



BELIZE

**MUTUAL FUNDS ACT
CHAPTER 268**

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CHAPTER 268**MUTUAL FUNDS**

12 of 1999.
S.I. 72 of 1999.

[1st July, 1999]

PART I*Preliminary*

Short title.

1. This Act may be cited as the Mutual Funds Act.

Interpretation.

2.—(1) In this Act, unless the context otherwise requires,

“administrator” means a person who,

- (a) for valuable consideration provides a mutual fund with administrative services alone or together with accounting services; or
- (b) is entitled to provide to mutual funds (by whatever name called) such services as provided in paragraph (a) under the laws of a recognized country or jurisdiction;

“auditor” means a person who is entitled to practice as a public accountant and to perform audits under the laws of Belize or that of a recognized country or jurisdiction;

“Code of Practice” or “Code” means the code of practice prescribed by regulations;

“company” means a body corporate, wherever incorporated or constituted;

“constitutional documents” means,

- (a) in the case of a company, the memorandum and articles of association or such other instrument of incorporation;

- (b) in the case of a partnership, the agreement by which the partnership is formed and governed; or
- (c) in the case of a unit trust, the trust deed by which the unit trust is organised or governed;

“Court” means the Supreme Court of Belize;

“custodian” means the person who holds the property of the mutual fund in safe keeping;

“Deputy Registrar” means such person authorised under the Act to act as Deputy Registrar or delegated by the Registrar to do all such things as the Registrar can do;

“Exchange Control Regulations Act” means the Exchange Control Regulations Act, Cap. 52 and any statutory modifications thereto;

“existing entity” means,

- (a) a public fund;
- (b) a private or professional fund; or
- (c) a manager or administrator,

which was carrying on its business in or from within Belize immediately before the coming into force of this Act;

“financial year”, in relation to a mutual fund, means, subject to subsection (2) (c) of this section, the period not exceeding fifty-three weeks at the end of which the balance of the mutual fund’s accounts is struck or, if no such balance is struck or a period of more than fifty-three weeks is employed for that purpose, then a calendar year;

“Income and Business Tax Act” means the Income and Business Tax Act, Cap. 55 and any statutory modifications thereto;

“investor” means a person who owns or holds shares (as herein defined) issued by a mutual fund;

“Judge in Chambers” means a Judge of the Supreme Court of Belize sitting in Chambers;

“manager” means a person, not being an officer or an employee of a mutual fund which has delegated management functions to a person licensed under this Act, who,

- (a) for valuable consideration, provides a mutual fund with management services alone or together with investment advice or administrative services; or
- (b) is entitled to provide to mutual funds (by whatever name called) such services or advice as provided in paragraph (a) under the laws of a recognised country or jurisdiction;

“Minister” means the Minister responsible for the administration of this Act;

“mutual fund” or “fund” means a company incorporated, a partnership formed, a unit trust organised or other similar body formed or organised under the laws of Belize or that of any other country or jurisdiction which,

- (a) collects and pools funds for the purpose of collective investment; and
- (b) issues shares (as herein defined) that entitle the holder to receive on demand or within a specified period after demand an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets of the company, the partnership or the unit trust, as the case may be,

and includes an umbrella fund whose shares are split into a number of different class funds or sub-funds, but excludes any arrangements which are designated by regulations;

“officer” includes,

- (a) a director, alternate director, the president, a vice-president, and any other person designated as an officer of a company by by-laws, by resolution of the directors or by any other instrument;
- (b) a general partner of a partnership; and
- (c) a trustee of a unit trust;

“partnership” means a contractual relationship which subsists between persons carrying on a business in common with a view of profit and includes a partnership formed under the laws of Belize or of any other country or jurisdiction notwithstanding any statutory definition thereof to the contrary;

“person” includes an individual natural person, a mutual fund, any company, partnership, unit trust or trustee, or other similar entity;

“private fund” means a mutual fund which,

- (a) has less than fifty investors and the constitutional documents of which prohibit the offering of its shares to the general public; or
- (b) is designated as a private fund by regulations;

“professional fund” means a mutual fund which,

- (a) is offered only to professional investors and the initial investment in which, in respect of each investor, is not less than one hundred thousand in the United States of America currency or its equivalent in any other currency; and

(b) is designated as a professional fund by regulations;

“professional investor” means a person,

- (a) whose ordinary business involves the acquisition or disposal of property of the same kind as the property, or a substantial part of the property of the fund; or
- (b) who has signed a declaration that he has net worth in excess of one million dollars in the United States of America currency or its equivalent in any other currency and that he consents to being treated as a professional investor;

“promoter” means a person acting alone or in conjunction with others directly or indirectly who takes the initiative in forming or organising the business of a mutual fund, but does not include an underwriter who receives underwriting commission without taking any part in the founding or organising of the mutual fund business;

“prospectus” means any prospectus or similar document the purpose of which is to make an offer to the general public or any section thereof for subscription or purchase of any shares issued by a mutual fund;

