

**SESSION 2017**

**BILL NO. 69**

**COMMERCIAL ENTITIES (SUBSTANCE REQUIREMENTS) BILL, 2018**

**Amendments**

**to be Moved by**

**A MEMBER OF THE GOVERNMENT**

<b>Clause</b>	<b>Amendment to be Made</b>
2	In the definition of “ <b>included entity</b> ”  (a) in paragraph (a), insert the word “and” after the semicolon; (b) in paragraph (b), delete the word “and”; and (c) delete paragraph (c).
4	Delete the words “or” from within wherever they appear.
5	Delete subclause (4)(h) and substitute the following “ (h) intellectual property asset activities (i) patents and similar intellectual property assets research and development; (ii) intangible intellectual property assets such as brand, trademark and customer data and marketing, branding and distribution.”
8	Delete subclauses (2) and (3) and substitute the following  (2) Subject to subsection (3), a passive holding entity shall not be required to comply with

the substance requirements of this Act, save that strategic decisions of the passive holding entity shall be made in The Bahamas by persons with the necessary knowledge and expertise to make such decisions.

(3) Where a passive holding company engages in any relevant activity in The Bahamas, that company shall be required to satisfy substance requirements.

(4) For the purposes of this Act

“**equity participation entity**” means a company which only holds equity participations and earns only dividends and capital gains or incidental income; and

“**passive holding entity**” means an entity which does not by itself, or by any of its subsidiaries conduct any relevant activity and includes a collective investment entity or equity participation entity.

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(a) Delete subclauses (2) and (3) and substitute the following

(2) A regulated included entity shall report on its compliance with this Act to the Authority within nine months of its fiscal year end in the manner set out in Form B of the *First Schedule*.

(3) A passive holding entity shall report on its compliance with this Act to the Authority within nine months of its fiscal year end in the manner set out in Form C of the *First Schedule*.

(b) In subclause (4)

(i) insert immediately after the word “entity”, the words, “, which is not a passive holding entity;”, and

- (ii) delete the words "Form E" and substitute the words "Form C".

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In subclause (2), delete the words "Form B, C or D" and substitute the words "Form B or C".

First Schedule

- (a) Delete the reference to clause "10(a)" appearing immediately under the schedule heading and substitute "(10)".
- (b) In "Form B"
  - (i) insert immediately after the words "Included Entities" appearing under "Form B", the words "and Regulated Included Entities";
  - (ii) insert immediately under the row beginning "Type", the following new row

Please indicate whether Included Entity or Regulated Included Entity	Included Entity <input type="checkbox"/>	Regulated Included Entity <input type="checkbox"/>
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- (iii) delete the word "included" wherever it appears after the row inserted in paragraph (ii) above.
- (c) Delete
  - (i) Form D in its entirety;
  - (ii) Form E in its entirety.

## **OBJECTS AND REASONS**

This Movement seeks to amend the Commercial Entities Substance Requirements Bill, 2018 to provide for

- (a) an amendment to clause 2 to delete paragraph (c) in the definition of "included entity" to provide that the triggering criterion for substance requirements is the carrying on of a relevant activity and not the recording of income from such activities;
- (b) an amendment to clause 4 to further clarify where relevant activities may be carried out;
- (c) an amendment to clause 5 to better clarify intellectual property asset activities.

This Movement also seeks to amend

- (a) clause 8 to provide for reduced substance requirements for passive holding entities;
- (b) clause 10 to require regulated entities to be subject to the same requirements as included entities; and
- (c) clause 12 to provide for a consequential amendment pursuant to the changes made to the First Schedule.

The First Schedule to the Bill is also amended to provide for amendments to Form B to include the reporting of regulated included entities and to delete Form D and Form E of the First Schedule.