

BENEFICIAL OWNERSHIP (AMENDMENT) BILL, 2022

(Bill No.42 of 2022)

OBJECT AND REASONS

The object of this Bill is to ensure continued compliance with the international standards set by the Financial Action Task Force (“FATF”) and Organization for Economic Cooperation and Development (“OECD”) which require jurisdictions to maintain beneficial ownership information which shall be accessible and made available upon request to competent authorities, for the administration or enforcement of their relevant legislations in order to combat financial crimes. In addition the Bill seeks to improve the efficiency of implementation of existing systems as well as making monetary sanctions that are in the Bill more punitive and dissuasive.

In this Bill, though listed companies are exempted from the application of the Beneficial Ownership Act, the Bill creates a framework for the collection of certain minimal beneficial ownership information to be uploaded on the database which will facilitate searches on a “complete” database. Further to this, the Bill makes provision that listed companies should be exempted only if there are applicable disclosure requirements providing adequate beneficial ownership information on those listed companies.

An object of this Bill is to align the provisions relating to trusts, with the new Trusts Act. It then addresses disclosure of beneficial ownership information by trustees in order to comply with FATF Recommendation 25.4 by allowing trustees to provide beneficial ownership information to competent Authorities as well as FIs and DNFBPs upon request.

Further, this Bill introduces the concept of a registrable legal person which is purely for administrative convenience in order to allow for the effective implementation of this Act in relation to compliance with FATF recommendations. Of particular importance is a new provision under this amendment which has been inserted to guarantee that before the name of a registrable legal person is entered on the register of beneficial owners, the legal person has already submitted its beneficial ownership information with the Financial Intelligence Unit, should there be the need to access this information. This will reduce the risk of information on the natural persons behind the registrable legal person not being available.

The Bill goes on to provide clarity of procedures and specifies more clearly other requirements in the principal Act. These include providing clarity on the requirement that every legal person and legal arrangement must keep their register

of beneficial owners indefinitely, whereas the declaration and the written notice must be kept for at least 7 years from the date the person ceases to be a beneficial owner. Also, once a legal person or arrangement dissolves or ceases to exist, the obligation will now be on the resident agent to keep custody of these records for at least 7 years. Then where a person ceases to be a resident agent, all these records will be handed over to the competent authority.

In addition, this Bill is to require that information on nominees or nominator be inserted in an annex to the Register rather than in the Register itself. Further, it provides for the information to be kept in the register in respect of registrable legal persons which will include, amongst other things, the name, incorporation number, date of incorporation, registered address and the date on which a person became or cease to be a registrable legal person.

Finally, an object of this Bill is to give Competent Authorities the power to issue guidelines, codes and directions given that numerous provisions of the Act and Regulations shall be extended through guidelines or codes, and they will have the force of law. Sanctions will apply in case of non-compliance.

Dated this 12th day of December, 2022.

**NAADIR HASSAN
MINISTER OF FINANCE,
NATIONAL PLANNING AND TRADE**

BENEFICIAL OWNERSHIP (AMENDMENT) BILL, 2022

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ARRANGEMENT OF SECTIONS

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BENEFICIAL OWNERSHIP (AMENDMENT) Bill, 2022

(Bill No.42 of 2022)



A BILL

FOR

AN ACT TO AMEND THE BENEFICIAL OWNERSHIP ACT, 2020 AND TO PROVIDE FOR THE ALIGNMENT OF THE PROVISIONS RELATING TO TRUSTS WITH THE TRUSTS ACT; TO PROVIDE FOR INTRODUCE THE CONCEPT OF REGISTRABLE LEGAL PERSON; TO OUTLINE PROCEDURES THAT BRING CLARITY TO THE REQUIREMENTS OF THE ACT; TO PROVIDE FOR MORE PUNITIVE PENALTIES; TO PROVIDE FOR THE INCREASE OF VARIOUS TIMELINES TO ALLOW FOR COMPLIANCE; TO PROVIDE FOR THE STRENGTHENING OF THE ENFORCEMENT POWERS OF COMPETENT AUTHORITIES; AND TO PROVIDE FOR MATTERS CONNECTED TO OR INCIDENTAL TO THE FOREGOING.

