

CAYMAN ISLANDS



**COMPANIES (AMENDMENT) (NO. 3) BILL,
2020**

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A BILL FOR A LAW TO AMEND THE COMPANIES LAW (2020 REVISION) TO INCLUDE THE CUSTOMS AND BORDER CONTROL SERVICE IN THE LIST OF ENTITIES WHICH MAY REQUEST INFORMATION FROM THE REGISTRAR; TO REPEAL SECTIONS OF THE LAW RELATING TO BEARER SHARES; TO ADJUST REFERENCES TO THE LIST OF EQUIVALENT JURISDICTIONS PUBLISHED UNDER THE ANTI-MONEY LAUNDERING REGULATIONS (2020 REVISION); TO REQUIRE COMPANIES TO MAINTAIN AND FILE WITH THE REGISTRAR, INFORMATION ON THE NATURE OF ITS BUSINESS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Home Affairs (FSHA)



Memorandum of OBJECTS AND REASONS

This Bill provides for the amendment of the Companies Law (2020 Revision) (the “principal Law”) to include the Customs and Border Control Service in the list of entities which may request information from the Registrar, to repeal sections of the Law relating to bearer shares, to adjust references to the list of equivalent jurisdictions published under the Anti-Money Laundering Regulations (2020 Revision), to require companies to maintain and provide to the Registrar, information on the nature of its business and for incidental and connected purposes.

Clause 1 of the Bill provides the short title of the legislation.

Clauses 2 repeals the definition of the word “custodian” as it relates to Part XV which is being repealed and substituted under clause 5.

Clause 3 amends section 26A(2) of the principal Law to include in the list of entities which may request information from the Registrar, the Customs and Border Control Service established under section 3 of the Customs and Border Control Law, 2018. The amendment also repeals paragraph (f) which lists a competent authority as defined under section 2(1) of the Proceeds of Crime Law (2020 Revision), which is assigned responsibility for monitoring compliance with the Anti-Money Laundering Regulations under section 4(9) of the Proceeds of Crime Law (2020 Revision), as an entity which may request information from the Registrar and substitutes a new paragraph (f) to include a competent authority as defined under section 2(1) of the *Proceeds of Crime Law (2020 Revision)* as an entity which may request information from the Registrar.

Clause 4 amends section 41 of the principal Law to require a company which meets the criteria under section 41(1) to specify in the summary contained in the annual list prepared by the company, information on the nature of the company’s business.

Clause 5 repeals and substitutes a proposed new Part XV in the principal Law which contains proposed section 229. The proposed section 229 prohibits the issue of bearer shares by a company, provides for the prohibition on issuing bearer shares to apply to companies which have been struck off the companies register, prohibits the court from permitting a company which has been struck off from being reinstated with bearer shares in issue and provides for bearer shares issued prior to the commencement of this amending Law or contrary to subsection (1), to be void.

Clause 6 amends section 245(1) of the principal Law by deleting and substituting paragraph (d) which provides for a legal entity regulated in a jurisdiction included in the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the Proceeds of Crime Law (2020 Revision) to be exempt from the requirements under PART XVIII of the Law.



The provision also amends subsection (2)(b) by replacing the reference to the list published in the Gazette and referred to in regulations 22(d) and 23(1) of the Anti-Money Laundering Regulations (2020 Revision) with a reference to the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the Proceeds of Crime Law (2020 Revision).

Clause 7 amends section 279A by repealing subsection (3).



CAYMAN ISLANDS**COMPANIES (AMENDMENT) (NO. 3) BILL, 2020****Arrangement of Clauses**

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ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the Companies (Amendment) (No. 3) Law, 2020.
- (2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Amendment of section 2 of the Companies Law (2020 Revision) – definitions and interpretation

2. The *Companies Law (2020 Revision)*, in this Law referred to as the “principal Law”, is amended in section 2(1) by repealing the definition of the word “custodian”.

Amendment of section 26A - Registrar to provide information

3. The principal Law is amended in section 26A(2) as follows —
- (a) by inserting after paragraph (b) the following paragraph —
“(ba) the Customs and Border Control Service established under section 3 of the *Customs and Border Control Law, 2018*,”; and
 - (b) by repealing paragraph (f) and substituting the following paragraph —
“(f) a competent authority as defined under section 2(1) of the *Proceeds of Crime Law (2020 Revision)*.”.

Amendment of section 41 - annual list of members and return of capital, shares, calls, etc.

4. The principal Law, is amended in section 41 as follows —
- (a) in paragraph (g), by deleting the word “and” appearing at the end of the paragraph;
 - (b) in paragraph (h), by deleting the words “they hold,” and substituting the words “they hold; and”;
 - (c) by inserting after paragraph (h), the following paragraph —
“(i) nature of the business,”.

Repeal and substitution of Part XV - custody, etc. of bearer shares

5. The principal Law is amended by repealing Part XV and substituting the following Part —

“Part XV - Prohibition on Bearer Shares**“Issue of bearer shares prohibited**

- 229.** (1) Notwithstanding any provision in this Law to the contrary, a company incorporated under this Law shall not issue bearer shares.
- (2) In relation to a company which has been struck off the companies register, subsection (1) applies to that company if the company is reinstated.
 - (3) An order of the Court shall not permit a company which has been struck off the companies register to be reinstated with bearer shares in issue.
 - (4) Bearer shares issued prior to the commencement of the *Companies (Amendment) (No. 3) Law, 2020* or issued contrary to subsection (1) shall be void.”.



Amendment of section 245 - application

6. The principal Law is amended in section 245 —
- (a) in subsection (1), by repealing paragraph (d) and substituting the following paragraph —
 - “(d) regulated in a jurisdiction that is designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the *Proceeds of Crime Law (2020 Revision)*”; and
 - (b) in subsection (2)(b), by deleting the words “included in the list published in the Gazette and referred to in regulations 22(d) and 23(1) of the *Anti-Money Laundering Regulations (2020 Revision)*” and substituting the words “designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2) of the *Proceeds of Crime Law (2020 Revision)*”.

Amendment of section 279A - request for additional information

7. The principal Law is amended in section 279A by repealing subsection (3).

Passed by the Legislative Assembly the day of , 2020.

Speaker

Clerk of the Legislative Assembly