“public fund” means a mutual fund which,

- (a) offers any shares it issues for subscription or purchase to any member of the general public or any section thereof; and
- (b) is not a private fund or a professional fund; and
- (c) is registered as a public fund under this Act;

“recognised country or jurisdiction” means any country or jurisdiction recognised by the Minister under subsection (3) of this section;

“Registrar” means the Registrar of Mutual Funds appointed under this Act;

“regulations” or “the regulations” means regulations enacted under this Act;

“security” means any document or instrument constituting evidence of title to or interest in the capital assets, property, profits, earnings or royalties of any person, as herein defined, and includes,

- (a) bonds, debentures, notes, mortgages and any other evidence of indebtedness;
- (b) any share, stock, document or instrument commonly known as a security; and
- (c) any document or instrument constituting evidence of an option, subscription or other interest in a security or constituting evidence of an interest in an association of legatees or heirs;

“share” means share in the share capital of a mutual fund company, and includes an interest in a mutual fund partnership and a unit in a mutual fund unit trust, or other similar entity;

“Stamp Duties Act” means the Stamp Duties Act, Cap. 64 and any statutory modifications thereto;

“underwriter” means a person who,

- (a) as principal, agrees to purchase shares issued by mutual funds with a view to offering them to the public; or
- (b) as agent for a mutual fund, offers for sale or sells to the public shares issued by the mutual fund;

“unit trust” means an arrangement creating a trust under the laws of Belize or of any other country or jurisdiction in which unit holders participating in the arrangement are the beneficiaries of the trust.

(2) In this Act,

- (a) every company incorporated, every partnership formed, every unit trust organised, or other similar entity existing under the laws of Belize for the purpose of carrying on business as a mutual fund, a manager or administrator, shall, if carrying on business anywhere outside Belize, be deemed to be carrying on business from within Belize;
- (b) the expression “carrying on business from within Belize”

includes carrying on business outside of Belize from a place of business or a registered office within Belize;

- (c) the definition of the financial year may be such longer period as may be agreed with the Registrar; and
- (d) the minimum investment limit referred to in paragraph (a) of the definition of “professional fund” shall not apply in respect of an investment made by the manager or administrator of the professional fund.

(3) The Minister may recognise any country or jurisdiction for the purposes of this Act and shall cause an Order of such recognition to be published in the *Gazette*.

PART II

Administration

3.–(1) There shall be appointed a Registrar of Mutual Funds, who shall be appointed by the Minister responsible for the administration of this Act.

Appointments.

(2) The Registrar has,

- (a) the duty to supervise mutual funds, managers and administrators in accordance with this Act;
- (b) in and for the discharge of that duty, the powers conferred upon him by this Act;
- (c) the power to prescribe such forms as he considers necessary for the purposes of this Act or the regulations; and
- (d) the authority to issue directives and policy guidelines for the purposes of this Act or the regulations.

(3) The Registrar may, upon request by any person to whom this Act applies and the payment of the fee set out in Part I of the Second Schedule or such other amount as may be prescribed by regulations, issue to such person a certificate of compliance in such form as the Registrar thinks fit.

4.–(1) The Minister may in writing delegate any powers conferred upon him by this Act to the Registrar and thereupon this Act shall be read as if those powers were originally conferred upon the Registrar.

Delegation of power.

(2) The Registrar may delegate any of his powers or duties under this Act to a Deputy Registrar and thereupon this Act shall be read as if those powers or duties were originally conferred or imposed upon that person.

Annual report.

5.—(1) The Registrar shall, on or before the 30th day of March in each year, prepare and deliver to the Minister a report consisting of,

- (a) a summary of the nature and number of,
 - (i) filings made under this Act;
 - (ii) registrations, recognitions and licences granted under this Act;
 - (iii) enforcement proceedings or disciplinary measures taken under this Act;
- (b) a general commentary on the law relating to the mutual funds industry and on the practice and development of that law.

(2) On receiving the report delivered to him pursuant to subsection (1) of this section, the Minister shall lay the report before the House of Representatives.

Records of Registrar.

6.—(1) The Registrar shall keep separate registers for all,

- (a) registered public funds;
- (b) recognised private and professional funds; and
- (c) licensed managers and administrators.

(2) The registers required under subsection (1) of this section shall show,

- (a) the information required under section 26 (1) (a), (b) and (c) of this Act, with respect to each registered public fund, recognised private and professional fund and licensed manager or administrator;

- (b) the date of registration, recognition or licence, as the case may be; and
- (c) the status of such registration, recognition or licence if cancelled and the date thereof.

(3) Registers kept by the Registrar shall be in such form as he may determine and, subject to section 38 of this Act, shall be open to public inspection during ordinary office hours on payment of an inspection fee of ten dollars or such other amount as may be prescribed by regulations.

7.-(1) There shall be a Committee called the Mutual Funds Advisory Committee which shall consist of not more than five persons appointed by the Minister from among members of the private sector who are known to have adequate knowledge and experience in the mutual funds industry.

Mutual Funds Advisory Committee.

(2) The Minister shall be the Chairperson of the Mutual Funds Advisory Committee and the Registrar shall be an *ex-officio* member thereof.

