

SECURITIES (AMENDMENT) BILL, 2024

(Bill No. 24 of 2024)

**EXPLANATORY STATEMENT OF THE OBJECTS AND REASONS
FOR THE BILL**

This Bill amends the Securities Act, 2007. The amendments reflect market developments, principally for Securities Dealers (SD) to better conduct securities business in a more controlled and well-regulated manner.

In this Bill, there are amendments that relate to other license categories provisions and legislative gaps. The Bill requires that at all times there are at least two resident fit and proper individuals which can be directors, compliance officers or any key officers to conduct services and must be based in Seychelles on a full-time basis.

Currently under the Act, licenses issued are valid for one year, being renewable annually with payment of annual license fee and lodgment of compliance certificate. The Bill makes provision for the issuance of a perpetual license, however, the license fee remains payable annually.

The Bill amends sections 9, 25 and 43 in order to require the conduct of fit and proper assessment on directors and key officers for securities exchange, clearing agency and securities facility license applications.

Further, provision has been made to require approval for use of all trade names and domains names both at pre-licensing and post-licensing stage from the Financial Services Authority (FSA) and all trade names shall be registered with the Registrar of (Domestic) Companies prior to being used by the licensed entity and subject to the approval of the FSA. All trade names utilized by the licensed entity shall be listed on the license in conjunction with the legal name of the entity and approved trade names shall be listed on FSA's website. Licensees will also be required to display approved trade names as well as domain names on their websites, with the use of each additional domain name and trade name to be subject to additional fees, and same information will be reflected on the website of the FSA.

Dated this 27th day of November, 2024.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

SECURITIES (AMENDMENT) BILL, 2024

(Bill No. 24 of 2024)

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Amendment of section 2
3. Amendment of section 9
4. Amendment of section 10
5. Amendment of section 25
6. Amendment of section 31
7. Amendment of section 43
8. Amendment of section 46
9. Amendment of section 48
10. Amendment of section 55
11. Amendment of section 56
12. Amendment of section 58
13. Amendment of section 59
14. Amendment of section 60
15. Amendment of section 61
16. Amendment of section 64
17. Insertion of New Part 13A
18. Transitional Provisions

SECURITIES (AMENDMENT) BILL, 2024

(Bill No. 24 of 2024)



A BILL

FOR

AN ACT TO AMEND THE SECURITIES ACT CAP 208.

ENACTED by the President and the National Assembly.

Short title and commencement

1. This Act may be cited as the Securities (Amendment) Act, 2024 and shall come into operation on the 1st of January 2025.

Amendment of section 2

2. Section 2 of the Securities Act Cap. 208 (in this Act referred to as “the principal Act”) is amended as follows —

- (a) by repealing the definition of “investment advisor's representative” and substituting it with the following definition —

““investment advisor's representative” means an individual in the employment of (including a director of) an investment advisor whose principal purpose is to oversee the execution of the activities outlined within the meaning of section 48(3), whether he is paid a salary, wages, commission or otherwise;”

- (b) by inserting, after the definition of “representative”, the following definition —

““resident person” means an individual who resides and who is domiciled in Seychelles; or who is present in Seychelles for a period of, or periods amounting in aggregate to, one hundred eighty-three (183) days or more in any twelve (12) month period that commences or ends during the financial year of a licensee;”

- (c) by repealing the definition of “securities dealer's representative” and substituting it with the following definition —

““securities dealer's representative” means an individual in the employment of (including a director of) a securities dealer whose principal purpose is to oversee the execution of the activities outlined within the meaning of section 45 (5), whether he is paid a salary, wages, commission or otherwise;”.

