


**TULAFONO O TEUTEUGA O LE TULAFONO O KAMUPANI
LAISENEINA MO AUAUNAGA TAU MAVAEGA MA
AUAUNAGA TAU TUPE FAAVA O MALO 2019**

Examine and Certified


Clerk of the Legislative Assembly

The Head of State Assents this.....*12th*.....day of

.....*JULY 2019*.....


HEAD OF STATE

SAMOA

Faatulagaina o Aiaiga

1. Igoa puupuu ma le amataga
2. Ua teuteuina le fuaiupu 28
3. Ua teuteuina le fuaiupu 30
4. Ua suia le fuaiupu 39
5. Ua faaofiina le fuaiupu 39A fou
6. Ua teuteuina le fuaiupu 51
7. Teuteuga faatupulaia

—————
2019, Nu. 18

**O SE TULAFONO e teuteu ai le Tulafono o Kamupani Tausi Mavaega 2017
("Tulafono autu").**

UA FAIA e le Fono Aoao Faitulafono a Samoa i totonu o le Palemene ua potopoto e faapea:

1. Igoa puupuu ma le amataga:

E mafai ona taua leni Tulafono o le Tulafono o Teuteuga o le Tulafono o Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo 2019 ma e amata faamamaluina i le aso e tuuina i ai le maliega a le O Le Ao o le Malo.

2. Ua teuteuina le fuaiupu 28:

Ua teuteuina le fuaiupu 28 o le Tulafono autu e faapea:

(a) i totonu o le faafuaiupu (2), ia aveese le upu “ma” i le faaiuga o le parakalafa (a), ia suia le faailoga piriota “.” i le faailoga semikolona “;” i le faaiuga o le parakalafa (b) ma ia faaofi le parakalafa (c) fou i le tuanai ai o le parakalafa (b) e faapea:

“(c) e ao, i le TCSP ua puleaina, ona saunia se maliega tau pulega i le tulaga faamalieina o le Pule Faatonu.”;

(b) i totonu o le faafuaiupu (5)(i), mo le “fuaiupu 27(2)” ia suia i le “fuaiupu 27(2) ma le 28”.

3. Ua teuteuina le fuaiupu 30:

I totonu o le fuaiupu 30 o le Tulafono autu, ia toe faanumera le aiaiga o i ai nei e avea ma faafuaiupu (1) ma faaofi e faapea:

“(2) I totonu o leni fuaiupu, o upu “faamatalaga ua atoatoa” e faasino lea i pepa aloaia o sailiiliga maeaea o le talafeagai ai o le tagata e faaaogāina le auaunaga, ia o lo o faatonuina e Tulafono Faatonutonu.”.

4. Ua suia le fuaiupu 39:

Mo le fuaiupu 39 o le Tulafono autu, ia suia e faapea:

“39. Faalēaogāina o le laisene:

- (1) E mafai e le Pulega ona faalēaogāina se laisene, pe afai o le TCSP po o le Kamupani:
 - (a) ua faamutaina ona tauave o pisinisi tausi mavaega po o isi pisinisi o auaunaga tau tupe po o ua lē amataina le pisinisi o mavaega tausi po o isi pisinisi o auaunaga tau tupe, i totonu o le ono (6) masina talu ona tuuina atu lona laisene; po o
 - (b) ua faaaogāina aseta e totonu ai aitalafu po o ua faamaape po o ua faataapeina; po o
 - (c) ua na lē tausisia o so o se manaoga o lenei Tulafono, e aofia ai fuaiupu 11(2), 28, 38(1); po o
 - (d) ua toe faafoi o latou laisene i lalo o le fuaiupu 39A.
- (2) E ao i le Pulega, a o le i faalēaogāina se laisene, ona:
 - (a) taofia lē tumau le laisene, a o talia le faalēaogāina; ma
 - (b) ia logoina le TCSP po o le Kamupani i se faiga tusitusia, e tusa o mafuaaga ia ua ia manatu e faalēaogāina ai lona laisene.
- (3) E mafai e le Pulega, ona logoina so o se tagata o nofo aitalafu ai, tagata e faaaogāina le auaunaga, tagata e i ai sea po o se tagata faigaluega a le TCSP po o le Kamupani, ma pulega faaletulafono talafeagai i totonu o Samoa po o se isi atunuu, e tusa ma lona faamoemoe e faalēaogāina le laisene.
- (4) I le tauaaoina ai o le faasilasilaga o le faamoemoe e faalēaogāina le laisene i lalo o le faafuaiupu (2)(b), e ao i le TCSP po o le Kamupani ona:
 - (a) tuuina atu se lipoti i mafuaaga ua ia lē tausisia ai o manaoga o lenei Tulafono, ma ni faiga ua i ai po o o le a ia faatinoina e foia ai le tulaga o lona lē tausisia;
 - (b) fautuaina le Pulega i -
 - (i) se faiga o le a teuina ai o faamaumauga o manaomia e le Tulafono;
 - (ii) le tagata o le a ia teuina faamaumauga;
 - (iii) le nofoaga lea o le a teuina ai faamaumauga;