(3) The Mutual Funds Advisory Committee shall,

- (a) advise the Minister on any matter referred to it by the Minister in relation to the mutual funds industry;
- (b) on its own motion, report and make recommendations to the Minister on any matter relating to mutual funds as it sees fit; and
- (c) have the power to establish its own working rules and procedures.

PART III

Public Funds

Registration.

8. No public fund shall carry on its business or manage or administer its affairs in or from within Belize unless it is registered under this Act.

Application for registration.

9.—(1) A public fund may apply to the Registrar for registration to carry on business in or from within Belize.

(2) An application shall be,

- (a) made in the form and contain the information as set out in First Schedule; and
- (b) accompanied by,
 - (i) the consent of the Minister to apply for registration;
 - (ii) a statement setting out the nature and scope of the business to be carried on by the applicant in or from within Belize, including the name of any other country or jurisdiction where the applicant is carrying on or intends to carry on business;
 - (iii) the application fee set out in Part II of the Second Schedule or such other amount as may be prescribed by regulations;
 - (iv) the instrument by which the applicant is constituted or such other proof as may be satisfactory to the Registrar that the applicant is lawfully constituted under the laws of Belize or of any other country or jurisdiction;

- (v) the notices required under section 26 of this Act; and
- (vi) such other documents or information as the Registrar may reasonably require for the purpose of processing the application for registration.

10.—(1) The promoters of a public fund which is proposed to be formed may apply to the Minister for his consent to register such proposed public fund upon being lawfully constituted under the laws of Belize or of any other country or jurisdiction and upon complying with the requirements of this Act.

Application for consent to be registered.

(2) An application under subsection (1) of this section shall be,

- (a) in the form of a letter setting out the particulars of the proposed public fund; and
- (b) accompanied by a copy of the instrument by which the public fund will be constituted and the application fee set out in Part II of the Second Schedule or such other amount as may be prescribed by regulations.

(3) The consent of the Minister shall be,

- (a) in such form as the Minister may direct; and
- (b) valid for a period of three months from the date it is granted subject to there being no change, which the Minister considers material, in any of the particulars contained in the application for consent.

(4) The promoters of a proposed public fund may, upon the expiry of the three month period referred to in subsection (3) (b) of this section, apply for the renewal of the Minister's consent subject to,

- (a) supplying such documents or information as the Minister may require; and
- (b) the payment of a renewal fee which shall be the same amount as the application fee under Part II of the Second Schedule.

Power to grant consent.

11.—(1) The Minister may, in his discretion, grant or refuse to grant his consent under section 10 of this Act.

(2) Notwithstanding subsection (1) of this section, the Minister shall refuse to grant his consent, as the case may be, if,

- (a) the proposed public fund has a name which is undesirable or misleading;
- (b) the proposed public fund does not have a custodian who is functionally independent of the manager or administrator; or
- (c) he determines that it is not in the public interest that such consent should be granted.

(3) Except as provided in section 32 of this Act, where the Minister, in the exercise of his powers under subsection (1) of this section, makes a decision refusing to grant consent, he shall not be bound to assign any reasons for his decision, which decision shall not be subject to appeal or review in any court.

Registration procedure.

12.—(1) Where the Minister grants consent pursuant to section 10, he shall direct the Registrar accordingly and the Registrar shall,

- (a) register the public fund in the register maintained by him for the purpose under section 6 of this Act; and
- (b) issue a certificate to the registered public fund as directed by the Minister showing the date of registration.

(2) Where the Minister grants his consent under section 10, the promoters of the proposed public fund shall, within the three month period referred to in section 10 (3) (b) of this Act, from the date of the grant of such consent or the renewal thereof, deliver to the Registrar,

- (a) the consent of the Minister;
- (b) satisfactory proof that the proposed public fund is lawfully constituted in Belize or elsewhere;
- (c) the application fee required under section 9 (2) (b) (iii) of this Act; and
- (d) the notices referred to in section 9 (2) (b) (v) of this Act.

(3) If the Registrar is satisfied that the proposed public fund has complied with the requirements of subsection (2) of this section, he shall register the public fund and issue to it a certificate of registration in accordance with the procedure set out in subsection (1) of the section.

(4) The Registrar shall refuse to register the proposed public fund if he determines that,

- (a) its registration has not received the consent of the Minister pursuant to section 10 of this Act; or
- (b) it has not complied with any of the requirements of subsection (2) of this section.

(5) Any person aggrieved by a decision of the Registrar under subsection (4) of this section, may appeal to the Minister whose decision shall be final.

13.-(1) Every registered public fund shall,

- (a) maintain adequate accounting records and prepare financial statements in respect of each

Accounting records and financial statements.

financial year in accordance with generally accepted accounting principles; and

- (b) keep such accounting records and financial statements available for examination by the Registrar or any person authorised under his hand at,
 - (i) its principal place of business or registered office in Belize; or
 - (ii) such other place as its officers may see fit, provided that copies of such records and statements or such other documents or information as the Registrar may consider adequate are kept at its principal place of business or registered office in Belize.

