



No. 35 of 2008

**AN ACT TO AMEND THE FINANCIAL AND
CORPORATE SERVICE PROVIDERS ACT**

[Date of Assent – 24th December, 2008]

Enacted by the Parliament of The Bahamas.

Short
title
and
commencement.

Ch. 369.

Amendment of
section 2

of the
principal
Act.

Repeal of
section 6

of the
principal
Act.

Amendment of
section 11
of the

1. (1) This Act which amends the Financial and Corporate Service Providers Act may be cited as the Financial and Corporate Service Providers (Amendment) Act, 2008.

(2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Section 2 of the principal Act is amended as follows -

- (a) by the insertion in the appropriate alphabetical order of the following word and definition -
“court” means the Supreme Court;”;
- and
- (b) in the definition of “Inspector”, by the deletion of the words “section 12” and the substitution of the words “section 11”.

3. Section 6 of the principal Act is repealed.

4. Section 11 of the principal Act is amended by the addition at the end of subsection (5) of the following new subsection -

principal
Act.

Amendment of
section 14
of the
principal
Act.

“ (6) The Inspector may from time to time issue rules, guidelines, and directives for the better management of financial and corporate service providers licensed under this Act.”

5. Section 14 of the principal Act is amended as follows -

(a) In subsection (2) -

(i) by the deletion in paragraph (a) of the comma and the word “telex” appearing immediately after the word “facsimile”;

(ii) by the repeal of paragraph (b) and replacement by the following -

“ (b) sufficient references to provide an adequate indication on the reputation and standing of the client.”.

(b) In subsection (4) -

(i) at the commencement of the chapeau, by the deletion of the word “The” and the insertion of the words “Subject to subsection (5) and to any directions or guidance issued by the Inspector, the”;

(ii) by the repeal of paragraphs (a) and (b) and replacement by the following -

“ (a) a financial institution as defined in section 2 (1) of the Financial
Ch. 368 Transactions Reporting Act and which is subject to regulation through a licensing process, but only where such financial institution is instructing a licensee on behalf of its client;

(b) a foreign financial institution as defined in section 2(1) of the Financial
Ch. 368 Transactions Reporting Act which is subject to regulation through a licensing process, but only where such financial institution is instructing a licensee on behalf of its client;”

(c) by renumbering the existing subsection (5) as subsection (6) and the insertion of a new subsection (5) as follows -

“ (5) The Minister may by order as the Minister deems appropriate in the circumstances -

(a) add to the list of exempted categories of financial institutions set out in subsection (4); and

(b) attach conditions to an exempted category.”

Insertion of
new section
18A into the
principal
Act.

6. The principal Act is amended by the insertion of a new section 18A as follows -

“Power of Inspector is satisfied that a licensee has -

to issue sanctions including fines.

(a) violated any rules, directives or guidelines issued pursuant to section 11;

(b) violated any codes of practice issued by the Compliance Commission pursuant to section 47 of the Financial Transactions Reporting Act;

Ch. 368. (c) violated any guidelines issued by the Financial Intelligence Unit pursuant to section 15 of the Financial Intelligence Unit Act;

Ch. 367. (d) committed an offence under this Act; or

(e) committed an offence under any other Act dealing with the regulation of financial services in The Bahamas,

the Inspector may by order impose a penalty on the licensee which may include one or more of the following -

(i) a public reprimand;

(ii) a ban on carrying on certain operations;

- (iii) the temporary suspension of a manager;
- (iv) the removal of a director, responsible officer, or other senior manager;
- (v) the imposition of conditions on a licence; and
- (vi) an order for the licensee to pay a maximum fine not exceeding the amounts set out in section 18.

(2) Where the Inspector makes an order pursuant to subsection (1) -

- (a) the order shall be put into writing;
- (b) the order shall specify the offence which the licensee committed and the penalty imposed by the Inspector;
- (c) a copy of the order shall be given to the licensee;
- (d) upon payment by the licensee of a fine as ordered, the licensee shall not be liable to any further prosecution in respect of the offence and where any further prosecution is brought it shall be a good defence for the licensee to prove that the offence with which it is charged has been dealt with under this section; and
- (e) the order may be enforced in the same manner as an order of the court."

Amendment of
section 19
of the
principal
Act.

7. Section 19 of the principal Act is amended in subsection (1) as follows -

- (a) in paragraph (b) by the deletion of the full-stop and the substitution of a semi-colon; and
- (b) by the insertion immediately after paragraph (b) of the following new paragraph -
“(c) imposing a penalty on the licensee under subsection (1) of section 18A.”