- (iv) le faiga o le a mafai ai ona faaavanoa atu o faamaumauga, i le maea ai ona faamuta o sootaga ma kamupani o faaogāina auaunaga; ma
- (c) le taofia lē tumau o galuega faatino ma toe faafoi lona laisene i totonu o le 15 aso faigaluega mai le aso na tauaaina ai le faasilasilaga o le faamoemoe e faalēaogā, a o talia ai o se faaiuga a le Pulega i le faalēaogāina o se laisene.
- (5) E mafai e le Pulega, e ala i se faasilasilaga tusinga, ona manaomia se TCSP po o se Kamupani, e tuuina atu o so o se isi lava faamatalaga e pei ona ia manatu ua talafeagai ai mo le faamoemoe o le faafuaiupu (4).
- (6) Afai ua tausisia e le TCSP po o le Kamupani le faafuaiupu (4) po o le (5), o le a iloiloina e le Pulega le lipoti, ma faia o se faaiuga pe ua tatau ona faagasolo loa e faalēaogā le laisene.
- (7) Afai ua manatu le Pulega ia lē faalēaogāina le laisene, e ao i le Pulega ona logoina le TCSP po o le Kamupani ma e mafai foi ona faaee atu o tuutuuga, a o lumanai ai ona toe faafoi atu le laisene i le TCSP po o le Kamupani.
- (8) Afai e manatu le Pulega e faalēaogā le laisene, e ao ona ia logoina le TCSP po o le Kamupani e faapea o lona laisene ua faalēaogāina. O le faalēaogāina o le laisene e amata faamamaluina i le aso e faaoina atu ai i le TCSP po o le Kamupani le faasilasilaga o le faalēaogāina o le laisene.
- (9) I le maea ai o aso faigaluega e 15, ae le i tausisia e le TCSP po o le Kamupani o le faafuaiupu (4) po o le (5), o le a tatau i le Pulega ona faalēaogāina le laisene, ma lomia faasalalau i totonu o le Savali po o i luga o le Upega Tafailagi a lona Ofisa, le faalēaogāina o le laisene a le TCSP po o le Kamupani.
- (10) O se TCSP po o se Kamupani ua lē mafai ona ia tausisia lenei fuaiupu e noatia i se faasalaga tau tupe ua faatonuina i lalo o le fuaiupu 45.

- (11) O le faalēaogāina o se laisene a se TCSP po o se Kamupani o le a lē aveesea ai le noataga o se tagata ua faailoa mautinoa i totonu o le faafuaiupu (4)(b)(ii) ina ia teuina ma faaavanoa atu i le talosaga a le Pulega, o faamaumauga mo le fitu (7) tausaga, i le tuanai ai ona faamutaina o pisinisi a le TCSP po o le Kamupani.
- (12) Mo faamoemoega o lenei fuaiupu, o se “laisene” o lona uiga o se Laisene a se TCSP, Laisene o Mavaega Tausi, Laisene o Auaunaga po o se Laisene e Pulea ai lea sa tuuina atu i se TCSP po o se Kamupani i lalo o le Tulafono.”.

