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Non-Profit Organisations in the Cayman Islands

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The Non-Profit Organisations Law, 2017 (the “Law”) came into effect on August 1, 2017. The Law is intended to meet

Financial Action Task Force (“FATF”) Recommendations which require countries to protect against terrorist financing by knowing the non-profit organisations (“NPO”) that are operating in the country and by monitoring the NPO’s that represent the largest portion of the industry.

FATF is an inter-governmental body that sets standards and promotes effective implementation of legal, regulatory and operational measures for combatting money laundering, terrorist financing and other related threats to the integrity of the international financial system. Cayman is a member of the Caribbean Financial Action Task Force (“CFATF”), a FATF-styled regional body that is committed to implementing the FATF Recommendations.

The Law will be in place ahead of the CFATF’s December 2017 evaluation of Cayman’s anti money-laundering and counter-financing of terrorism regime.

Entities Affected

A “non-profit organisation” includes a company or body of persons, whether incorporated or unincorporated, or a trust:-

- established or which identifies itself as established primarily for the promotion of charitable, philanthropic, religious,

cultural, educational, social or fraternal purposes, or other activities or programmes for the public benefit or a section of the public within the Cayman Islands or elsewhere; and

- which solicits contributions from the public or a section of the public within the Cayman Islands or elsewhere.

The Law does not apply to:

- an NPO which has a government entity as its principal regulator;
- an NPO established as a trust, the trusteeship of which comprises or includes a trust company licensed or registered to carry on trust business or a controlled subsidiary thereof registered under the Banks and Trust Companies Law (2013 Revision); or
- any other entity that Cabinet may, by Order, exempt.

An NPO shall not solicit contributions from the public or any section of the public within the Cayman Islands or elsewhere, unless it is registered or exempt from the obligations to register under the Law.

Companies that fall under section 80 of The Companies Law (2016 Revision) (which is the existing regime for registration of non profit companies) will be required to register under the Law if they meet the criteria. Once registered under the Law, a section 80 company will no longer be

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subject to the conditions imposed by Cabinet under section 80 registration, including registration costs and approval of change costs. Businesses that are not currently designated under section 80 of the Companies Law may qualify for the NPO register if they meet the Law's criteria.

Registration

The registration process should take approximately 30 days. The Registrar of Non Profit Organisations retains the discretion to refuse for the reasons set out below:

- the NPO does not meet the statutory definition;
- the NPO is established for illegal purposes;
- the NPO does not have a connection with the Cayman Islands;
- the information contained in the application is manifestly incorrect;
- the name of the NPO:-
 - (i) is identical to a name by which a non-profit organisation in existence is already registered or so nearly resembles such name or translated name so as to be calculated to deceive;
 - (ii) contains the words "royal", "imperial" or "empire" or, in the opinion of the Registrar suggests, or is calculated to suggest the patronage of Her Majesty or of any member of the Royal Family or connection with Her Majesty's Government or any department thereof in the United Kingdom or elsewhere;
 - (iii) contains profane language;
 - (iv) contains the words "gaming", "lottery", "bank", "insurance" or

any similar word which is restricted in use by the laws of the Cayman Islands or in the opinion of the Registrar connotes any such activities or any derivative of any of such words or of such similar words, whether in English or in any other language, or in the opinion of the Registrar suggests or is calculated to suggest any of such activities; or

(v) is different from the name in which the entity was established if the entity was established as a company, trust, partnership, foundation, or church established under the Churches Incorporation Law (2007 Revision).

A register of non profit organisations will be established and maintained by the Registrar of Non Profit Organisations and shall contain the following in relation to the NPO:

- its name, address in the Cayman Islands, telephone number and e-mail address, if any;
- its purposes and activities;
- the identity of the person who owns, controls or directs the NPO;
- the date of its registration under the Law and if applicable, the date on which its registration was cancelled; and
- such other information as the Registrar considers appropriate.

The register will be open for public inspection, on such terms as the Registrar thinks fit.

Financial Statements and Annual Returns

The controller of the NPO (who may be

the trustee, the director, the general partner etc) shall cause to be prepared proper financial statements which show and explain all the transactions of the organisation and disclose at any time with reasonable accuracy the financial position of the company. If the organisation has gross annual income of two hundred and fifty thousand dollars and remits 30% or more of the gross annual income outside of Cayman, it is required to have its financial statements reviewed in accordance with internationally accepted standards by an independent qualified accountant who for neither profit or reward undertakes the review or a licenced accountant.

A controller of a non-profit organisation shall ensure that within six months of the end of the financial year, annual returns:-

- are prepared in relation to the non-profit organisation;
- contain such particulars as may be prescribed; and
- are submitted to the Registrar.

The Law is welcome to streamline the NPO registration process. For example, registrations under the Law are required to occur within 30 days, rather than the current, extensive timeframe for section 80 approvals, and changes will be filed by notice to the designated registrar, rather than by the current Cabinet approval process for section 80 companies. The fees associated with the Law are less than those associated with the current section 80 regime. Additionally, the Law will make the Cayman Islands compliant with international standards. 



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