Amendment of section 9

3. Section 9 of the principal Act is amended —

- (a) in subsection (2)(g) by inserting after the word “directors” the words “of whom one shall be a resident person who is employed on a full-time basis”;
- (b) by repealing the full stop at the end of paragraph (2)(g) and substituting it with a semicolon;
- (c) by inserting a new paragraph after paragraph (2)(g) as follows —
 - “(h) the applicant is fit and proper to be licensed as a securities exchange.”;
- (d) by inserting a new subsection after subsection (3), as follows —

“(4) In considering whether an applicant is fit and proper to be licensed, the Securities Authority —

- (a) shall have regard to, in respect of each of its directors and officers —
 - (i) his financial status;
 - (ii) his educational or other qualifications or experience having regard to the nature of his application;
 - (iii) his ability to perform his proposed function efficiently, honestly and fairly;
 - (iv) his reputation, character, financial integrity and reliability;
- (b) may take into account any matter relating to —

- (i) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;
- (ii) any person who will be acting as a representative in relation to such business;
- (iii) any substantial shareholder, director or officer of the company, any other company in the same group of companies or to any director or officer of any such company.

Amendment of section 10

4. Section 10 of the principal Act is amended —

- (a) in the section heading, by repealing the word “Renewal” and substituting it with the words “Annual licence fee”;
- (b) in subsection (1) by repealing the words “for a period of one year from the date of issue, subject to it not being revoked by the Securities Authority under the provisions of this Act” and substituting them with the words “unless suspended, revoked or surrendered”;
- (c) in subsection (2) by repealing the words “in respect of the period of one year from the date on which the licence is granted,”
- (d) by repealing subsection (3) and substituting it with the following subsections —

“(2A) If a licence is not first granted in the month of January, February or March, the first annual licence fee

payable under subsection (2) shall be reduced on a quarterly pro-rata basis, calculated having regard to the quarter in which the licence was first granted.

(3) A person granted a securities exchange licence shall in January of each year —

- (a) pay the annual licence fee as prescribed from time to time by the Minister by Regulations; and
- (b) lodge with the Securities Authority a compliance certificate in the prescribed form.”;
- (e) in subsection (6)(g) by repealing the words “anniversary of the day of the grant of its licence” and substituting them with the words “due date in each year”;
- (f) in subsection (7)(f) by repealing the words “anniversary of the day of the grant of its licence” and substituting them with the words “due date in each year”.

Amendment of section 25

5. Section 25 of the principal Act is amended —

- (a) by numbering the existing section as subsection (1);
- (b) by repealing the full stop at the end of paragraph (1)(d) and substituting it with a semicolon and inserting a new paragraph (e) as follows —
 - “(e) the applicant is fit and proper to be licensed as a clearing agency.”;
- (c) by inserting a new subsection (2), after subsection (1), as follows —

“(2) In considering whether an applicant is fit and proper to be licensed, the Securities Authority —

- (a) shall have regard to, in respect of each of its directors and officers —
 - (i) his financial status;
 - (ii) his educational or other qualifications or experience having regard to the nature of his application;
 - (iii) his ability to perform his proposed function efficiently, honestly and fairly; and
 - (iv) his reputation, character, financial integrity and reliability; and
- (b) may take into account any matter relating to —
 - (i) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;
 - (ii) any person who will be acting as a representative in relation to such business;
 - (iii) any substantial shareholder, director or officer of the company, any other company in the same group of companies or to any director or officer of any such company.”.

Amendment of section 31

6. Section 31 of the principal Act is amended —

- (a) in subsection (1) by repealing the words “for a period of one year from the date of issue, subject to it not being revoked by the Securities Authority under the provisions of this Act” and substituting them with the words “unless suspended, revoked or surrendered”;
- (b) in subsection (2) by repealing the words “in respect of the period of one year from the date on which the licence is granted”
- (c) by repealing subsection (3) and substituting it with the following subsections —

“(2A) If a licence is not first granted in the month of January, February or March, the first annual licence fee payable under subsection (2) shall be reduced on a quarterly pro-rata basis, calculated having regard to the quarter in which the licence was first granted.

(3) A person granted a securities exchange licence shall in January of each year —

- (a) pay the annual licence fee as prescribed from time to time by the Minister by Regulations; and
- (b) lodge with the Securities Authority a compliance certificate in the prescribed form.”.

