

A BILL

entitled

PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

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SCHEDULE

WHEREAS it is expedient to amend the Proceeds of Crime Act 1997, the Trustee Act 1975, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and for connected purposes;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Proceeds of Crime (Miscellaneous) Act 2018.

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Amends the Proceeds of Crime Act 1997

2 The Proceeds of Crime Act 1997 is amended—

- (a) in section 42 by repealing and replacing subsection (1) with the following—

“(1) This section applies if a person knows or suspects that an investigation into criminal conduct, a civil recovery investigation or a money laundering investigation is being conducted. The person commits an offence if—

- (a) he makes a disclosure which is likely to prejudice the investigation; or
- (b) he falsifies, conceals, destroys, or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which are relevant to the investigation.”;
- (b) in section 42, by repealing the words “or reveal the existence of the monitoring order”;
- (c) in section 43, by repealing and replacing the heading with the words “Concealing or transferring criminal property”; and
- (d) by repealing and replacing section 44 with the following—

“Assisting another to retain criminal property

44 (1) A person commits an offence if he enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the—

- (a) acquisition;
- (b) retention;
- (c) use; or
- (d) control,

of criminal property by or on behalf of another person.

(2) But a person does not commit such an offence if—

- (a) he makes a disclosure under section 46 and (if the disclosure is made before he does the act mentioned in subsection (1)) he has the consent of the FIA;
- (b) he intended to make such a disclosure but had a reasonable excuse for not doing so; or
- (c) the act he does is done in carrying out a function he has relating to the enforcement of any provision of this Act or of any other enactment relating to criminal conduct or benefit from criminal conduct.

(3) A person may be treated as having the consent of the FIA if—

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- (a) he makes a disclosure to the FIA; and
  - (b) the condition in subsection (4) or the condition in subsection (5) is satisfied.
- (4) The condition is that before the end of the notice period he does not receive notice from the FIA that consent to the doing of the act is refused.
- (5) The condition is that—
- (a) before the end of the notice period he receives notice from the FIA that the consent to the doing of the act is refused; and
  - (b) the moratorium period has expired.
- (6) The notice period is the period of seven working days commencing on the day after a disclosure is made.
- (7) The moratorium period is the period of 45 days and shall commence on the day that the notice is given.
- (8) For the purposes of this section—
- “a working day” means a day other than a Saturday or a public holiday as prescribed by the Public Holidays Act 1947.
- (9) Nor does a person commit an offence under subsection (1) if—
- (a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside Bermuda; and
  - (b) the relevant criminal conduct was not at the time it occurred, unlawful under the criminal law then applying in that country or territory.
- (10) In subsection (9)—
- “the relevant criminal conduct” is the criminal conduct by reference to which the property concerned is criminal property.”
- (e) in section 45—
- (i) in the heading, by repealing and replacing the words “proceeds of criminal conduct” with the words “criminal property”;
  - (ii) in subsection (5), by repealing and replacing the words “; or in whole or in part directly or indirectly represents, the proceeds of criminal conduct;” with the words “criminal property”; and
  - (iii) in subsection (9), by repealing and replacing the words “the proceeds of criminal conduct” with the words “criminal property”.

Amends the Trustee Act 1975

3 The Trustee Act 1975 is amended—

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- (a) in section 1, by inserting after the definition for “property” the following—
  - “regulated agents and service providers” includes—
    - (a) AML/ATF regulated financial institutions, as defined by regulation 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008;
    - (b) independent professionals, as defined by regulation 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008;
    - (c) agent, as defined by section 2 of the Real Estate Brokers’ Licensing Act 2017; and
    - (d) broker, as defined by section 2 of the Real Estate Brokers’ Licensing Act 2017.
- (b) in section 1, by repealing and replacing the full-stop at the end of the definition of “trust funds” with a semi-colon and inserting after the definition of “trust funds” the following—
  - “ultimate effective control” means a situation where control of a trust is exercised by means of control other than direct control.;
- (c) by inserting after section 2, under Part II of the Trustee Act 1975, the following—

“Identification as trustee obligations

2A A trustee, when acting on behalf of a trust, shall disclose his status as trustee to regulated agents and service providers whenever he conducts business with them on behalf of the trust for which he is the trustee.”;

