

BELIZE:

**INTERNATIONAL FINANCIAL SERVICES COMMISSION
(AMENDMENT) (NO.2) ACT, 2019**

ARRANGEMENT OF SECTIONS

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9. Amendment of section 37.
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11. Insertion of new section 40.
12. Amendment of section 9 of Act No. 2 of 2019.



No. 16 of 2019

I assent,

(SIR COLVILLE N. YOUNG)

Governor-General

11th October, 2019

AN ACT to amend the International Financial Services Commission Act, Chapter 272 of the Substantive Laws of Belize, Revised Edition 2011; to substitute the criteria for physical presence with substantial economic presence in Belize; to indemnify the Commission, Director General and officers from legal liability for actions taken in good faith; to set disciplinary measures and criminalise the unauthorised disclosure by officers of document, paper or information; and to provide for matters connected therewith or incidental thereto.

(Gazetted 12th October, 2019.)

1. This Act may be cited as the

Short title.

**INTERNATIONAL FINANCIAL SERVICES
COMMISSION (AMENDMENT) (NO. 2) ACT, 2019,**

Cap. 272.
No. 15 of 2013.
No. 4 of 2018.
No. 2 of 2019.

and shall be read and construed as one with the International Financial Services Commission Act, which, as amended, is hereinafter referred to as the principal Act.

Amendment of
section 2.

2. The principal Act is amended in section 2 by deleting subsection (3) and substituting the following—

“(3) Without limiting the authority of the Commission to implement the requirement for an international business company to comply with substantial economic presence requirements, any reference in this Act to substantial economic presence shall be construed in accordance with the Economic Substance Act.”.

Act No. 15 of
2019.

Amendment of
section 6.

3. The principal Act is amended in section 6 as follows –

(a) in sub-section (3)(a) by deleting the words “requirement to be physically present” and substituting the words “substantial economic presence requirement pursuant to the Economic Substance Act.”; and

Act No. 15 of
2019.

(b) by inserting the following as new sub-section (4)–

“(4) Any mode of fulfillment in respect of substantial economic presence specified under subsection (3)(a) may include–

(a) the requirement for directors to conduct business from an office physically located in Belize;

(b) the requirement for categories of persons holding a licence granted by the Commission to be physically present in Belize in order to conduct its business;

- (c) notwithstanding section 7 of the Economic Substance Act, the prohibition from outsourcing of core income generating activities by categories of persons holding a licence granted by the Commission; or
- (d) any other requirement which does not substitute or reduce the standard set by the Economic Substance Act.”
4. The principal Act is amended in section 7A as follows—
- (a) in sub-section (1)(a) and (2) by deleting the words “physical presence” and substituting the words “substantial economic presence” wherever it occurs; and
- (b) by inserting a new sub-section (3) as follows—
- “(3) Where an IFS Practitioner relies on a managing agent to undertake its obligations under the Economic Substance Act, the IFS Practitioner shall maintain ultimate responsibility for fulfilling its obligations with respect to substantial economic presence.”
5. The principal Act is amended by inserting after section 11, the following new section 11A—
- 11A. (1) The Director General, upon employment of any person, shall administer an oath of confidentiality, which shall be in the prescribed form.
- (2) By virtue of sub-section (1), an officer of the Commission shall not, without the approval of the Director General—
- Act No. 15 of 2019.
- Act No. 15 of 2019.
- Amendment of section 7A.
- Act No. 15 of 2019.
- Insertion of new section 11A.
- “Duty of officers to maintain confidentiality.”

- (a) make public or cause to be made public;
- (b) communicate or cause communication to the media or any other unauthorized person; or
- (c) make private copies of,

any documents, papers or other information which may come to his knowledge or in possession in his capacity as an officer of the Commission.

CAP. 13.

(3) Sub-section (2) shall not apply to an Order of the Court, the Freedom of Information Act, or any other expressed provision to the contrary in any other law.

(4) Where an officer fails to comply with this section, that officer may be subject to the disciplinary measures established by the Commission for the purposes of addressing a misconduct of officers and employees of the Commission.

(5) A person who fails to comply with sub-section (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for six months or to both.

(6) The Director General, with the approval of the Commission, may establish by administrative policy, the extent of a failure to comply with sub-section (2) which may be dealt with pursuant to sub-section (4).

(7) The Commission may prescribe the extent of a failure to comply with sub-section

- (2) which may be dealt with pursuant to sub-section (5).”
6. The principal Act is amended by deleting section 23 and substituting the following –
- “23. Neither the Minister, the Commission nor any officer or person acting pursuant to any authority conferred by the Minister or the Commission, as the case may be, is liable to any action suit or proceeding for, or in respect of any act of matter done or omitted to be done in good faith in the exercise or purported exercise of the functions conferred by or under this Act or any Regulations made thereunder.”
7. The principal Act is amended in section 32(3) by inserting after the word “limitations” the words “including that of meeting substantial economic presence in accordance with the Economic Substance Act”.
8. The principal Act is amended in section 36(1) by deleting the words “physical presence” and substituting the words “substantial economic presence”.
9. The principal Act is amended in section 37(2) by deleting the words “physical presence” and substituting the words “substantial economic presence”.
10. The principal Act is amended in section 39(1) by inserting a comma after the words “against this Act” and the words “the Economic Substance Act”.
11. The principal Act is amended by inserting after section 39 the following new section 40 –
- Repeal and replacement of section 23.**
- Amendment of section 32.**
- Act No. 15 of 2019.**
- Amendment of section 36.**
- Amendment of section 37.**
- Amendment of section 39.**
- Act No. 15 of 2019.**
- Insertion of new section 40.**

“Certificate of good standing.

40.-(1) The Director General shall, upon request by any person, issue a certificate of good standing under his hand and seal certifying that an IFS practitioner or managing agent licensed under this Act is of good standing if the Director General is satisfied that the IFS practitioner or managing agent-

(a) is in possession of a valid license issued under this Act; and

(b) has paid all fees, licence fees and penalties due and payable.

(2) The certificate of good standing issued under sub-section (1), must contain-

(a) a statement as to whether the IFS practitioner or managing agent has any outstanding requests for merger, consolidation, wind-up and dissolution or other arrangement; and

(b) any other statement which the Commission approves by administrative order.”

Amendment of section 9 of Act No. 2 of 2019.

12. Section 9(1) of the International Financial Services Commission (Amendment) (No. 2) Act, 2019 is amended by deleting the words “physical presence as prescribed by regulations” and substituting the words “substantial economic presence pursuant to the Economic Substance Act.”.

Act No. 15 of 2019.