(2) The financial statements required under subsection (1) of this section shall be,

- (a) audited by an auditor acceptable to the Registrar (in this Act called “the approved auditor”) in accordance with generally accepted auditing standards;
- (b) accompanied by the report of the approved auditor thereon which shall include a statement of the auditing standards under which the statements have been prepared; and
- (c) provided to or made available for examination by all investors in the registered public fund.

Duty to publish and file a prospectus.

14.—(1) No registered public fund shall within or outside of Belize offer its shares to the public unless prior to such offer it publishes in writing a prospectus signed by or on behalf of the board of directors (by whatever

name called) of the fund, which approved the contents of the prospectus or authorised its publishing, and files a copy thereof with the Registrar.

(2) Every prospectus shall,

- (a) provide full and accurate disclosure of all such information as investors would reasonably require and expect to find for the purpose of making an informed investment decision; and
- (b) contain a summarised statement of investors' rights as provided in section 16 of this Act; and
- (c) be accompanied by or contain reference to the availability of the financial statements for the last financial year of the fund and the auditor's report thereon if the fund has completed a financial year in operation.

(3) If all or any part of the prospectus is not in the English language, the Registrar may require that an English translation of the prospectus or that part of the prospectus, verified in a manner satisfactory to him, be filed along with the prospectus.

(4) Where in a prospectus any of the disclosures required under subsection (2) (a) of this section, ceases to be accurate in a material particular, the registered public fund shall publish an amendment thereto giving accurate disclosures and provide a copy thereof to each of its investors and to the Registrar.

15.-(1) Every registered public fund, wherever constituted, which carries on business outside of Belize under the laws of any other country or jurisdiction, shall every year, within three months of the end of its financial year, file with the Registrar a certificate of compliance from the competent authority responsible for the regulation and supervision of the conduct of its business, in that other country or jurisdiction.

Certificate of compliance.

(2) A registered public fund to which subsection (1) of this section applies is deemed to have complied with that subsection if it is proven to the satisfaction of the Registrar that the required certificate could not be obtained for reasons beyond the control of the public fund.

(3) Where a registered public fund which carries on business outside of Belize carries on business in more than one country or jurisdiction, the certificate required to be filed under subsection (1) of this section shall be from the competent authority in or from the country or jurisdiction in or from which the public fund carries on its principal business.

Investors' rights.

16.—(1) If a registered public fund publishes a prospectus or any amendment thereto that contains any misrepresentation relating to any of the disclosures required under section 14 (2)(a) of this Act, any person who purchases any shares pursuant to such prospectus or amendment thereto is deemed to have relied upon any such misrepresentation and shall have the rights provided in subsection (2) of this section.

(2) A person referred to in subsection (1) of this section may elect to exercise a right of action,

- (a) for the rescission of the purchase; or
- (b) for damages,

jointly and severally against the fund, and every member of the board of directors (by whatever name called) who, while aware of the misrepresentation, authorized the signing of or approved the prospectus or amendment thereto and consented to its publication and filing or caused it to be signed and filed.

(3) For the purposes of this section, “misrepresentation” means,

- (a) an untrue or misleading statement of any of the disclosures required under section 14 (2) (a) of this Act; or
- (b) an omission to disclose any such disclosures.

(4) No person is liable under this section if he proves that the purchaser purchased the shares offered by the prospectus or amendment thereto with knowledge of the misrepresentation.

(5) The right of action for rescission or for damages conferred by subsection (2) of this section is in addition to and without derogation from any other right the plaintiff may have at law.

17.—(1) Notwithstanding any provision of law to the contrary, any action pursuant to section 16 (2) of this Act may not be commenced after,

Limitation of action and amount recoverable.

(a) one year from the day that the plaintiff first had knowledge of the misrepresentation; or

(b) one year from the date of the purchase transaction that gave rise to the cause of action,

whichever is earlier.

(2) In any action under section 16 (2) of this Act, the amount recoverable shall not exceed the amount at which the shares were purchased or subscribed, including any fees or other charges paid by the plaintiff.

PART IV

Private and Professional Funds

18. No private or professional fund shall, in or from within Belize, carry on its business or manage or administer its affairs unless it is recognised under this Act.

Recognition.

19.—(1) A private or professional fund that is constituted under the laws of Belize is entitled to be recognised under this Act if it provides,

Application for recognition.

(a) proof satisfactory to the Minister that it,

- (i) is a private or professional fund within the meaning of this Act; and
- (ii) is lawfully constituted under the laws of Belize; and

(b) the notices required under section 26 of this Act,

and pays the application fee set out in Part II of the Second Schedule or such other amount as may be prescribed by regulations.

(2) A private or professional fund that is constituted outside of Belize may apply for recognition under this Act by sending to the Minister a letter setting out the nature and scope of its business which shall be accompanied by,

- (a) the application fee set out in Part II of the Second Schedule or such other amount as may be prescribed by regulations;
- (b) the notices required under section 26 of this Act;
- (c) proof satisfactory to the Minister that the applicant is,
 - (i) a private or professional fund within the meaning of this Act; and
 - (ii) lawfully constituted under the laws of another country or jurisdiction.

