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**FINANCIAL SERVICES (AMENDMENT) ACT 2023**

**ARRANGEMENT OF SECTIONS**

Section

[1 Short title 2](#_Toc150754287)

[2 Interpretation 2](#_Toc150754288)

[3 Section 4 of the principal Act amended 2](#_Toc150754289)

[4 Section 18 of the principal Act amended 2](#_Toc150754290)

[5 Section 24 of the principal Act amended 2](#_Toc150754291)

[6 Section 29 of the principal Act amended 2](#_Toc150754292)

[7 Section 34 of the principal Act amended 2](#_Toc150754293)

[8. Section 42 of the principal Act amended 3](#_Toc150754294)

[9. Section 44 of the principal Act amended 3](#_Toc150754295)

[10 Section 50 of the principal Act amended 3](#_Toc150754296)

[11 Section 53 of the principal Act amended 4](#_Toc150754297)

[12 Commencement 4](#_Toc150754298)

**FINANCIAL SERVICES (AMENDMENT) ACT 2023**

**An Act to amend the Financial Services Act 2007**

1 Short title

This Act may be cited as the Financial Services (Amendment) Act 2023.

2 Interpretation

In this Act—

“principal Act” means the Financial Services Act 2007.

3 [Section Reserved]

4 Section 18 of the principal Act amended

Section 18 of the principal Act is amended by inserting after subsection (2) the following subsection —

“(2A) The Commission must give reasons for a refusal to grant an application under this section.”.

5 Section 24 of the principal Act amended

Section 24 of the principal Act is amended by repealing subsection (7) and replacing it by the following subsection —

“(7) Notwithstanding any other enactment, where, at any time, the Commission is not satisfied that an officer of a licensee is a fit and proper person, it may, after giving the officer and licensee an opportunity to make representations thereon, within such reasonable time as the Commission may specify, direct the licensee to remove, suspend, limit, or impose conditions on, such officer as the case may be.”.

6 Section 29 of the principal Act amended

Section 29 of the principal Act is amended in subsection (2)(b) by inserting after the words “account files” the words “, returns, reports”.

7 Section 34 of the principal Act amended

Section 34 of the principal Act is amended by repealing subsection (4) and replacing it by the following subsection —

**“**(4)The rules of an SRO may make provision in relation to —

1. shareholding and voting rights in the SRO in the interests of the members of SROs, consumers and investors and the users of their services;
2. promoting investors protection and market integrity; and
3. internal procedures to address potential conflicts.”.

8. Section 42 of the principal Act amended

Section 42 of the principal Act is amended —

1. in subsection (1) by inserting after the word “documents” the words “and in connection with the request for information, give such assistance as the Commission may specify, including but not limited to, answering questions in an interview.”;
2. in subsection (2)by repealing paragraphs (a) and (b) and replacing them with the following paragraphs —

“(a) For the purposes of subsection (1), a licensee includes—

1. any person who has been a licensee;
2. any person who is a present or past officer, partner or controller of the licensee;
3. any person who ought to have been licensed under this Act;
4. (iv) an SRO;
5. Subsection (1) applies to any information, records or documents required in connection with the discharge of the functions and the exercise of the powers by the Commission under a relevant Act or any other enactment, including legislation relating to anti-money laundering and countering financing of terrorism.”.

(c) in subsection (3A) after the word “functions” by repealing the word “of” and substituting the “words “and the exercise of the powers by”;

(d) in subsection (4)—

1. by inserting before the definition of “information” the following definition—

“Chief Executive” includes any person designated in writing by the Chief Executive or the Commission.”. (ii) in the definition of “information” by deleting the words “paragraph (b)” and substituting the words “subsection (2)(b).”.

9. Section 44 of the principal Act amended

Section 44 of the principal Act is amended by inserting after subsection (4) the following new subsections —

“(5) Subject to subsection (6), any person required to attend and answer questions or otherwise furnish information or to produce any specified documents or any documents of a specified class shall not, without reasonable excuse, fail to attend or answer or a question or furnish information or produce a document or class of documents.

(6) It shall be a reasonable excuse, for the purposes of subsection (5), for a person to refuse or fail to answer a question put to him or to refuse or fail to produce a document or class of documents that he was required to produce, where the answer to the question or the production of the document or class of documents might tend to incriminate him.”.

10 Section 50 of the principal Act amended

Section 50 of the principal Act is amended —

1. in subsection (1) by deleting the introductory words/chapeau and substituting the following words —

“(1) Where, on an application by the Commission on its own behalf or on behalf of a foreign supervisory institution, the Judge in Chambers is satisfied that the Commission has reasonable grounds to suspect that a person has committed or is committing an offence under the relevant Acts or has been involved in a financial crime in Mauritius or in another jurisdiction, the Judge in Chambers may order —”

1. in subsection (2)(a) by deleting the words “in this Act” and substituting the orders “to which the order relates”;
2. in subsection (8) by inserting after the words “financial crime” the words “in Mauritius or in another jurisdiction”.

11 Section 53 of the principal Act amended

Section 53 of the principal Act is amended by repealing subsection (6A) and replacing it by the following subsection —

“(6A) The Enforcement Committee shall, in such form and manner as the Chief Executive determines, publish a decision made by the Enforcement Committee if it is in the public interest to do so.”.

12 Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different provisions of this Act.