- (d) in section 13A, by inserting after subsection (2) the following—

“(2A) A trustee referred to in subsection (1) shall, from time to time, keep a current and accurate record of the names and addresses of the regulated agents and service providers who provide service to the trust of which he is the trustee.”;

- (e) in section 13AA(1), by—
  - (i) repealing the word “and” at the end of paragraph (b);
  - (ii) repealing and replacing the comma at the end of paragraph (c) with a semi-colon; and
  - (iii) inserting after paragraph (c) the following—
    - “(d) any other natural person exercising ultimate effective control over the trust.”;
- (f) in section 13B, by—

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(i) repealing and replacing subsections (1) and (2) with the following—

“(1) Any company exempted under an order made pursuant to section 10(2) of the Trusts (Regulation of Trust Business) Act 2001, shall retain identification information in respect of—

- (a) trustees;
- (b) settlors;
- (c) protectors;
- (d) beneficiaries;
- (e) any other natural person exercising ultimate effective control over the trust; or
- (f) where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates,

for the trusts for which it acts as trustee or trust administrator.

(2) Any other trustee, whether exempted under an order made pursuant to section 10(2) of the Trusts (Regulation of Trust Business) Act 2001 or referred to in paragraph 7 of the Trusts (Regulation of Trust Business) Exemption Order 2002, shall retain identification information in respect of—

- (a) trustees;
- (b) settlors;
- (c) protectors;
- (d) beneficiaries;
- (e) any other person exercising ultimate effective control over the trust; or
- (f) where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates,

for the trust for which they act as trustee or trust administrator.”;

(ii) inserting after subsection (3) the following—

“(4) A company or other trustee exempted under an order made pursuant to section 10(2) of the Trusts (Regulation of Trust Business) Act 2001, shall, from time to time, keep a current and accurate record of the names and addresses of the regulated agents and service providers who provide service to the trust of which they are a trustee.”.

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Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

4 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended—

(a) by inserting after section 3(5) the following—

“(6) Notwithstanding subsection (5), supervisory authorities may cooperate and coordinate with each other to achieve consistency in supervisory practice and to generally enhance the effectiveness of their performance of their functions under this Act.”

(b) in section 5, by inserting after subsection (1) the following—

“(1A) A supervisory authority must effectively monitor the relevant persons for whom it is the supervisory authority, and take effective measures for the purpose of securing their compliance with their international sanctions obligations.

(1B) In this section—

“international sanctions” means those sanctions imposed by every Order (made by the Privy Council as a United Kingdom Order in Council) that is—

- (a) listed in Schedule 1 to the International Sanctions Regulations 2013, whether or not it has been extended to Bermuda; or
- (b) extended to Bermuda, enabling effect to be given to any international obligation of the United Kingdom relating to economic or other sanctions imposed on any country, organisation, person or group of persons, and any amendments made from time to time to such Order.”;

(c) in section 11A(1), by—

- (i) deleting the word “and” at the end of paragraph (a); and
- (ii) inserting after paragraph (a) the following—

“(aa) compliance officers designated in accordance with regulation 18A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008; and”;

(iii) inserting after paragraph (a) the following—

(d) in section 32(1), by—

- (i) deleting and substituting the full-stop at the end of paragraph (c), with a semi-colon;
- (ii) inserting after paragraph (c) the following—

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“(d) the Registrar General to discharge his functions under the Charities Act 2014 and the associated regulations.”.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

5 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are amended—

(a) in regulation 3(3), by revoking and replacing paragraph (a) with the following—

“(a) any individual who is entitled to a specified interest in the trust property;”;

(b) in regulation 3(5)(a), by revoking the words “capital of the”;

(c) in regulation 6(1B) by—

(i) revoking the word “and” at the end of paragraph (h);

(ii) deleting and substituting the full-stop at the end of paragraph (i) with a semi-colon; and

(iii) inserting after paragraph (i) the following—

“(j) nature of business; and

(k) an obligation to collect information about the legal powers that regulate and bind a legal person or legal arrangement.”