(3) In the case of a professional fund, the matters required by subsections (1) and (2) of this section, shall be provided within fourteen days of the fund becoming a professional fund.

Power to grant recognition.

20.—(1) The Minister may, in his discretion, grant or refuse to grant recognition under section 19 (2) of this Act.

(2) Where the Minister refuses to grant recognition under section 19 (2) of this Act, the provisions of section 11 (3) of the Act, shall apply *mutatis mutandis*.

(3) The Minister shall not refuse to grant recognition under section 19 (1) of this Act, unless the applicant fails to comply with the requirements of that section.

(4) Where the Minister refuses to grant recognition under section 19 (1) of this Act, he shall give the applicant notice in writing of his decision and the reasons therefor and the applicant may appeal such decision pursuant to section 33 of the Act.

21. Where the Minister grants recognition to a private or professional fund, he shall direct the Registrar accordingly and the Registrar shall,

Registrar to register recognized private and professional funds.

- (a) enter the particulars relating to the private or professional fund in the register maintained by him for the purpose under section 6 of this Act; and
- (b) issue a certificate of recognition to the private or professional fund as directed by the Minister showing the date of recognition.

PART V

Managers and Administrators

22.—(1) No person shall, in or from within Belize, carry on or hold himself out as carrying on business as a manager or administrator of mutual funds unless that person is licensed for the purpose under this Act.

Licensing.

(2) Subsection (1) of this section does not apply to a person who,

- (a) is not ordinarily resident or domiciled in Belize;

- (b) is a manager or administrator of mutual funds (by whatever name called) under the laws of a recognised country or jurisdiction; and
- (c) has received written permission from the Minister to carry on business as manager or administrator of mutual funds in or from within Belize.

Application for a licence.

23.—(1) A person who wishes to do so may make an application to the Minister to carry on business in or from within Belize as,

- (a) manager;
- (b) administrator; or
- (c) both manager and administrator of mutual funds.

(2) An application shall be accompanied by,

- (a) the application fee set out in Part II of the Second Schedule or such other amount as may be prescribed by regulations;
- (b) a statement of financial and human resources and administrative facilities available to the applicant for the competent and efficient conduct of its business; and
- (c) such other documents or information as the Minister may reasonably require for the purpose of considering the application.

Power to grant a licence.

24.—(1) The Minister may in his discretion, grant or refuse to grant a licence to any applicant.

(2) The Minister shall not grant a licence unless he is satisfied that the applicant,

- (a) is a fit and proper person to be engaged in the business proposed; or
- (b) has or has available to him adequate knowledge, expertise, resources and facilities necessary for the nature and scope of the business proposed; and
- (c) has appointed an auditor satisfying such conditions as may be prescribed by the Minister.

(3) Notwithstanding subsections (1) and (2) of this section, the Minister shall refuse to grant a licence if he determines that it is not in the public interest that a licence should be granted.

(4) Where the Minister refuses to grant a licence to an applicant, the provisions of section 11 (3) of this Act, shall apply *mutatis mutandis*.

(5) The Minister may by Order prescribe a Code of Practice directing the holder of a licence under this section to comply with the requirements of the Code which may include matters relating to,

- (a) conduct of business;
- (b) financial resources;
- (c) the giving of notice of specified events;
- (d) advertising;
- (e) clients' money and clients' investments; and
- (f) accounting records and audit requirements.

(6) A Code of Practice prescribed under subsection (5) of this section may provide for such enforcement mechanisms as the Minister may consider necessary to ensure compliance with the provisions of the Code.

Licensing procedure.

25. Where the Minister grants a licence to an applicant, he shall direct the Registrar accordingly and the Registrar shall,

- (a) enter the particulars of the applicant in the register maintained by him for the purpose under section 6; and
- (b) issue a licence to the applicant, as directed by the Minister, showing the date on which the licence is granted.

PART VI

Miscellaneous

Notices to applications.

26.—(1) In addition to any other requirement under this Act, every application for registration, recognition or a licence made under this Act shall be accompanied by a notice of,

- (a) the address of the applicant's principal place of business, the address of its registered office, and its address for service in Belize;
- (b) the name and address of a person resident in Belize who is authorized to represent the applicant and to accept service on its behalf; and
- (c) the address of any place or places of business that the applicant may have outside of Belize.

(2) If any information contained in any of the notices required to accompany the application pursuant to subsection (1) of this section is altered at any time thereafter, the applicant, upon being a registered

public fund, a recognised private or professional fund or a licensed manager or administrator, as the case may be, shall give in writing to the Registrar particulars of the alteration within twenty-one days after the alteration is made.

27.--(1) A certificate or a licence may be granted subject to such terms, conditions, restrictions or limitations as the Minister sees fit to specify therein.

Form and conditions of certificates and licences.

(2) A certificate or a licence shall,

- (a) be in such form as may be directed by the Minister;
- (b) be admitted in all courts as *prima facie* evidence of the facts stated therein; and
- (c) remain in force until it is cancelled.

28.--(1) Where,

Annual fees.