5. Ua faaofiina le fuaiupu 39A fou:

“39A. Toe faafoi atu o se laisene:

- (1) E mafai e se TCSP po o se Kamupani ona tapa le faamaoniga a le Pulega i se faasilasilaga tusitusia e toe faafoi atu ai lona laisene i lalo o le fuaiupu 39(1)(d) ia lē itiiti ifo i lo le 30 aso faigaluega, a o le i faamutaina o pisinisi.
- (2) O se faasilasilaga tusitusia e ao ona aofia ai:
- (a) le faailoaina atu i se tulaga moni ma le atoatoa o mafuaaga mo le toe faafoi atu o le laisene;
- (b) le aso ua faamoemoe le TCSP po o le Kamupani e faamutaina ai ana pisinisi;
- (c) o faiga ua faaogāina e le TCSP po o le Kamupani e fautuaina ai kamupani o faaogāina auaunaga, e tusa o lona faamoemoe e toe faafoi atu lona laisene;
- (d) fautuaga i taualumaga i le -
- (i) faiga o le a teuina ai faamaumauga o manaomia e le Tulafono;
- (ii) le tagata o le a ia teuina faamaumauga;
- (iii) le nofoaga lea o le a teuina ai faamaumauga;
ma

- (iv) le faiga o le a faaavanoaina atu ai o faamaumauga i le tuanai ai ona faamuta o sootaga ma kamupani o faaaogāina auaunaga.
- (3) I le tauaaoina ai e le Pulega o se faasilasilaga tusitusia:
- (a) e ao ona ia iloiloaina le faamatalaga ma e mafai ona ia tapa le TCSP po o le Kamupani ina ia tuuina mai nisi faamatalaga e pei ona ia manatu ua talafeagai ai;
- (b) e mafai, ona logoina so o se tagata o nofo aitalafu ai, kamupani o faaaogāina auaunaga, le tagata o umia sea, po o se tagata faigaluega a le TCSP po o le Kamupani, ma pulega faaletulafono talafeagai i totonu o Samoa po o se isi atunuu, i le faasilasilaga tusitusia; ma
- (c) i le maea ai o iloiloga auiliili ma ua finagalo malie e faapea, ua faamalieina e le TCSP po o le Kamupani o manaoga o le faafuaiupu 2(2), e ao ona tusi atu i le TCSP po o le Kamupani e tusa o lana faamaoniga i le toe faafoi atu o lona laisene.
- (4) E ao i le TCSP po o le Kamupani ona toe faafoi atu lona laisene i totonu o le 15 aso faigaluega i le taimi e tauaaoina ai le faamaoniga e toe faafoi atu lona laisene.
- (5) E tatau i le Pulega i le taimi e toe faafoi atu ai le laisene mai le TCSP po o le Kamupani, ona faalēaogāina le laisene.
- (6) I le maea ai o le 15 aso faigaluega ma e le i usitaia e le TCSP po o le Kamupani le faafuaiupu (4), e tatau i le Pulega ona faalēaogā le laisene, ma lomia faasalalau i totonu o le Savali po o i luga o le Upega Tafailagi a lona Ofisa, le faalēaogāina o le laisene o le TCSP po o le Kamupani.
- (7) O le faalēaogāina o se laisene o se TCSP po o se Kamupani e lē aveesea ai le noataga o se tagata ua faailoa mautinoa i totonu o le faafuaiupu (2)(d)(ii), e teuina ma faaavanoa atu pe a talosagaina e le Pulega, o faamaumauga mo le fitu (7)

tausaga i le tuanai ai ona faamutaina o pisinisi a le TCSP po o le Kamupani.

- (8) O se TCSP po o se Kamupani ua lē mafai ona ia usitaia o lenei fuaiupu e noatia i se faasalaga tau tupe ua faatonuina i lalo o le fuaiupu 45.
- (9) Mo le faamoemoe o lenei fuaiupu, “laisene” o lona uiga o se Laisene TCSP, Laisene o se Mavaega Tausi, Laisene o Auaunaga po o se Laisene o le Puleaina, lea na tuuina atu i se TCSP po o se Kamupani i lalo o lenei Tulafono.”.