(d) by revoking and replacing regulation 9(1)(a) with the following—

“(a) shall not open an account or carry out a transaction for the customer;”;

(e) in regulation 11—

(i) in paragraph (4), by inserting after the words “a relevant person who proposes” the words “and continues”;

(ii) in paragraph (4)(a), by inserting after the words “management for establishing” the words “and continuing”;

(iii) in paragraph (4)(c), by revoking the words “where the business relationship is entered into”;

(f) in regulation 13(3), by—

(i) revoking and replacing the word “or”;

(ii) inserting a comma after the words “anonymous account”;

(iii) inserting after the words “anonymous pass book” the words “or an account obviously in a fictitious name”;

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- (g) regulation 15, by revoking and replacing paragraphs (2) and (3) with the following—

“(2) In respect of a business relationship or an occasional transaction, the records are—

- (a) a copy of, or the references to the evidence of the customer’s identity obtained pursuant to regulation 6, 8B(7), 11, 13(4), or 14, together with account files, business correspondence and the results of any analysis undertaken in relation to that customer; and
- (b) the supporting evidence and records of transactions (consisting of the original documents or copies admissible in court proceedings), provided that such records must be sufficient to permit the reconstruction of individual transactions.

(3) In this regulation, the period is—

- (a) in the case of records in paragraph 2(a), for the duration of the business relationship and five years beginning on the date on which the business relationship ends or five years beginning on the date the occasional transaction is completed;
- (b) in the case of records in paragraph 2(b), five years beginning on the date the transaction is completed.”

(h) in regulation 15(6)—

- (i) in paragraph (a) by revoking and replacing the words “as soon as is reasonably practicable” with the word “immediately”; and
- (ii) in paragraph (b) by revoking and replacing the words “without delay”;
- (i) in regulation 16(2)(c) by inserting after the words “whether a” the words “new or existing”.

Transitional provision

6 (1) A relevant person may be granted by their relevant supervisory authority a maximum period of six months, from the coming into operation of this Act, to be in compliance with regulation 15(2)(b) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (inserted by section 5).

(2) The Minister responsible for justice may, by order subject to the negative resolution procedure, extend the period of six months mentioned in subsection (1) for a maximum period of another six months, on application by a relevant supervisory authority.

(3) In this section, “relevant person” and “supervisory authority” have the meanings given in the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

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Amends the Companies Act 1981

7 The Companies Act 1981 is amended by inserting after section 261 the following—

“Striking off an application by a company

261A (1) The Registrar may, on the application of a company, strike the company’s name off of the register on such grounds and subject to such conditions as may be prescribed.

(2) An application under subsection (1) shall be made on the company’s behalf by all of its directors or by a majority of them

(3) Upon the receipt of the application, the Registrar shall, if satisfied that the grounds and conditions referred to in subsection (1) have been satisfied, send to the company and its directors, secretaries, and members a letter informing them of the application and stating that if an answer showing cause to the contrary (in the form and manner referred to in section 261C is not received within thirty calendar days after the date thereof a notice, details of which are set out in subsection (4), will be published in the Official Gazette with a view to striking the name of the company off of the register.

(4) The Registrar may not strike a company’s name off of the register under this section until after the expiration of sixty days after the publication by the Registrar in the Official Gazette of a notice—

- (a) stating that the Registrar intends to exercise the power under this section in relation to the company; and
- (b) inviting any person to show cause as to why that should not be done within thirty calendar days after the date of the initial notice referenced in subsection (3).

(5) If no person shows cause or sufficient cause within the period referred to in subsection (4)(b) as to why the name of the company should not be struck off the register, the Registrar shall strike the name of the company off the register and publish a notice in the Official Gazette of the company’s name having been struck off.

(6) On the publication of the notice in the Official Gazette under subsection (5), the company is dissolved, provided that—

- (a) the liability, if any, of every officer and member of the company shall continue and may be enforced as if the company had not been dissolved;
- (b) nothing in this section shall affect the continuity of the requirement imposed on such director or officer of the company by subsection (7) to keep such records for the period referred to in that subsection; and

(c) nothing in this subsection shall affect the power of the Court to wind up a company the name of which has been struck off of the register.

(7) Every person who was a director or an officer of a company at the date upon which the company is struck off of the register pursuant to this section shall ensure that—

- (a) the records of account of the company referred to in section 83 that are in existence on that date are kept for five years from the end of the period to which such records of account relate; and
- (b) where applicable, any record specified in regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 is kept for the period specified in that regulation.