- (a) a public fund is granted registration;
- (b) a private or professional fund is granted recognition; or
- (c) a person is granted a licence,

there shall be payable for the year in which such registration, recognition or licence is granted the fees set out in paragraph (A) of Part III of the Second Schedule, or such other amounts as may be prescribed by regulations.

(2) On or before the 31st day of January of each year following the year in which registration, recognition or a licence is granted, there shall be payable the annual fees set out in paragraph (B) of Part III of the Second Schedule or such other amounts as may be prescribed by regulations.

(3) Any unpaid annual fee or part thereof may be sued for by the Registrar by action as a civil debt and the Registrar may require, and the court may order, the payment of a penalty in an amount equal to the amount of the fee or part thereof for late payment of the fee.

Cancellation, etc.,
of certificates or
licences.

29. The Minister may, subject to sections 30 and 31 of this Act, cancel a certificate or licence, or impose new or additional conditions, restrictions or limitations in respect of such certificate or licence,

- (a) at the request of the holder thereof; or
- (b) in the event that the holder thereof,
 - (i) has ceased to carry on business in or from within Belize;
 - (ii) has contravened any provision of this Act, the regulations or the Code of Practice prescribed under section 24 of this Act or any term, condition, restriction or limitation attached to the holder's certificate or licence, as the case may be;
 - (iii) has been convicted of an offence under this Act or a criminal offence in any country or jurisdiction;
 - (iv) has knowingly and wilfully supplied false, misleading or inaccurate information or failed to disclose information required for the purposes of any provision of this Act or the regulations;
 - (v) is carrying on business in a manner detrimental to the interests of mutual funds investors or to the public interest; or

- (vi) is declared bankrupt or is being wound-up or otherwise dissolved.

30.—(1) Before cancelling a certificate or a licence under section 29 (b) of this Act, the Minister shall,

Cancellation procedure.

- (a) give the holder thereof notice in writing of the grounds on which he intends to do so;
- (b) afford the holder an opportunity to make written representations to him within a period of thirty days after receipt of a notice under paragraph (a) of this subsection; and
- (c) take any such representations made by the holder into consideration.

(2) Where in the exercise of his powers under section 29 (b) of this Act, the Minister decides to cancel a certificate or a licence, as the case may be, he shall give notice in writing to the holder thereof of such cancellation and the reasons therefor.

31. The holder of a certificate or a licence aggrieved by the decision cancelling such certificate or licence may appeal such a decision in accordance with section 33 of this Act.

Right of appeal.

32. Notwithstanding any provision in this Act to the contrary, where the Minister refuses to grant consent to an existing entity under section 11 (1) of this Act, or to issue a licence to such an entity under section 9 (1) of the Act, or to grant recognition to such an entity under section 19 (1) of the Act, he shall give notice in writing of his decision and the reasons therefor and the existing entity may appeal such decision in accordance with section 33 below.

Appeal by existing entities.

33.—(1) An appeal under sections 20(4), 31 and 32 of this Act, shall be made by,

Appeal procedure.

- (a) way of summons to a Judge in Chambers; and

- (b) serving the Minister with a notice of appeal within twenty-one days or such longer periods as the Judge may allow, after receipt of the notices required under section 20(4), 30(2) or 32 of this Act, as the case may be.

(2) The bringing of an appeal under sections 31 and 32 of this Act, suspends the decision appealed against, pending the determination or abandonment of the appeal.

Grant or cancellation to be published.

34. The Registrar shall publish in the *Gazette*, in such form as he thinks fit, notice of every grant or cancellation of a certificate or a licence under this Act.

Power to grant exemptions.

35.—(1) Upon the recommendation of the Registrar, the Minister may, if he is satisfied that to do so would not be prejudicial to the public interest, direct that all or any of the provisions of this Act or the regulations shall,

- (a) not apply; or
- (b) apply subject to such modification as he may specify in the direction, to any person or any class of persons.

(2) A direction under this section may be,

- (a) subject to any conditions as the Minister may see fit to specify therein; and
- (b) revoked at any time at the discretion of the Minister.

(3) Notwithstanding any provision or rule of law, a direction under this section is not a statutory instrument having legislative effect.

Access to information and records.

36. For the purpose of discharging his duties under this Act and the regulations and subject to section 38 of this Act, the Registrar, or any person acting under his authority, may at all reasonable times in writing, direct any person to whom this Act applies to,

- (a) furnish information; or
- (b) provide access to any records, books, or other documents,

relating to the business of that person being carried on under this Act which, in the opinion of the Registrar, is necessary to enable him to ascertain compliance with the provisions of this Act or the regulations.

37.—(1) No liability shall be incurred by and no suit, action or proceeding shall be brought against the Government of Belize, the Minister, any agent thereof, the Registrar or any person acting under his authority for any act done or omitted to be done in good faith,

Immunity of action by Registrar.

- (a) in the performance or intended performance of any function or duty; or
- (b) in the exercise or intended exercise of any power,

under this Act or the regulations.