ENACTED by the President and the National Assembly.

Short title

1. This Act may be cited as the Beneficial Ownership (Amendment) Act, 2022.

Amendment of section 2

2. Section 2 of the Beneficial Ownership Act, 2020, (hereinafter referred to as the “principal Act”) is amended in—

(a) subsection (1) by repealing subsection (1)(b)(i) and substituting it with the following—

“(i) a trustee of a trust under the Trusts Act, 2021 (Act 34 of 2021);”

(b) subsection (2)—

(i) in the chapeaux, by repealing the words “This Act” and substituting them with the words “Subject to section 13(5A), this Act”;

(ii) by repealing paragraph (a) and substituting it with the following paragraph—

“(a) a listed company that is subject to adequate disclosure requirements in terms of transparency of beneficial ownership;

(iii) in paragraph (b) by repealing the full-stop and substituting it with a semicolon;

(iv) by inserting after paragraph (b), the following paragraph —

“(c) any legal person that has been struck-off from the register, under its respective statutory legislation, on the date of commencement of this Act:

Provided that when the legal person is restored to the register under its respective statutory legislation, the provisions of this Act shall be applicable to such legal person even for the struck-off period.” ;

Amendment of section 3**3.** Section 3 of the principal Act is amended —

- (a) by inserting after the definition of “beneficial owner”, the following definition—

“beneficial ownership information” means the information specified under section 5 (1), which is collected on beneficial owners and the relevant information of registrable legal persons;”

- (b) by inserting after the definition of “customer” the following definition —

“database” means the Seychelles Beneficial Ownership database referred to in section 13;

- (c) in the definition of “listed company”, in paragraph (b), by repealing the words “which is a subsidiary” and substituting them with the words “which is a wholly-owned subsidiary”;

- (d) by the repeal of the definition of “registrable particulars” and the insertion of the following definitions—

“registrable legal person” means a legal person whose name may be entered in the register of beneficial owners as a registrable legal person provided that —

- (a) the legal person —

(i) is subject to its own disclosure requirements under this Act and is in compliance with section 13 ; and

(ii) is a licensee under the International Corporate Service Providers Act; or

- (b) the legal person is a listed company;

“registrable particulars” means the information entered in the register of beneficial owners;”;

- (e) in the definition of “resident agent” —
 - (a) in paragraph (c), by repealing the words “section 39” and substituting them with the words “section 164”;
 - (b) by repealing paragraph (e) and substituting it with the following —
 - “(e) an approved trustee of a trust under the Trusts Act, 2021.”;
 - (c) by repealing paragraph (f) and substituting it with the following —
 - “(f) a registered agent under section 6A of the Limited Partnerships Act; or”

Amendment of section 4

- 4. Section 4 of the principal Act is amended —
 - (a) in subsection (2) in paragraph (b) by repealing the full-stop and substituting it with a semi colon;
 - (b) in subsection (2) by inserting after paragraph (b) the following—
 - “(c) examine and make copies or extracts of the documents belonging to or in the possession of the resident agent, that in the opinion of the Competent Authority relates to documents or information required to be kept by a legal person, legal arrangement or resident agent under this Act;
 - (d) seek information and explanations from the officers, employees, agents and representatives of the resident agent, if any, whether verbally or in writing in relation to information required to be kept by a legal person, legal arrangement or resident agent under this Act.”
 - (c) by inserting after subsection (2) the following subsection—

“(2a) The Competent Authority may, where it appears to it, that the circumstances are justifiable, exercise its powers under subsection (2) without giving notice to the legal person or legal arrangement.”