Amendment of section 43

7. Section 43 of the principal Act is amended —

- (a) by numbering the existing section as subsection (1);

- (b) in subsection (1), by inserting after the word “functions” the following words “and is fit and proper to be licensed as a securities facility”;
- (c) by inserting the following new subsections after subsection (1) —

“(2) In considering whether an applicant is fit and proper to be licensed, the Securities Authority —

- (a) shall have regard to, in respect of each of its directors and officers —
 - (i) his financial status;
 - (ii) his educational or other qualifications or experience having regard to the nature of his application;
 - (iii) his ability to perform his proposed function efficiently, honestly and fairly; and
 - (iv) his reputation, character, financial integrity and reliability; and
- (b) may take into account any matter relating to —
 - (i) any person who is or is to be employed by, or associated with, the applicant for the purposes of the business to which the application relates;
 - (ii) any person who will be acting as a representative in relation to such business;

- (iii) any substantial shareholder, director or officer of the company, any other company in the same group of companies or to any director or officer of any such company.

(3) Where a person is granted a securities facility licence there shall be payable to the Securities Authority, an annual licence fee as prescribed from time to time by the Minister by Regulations made under this Act.

(4) If a licence is not first granted in the month of January, February or March, the first annual licence fee payable under subsection (3) shall be reduced on a quarterly pro-rata basis, calculated having regard to the quarter in which the licence was first granted.

(5) A person granted a securities facility licence shall in January of each year —

- (a) pay the annual licence fee as prescribed from time to time by the Minister by Regulations; and
- (b) lodge with the Securities Authority a compliance certificate in the prescribed form.

(6) If an annual licence fee referred to in subsection (3) is not paid on or before the due date in each year, there shall be payable an additional fee equal to one twelfth of that annual licence fee for each month or part thereof during which the annual licence fee and any additional fee imposed by this subsection remains unpaid.

(7) The Securities Authority may, for good cause, waive any additional fee imposed by virtue of subsection (4).”.

Amendment of section 46

8. Section 46 of the principal Act is amended in subsection (4)(b) by inserting after the word “directors” the following words “of whom one shall be a resident person who is employed on a full-time basis”.

Amendment of section 48

9. Section 48 of the principal Act is amended in subsection (4) by repealing paragraph (a) and renumbering the remaining paragraphs.

Amendment of section 55

10. Section 55 of the principal Act is amended —

- (a) in subsection (6) by repealing the words “for a period of one year from the date of issue, subject to it not being revoked by the Securities Authority under the provisions of this Act” and substituting them with the words “unless suspended, revoked or surrendered”;
- (b) in subsection (7) by repealing the words “in respect of the period of one year from the date on which the licence is granted”
- (c) by repealing subsection (8) and substituting it with the following subsections —

“(7A) If a licence is not first granted in the month of January, February or March, the first annual licence fee payable under subsection (7) shall be reduced on a quarterly pro-rata basis, calculated having regard to the quarter in which the licence was first granted.

(8) A person granted a securities exchange licence shall in January of each year —

- (a) pay the annual licence fee as prescribed

from time to time by the Minister by Regulations; and

- (b) lodge with the Securities Authority a compliance certificate in the prescribed form.”.

Amendment of section 56

11. Section 56 of the principal Act is amended in subsection (1)(n) by repealing the words “anniversary of the day of the grant of its licence” and substituting them with the words “due date in each year”.

Amendment of section 58

12. Section 58 of the principal Act is amended by repealing subsections (1) and (2) and substituting them as follows —

“(1) The Securities Authority shall maintain a register of persons holding licences granted under Parts 3, 4 and 5.

(2) For each licensed securities dealer, investment advisor, securities exchange, clearing agency and securities facility, the register maintained under subsection (1) shall record —

- (a) the name and address of the licensee;
- (b) the date on which the licence was granted;
- (c) the trade names and domain names being use by the licensee;
- (d) the type of securities business permitted by the licence;
- (e) any conditions attached to the licence;
- (f) the name and address of every accredited representative (where applicable);

- (g) where the licensee is a company, the name and address of every director, company secretary and shareholder;
- (h) the location of the premises at which the records or other documents of the licensee are kept;
- (i) any disciplinary action against the licensee;
- (j) any order of suspension or revocation, or surrender of the licence; and
- (k) such other particulars as the Securities Authority considers necessary in the interest of the investors or general public.”

