

## CAYMAN PROMOTES TRANSPARENCY WITH DISCLOSURE LAW

In an effort to promote greater transparency within the financial industry, The Confidential Information Disclosure Law, 2016 (the “Law”), was passed in the Cayman Islands Gazette on 22nd July 2016. It has the effect of repealing the Confidential Relationships (Preservation) Law (2015 Revision) (the “CRPL”), sometimes unfairly referred to as Cayman’s secrecy law. The Law applies to professionals on whom a duty of confidentiality is imposed by law or contract.

Section 3 of the Law expands the circumstances in which the duty of non-disclosure will not be breached or actionable at the suit of any person. These circumstances include, but are not limited to, where confidential information is disclosed in compliance with the directions of a court pursuant to the Law; in the normal course of business; or with the express or implied consent of the person to whom the duty of confidentiality is owed (a “principal”).

The Law also introduces a new defence to a claim for breach of the duty of confidence where the disclosure is in relation to wrongdoing or a serious threat to the life, health or safety of a person or a serious threat to the environment, so long as the person making the disclosure acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of the wrongdoing. In this context the term “wrongdoing” has the meaning assigned to it by Section 50(2) of the Freedom of Information Law (Revised), which defines the term to include:-

- (a) the commission of a criminal offence;
- (b) failure to comply with a legal obligation;
- (c) miscarriage of justice; or
- (d) corruption, dishonesty, or serious maladministration.

The Law retains the right for a witness to seek directions from the court before giving evidence of confidential information in any court or tribunal.

Finally, the Law removes criminal liability for the disclosure of confidential information and essentially leaves the question of liability to be determined under the common law and rules of equity.

### ***For more information contact:-***

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