(2) The Registrar may bring actions and institute proceedings in his name or office for the enforcement of any provision of this Act or the regulations, or for the recovery of fees or other sums of money payable under this Act or the regulations.

38. Notwithstanding section 6 of this Act,

Confidentiality.

- (a) any information, material or document furnished to or filed with the Registrar by any recognised private or professional fund is privileged and shall not be disclosed to any person except,
 - (i) the Minister, or a public officer authorised by the Minister; or
 - (ii) on the order of the Court for the purpose of criminal proceedings;

- (b) the Minister may direct that any specified information, material or document furnished to or filed with the Registrar by any registered public fund shall be held in confidence and shall not be disclosed to any person so long as the Minister is of the opinion that to do so is in the public interest.

Funds exempt from income and business tax, stamp duties, etc.

39.—(1) Notwithstanding any statutory provision or rule of law to the contrary,

- (a) a public fund which is registered or a private or professional fund which is recognised under this Act; and
- (b) an investor in any registered public fund or recognised private or professional fund who is not a resident in Belize,

are in all respects exempt from any and all of the provisions of the Income and Business Tax Act, Cap. 55, the Stamp Duties Act, Cap. 64 and the Exchange Control Regulation Act, Cap. 52 with respect to its investment in any such fund.

(2) Notwithstanding the provisions of the Companies Act, Cap. 250, a company which is incorporated outside Belize which establishes a place of business within Belize to carry on business in accordance with the provisions of this Act as,

- (a) a registered public fund;
- (b) a recognised private or professional fund; or
- (c) a licensed manager or administrator,

is exempt from the provisions of that Act.

Offences and penalties.

40.—(1) Any person who,

- (a) wilfully makes a misrepresentation in any document required to be filed, furnished or delivered under this Act or the regulations, as the case may be;
- (b) wilfully makes any statement or gives any information for the purposes of this Act or the regulations that he knows to be false or misleading;
- (c) knowingly fails to disclose any fact or information required to be disclosed for the purposes of this Act or the regulations; or
- (d) being in charge of or having possession of or control over any information, records, books or other documents referred to in section 36 of this Act, refuses or wilfully neglects to comply with any lawful direction given under that section,

commits an offence under this Act and is liable on conviction to a fine of not less than five thousand dollars and not more than fifty thousand dollars or to imprisonment for a period not exceeding two years, or to both such fine and period of imprisonment.

(2) Any person who, without reasonable cause, contravenes any provision of this Act or the regulations for which no penalty is provided, commits an offence against this Act, and is liable on conviction,

- (a) in the case of a body corporate or unincorporated, to a fine of not more than fifty thousand dollars; and
- (b) in the case of an individual, to a fine of not more than five thousand dollars or to imprisonment for a period not exceeding one month, or to both such fine and period of imprisonment.

(3) A prosecution for an offence under this Act may be commenced within five years from the date of the commission of the offence but not thereafter.

Minister's power
to vary Schedules.
First Schedule.

41. The Minister may by Order published in the *Gazette*,

- (a) vary the form of First Schedule provided such variation does not, in any material respect, change the substance of that Schedule; or
- (b) subject to the affirmative resolution procedure of the House of Representatives modify, delete, repeal or replace any Schedule to this Act in whole or in part.

Regulations.

42. The Minister may make regulations,

- (a) prescribing the fees payable under this Act;
- (b) prescribing the criteria with respect to exemptions authorized by this Act;
- (c) recognising arrangements which are not mutual funds;
- (d) designating mutual funds or a class or classes thereof as private or professional mutual funds;
- (e) designating a class or sub-classes of a public fund;
- (f) authorising the Registrar to require that any document, statement, report, certificate, release, agreement, or other information be filed with, furnished or delivered to him;
- (g) defining, for the purposes of this Act, terms or expressions used in this Act that are not defined in this Act;

- (h) prescribing any matter required to be or which may be prescribed under this Act relating to,
 - (i) the constitution, powers and duties of the manager, administrator and custodian;
 - (ii) the issue and redemption of units;
 - (iii) the appointment, removal, and powers and duties of auditors;
 - (iv) the restriction or regulation of investment and borrowing powers;
 - (v) the preparation of periodical reports;
 - (vi) the rights of investors; and
 - (vii) the contents of constitutional documents, in respect of a public fund or a sub-class of such fund;
- (i) relating to the matters which should be contained in a prospectus of a public fund or a sub-class of such fund; and
- (j) generally for the better administration of this Act and for carrying the intent and purpose of its provisions into effect.

43. Any person who, at the date of the coming into force of this Act, is carrying on any business or engaged in any activity relating in any respect, directly or indirectly to mutual funds in or from within Belize, shall within three months or such longer period as may be granted by the Minister from such date of coming into force, comply with the provisions of this Act.

Transitional provision.

FIRST SCHEDULE

MUTUAL FUNDS ACT

Application for Registration of
a Public Fund*[Sections 9 (2) (a) and 41 (a)]***1. Applicant.**

State name and address of the fund.

2. Constitution.

- (a) State the legal form of the fund,
 - (i) company;
 - (ii) partnership; or
 - (iii) unit trust;
- (b) State the name of the country or jurisdiction where the fund is constituted;
- (c) State the title of the law under which the fund is constituted.