Amendment of section 59

13. Section 59 of the principal Act is amended in subsection (1) by repealing paragraph (a) and substituting it as follows —

- “(a) the licensee is a securities dealer, investment advisor, securities exchange, clearing agency or securities facility and ceases to carry on the business to which its licence relates;”;

Amendment of section 60

14. Section 60 of the principal Act is amended by inserting a new subsection (1A), after subsection (1) as follows —

- “(1A) A licensee shall submit an application to the Authority for approval under subsection (1) accompanied by such fees as may be prescribed by the Minister by Regulations.”.

Amendment of section 61

15. Section 61 of the principal Act is amended —

- (a) by numbering the existing section as subsection (1);
- (b) after paragraph (1)(e) by inserting the words “and pay such fees as may be prescribed by the Minister by Regulations” after the word “name”;
- (c) by inserting after subsection (1) the following subsections —

“(2) A licensee shall submit to the Securities Authority the trade names and domain names, to be used by the licensee as part of the application process for a licence under section 46(1), for approval by the Authority.

(3) Notwithstanding subsection (2), a licensee may use trade names and domain names, other than the trade names and domain names approved under subsection (2), subject to the Securities Authority's approval in writing.

(4) A licensee shall submit an application to the Authority for approval under subsection (1), accompanied by such fees as may be prescribed by the Minister by Regulations.

(5) The Securities Authority shall list all approved trade names on the licence of the licensee and on its website.

(6) A licensee shall prominently display all its approved trade names on its website.”.

Amendment of section 64

16. Section 64 of the principal Act is amended —

- (a) by repealing the word “and” at the end of paragraph (l);
- (b) by repealing the full stop at the end of paragraph (m) and substituting it with a semicolon;

- (c) by inserting after paragraph (m), the following paragraphs —
- “(n) ensure that at all times in Seychelles there are at least two resident fit and proper individuals who are either directors, compliance officers or members of the managerial staff of the licensee; and
- (o) ensure that at all times that it has in place standard risk warnings as may be prescribed by the Minister by Regulations.”.

Insertion of Part 13A

17. The principal Act is amended by inserting after section 124 the following Part —

“PART 13A CHANGE IN FIT AND PROPER INDIVIDUALS”

124A. In this Part —

“key position” or “in a significant role” includes but is not limited to, —

- (a) the management and oversight of the day-to-day operations of the employees;
- (b) ensuring the availability of up-to-date and timely information concerning the operations and affairs;
- (c) acting as an intermediary between the board and employees;
- (d) formulating and implementing policies and procedures;
- (e) conducting training for staff and assisting in the identification and evaluation of other

officers and board members as may be appropriate;

- (f) having regulatory knowledge of the industry;
- (g) having knowledge and understanding of the roles and duties for the position occupied or for the position applied to be occupied as applicable;

124B.(1) The provisions of this Part shall apply to —

- (a) licensed Securities Dealers;
- (b) licensed Investment Advisors;
- (c) licensed Securities Exchanges;
- (d) licensed Clearing Agencies;
- (e) licensed Securities Facilities:

Provided that the particular circumstances in which they apply are relevant to fit and proper determination of individuals in a key position or in a significant role.

(2) A determination under subsection (1) shall apply to a change in an approved fit and proper individual's key position or significant role which has been previously approved under section 9(4), 46(5) and 49(4), or thereafter.

(3) A licensee shall submit an application, as may be prescribed by the Securities Authority, for a change referred to in subsection (2), accompanied by any fees as may be prescribed by the Minister by Regulations.

(4) A licensee shall not effect a change referred to under this Part unless the proposed change has been approved by the Securities Authority.

(5) A licensee who fails to comply with subsections (3) and (4) shall be liable to a penalty of USD5000 per day or part thereof during which the contravention continues.

(6) Further to subsection (5), the Authority may take enforcement action as deemed appropriate.

Transitional provision

18.(1) Subject to subsection (2), entities licensed before the coming into force of this Act shall comply with the provisions of this Act within eighteen months of its entry into force.

(2) Subsection (1) shall not apply to the new requirements relating to payment of annual licence fees.

(3) On coming into operation of this Act the Securities Authority shall ensure that, where applicable, licence fees are prorated for existing licensees.