

THE CARIBBEAN INVESTMENT FUND ACT

Act
13 of 1998.

[23rd March, 2004.]

1. This Act may be cited as the Caribbean Investment Fund Act. Short title.

2. In this Act—
 - “the Fund” means the Caribbean Investment Fund established by the Fund Agreement;
 - “the Fund Agreement” means the Agreement establishing the Caribbean Investment Fund as amended by the Supplemental Agreement, the original of which is deposited with the Secretary-General of the Caribbean Community Secretariat and of which the text of the original clauses is set out in Part I of the Schedule to this Act; Interpretation.
 - “Minister” means the Minister responsible for investment;
 - “the Supplemental Agreement” means the Agreement amending the Fund Agreement the original of which is deposited with the Secretary-General of the Caribbean Community Secretariat and of which the text of the clauses is set out in Part II of the Schedule to this Act. Schedule.

3. Acceptance by the Government of the Fund Agreement is hereby approved. Approval of Fund Agreement.

4. The provisions of clauses 4.2 and 12.2, of the Fund Agreement shall have the force of law in Jamaica. Certain provisions of Fund Agreement given force of law in Jamaica.

Power of
Minister to
make order.

5. The Minister may, by order, make such provisions as he may consider necessary or expedient for giving effect to any provisions of the Fund Agreement.

Amendment
of Schedule
and matters
consequen-
tial thereon.

6.—(1) Where any amendment to the Fund Agreement is accepted by the Government, the Minister may, by order, amend the Schedule by including therein the amendment so accepted.

(2) Any order made under this section may contain such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving due effect to the amendment accepted as aforesaid and, without prejudice to the generality of the foregoing, may contain provisions amending references in this Act to specific provisions of the Fund Agreement.

(3) Every order made under this section shall be subject to affirmative resolution.

(4) Where the Schedule is amended pursuant to this section, any reference in this Act or any other instrument to the Agreement shall unless the context otherwise requires be construed as a reference to the Agreement as so amended.

SCHEDULE

(Sections 2 and 6)

PART I

Agreement between the ICWI Group and CARICOM Governments on the Establishment of the Caribbean Investment Fund

This Agreement made between the Governments of the Member States and Associate Members of the Caribbean Community (CARICOM) listed in paragraph 1 of the Schedule to this Agreement which are signatories to this Agreement (hereinafter referred to as "the Signatory States") and ICWI Group Limited of 2 St. Lucia Avenue, Kingston 5 in the parish of St. Andrew, Jamaica (hereinafter called "ICWI") WITNESSETH as follows:—

1. OBJECTIVES:

1.1 To establish through a public company an investment fund or series of investment funds in United States Dollars to be known as the Caribbean Investment Fund (hereinafter called "the Fund") the main objects of which shall be the investment in private sector majority owned and controlled companies and corporations located in the Signatory States listed in the Schedule hereto preferably those which are listed or which have committed to the list on a stock exchange in any of the Signatory States. Such investment shall include but not be limited to investment by way of a new stock and share issues, joint venture participation, project financing, and loan funding.

1.2 The main thrust of investment by the Fund shall be the encouragement and promotion of projects involving new ventures, business expansion and plant expansion (including divestment and privatisation of public sector owned and/or controlled companies, corporations and authorities) which are geared towards increasing exports and/or fostering import substitution and/or increasing hard currency earnings and/or increasing production of goods or services which are projected to stimulate economic growth in the Signatory States in which the investment and/or funding is made.

2. ESTABLISHMENT AND MANAGEMENT OF THE FUND:

2.1 ICWI shall be responsible for the establishment of the Fund which shall be capitalized at a minimum of Fifty Million United States Dollars (US\$50,000,000) in two tranches. The first tranche or a minimum of US\$25,000,000 shall be subscribed and paid up within 365 days of the entry into force of this Agreement. The second tranche comprising the difference between the capital of the Fund and the amount of the first tranche shall be subscribed and paid up within two years of the latest date for subscription of the first tranche.

2.2 ICWI shall be responsible for promoting the Fund and for procuring suitable managers of the Fund. The appointment of members of the Board of the Fund shall be made in accordance with the Charter and By-Laws of the Fund.

2.3 Unless the Signatory States otherwise determine, if the first tranche is not fully subscribed and paid up within the period required by Clause 2.1 hereof this Agreement will forthwith terminate.

2.4 In the event that the Signatory States determine that this Agreement should be terminated as provided in Clause 2.3 hereof this Agreement shall terminate without ICWI incurring any liability whatsoever to the Signatory States.

CARIBBEAN INVESTMENT FUND

2.5 In the event that the Signatory States determine that this Agreement should not be terminated as provided in Clause 2.3 hereof then such of the first tranche as has not been subscribed and paid up shall form part of the second tranche to be subscribed and paid up within the further period required by Clause 2.1 hereof.

2.6 If the second tranche (including such amount of the first tranche pursuant to Clause 2.5 if applicable) is not fully subscribed within the period required by Clause 2.1 hereof ICWI shall not incur any liability whatsoever to the Signatory States and the provisions of Clause 12 shall cease to apply, unless the Signatory States otherwise determine.

3. SUBSCRIPTION OF CAPITAL TO THE FUND:

3.1 The investment in the Fund shall be in hard currency. For this purpose it shall be denominated in US Dollars.

4. CONCESSIONS AND PRIVILEGES OF THE FUND:

4.1 ICWI and the Signatory States recognize that the grant of certain concessions and privileges to the Fund for a certain period of time will facilitate the establishment and operation of the Fund and enhance its viability and that the grant of concessions and privileges is subject to legislative and/or administrative authority as required in the respective Signatory States.

4.2 In consideration of the Fund becoming duly established as provided herein and of the Fund pursuing the objectives of Clause 1.2 in the Signatory States each Signatory State hereby undertakes to ensure that the following concessions and privileges are granted to and may be enjoyed by the Fund in its territory:—

4.2.1 The Fund's operations may be established in any Signatory State and the Signatory States will promptly provide all consents and approvals necessary for the establishment of the Fund's operations in their respective territories without any restrictions;

4.2.2 The Fund shall be entitled to acquire, hold and dispose of both real and personal property whether by way of purchase, mortgage, charge, transfer, sale or otherwise without any restriction;

4.2.3 The shares of the Fund shall be freely transferable both within and outside of the Signatory States to residents and non-residents thereof without any restrictions;

4.2.4 The Signatory States will promptly provide all consents and approvals necessary in order to permit or provide that any restrictions (including without limitation exchange control restrictions) contained in any legislation or governmental or statutory order from time to time in force in any of the Signatory States shall not be applicable to:—

4.2.4.1 any investment or subscription in the Fund whether made inside or outside and whether made by residents or non-residents of Signatory States;

4.2.4.2 gold and any currency held by the Fund whether issued by the Signatory States or not;

4.2.4.3 securities of any nature whatsoever including but not limited to shares, stocks, bonds, notes, debentures, debenture stocks, mortgages, charges or liens on realty, and personalty and units under a unit trust scheme whether issued by the Fund as part of its capitalization or issued to the Fund as a result of any investment by the Fund including investment in or funding provided by the Fund in any project in a Signatory State;

4.2.4.4 any real and personal property and any certificates of title in relation thereto which form part of or affecting any project in which the Fund has invested or provided funding in a Signatory State;

4.2.4.5 the remittance by the Fund of any profits, dividends, capital gains, interest and other income and revenues of whatsoever nature of and in the Fund and the proceeds of any sales, transfer or other disposition of any shares of the Fund and of any securities issued by or to the Fund.