6. Ua teuteuina le fuaiupu 51:

I le tuanai ai o le fuaiupu 51(13) o le Tulafono autu, ia faaofi e faapea:

“(14) Ina ia alofia ai so o se tulaga masalomia, o so o se manaoga, tiute po o noataga ua faatonuina, e faasino i se TCSP po o ana kamupani o faaaogāina auaunaga i lalo o lenei Tulafono, e faaaogā i se TCSP po o ana kamupani o faaaogāina auaunaga lea o lo o ia puleaina a o lumanai ai le amata faamamaluina o lenei Tulafono.”.

7. Teuteuga faatupulaia:

- (1) Ua teuteuina le faaliliuga faa-Samoa o le Tulafono o Kamupani Tausi Mavaega 2017 e faapea:
 - (a) mo le igoa umi “Kamupani Tausi Mavaega” ia suia i upu “Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo”; ma
 - (b) i totonu o le fuaiupu 1(1), mo upu “Kamupani Tausi Mavaega” ia suia i upu “Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo”.
- (2) So o se faasinomaga i le “Kamupani Tausi Mavaega 2017” i totonu o so o se isi lava tulafono po o i so o se isi pepa aloaia faaletulafono, e ao ona teuteuina ina ia faitauina ai e faapea “Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo 2017”.

TRUSTEE COMPANIES AMENDMENT ACT 2019

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Section 28 amended
3. Section 30 amended
4. Section 39 substituted
5. New section 39A inserted
6. Section 51 amended
7. Consequential amendments

2019, No. 18

AN ACT to amend the Trustee Companies Act 2017 (“principal Act”).

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement:

This Act may be cited as the Trustee Companies Amendment Act 2019 and commences on the date of assent by the Head of State.

2. Section 28 amended:

Section 28 of the principal Act is amended as follows:

(a) in subsection (2), delete “and” at the end of paragraph (a), substitute the full stop “.” with a semicolon “;” at the end of paragraph (b) and insert new paragraph (c) after paragraph (b) as follows:

“(c) must, for the managed TCSP, provide a management agreement to the satisfaction of the Regulator.”;

(b) in subsection (5)(i), for “section 27(2)” substitute “sections 27(2) and 28”.

3. Section 30 amended:

In section 30 of the principal Act, renumber the current provision as subsection (1) and insert the following:

“(2) In this section “sufficient information” refers to the customer due diligence documents that are prescribed by Regulations.”.

4. Section 39 substituted:

For section 39 of the principal Act, substitute:

“39. Revocation of licence:

- (1) The Authority may revoke a licence if the TCSP or Firm:
 - (a) has ceased to carry on trustee business or other financial services business or does not within six (6) months after the issuance of its licence commence trust business or other financial services business; or
 - (b) goes into liquidation or is wound-up or dissolved; or
 - (c) is in non-compliance with any requirements of this Act, including sections 11(2), 28, 38(1); or
 - (d) surrenders their licence under section 39A.
- (2) The Authority before revoking a licence must:
 - (a) suspend the licence pending revocation; and
 - (b) in writing, notify the TCSP or Firm of the grounds on which it intends to revoke its licence.
- (3) The Authority may, notify any creditor, client, shareholder or employee of the TCSP or Firm, and relevant regulatory authorities in Samoa or another country of its intention to revoke the licence.
- (4) Upon receipt of the notice of intention to revoke the licence under subsection (2)(b), the TCSP or Firm must:
 - (a) provide a report on the reason it has not complied with requirements of this Act, and measures it has or will take to rectify its non-compliance;
 - (b) advise the Authority on -
 - (i) how the records required by the Act will be kept;
 - (ii) who will keep the records;
 - (iii) the location of where the records will be kept;