- (d) in subsection (3), by repealing the words “offence and is liable upon conviction to fine of not less than SCR50,000” and substituting them with the words “offence and is liable upon conviction to a fine not exceeding SCR150,000”;

Amendment of section 5

5. Section 5 of the principal Act is amended —

- (a) in subsection (1)—
- (i) by inserting in the chapeaux after the words “at the principal place of business of its resident agent”, the words “in Seychelles”;
- (ii) by repealing, in paragraph (a), the words “and nationality” and substituting them with the following words “,nationality, national identification number or equivalent (if any) and tax identification number or equivalent (if any)”;
- (iii) by inserting after paragraph (d), the following—
- “(d1) where a nominee or nominator has been appointed or ceased to be a nominee or nominator—
- (i) the date on which the nominee or nominator has been appointed;
- (ii) the date on which the nominee or nominator has ceased to be a nominee or nominator”;
- (iv) in paragraph (e)—
- A. in the chapeaux by inserting after the words “holds interest on behalf of the beneficial owner” the words “, the following particulars

shall be included in an annexure to the register of beneficial owners”;

- B. by repealing subparagraph (i) and substituting it with the following—

“(i) in the case of —

- A. a natural person—

the name, residential address, service address, date of birth, nationality, national identification number or equivalent (if any) and tax identification number or equivalent (if any) of each nominee holding the interest on behalf of the beneficial owner and the particulars and details of the interest held by the nominee;

- B. a legal person—

the name, registered address, incorporation or registration number, date of incorporation or registration, jurisdiction of incorporation or registration, tax identification number or equivalent (if any) and the information and details of the interest held by the nominee; and”;

- C. in paragraph (ii) by the repeal of “natural person who ultimately owns or controls” and substitution of “beneficial owner”;

- (v) by inserting after paragraph (e) the following—

“(f) in the case of any registrable legal person—

- (i) the name of the registrable legal person;
 - (ii) the incorporation number or its equivalent of the registrable legal person;
 - (iii) the date of incorporation of the registrable legal person;
 - (iv) the registered address of the registrable legal person;
 - (v) the basis upon which the legal person is designated as a registrable legal person;
 - (vi) the date on which a person became a registrable legal person; and
 - (vii) the date on which a person ceased to be a registrable legal person.
- (b) by inserting after subsection (1), the following subsection—
- “(1a) A legal person or legal arrangement shall not include the name of a registrable legal person in the register of beneficial owners unless it has received sufficient proof that—
- (a) the person has uploaded its accurate and up to date beneficial ownership information on the database under section 13; or
 - (b) where the registrable legal person is a listed company, the person has complied with the requirements under section 13(5A).”;
- (c) by inserting after subsection (2) the following subsection—

“(2a) The information under subsection (1) shall only be entered in the register of beneficial owners once all the required information of that beneficial owner has been confirmed by the beneficial owner.”

(d) in subsection (3)—

(i) by repealing the words “commits an offence and”;

(ii) by repealing “SCR50,000” and substituting with “SCR150,000”;

(e) in subsection (4)—

(i) by repealing the words “commits an offence and”;

(ii) by repealing “SCR50,000” and substituting with “SCR150,000”;

(f) in subsection (5) by repealing paragraphs (a) and (b) and substituting as follows—

“(a) “nominee” means a person who has been instructed to act on behalf of another person (the nominator) in a certain capacity regarding a legal person, and includes a person who holds legal title over shares or other membership interests in a legal person on behalf of another person (the nominator); and

(b) “nominator” means a person who instructs a nominee to act on the nominator’s behalf in a certain capacity regarding a legal person, and includes a person who instructs a nominee to hold legal title over shares or other membership interests or any other control in a legal person on the nominator’s behalf.”

(g) by repealing subsection (6) and substituting as follows—

“(6) The resident agent shall, within 14 days of the establishment of the register of beneficial owners (including the annexures to the register of beneficial owners) cause the information to be uploaded on the database.”

(h) by repealing subsection (7) and substituting it as follows—

“(7) A person who fails to comply with the provisions of subsection (6), shall be liable to a penalty not exceeding SCR150 000.”

Amendment of section 7

6. Section 7 of the principal Act is amended by repealing the word “maintaind” and substituting it with the word “maintained”.

Amendment of section 8

7. The principal Act is amended by repealing section 8 and substituting it as follows—

“Retention period

8. (1) Every legal person and legal arrangement (including a legal person that has been struck-off) shall keep—

- (a) during its lifetime, its register of beneficial owners; and
- (b) for at least 7 years at the principal place of business of its resident agent in Seychelles —
 - (i) a declaration of beneficial ownership made in terms of section 10(1);
 - (ii) a written notice made in terms of sections 9 and 10(3) and a copy of any response received thereof; and
 - (iii) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),

from the date on which that person ceased to be a beneficial owner of the legal person or legal arrangement, as the case may be.

