

COMMERCIAL ENTITIES (SUBSTANCE REQUIREMENTS) (AMENDMENT) BILL, 2023

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A BILL FOR AN ACT TO AMEND THE COMMERCIAL ENTITIES (SUBSTANCE REQUIREMENTS) ACT, 2018

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, may be cited as the Commercial Entities (Substance Requirements)(Amendment) Bill, 2023.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice to be published in the Gazette.

2. Amendment of section 12 of the principal Act.

Section 12 of the principal Act is amended

- (1) by the deletion of subsection (1) and the substitution of the following –
“(1) The Authority shall, upon receipt of an electronic form filed by an entity, spontaneously exchange the same with the reportable jurisdiction of the entity’s legal or beneficial owner and its claimed tax residence.”
- (2) by the deletion of subsection (2).

3. Amendment of section 16 of the principal Act.

Section 16 of the principal Act is repealed and replaced by the following –

“**16. Measures to ensure compliance.**

- (1) Upon review of the results of an onsite inspection under section 13 or information provided from a reportable jurisdiction, where the

Authority determines that an entity has failed to meet the substance requirements in accordance with section 3(1) that entity commits a breach of this Act

- (2) If an entity has failed to comply with section 3(1), that entity shall have a period of twenty-eight days to comply with the substance requirements of this Act and satisfy the Authority of its compliance.
- (3) The Authority may, in its discretion, direct the entity by notice in writing to deliver to the Authority all such information and documentation necessary to satisfy itself of the entity's compliance with the substance requirements.
- (4) If the entity fails to comply with subsections (2) or (3), that entity shall be directed by notice in writing to conduct a formal audit by an approved auditor under section 14, at the expense of the entity.
- (5) If the entity does not commence the formal audit within twenty-one days of the Authority's direction, the entity shall be subject to an administrative penalty not exceeding one hundred and fifty thousand dollars.
- (6) Where a formal audit reveals deficiencies, the Authority shall issue a Notice of Non-Compliance to the entity for remedial measures.
- (7) A Notice of Non-Compliance issued under subsection (6), must –
 - (a) contain details of the areas where further remedial measures are required; and
 - (b) state the deadline for compliance with the Notice of not more than fourteen days.
- (8) If the entity fails to comply with the Notice of Non-Compliance, the entity shall be –
 - (a) subject to an administrative penalty not exceeding three hundred thousand dollars;
 - (b) subject to strike off from the Register of Companies.”.

OBJECTS AND REASONS

This Bill seeks to bring the Commercial Entities (Substance Requirements) Act into line with the amended standard on substantial Economic Presence requirements. It provides for simplified exchanges of electronic returns and more efficient timeliness for compliance with the Act.

Clause 1 of the Bill provides for its short title and empowers the Minister to appoint a date for its commencement once enacted.

Clause 2 of the Bill seeks to amend section 12 of the principal Act to provide for further exchange of information to reportable jurisdictions.

Clause 3 of the Bill seeks to amend section 16 of the principal Act to provide for more efficient measures for compliance with the Act.