



SUPPLEMENT PART I

OFFICIAL GAZETTE

THE BAHAMAS

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5th April, 2012

COMPANIES (AMENDMENT) ACT, 2012

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No. 8 of 2012

COMPANIES (AMENDMENT) ACT, 2012

AN ACT TO AMEND THE COMPANIES ACT TO PROVIDE FOR THE PROTECTION IN THE EVENT OF INSOLVENCY OF CERTAIN PAYMENTS SETTLED IN ACCORDANCE WITH THE SETTLEMENT RULES OF DESIGNATED SYSTEMS WITHIN THE NATIONAL PAYMENT SYSTEM

[Date of Assent - 5th April, 2012]

Enacted by the Parliament of The Bahamas

1. Citation and commencement.

- (1) This Act, which amends the Companies Act¹, may be cited as the Companies (Amendment) Act, 2012.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Insertion of section 240A into the principal Act.

The principal Act is amended by the insertion immediately after section 240 of a new section as follows —

“240A Protection of designated systems from insolvency proceedings.

- (1) Notwithstanding any prior act of a company that is being wound up pursuant to Part VII, or any other provision of this Act, transactions in relation to the property of a company upon insolvency shall be valid where such transactions consist of —
 - (a) any entry to or payment out of the account of a company at the Central Bank, made prior to the commencement of insolvency proceedings, which is in accordance with the system rules of

¹(Ch. 308)

- a designated system final, irrevocable and irreversible;
- (b) any grant by a company, made prior to the date of commencement of insolvency proceedings, of any collateral to a participant, clearing house, central counter-party or the Bank, as security for a payment, or the performance of an obligation, incurred in a designated system.
- (2) For the purposes of this section —
- (a) “designated system”, “participant, clearing house, central counter-party or the Bank” have the meanings assigned to them under the Payment Systems Act, 2012; and
 - (b) the moment of commencement of insolvency proceedings against a company that is a participant of a designated system shall be the moment when the clearing house of that system is informed in writing by the court or participant company of the commencement of such insolvency proceedings.
- (3) A court shall not grant a stay, provision or order under this Act except in accordance with the provisions of Part III of the Payment Systems Act, 2012.

3. Insertion of section 256A into the principal Act.

The principal Act is amended by the insertion immediately after section 256 of a new section as follows —

“256A. Non-recognition of insolvency order of foreign court.

Notwithstanding any provision of any other written law or rule of law, a court in The Bahamas shall not recognise or give effect to an order of a court outside The Bahamas exercising jurisdiction under the law of insolvency to the extent that the making of or contents of that order would be inconsistent with or contrary to the provisions of the Payment Systems Act, 2012.”.