- (iv) how the records will be made available after the relationship with the vehicles has ceased; and
 - (c) suspend operations and return its licence within 15 working days from receipt of the notice of intention to revoke, pending a decision by the Authority on the revocation of licence.
- (5) The Authority may, by notice in writing, require a TCSP or Firm to provide any other information as it deems necessary for the purpose of subsection (4).
- (6) Where the TCSP or Firm has complied with subsections (4) or (5), the Authority will review the report and make a decision whether to proceed to revoke the licence.
- (7) If the Authority decides not to revoke the licence, the Authority must notify the TCSP or Firm and may impose conditions, before the return of the licence to the TCSP or Firm.
- (8) If the Authority decides to revoke the licence, it must notify the TCSP or Firm that its licence has been revoked. The revocation of licence takes effect on the date of service on TCSP or Firm of the notice of revocation of the licence.
- (9) Upon the lapse of 15 working days and the TCSP or Firm has not complied with subsections (4) or (5), the Authority shall revoke the licence, and publish in the Savali or its Office Website the revocation of the TCSP or Firm's licence.
- (10) A TCSP or Firm that fails to comply with this section is liable to a monetary sanction prescribed under section 45.

- (11) The revocation of a TCSP or Firm's licence does not eliminate the liability of a person identified in subsection (4)(b)(ii) to keep and make available upon the Authority's request the records for seven (7) years after the TCSP or Firm's business has ceased.
- (12) For the purposes of this section, a "licence" means a TCSP Licence, Trust Licence, Service Licence or a Managing Licence that has been issued to a TCSP or Firm under the Act."

5. New section 39A inserted:

"39A. Surrender of licence:

- (1) A TCSP or Firm may seek approval of the Authority in written notice to surrender its licence under section 39(1)(d) in no less than 30 working days before the ceasing of business.
- (2) A written notice must contain:
 - (a) true and full disclosure of reasons for the surrender of the licence;
 - (b) the date the TCSP or Firm intends to cease business;
 - (c) measures taken by the TCSP or Firm to advise vehicles of its intention to surrender its licence;
 - (d) advise on procedures on -
 - (i) how the records required by the Act will be kept;
 - (ii) who will keep the records;
 - (iii) the location of where the records will be kept;
 and

- (iv) how the records will be made available after the relationship with the vehicles has ceased.
- (3) The Authority upon receipt of the written notice:
 - (a) must assess the information and may require that the TCSP or Firm provide further information as it deems necessary;
 - (b) may, notify any creditor, client, shareholder or employee of the TCSP or Firm, and relevant regulatory authorities in Samoa or another country of the written notice; and
 - (c) upon thorough assessment and being satisfied that the TCSP or Firm has satisfied the requirements of subsection 2(2), must write to the TCSP or Firm of its approval to surrender its licence.
- (4) The TCSP or Firm must return its licence within 15 working days upon receipt of approval to surrender its licence.
- (5) The Authority upon return of the licence from the TCSP or Firm shall revoke the licence.
- (6) Upon the lapse of 15 working days and the TCSP or Firm has not complied with subsection (4), the Authority shall revoke the licence, and publish in the Savali or its Office Website the revocation of the TCSP or Firm's licence.
- (7) The revocation of a TCSP or Firm's licence does not eliminate the liability of a person identified in subsection (2)(d)(ii) to keep and make available upon the Authority's request the records for seven (7) years after the TCSP or Firm's business has ceased.

- (8) A TCSP or Firm that fails to comply with this section is liable to a monetary sanction prescribed under section 45.
- (9) For the purpose of this section, "licence" means a TCSP Licence, Trust Licence, Service Licence or a Managing Licence that has been issued to a TCSP or Firm under this Act."

6. Section 51 amended:

After section 51(13) of the principal Act, insert:

- "(14) To avoid any doubt, any prescribed requirement, duty or obligation relating to a TCSP or its vehicles under this Act, applies to a TCSP or its vehicles that it manages before the commencement of this Act."

7. Consequential amendments:

- (1) The Samoan translation of the Trustee Companies Act 2017 is amended as follows:
 - (a) for the title "Kamupani Tausi Mavaega" substitute "Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo"; and
 - (b) in section 1(1), for "Kamupani Tausi Mavaega" substitute "Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo".
 - (2) Any references to "Kamupani Tausi Mavaega 2017" in any other enactments or any other legal instruments is to be amended to be read as "Kamupani Laiseneina mo Auaunaga Tau Mavaega ma Auaunaga Tau Tupe Faava o Malo 2017".
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