(8) A person who fails to comply with subsection (7) shall be liable to a default fine of five hundred dollars.

(9) The Registrar shall ensure that such particulars of the company and of the application referred to in subsection (1), as he may determine, are sent to

- (a) the Office of the Tax Commissioner;
- (b) the Department of Social Insurance; and
- (c) the Bermuda Monetary Authority, provided that such company is an entity regulated by the Bermuda Monetary Authority.

(10) The Registrar may, for the purposes of this section, send notices to the company by ordinary post or in such other agreed upon manner.

#### Withdrawal of application

261B (1) The applicant or applicants may, by written notice to the Registrar, withdraw an application to strike a company's name off of the register under section 261A at any time before the name of the company has been struck off of the register.

(2) Upon receipt of the notice referred to in subsection (1), the Registrar shall send to the company by ordinary post a notice that the application to strike the company's name off of the register has been withdrawn.

(3) Upon receipt of the notice referred to in subsection (1), the Registrar may publish a notice on the Registrar's website that the application to strike the company's name off of the register has been withdrawn.

#### Objections to strikeoff

261C (1) Where a notice is published by the Registrar under section 261A(4) of the Registrar's intention to strike the company's name off of the register, any person may deliver, not later than the date specified in section 261A(4)(b), in objection to the striking off of the name of the company from the register on the ground that there is reasonable cause why the name of the company should not be struck off,

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including that the company does not satisfy any of the prescribed grounds for striking off referred to in section 261A(1).

(2) Upon receipt of a notice of objection, within the time referred to in subsection (1), the Register shall—

- (a) where applicable, give the applicant or applicants for striking the name of the company off of the register notice of the objection; and
- (b) in deciding whether to allow the objection, take into account such considerations as may be prescribed.”.

Amends the Proceeds of Crime Act 1997

8 The Proceeds of Crime Act 1997 is amended in section 42A(1), by repealing and replacing paragraph (g) with the following—

- “(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that—
  - (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or
  - (ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;”.

Amends the Companies Act 1981

9 The Companies Act 1981 is amended—

- (a) in section 13(2) by—
  - (i) repealing the word “and” at the end of paragraph (e);
  - (ii) deleting and substituting the full-stop at the end of paragraph (f) with a semi-colon; and
  - (iii) inserting after paragraph (f), the following—
    - “(g) the filing of information, referred to in paragraphs (a), (e) and (f), in a prescribed form.”;
- (b) in section 13 by inserting after subsection (2), the following—

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“(2A) Information obtained for the purposes of subsection (2)(g) shall not be made available to the public.”;

(c) in section 62 by inserting after subsection (1), the following—

“(1A) For the purposes of subsection (1), the address of the registered office of a company shall include—

- (a) in the case of a corporate service provider, the name of the corporate service provider; and
- (b) the building name and floor number, where applicable.”.

Amends the Anti-Terrorism (Financial and Other Measures) Act 2004

10 The Anti-Terrorism (Financial and Other Measures) Act 2004 is amended in section 2(1) by repealing and replacing paragraph (g) with the following—

“(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that —

- (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or
- (ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;”..

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

11 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended, in section 2(1), by repealing and replacing paragraph (g) with the following—

“(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that—

- (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary

## PROCEEDS OF CRIME (MISCELLANEOUS) ACT 2018

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Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or

- (ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;”.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

12 The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are amended, in regulation 2(2) by revoking and replacing paragraph (g) with the following—

“(g) carries on trust business within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001 except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that—

- (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or
- (ii) such exempted person has in its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001;”.

Schedule— Companies Act 1981: Form 13

13 Form 13, made in accordance with section 62 of the Companies Act 1981 is revoked and replaced by the new Form 13, located within the Schedule.

