i) by marriage or former marriage;

or

(ii) which exists if -

(a) one is the child of the other,
natural or adopted, legitimate or
illegitimate; or

(b) one is regarded by the other as
his child;”

“Private Trust Company” means -

a company incorporated under the

provisions of the Companies Act,

or the International Business Companies

Act, which by its Memorandum and

Articles of Association—

(a) acts as trustee only for a trust or trusts created or to be created by or at the direction of a Designated Person or Designated Persons or an individual or individuals who are related by consanguinity or other family relationships to the Designated

Ch.308.

Ch.309.

Person described within the Designating Instrument or, if there is more than one Designated Person so described, to a Designated Person, which Designated Person or Designated Persons need not be named in such company's Memorandum and/or Articles of Association;

- (b) is required to have a Registered Representative; and
- (c) is not the subject of a notice of withdrawal made under section 4(7);

"Registered Representative" means

a licensee or a Financial and Corporate Service Provider approved by the Governor, which provides to a private trust company, the services of a -

- (i) secretary;
- (ii) director;

(iii) Bahamas Agent ,

and is resident in The Bahamas.

**Amends
section 3
of the
principal
Act.**

3. Section 3 of the principal Act is amended by the insertion of the following subsections immediately after subsection (2) -

“(3) No person shall be a Registered Representative (whether or not such business is carried on in or from within The Bahamas) unless that person is -

(a) in possession of a valid licence granted by the Governor pursuant to section 3(2) of this Act; or

Ch. 369. (b) a licensee under the Financial and Corporate Service Providers Act, who has obtained the prior approval of the Governor to carry on such business.

Exemption. (4) The Governor may by Regulation exempt any specified person or class of persons, or any specified class or part of any class of

banking or trust business from
the provisions of sub-sections (1)
and (2) of section 3, or of any
regulations made pursuant to this
Act, subject to such terms and
conditions as may, in the
Governor's opinion, be
appropriate.

- (5) Subject to subsection (4), the provisions of this Act shall, unless the context otherwise requires, apply mutatis mutandis to Private Trust Companies and to Registered Representatives.
- (6) For the avoidance of doubt, the Governor may impose any of the sanctions set out in section 18 (1)(b), (c), (d), (e), (f) and (g) of this Act, against a Private Trust Company or a Registered Representative where, in the opinion of the Governor, the Private Trust Company or a Registered Representative is,

whether in The Bahamas or elsewhere,

- (a) contravening any of the provisions of this or any other Act or of any order or regulations made under this Act, or any term or condition subject to which an approval pursuant to subsection 3(3), or an exemption pursuant to subsection 3(4), was granted; or
- (b) contravening or failing to comply with a direction of the Governor; or
- (c) carrying on its business in a manner that is detrimental to the reputation of The Bahamas.

(b) by the re-numbering of subsection (3) as subsection (7)."

Amends

section 4

of the principal

Act.

4. Section 4 of the principal Act is amended by the insertion immediately after subsection (6) of the following -

"(7) The Governor may, by notice in writing, withdraw -

- (a) any approval granted pursuant to

section 3(3); or

- (b) any exemption granted pursuant to section 3(4):

Provided that before withdrawing such approval or exemption, the Governor shall afford the Registered Representative an opportunity to make written representations regarding any proposed action within such time as may be specified in the notice, but not being a period of less than seven days.”.

(8) Whenever the Governor shall withdraw any approval or exemption under subsection (7) he may cause notice of such action to be published in the Gazette.

(9) Notwithstanding anything to the contrary in any trust instrument, where the Governor is satisfied that in the interests of a trust it is necessary for all or any of the trusts for which the company is acting as trustee to be transferred to a new trustee for administration by such trustee, the Governor may petition the court for that purpose.

(10) Wherever the Governor takes action pursuant to subsection (9), the court, may, after hearing representations from the Governor or any other person appearing to the court to be affected, order the transfer of any such trust to a new trustee, and may make such supplemental or incidental orders or give such directions, as the court thinks fit.”.

**Amends
Third
Schedule
of the
principal
Act.**

5. The Third Schedule of the principal Act is amended by the insertion of the following immediately after paragraph (p) -

“(q) On commencement of the business of a private trust company 5,000.

(r) Continuance in being on the first day of January in any year as a private trust company mentioned in paragraph (q) 5,000.”.