(2) Where a resident agent of a legal person or legal arrangement specified in Part A of the First Schedule ceases to be the

resident agent of that legal person or legal arrangement, that resident agent shall preserve all the records required to be kept under this Act, in respect of that legal person or legal arrangement, including —

- (a) the register of beneficial owners of the legal person or legal arrangement;
- (b) a copy of the declaration of beneficial ownership under section 10(1);
- (c) a copy of the written notice under sections 9 and 10(3), and a copy of any response received thereof; and
- (d) a copy of any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),

until such time that the records are transferred to the new resident agent.

(3) Where a legal person or legal arrangement specified in Part A of the First Schedule dissolves or ceases to exist or continues outside Seychelles, the resident agent shall hand over all the records required to be kept under this Act, in respect of that legal person or legal arrangement, including —

- (a) the register of beneficial owners of the legal person or legal arrangement;
- (b) a copy of the declaration of beneficial ownership under section 10(1); and
- (c) a copy of the written notice under sections 9 and 10(3) and a copy of any response received thereof; and
- (d) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),”

to the Competent Authority, within 30 days from the date that the legal person or legal arrangement has been dissolved or ceased to exist or continued outside Seychelles.

(4) Where a legal person or legal arrangement specified in Part B of the First Schedule dissolves or ceases to exist or continues outside Seychelles, its resident agent shall keep, for at least 7 years from the date on which the legal person or legal arrangement is dissolved or ceased to exist or continued outside Seychelles, all the records required to be kept under this Act, including—

- (a) the register of beneficial owners of the legal person or arrangement;
- (b) a copy of any declaration of beneficial ownership made in terms of section 10(1); and
- (c) a copy of any written notice made under sections 9 and 10(3) and a copy of any response received thereof; and
- (d) any supporting documents verifying the identity of a beneficial owner pursuant to section 9(1),”

(5) Where a person —

- (a) is a resident agent of a legal person or legal arrangement specified in Part B of the First Schedule; and
- (b) ceases to hold a licence under the International Corporate Service Providers Act, 2003 (Act 10 of 2003),

that person shall hand over all the records required to be kept under this Act, relating to every legal person or legal arrangement under its administration (including legal persons or legal arrangements to which subsection (3) applies), to the Competent Authority, within 30 days from the date that it ceases to be a resident agent or it ceases to operate unless the records have been transferred to a newly appointed resident agent prior to the records being handed over to the Competent Authority.

(6) All records submitted to the Competent Authority shall be in digital form unless otherwise agreed upon between the Competent Authority and the resident agent.

(7) An entry relating to a former beneficial owner of a legal person or legal arrangement may be removed from the register of beneficial owners after 7 years from the date on which that person ceased to be a beneficial owner of the legal person or legal arrangement, as the case may be.

(8) In case of contravention of the provisions of this section —

- (a) every legal person or legal arrangement;
- (b) every former director, general partner, trustee or councilor of the legal person or legal arrangement;
- (c) every resident agent;
- (d) every former resident agent or former director of the resident agent,

shall be liable to a penalty not exceeding SCR150,000 for each contravention.”;

Amendment of section 9

8. Section 9 of the principal Act is amended —

- (a) in subsection (1)—
 - (i) by inserting after the words “beneficial owners” the words “and registrable legal persons”;
 - (ii) by inserting after the word “verify” the words “the identity of”;
- (b) in subsection (2) —
 - (i) by inserting in the chapeaux after the words “believe that the person is a beneficial owner” the words “or a registrable legal person”;
 - (ii) in paragraph (a), by inserting, after the words “beneficial owner” the words “or a registrable legal person”;

- (c) by inserting a new subsection (2a) after subsection (2)–

“(2a) A legal person or legal arrangement is not required to take steps or give notice under subsection (2) with respect to a beneficial owner, if the legal person or legal arrangement has already been informed in writing of the person’s status as a beneficial owner in relation to it, and has been supplied with all the registrable particulars.”;

- (d) in the subsection (3)—

(i) by repealing the words “A resident agent may also give” and inserting therefor the words “A legal person or legal arrangement may give”;

(ii) by repealing the words “the resident agent knows” and inserting therefor the following words “the legal person or legal arrangement knows”;

(iii) by inserting after the words “identity of a beneficial owner” the words “or a registrable legal person”;

- (e) in subsection (4), in paragraph (a), by inserting after the words “beneficial owner” the words “, or a registrable legal person”;

- (f) by inserting after subsection (5) the following —

“(6) Within 30 days of a person receiving a notice given by the legal person or legal arrangement under subsection (5), he or she shall comply with such notice by providing in writing, to the legal person or legal arrangement, the information requested in the notice.

