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REGISTER OF BENEFICIAL OWNERSHIP (AMENDMENT) ACT 2020

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No. 26 of 2020

REGISTER OF BENEFICIAL OWNERSHIP (AMENDMENT) ACT 2020

AN ACT TO AMEND THE REGISTER OF BENEFICIAL OWNERSHIP ACT

[Date of Assent - 29th September, 2020]

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act which amends the Register of Beneficial Ownership Act, 2018 (hereinafter “the principal Act”), may be cited as the Register of Beneficial Ownership (Amendment) Act, 2020.
- (2) This Act shall come into force on such date as the Attorney-General may appoint by Notice published in the Gazette.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in the following respects —

- (1) in the definition of “legal entity”—
 - (a) by inserting in paragraph (a) before the semi-colon, a comma and the words “including Non-Profit Companies not limited by shares”;
 - (b) by deleting the word “and” at the end of paragraph (d);
 - (b) by inserting at the end of paragraph (e) the word “and”;
 - (c) by inserting, immediately after paragraph (e) the following new paragraph (f) —
“(f) the Segregated Accounts Companies Act (Ch. 369C);”;
- (2) by inserting therein, the following definitions in their proper alphabetical order —
“segregated account” means a separate and distinct account (comprising or including entries, recording data, assets, rights, contributions, liabilities and obligations linked to such account) of a segregated accounts company pertaining to an identified or identifiable pool

of assets and liabilities of such segregated accounts company which are segregated or distinguished from other assets and liabilities of the segregated accounts company for the purposes of the Segregated Accounts Companies Act (Ch. 369C);

“segregated accounts companies” means a company which is registered under section 6 of the Segregated Accounts Companies Act (Ch. 369C);”.

3. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended by deleting subsection (1) and substituting the following -

- “(1) For the purposes of this Act, a “beneficial owner” is a natural person who ultimately owns or controls a legal entity and includes, though not restricted to —
- (a) in the case of a legal person other than a legal entity whose securities are listed on a securities exchange, a natural person who ultimately owns or controls, whether directly or indirectly, ten or more per cent of the shares or voting rights of the legal entity;
 - (b) in the case of a legal person, a natural person who otherwise exercises control over the management of a legal person other than solely in the capacity of a director, advisor, or professional manager;
 - (c) in the case of a Non-Profit incorporated under the Companies Act as a company not limited by shares, a natural person being a director of the Non-Profit;
 - (d) in the case of a limited liability partnership or an exempted limited partnership, a natural person, being a partner;
 - (e) in the case of a Segregated Accounts Company, a natural person being the beneficial owner of each segregated account in such Company;
 - (f) in the case of a legal entity which is in insolvent liquidation, administration or receivership proceedings in accordance with any law providing for the same, a natural person or entity who is appointed as a liquidator, administrator or receiver of the legal entity;
 - (g) in the case of a receiver being appointed over twenty-five or more per cent of the shares or voting rights in a legal entity, being the creditor who appoints the receiver; or

- (h) in the case of a shareholder in the legal entity who would otherwise be a beneficial owner under this subsection but is deceased, a natural person acting as an executor or a personal representative of the deceased's estate.”.

4. Amendment of section 8 of the principal Act.

Section 8 of the principal Act is amended by deleting the section and substituting the following new section —

- “(1) A legal entity shall, within fifteen days of identifying any person as a beneficial owner or a registrable legal entity —
 - (a) notify its registered agent; or
 - (b) where it has no registered agent, notify the Registrar General.
- (2) Every registered agent, or the Registrar General, where applicable, shall take reasonable steps to —
 - (a) verify the identity of the beneficial owners, or registrable legal entities of each legal entity in respect of which there is a notification under subsection (1); and
 - (b) collect and maintain, the particulars of each beneficial owner required for entry into the database, in accordance with section 9(2)(b) for each legal entity, in respect of which there is a notification under subsection (1).
- (3) Neither a registered agent, nor the Registrar General shall be required to verify the identity of any beneficial owner of a legal entity under subsection (2) who holds an interest, directly or indirectly, in the legal entity through a registrable legal entity if the registered agent or legal entity verifies the identity of that registrable legal entity for that purpose.
- (4) For the purposes of this section, a registered agent who takes steps to identify and verify the identity of the beneficial owners of a legal entity in accordance with its obligations under the Identified Risk Framework shall be considered to have taken all reasonable steps in accordance with this section.
- (5) Nothing in this section limits or affects the separate obligation of each registered agent to obtain and verify beneficial ownership information under the Identified Risk framework.
- (6) Where a legal entity fails to comply with a requirement of this section without reasonable cause, that legal entity commits an offence.

- (7) Where a registered agent fails to comply with a requirement of this section without reasonable cause, that registered agent commits an offence.
- (8) No legal or professional privilege may be asserted by any registered agent in respect of the duty to verify the identity of beneficial owners and maintain a database.”.

5. Amendment of section 9 of the principal Act.

Section 9 of the principal Act is amended in subsection (1), by inserting, after the words, “registered agent”, the words “or the Registrar General, where a legal entity has no registered agent.”.

6. Amendment of section 11 of the principal Act.

Section 11 of the principal Act is amended —

- (a) in subsection (1), by inserting after the words “registered agent”, the words “or the Registrar General, where the legal entity has no registered agent.”;
- (b) in subsection (2), by inserting after the words “registered agent”, the words “, or the Registrar General”.