

A BILL

entitled

BANKS AND DEPOSIT COMPANIES AMENDMENT ACT 2018

WHEREAS it is expedient to amend the Banks and Deposit Companies Act 1999 to introduce a new class of licence and to make related amendments;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Banks and Deposit Companies Act 1999 (the "principal Act"), may be cited as the Banks and Deposit Companies Amendment Act 2018.

Amends section 14

2 (1) Section 14 of the principal Act is amended as follows.

(2) After subsection (5)(b), insert—

“(c) a restricted banking licence, which authorises the institution to provide to persons specified in the Third Schedule such of the services set out in paragraph (a)(i) to (vii) as the Authority may approve. ”.

(3) After subsection (5), insert—

“(5A) In respect of a licence granted in accordance with subsection (5)(c), the Authority—

(a) may impose conditions on or restrict the services that can be provided under such licence; and

(b) may vary or revoke any condition or restriction so imposed.

(5B) The Third Schedule, which specifies the persons to whom services may be provided under a licence granted in accordance with subsection (5)(c), shall have effect.

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(5C) The Minister acting on the advice of the Authority may, by order, amend the Third Schedule.”.

(4) In subsection (7), after the words “subsection”, insert “(5C) or”.

Inserts the Third Schedule

3 After the Second Schedule to the principal Act insert—

“THIRD SCHEDULE

(section 14(5B))

SPECIFIED PERSONS BANKING ACTIVITIES CRITERIA

1 An institution licensed under section 14(5)(c) may provide services to a person that—

- (a) has submitted a Form No. 1 application to the Authority, in accordance with the Companies (Forms) Rules 1982, to be registered under the Companies Act 1981; and has indicated on such form the intention to conduct digital asset business or undertake an initial coin offering in Bermuda;
- (b) has submitted a Form 1 application to the Authority, in accordance with the Limited Liability Company (Forms) Regulations 2016, to be formed under the Limited Liability Companies Act 2016; and has indicated on such form the intention to conduct digital asset business or undertake an initial coin offering in Bermuda;
- (c) is licensed to conduct digital asset business in Bermuda under the Digital Asset Business Act 2018;
- (d) has obtained the Minister’s consent to undertake an initial coin offering under section 4A of the Companies Act 1981 or section 67 of the Limited Liability Company Act 2016;
- (e) is an affiliated company of a person mentioned in paragraphs (a) to (d); or
- (f) is an agent of, or is contracted to provide services for, a person mentioned in paragraph (c) or (d).

2 For the purposes of this Schedule—

“affiliated company” has the meaning given in section 2(1) of the Companies Act 1981;

“digital asset business” has the meaning given in section 2(1) of the Digital Asset Business Act 2018; and

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“initial coin offering” has the meaning given in—

- (a) section 2(1) of the Companies Act 1981 as relates to a company; or
- (b) section 2 of the Limited Liability Company Act 2016 as relates to a limited liability company.”.

Amends the Companies Act 1981

4 The Companies Act 1981 is amended in section 113(1)(d), by deleting “licensed as a bank under section 14(5)(a)” and substituting the words “licensed under section 14”.

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EXPLANATORY MEMORANDUM

This Bill seeks to amend the Banks and Deposit Companies Act 1999 (the “Act”) to introduce a new class of licence and to make related amendments.

Clause 1 provides the citation for the Bill.

Clause 2 amends section 14 of the Act to provide for a new class of licence, called a restricted banking licence, to be granted by the Authority. Such a licence will authorise an institution to provide to persons specified in the Third Schedule such services, as approved by the Authority, currently provided under a section 14(5)(a) licence. The amendments also provide that such a licence may be subject to conditions or restrictions, as imposed or varied by the Authority, and provide for the Minister, acting on the advice of the Authority, to amend the Third Schedule by order subject to the negative resolution procedure.

Clause 3 inserts the Third Schedule which specifies the persons to whom services may be provided under the new restricted banking licence.

Clause 4 amends section 113(1) of the Companies Act 1981 to enable that provision to apply to any institution licensed under section 14 of the Act.