(7) Where a person fails to comply with subsection (6), the legal person or the legal arrangement, shall take action after giving the legal or beneficial owner, an opportunity of being heard and furnishing to the legal or beneficial owner, in writing the decision of the legal person or the legal arrangement, including but not limited to —

- (a) the placing of such restrictions as it thinks fit on the rights attached to the legal owner's interest in the legal person or the legal arrangement, as the case may be, including—
 - (i) any right to transfer or assign shares or other interest;
 - (ii) any voting rights;
 - (iii) any right to acquire further shares in addition to shares already held;
 - (iv) any right to payment due in respect of the legal owner's interest, whether in respect of capital or otherwise;
 - (v) in the case of a limited partnership with legal personality, any right to take part in the management of the partnership;
 - (vi) in the case of a foundation, any benefit to which the legal owner becomes entitled under the foundation in accordance with the foundation instrument or the foundation rules; or
- (b) the cancellation of the legal owner's interest in the legal person or the legal arrangement, as the case may be.

(8) Any action taken under subsection (7) shall be appropriate and dissuasive to compel compliance and a record of the action taken in that regard shall be maintained.

(9) Where—

- (a) a person fails to comply with subsection (6); or

- (b) an action is taken under subsection (7),

the legal person or legal arrangement shall inform the Competent Authority in writing, through its resident agent of the failure or action taken, as the case may be, within 21 days of the failure or having taken the action.

(10) Any person aggrieved by a decision taken pursuant to subsection (7), may appeal to the Supreme Court to set aside any restriction or cancellation.

(11) Upon receipt of an appeal under subsection (10), the court may make such order as it thinks fit, to require any person who fails to comply with a notice issued under subsection (2) or subsection (3) to —

- (a) provide the information sought; or
- (b) confirm or correct the registrable particulars sought.

(12) A person who contravenes subsection (1), (2), (7), (8) or (9) shall be liable to a penalty not exceeding SCR150,000, for each contravention.

(13) A person who contravenes subsection (6), commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding SCR200,000 or to both.”;

Amendment of section 10

9. Section 10 of the principal Act is amended —

- (a) by repealing marginal note and substituting therefor the following marginal note—
- “Declaration of beneficial ownership information”;
- (b) in subsection (1), by repealing the words “14 days” and substituting therefor the words “21 days”;
- (c) in subsection (2)—

- (i) in the chapeaux by inserting after the words “receipt of the declaration of beneficial ownership” the words “under subsection (1) or a notice under subsection (3)”;
 - (ii) in paragraph (a), by inserting after the words “beneficial ownership” the words “under subsection (1) or a notice under subsection (3)”;
 - (iii) in paragraph (b), inserting after the word “declaration” the words “or notice”;
- (d) in subsection (3)—
- (i) by repealing the words “14 days” and substituting with the words “21 days”;
 - (ii) by repealing the words “register of beneficial ownership” and substituting with “register of beneficial owners”
- (e) by inserting a new subsection after subsection (3) as follows—
- “(3a) The resident agent shall, within 14 days of effecting any change to the register of beneficial owners under subsection (2), cause the information to be uploaded on the database.”;
- (f) in subsection (4), by repealing the words “relevant change is not disclosed under subsection (3), the legal person or the legal arrangement, as the case may be, may take any action it deems appropriate” and substituting with the words “person fails to comply with provisions of subsections (1) or (3), the legal person or the legal arrangement, as the case may be, shall take action”;
- (g) inserting a new subsection after subsection (4) as follows—
- “(4a) Any action taken under subsection (4) shall be appropriate and dissuasive to compel compliance and a record of the action taken in that regard shall be maintained.