SCHEDULE

(Section 62)

**FORM No. 13**



**BERMUDA**

**THE COMPANIES ACT 1981**

**NOTICE OF ADDRESS OF REGISTERED OFFICE**

**Pursuant to section 62**

**Name of Company** .....

**Registration Number** .....

**In accordance with section 62(2) of the Companies Act, 1981, I hereby give notice that the address of the registered office of the above-mentioned Company is:**

.....  
**C/O [Name of CSP or registered office provider]**

.....  
**[Name of building/House name] and Floor]**

.....  
**[Street number and Street name]**

.....  
**[City / Parish/ Postal code / Country]**

**Signed** .....  
**[Print/Type Name of Director/Secretary]**

**State whether Director or Secretary** .....

**Date** .....

## PROCEEDS OF CRIME (MISCELLANEOUS) BILL 2018

### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Proceeds of Crime Act 1997, the Trustee Act 1975, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, and the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008.

Clause 1 is citation.

Clause 2 amends the Proceeds of Crime Act 1997, by: (a) repealing and replacing section 42(1), thereby: (i) removing the requirement for a production order, monitoring order, or warrant to have been issued in a criminal conduct or civil asset recovery investigation, or a money laundering investigation; (ii) certifying, for the purposes of section 42(1) that an offender must either know, suspect, or has reasonable grounds to suspect that a confiscation investigation, civil recovery investigation, or a money laundering investigation is being conducted or about to be conducted; (iii) strengthens the powers to pursue proceeds of crime by removing the limitation in the offence of 'prejudicing an investigation' which artificially restricts it to prejudicial behaviour which occurs only after certain court orders or warrants are issued during an investigation; (b) in section 42(2)(a), by repealing the words "or reveal the existence of the monitoring order" as these words are redundant as a result of the amendments made to section 42(1); (c) repealing and replacing section 44 and amending section 45, thereby rationalising the principal money laundering offences in sections 43, 44, and 45.

Clause 3 amends the Trustee Act 1975: (a) in section 1, by adding the definitions for: (i) "regulated agents and service providers" and; (ii) "ultimate effective control"; (b) in section 13A by adding subsection (2A), thereby requiring trustees to hold basic information on other regulated agents and other service providers to a trust; (c) in section 13AA by adding paragraph (d) thereby bringing "any other natural person exercising ultimate effective control over the trust" into scope of this section; (d) in section 13B by: (i) repealing and replacing subsection (1), thereby adding by trustees, settlors, protectors, beneficiaries, or any other natural person exercising ultimate effective control over a trust, or where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates, for the trusts for which it acts as trustee or trust administrator; (ii) by repealing and replacing subsection (2), thereby obligating any other trustee, whether exempted under an order made pursuant to section 10(2) of the Trusts (Regulation of Trust Business) Act 2001 or referred to in paragraph 7 of the Trusts (Regulation of Trust Business) Exemption Order 2002, to retain identification information in respect of: trustees; settlors; protectors; beneficiaries; any other person exercising ultimate effective control over the trust or; where the individuals (or some of the individuals) benefiting from the trust have not been determined, the class of persons in whose main interest the trust is set up, or operates, for the trust for which they act as trustee or trust administrator; (iii) by inserting subsection (4), thereby obligating a companies or other trustees exempted under an order made pursuant to section 10(2) of the Trusts (Regulation of Trust Business) Act 2001, from time to time, to keep a current

and accurate record of the names and addresses of the regulated agents and service providers who provide service to the trust of which they are a trustee.

Clause 4 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, by: (a) adding section 3(6), thereby, notwithstanding subsection (5), allowing supervisory authorities to cooperate and coordinate with each other to achieve consistency in supervisory practice and to generally enhance the effectiveness of their performance of their functions under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008; (b) amending section 5 by: (i) inserting sub-sections (1A) and (1B): (i) thereby obligating a supervisory authority to effectively monitor the relevant persons for whom it is the supervisory authority, and to take effective measures for the purpose of securing their compliance with their international sanctions obligations by way of sub-section (1A); and (ii) giving a definition for 'international sanctions' by way of subsection (1B); (c) amending subsection 11A(1) by adding paragraph (aa), thereby including compliance officers, designated in accordance with regulation 18A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, into the class of people who must satisfy the 'fit and proper test' in accordance with this section; (d) amending section 32(1) by adding paragraph (d), thereby bringing the Registrar General into the class of persons permitted to disclose information in accordance with section 32 as read with section 31 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, in order to discharge his functions under the Charities Act 2014.