3. Officers.

- (a) State name, address, place of birth and citizenship of each of the following officers of the fund,
 - (i) directors;
 - (ii) general partners; or

- (iii) trustees;
- (b) State educational and professional qualifications of each of the officers mentioned in sub-paragraph (a) above;
- (c) Give details of business, occupation or employment of each of the officers mentioned in sub-paragraph (a) above.

4. *References.*

Give two personal references, a bank reference and, where it is the practice to make one available in the relevant jurisdiction, a police clearance certificate for each of the officers mentioned in paragraph 3 (a) above.

5. *Functionaries.*

State names, addresses and business activities of each of the fund's,

- (a) managers;
- (b) administrators;
- (c) investment advisers; and
- (d) custodians.

6. *Prior Registration.*

State if the fund is now or has been registered, licensed, recognised or authorized under any law or regulations relating to mutual funds, collective investment schemes/funds or securities in any other country or jurisdiction.

7. Refusal or Disciplinary Measure.

Has the fund, any of its officers mentioned in paragraph 3 (a), managers, administrators, investment advisers or custodian been the subject of,

- (a) a refusal of an application for registration, licence, recognition or authorization; or
- (b) a suspension, cancellation or revocation of registration, licence, recognition or authorisation,

by any authority in any country or jurisdiction?

Give details and reasons.

8. Civil Proceedings.

Has a judgment been rendered or any suit, action or proceedings pending against any officer of the fund or any of its functionaries listed in paragraph 5 above, in civil proceedings in any court or tribunal in any country or jurisdiction which has been or is based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct?

9. Offences.

Has any of the officers mentioned in paragraph 3 (a) above or any of the functionaries listed in paragraph 5 above been or is being charged, indicted or convicted in any country or jurisdiction for an offence in any criminal or civil proceedings relating to fraud or theft arising out of dealing in mutual funds, collective investment schemes/ funds or securities?

10. Bankruptcy.

Has any of the officers mentioned in paragraph 3 (a) above or any of the functionaries listed in paragraph 5 above been,

- (a) declared bankrupt or been party to bankruptcy or insolvency proceedings; or
- (b) subject to proceedings relating to winding-up, dissolution or creditors' arrangement; or
- (c) subject to proceedings relating to receivership or creditor's compromise,

in any country or jurisdiction?

AFFIDAVIT

I,of
 (address),
 in my capacity as director/general partner/trustee,* acting for and on
 behalf of
 the applicant public mutual fund herein, do depose and say that I have
 read and understood the questions in the application submitted herewith
 and hereby certify under oath that the answers and statements provided
 in respect of the application are true, correct and complete to the best of
 my knowledge, information and belief.

SWORN before me

 Name and signature
 of deponent

.....

Commissioner of Oaths
Justice of the Peace

.....

in the city ofthis

 day of, .

* Delete as appropriate.

SECOND SCHEDULE

MUTUAL FUNDS ACT

Fees

*[Sections 3 (3), 9(2)(b)(iii), 10(2)(b) and (4)(b),
19(1) (b) and (2)(a), 23(2)(a), 28(1) and (2)]*

PART I

Fee for issuing a Certificate of Compliance under section 3(3) of the Act.

The fee for issuing a Certificate of
Compliance pursuant to section 3 (3) \$25.00

PART II

*Application fees under sections 9(2)(b)(iii), 10(2)(b),
19(1) and (2)(a), 23(2)(a) of the Act.*

The fee for,

- (a) an application for registration
under section 9 (2) (b) (iii) is \$500.00
- (b) an application for recognition under
sections 19 (1) and (2) is.....\$350.00
- (c) an application for a licence under
section 23 (2) (a) is\$250.00
- (d) an application for consent to be
registered under section 10 is\$100.00

PART III

Annual fees under section 28 (1) and (2) of the Act.

- (A) Fee payable for the year in which registration, recognition or licence is granted pursuant to section 28 (1) of the Act,
- (1) Where registration, recognition or licence is granted on or before the 30th day of June in any year, the fee payable for that year is,
- (a) \$500.00 by a registered public fund;
 - (b) \$350.00 by a recognised private or professional fund;
 - (c) \$500.00 by a person licensed as manager or administrator; and
 - (d) \$1,000.00 by a person licensed as both manager and administrator.
- (2) Where registration, recognition or licence is granted on or after the 1st day of July in any year, the fee payable for that year is,
- (a) \$250.00 by a registered public fund;
 - (b) \$175.00 by a recognised private or professional fund;
 - (c) \$250.00 by a person licensed as manager or administrator; and
 - (d) \$500.00 by a person licensed as both manager and administrator.

- (B) The annual fee payable pursuant to section 28 (2) of the Act is,
- (a) \$500.00 by a registered public fund;
 - (b) \$350.00 by a registered or recognised private or professional fund;
 - (c) \$500.00 by a person licensed as manager or administrator; and
 - (d) \$1,000.00 by a person licensed as both manager and administrator.