(4b) Where—

- (a) a person fails to comply with subsections (1) and (3); or
- (b) an action is taken under subsection (4),

the legal person or legal arrangement shall inform the Competent Authority in writing, through its resident agent, of the failure to comply or action taken, as the case may be, within 21 days of the failure to comply or having taken the action.”;

(h) inserting a new subsection after subsection (5) as follows—

“(5a) Upon receipt of an appeal under subsection (5), the court may make such order as it thinks fit, to require any person who fails to comply with a notice issued under subsection (1) or subsection (3) to—

- (a) provide the information sought; or
- (b) confirm or correct the registrable particulars sought.”

(i) by repealing subsection (7) and substituting therefor the following subsections—

“(7) Any person who contravenes subsections (3a), (4), (4a) and (4b) shall be liable to a penalty not exceeding SCR150, 000 for each contravention.

(7a) Any person who contravenes subsections (1), (2), (3) and (6), commits an offence and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding SCR150,000 or to both.”

(j) in subsection (8)—

- (a) in paragraph (a), by repealing the word “or” after the words “may be;”;

- (b) in paragraph (b), by repealing the full-stop (.) and replacing thereof with “; or”;
- (c) by inserting the following after paragraph (b) —
 - “(c) the person becomes aware of an error or inaccuracy in the beneficial ownership information formerly uploaded on the database.”

Amendment of section 11

10. Section 11 of the principal Act is amended —

- (a) in subsection (1) as follows—
 - (i) in paragraph (d), by repealing the word “thepartnership; and” and substituting with the words “the partnership;”;
 - (ii) in paragraph (e), by repealing the full-stop at the end and substituting thereof the word “; and”;
 - (iii) by inserting after paragraph (e) the following paragraph—
 - “(f) a director, or an authorised representative of the director, of a registrable legal person whose name is entered in the register of beneficial owners.”
- (b) in subsection (4)—
 - (i) by inserting after the words “resident agent” the word “unreasonably”;
 - (ii) by repealing the words “not less than SCR50,000.” and substituting with the words “not exceeding SCR50,000.”;

- (c) in subsection (5), by repealing the word “arrangement” and substituting with the word “arrangement”;

Amendment of section 12

11. Section 12 of the principal Act is amended —

- (a) by inserting after the words “If any beneficial owner” the words “or registrable legal person”;
- (b) by inserting after the words “the beneficial owner” the words “or registrable legal person”;

Amendment of section 13

12. Section 13 of the principal Act is amended —

- (a) in subsection (1) by repealing the words “by populating the beneficial ownership information (including the periodic update requirements) reported by the legal persons or the legal arrangements, through their resident agent ” and substituting with the words “containing the beneficial ownership information, including the annexure to the register of beneficial owners”;
- (b) in subsection (4) by repealing the words “data base” and substituting therefor the word “database”;
- (c) by inserting after subsection (5) the following—

“(5a) Notwithstanding section 2(2), a listed company shall, through its resident agent, upload on the database —

- (a) the name and registered address of the company;
- (b) the incorporation number or registration number of the company;
- (c) the date of incorporation or registration of the company;

- (d) the fact that the company is a listed company;
 - (e) the jurisdiction where the company is listed, if not in Seychelles; and
 - (f) a certification that the listed company is subject to adequate disclosure requirements in terms of transparency of beneficial ownership in the jurisdiction where it is listed.”;
- (d) in subsection (6), by repealing the words “SCR100,000” and substituting therefor the words “SCR150,000”;

Amendment of section 14

13. Section 14 of the principal Act is amended —

- (a) in subsection (1)—
 - (i) in the chapeaux by inserting after the words “as the case may be,” the following—

“to provide any information required to be maintained in terms of this Act or to inspect the register, including any other documents, so maintained in terms of this Act,” ;
 - (ii) in paragraph (g)—
 - A. by the deletion of the hyphen with the substitution of a semi colon;
 - B. by the repeal of sub-paragraphs (i) and (ii);
- (b) in subsection (2), by repealing the words “SCR50,000” and substituting with the words “SCR150,000”;
- (c) in subsection (3), by repealing the words “SCR50,000” and substituting therefor the words “SCR150,000”;

Insertion of new sections

14. The principal Act is amended by inserting the following new sections after section 14—

“Disclosure of beneficial ownership information by trustees

14A.(1) Notwithstanding section 14, a trustee shall disclose beneficial ownership information in respect of its trusts, upon request, to—

- (a) a financial institution; or
- (b) a designated non-financial business or profession;

for the purpose of the financial institution’s or designated non-financial business’ or profession’s obligation under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

(2) For the purpose of this section, the terms “financial institution” and “designated non-financial business or profession” shall have the meanings defined respectively under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 (Act 5 of 2020).