Clause 5 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, by: (a) revoking and replacing regulation 3(3)(a), thereby, in the case of a trust, bringing a person obligated to discharge his functions under the Charities Act 2014, within the meaning of "beneficial owner"; (b) in regulation 3(5)(a) by revoking and replacing the words "capital of the", thereby allowing the focus of this regulation to be on the trust property as a whole; (c) in regulation 6(1B) by inserting paragraphs (j) and (k), thereby: (i) by way of paragraph (j) mandating the obligation to record the nature of business; and (ii) by way of paragraph (k) adding an obligation to collect information about the legal powers that regulate and bind a legal person or a legal arrangement to the list of customer due diligence legal requirements, for legal persons or legal arrangements, under regulation 6(1B); (d) revoking and replacing regulation 9(1)(a), thereby prohibiting persons covered by this regulation from opening an account or carrying out a transaction for a customer; (e) revoking and replacing regulation 15(2), thereby prescribing, in respect of a business relationship or an occasional transaction, the documents that must be retained in accordance with this paragraph and (in accordance with paragraph (3) defining the period in which the documents are to be held; (e) in regulation 11(4), 4(a), 4(c), thereby broadening the scope of these paragraphs in relation to politically exposed persons; (f) in regulation 13(3) by (i) inserting a comma after the words "anonymous account"; (ii) inserting after the words "anonymous pass book" the words "or an account obviously in a fictitious name", in relation to the prohibition under this regulation against AML/ATF regulated financial institutions setting up an anonymous account or an anonymous pass book for any new or existing customer; and (f) in regulation 16(2)(c) by inserting after the words "whether a" the words "new or existing", thereby

broadening the scope of this paragraph to include “new and existing’ for the purposes of determining if the person is a politically exposed person.

Clause 6 is the transitional provision, whereby a relevant person may be granted by their relevant supervisory authority a maximum period of six months, from the coming into operation of this Act, to be in compliance with regulation 15(2)(b) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 (inserted by section 5).

Clause 7 amends the Companies Act 1981, adding section 261A, thereby allowing: (i) a striking-off application by company making application; (ii) the withdrawal of an application for strike-off; (iii) the means by which objections to strike-off can be made.

Clause 8 amends the Proceeds of Crime Act 1997, in section 42A(1) by repealing and replacing paragraph (g), thereby broadening the definition of “AML/ATF regulated financial institution” to include: financial institutions that carry on trust business, within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) an exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 9 amends the Companies Act 1981 by: (a) adding paragraph (g) to section 13(2), thereby mandating that the filing of information, referred to in section 13(2)(a), (e) and (f), is to be done by a prescribed form; (b) adding after section 13(2) subsection (2A), thereby prescribing that information obtained for the purposes of subsection (2)(g) shall not be made available to the public; (c) amending section 62, by inserting subsection (1A), thereby mandating that, for the purposes of subsection (1), the address of a registered office of a company includes: (i) in the case of a corporate service provider, the name of the corporate service provider; or (ii) the business name and floor number where applicable.

Clause 10 amends the Anti-Terrorism (Financial and Other Measures) Act 2004, in section 2(1) by repealing and replacing paragraph (g), thereby broadening the definition of “AML/ATF regulated financial institution” to include: financial institutions that carry on trust business, within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) an exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 11 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, in section 2(1) by repealing and replacing paragraph (g), thereby broadening the definition of “AML/ATF regulated financial

institution” to include: financial institutions that carry on trust business, within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) an exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 12 amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008, in regulation 2(2) by revoking and replacing paragraph (g), thereby broadening the definition of “AML/ATF regulated financial institution” to include: financial institutions that carry on trust business, within the meaning of section 9(3) of the Trusts (Regulation of Trust Business) Act 2001, except for any person which is exempted by or under paragraph 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002 provided that: (i) such exempted person utilises the services of a corporate service provider business, licensed by the Bermuda Monetary Authority, within the meaning of section 2(1) of the Corporate Service Provider Business Act 2012; or (ii) an exempted person that has within its corporate structure or engages the services of a trust business, licensed by the Bermuda Monetary Authority, within the meaning given in section 9(3) of the Trusts (Regulation of Trust Business) Act 2001.

Clause 13 revokes and replaces Form 13 with a new Form 13, made in accordance with section 62 of the Companies Act 1981, with the new Form 13 located within the Schedule.