Request for Information between trustees

14B.(1) Where a trust is administered by more than one trustee, the trustee may request for any relevant beneficial ownership information in respect of the trust from any of the other trustees of the trust.

(2) A trustee shall comply with a request for information made under subsection (1) within the timeframe specified in the request.

(3) A trustee who or which fails to comply with subsection (2) shall be guilty of an offence and liable to a fine not exceeding SCR 200,000.”

Imposition of penalty

14C.(1) Before, imposing any penalty under the provisions of this Act, a Competent Authority shall give the parties concerned a notice in writing—

- (a) of the nature of the non-compliance;
- (b) of the intention to impose a penalty; and
- (c) an opportunity to make a written representation to show cause as to why a penalty should not be imposed within a period of not less than 14 days after the date of the notice.

(2) A Competent Authority shall not impose a penalty under the provisions of this Act if it is satisfied that the person concerned has shown good cause to the satisfaction of the Competent Authority why a penalty should not be imposed.

(3) Any penalty imposed under this Act shall be paid within the period and in the manner as may be specified by the Competent Authority.

(4) If a person fails to pay a penalty imposed under this Act within the specified period and an appeal has not been filed within the required period, the Competent Authority may forthwith initiate steps for recovery of such penalty amount.

(5) Any penalty imposed by the Financial Services Authority under this Act shall be paid to the Financial Services Authority.

(6) Any penalty imposed by the Financial Intelligence Unit under this Act shall be paid to the Government's Consolidated Fund.”

Amendment of section 15

15. Section 15 of the principal Act is amended by repealing the words “AML Act” and substituting thereof with the words “Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020”.

Insertion of new section

16. The principal Act is amended by inserting after section 17 the following sections—

“Power to issue guidelines or codes

17A.(1) A Competent Authority may issue guidelines or codes not inconsistent with this Act or any relevant laws for all matters which by or under this Act are required or permitted to be issued or necessary to be provided for to carry out or give effect to the provisions of this Act or any Regulations made thereunder.

(2) Every person shall comply with any guidelines or codes issued by a Competent Authority.

(3) Any person who contravenes the provisions of subsection (2) shall be liable to a penalty not exceeding SCR150,000 for each contravention.

Power to issue directions

17B.(1) A Competent Authority may issue a direction to a legal person or legal arrangement or resident agent, as it considers appropriate to ensure compliance with the provisions of this Act.

(2) The direction under this Act, may specify the time by which, or period during which, it shall be complied with.

(3) A Competent Authority may revoke a direction issued under this section at any time.

(4) Any person who fails to comply with a direction issued under this section, shall be liable to a penalty not exceeding SCR150, 000.

Amendment of section 18

17. Section 18 of the principal Act is amended—

(a) by the deleting the marginal note “Transitional provision” and substituting the marginal note with “Transitional provision”

- (b) by the insertion of the following new subsections, with the existing section being numbered as (1)—

“(2) Every legal person and legal arrangement shall comply with the requirements of the amendment to section 5(1)(a) made under this Act, within 12 months from the date of promulgation of this Act.

(3) Every legal person and legal arrangement shall comply with the requirements of the amendment to section 5(1)(e) made under this Act, within 12 months from the date of promulgation of this Act.”

Amendment of First Schedule

- 17.** The principal Act is amended in the First Schedule in Part B—

- (a) in paragraph (1)(b) by deleting “incorporated” and substituting with “incorporated”.
- (b) in paragraph (2) by repealing subparagraph (a) and substituting it with the following—

“(a) A trustee of a trust under the Trusts Act.”;
