

BELIZE:

INTERNATIONAL FOUNDATIONS (AMENDMENT) BILL, 2023

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BELIZE:

BILL

for

AN ACT to amend the International Foundations Act, Chapter 24:02 of the Substantive Laws of Belize, Revised Edition 2020; to further facilitate compliance with the Financial Action Task Force (FATF) Recommendation 24; and to provide for matters connected therewith or incidental thereto.

(Gazetted2023).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority the same, as follows:

Short title.

1. This Act may be cited as the

INTERNATIONAL FOUNDATIONS (AMENDMENT) ACT, 2023,

CAP. 24:02.

and shall be read and construed as one with the International Foundations Act, which is hereinafter referred to as the principal Act.

Amendment of Long Title.

2. The Long Title of the principal Act is amended by deleting the words “international foundation” and substituting the word “foundation”.

Substitution of term.

3. The principal Act is amended by deleting the term “International Foundation” or “international foundation” wherever it appears and substituting the term “Foundation” or “foundation”, as the case may be.

Amendment of section 2.

4. The principal Act is amended in section 2–

(a) in the definition of “Minister”, by deleting the word “international”;

(b) by deleting the term and definition of “Commission”; and

(c) by inserting, in appropriate alphabetical sequence, the following terms and definitions–

CAP. 261:01. ““accounting records” has the meaning specified in section 2 of the Accounting Records (Maintenance) Act;

“accurate information” means information, which has been verified to confirm its accuracy by verifying the identity and status of the beneficial owner using reliable, independently sourced or obtained documents, data or information;

“adequate information” means information that is sufficient to identify the natural person(s) who are beneficial owner(s), and the means and mechanisms through which they exercise beneficial ownership or control;

“beneficial owner” has the meaning specified in section 2 of the Money Laundering and Terrorism (Prevention) Act; CAP. 104.

“Director General of the Financial Services Commission” means the person appointed under section 7 of the Financial Services Commission Act; Act No. 8 of 2023.

“Financial Services Commission” or “Commission” means the Financial Services Commission established under the Financial Services Commission Act; Act No. 8 of 2023.

“Registry” means the Belize Companies and Corporate Affairs Registry established under section 284 of the Belize Companies Act; Act No. 11 of 2022.

“up-to-date information” means information, which is as current and up-to-date as possible, and is updated within a reasonable period following any changes.”.

5. The principal Act is amended by inserting after section 2, the following new sections— Insertion of new sections 2A and 2B.

“Administration. **2A.** The Commission shall be responsible for the administration of this Act.

Power to impose administrative penalties. **2B.**—(1) The Commission shall have power to impose administrative penalties including administrative fines for any breaches of this Act.

(2) The Commission shall, in regulations, prescribe the administrative penalties for breaches of this Act, which shall not exceed \$100,000.00.”.

6. The principal Act is amended in section 17— Amendment of section 17.

(a) in subsection (1)—

(i) in paragraph (b), by deleting the word “and” at the end of the paragraph;

- (ii) in paragraph (c), by deleting the full stop and substituting a semi-colon; and
- (iii) by inserting after paragraph (c), the following new paragraphs–
 - “(d) the name, address, and sufficient information required for the identification of the founder;
 - (e) the name, address, and sufficient information required for the identification of the members of the Foundation Council;
 - (f) the name, address, and sufficient information required for the identification of the protector, if any
 - (g) the name, address, and sufficient information required for the identification of the beneficiary or beneficiaries or sufficient detail of any class of beneficiaries;
 - (h) the name, address, and sufficient information required for the identification of the beneficial owner or owners, if any.”; and
- (b) in sub-section (12) by inserting after the word “beneficiary”, the words “beneficial owner”.

Amendment of section 20.

7. The principal Act is amended by repealing section 20 and replacing it with the following–

Inspection of Register.

20.–(1) A person may, in writing to the Registrar, request inspection of following information contained in the Register–

- (a) the name of a foundation;
- (b) the name and address of the registered agent of a foundation; and
- (c) the date of registration of a foundation.

(2) The Registrar shall allow a person to inspect the information specified in sub-section (1) upon the payment of the prescribed fee.

(3) A person allowed to inspect the information specified in sub-section (1) may, upon the payment of a prescribed fee, obtain copies of that information.

(4) Notwithstanding sub-section (1), the Register, files and records of the Registrar shall be open for inspection by any officer of the Financial Intelligence Unit, the Financial Services Commission, or the Court in the course of carrying out their duties or functions.”.

8. The principal Act is amended in section 21(2) by inserting after paragraph (e), the following new paragraph— Amendment of section 21.

“(ea) the name and address of the beneficial owner, if any;”

9. The principal Act is amended in section 84— Amendment of section 84.

(a) in sub-section (1)—

(i) in the chapeau, by inserting after the word “kept”, the words “at its registered agent’s office”; and

(ii) in paragraph (a), by inserting after the words “financial position of the foundation”, the words “provided that accounting records shall be kept as required by the Accounting Records Maintenance Act”;

(b) in sub-section (2), by inserting after the word “beneficiaries”, the words “, beneficial owner”;

(c) in sub-section (2A) by—

(i) in paragraph (c), by deleting the word “or”; and

(ii) inserting after paragraph (c), the following new paragraph

“(ca) beneficial owner, if any; or”;

(d) by repealing sub-section (4);

(e) by repealing sub-section (5);

(f) in sub-section 7, by deleting the phrase “(5) or”.

10. The principal Act is amended by inserting after section 84, the following new sections— Insertion of new section 84A, 84B, 84C and 84D.

Up-to-date accounting records.

84A.—(1) A foundation shall keep and cause to be kept at the office of the Registered Agent, an accurate, adequate, up-to-date, and updated accounting records, including the register of beneficial owners of the names and addresses, and any information sufficient for the identification of beneficial owners, if any.

(2) The documents mentioned under section 84, 84A and 84B shall be filed with the Registry at the time of registration or no later than 30 days after the entering into force of this Act.

(3) The Foundation, Foundation Council, the Registered Agent or the Secretary shall file the documents mentioned under sections 84, 84A and 84 B, after any amendments are made or within thirty days after any change in the particulars contained in it.

(4) The documents mentioned in section 84, 84A and 84B shall be produced upon request from the Registrar or Commission within 7 days or earlier period if the Registrar or Commission so directs from the date that such request is made.

(5) The Commission, Registrar or any officer of the Commission may inspect and take copies of any account, record, register or document, including those in sections 84, 84A, 84B.

(6) Any person, natural or legal, that fails to keep or provide or produce or file accounting records, documents, records, register, documents, or information or that obstructs the inspection of accounting records, documents, records, register, documents, or information by the Registrar or the Commission of any of the requested documents under this section commits an offence and is liable to a penalty of \$100,000.00.

(7) In addition to any other penalty for any offence under this section, the Commission may impose an administrative penalty of up to \$100,000.00, along with any other administrative penalty that it may impose.”.

“Register of
beneficial
owners.

84B.—(1) A Foundation shall establish and maintain a beneficial ownership register and shall enter in its beneficial ownership register the minimum required information in respect of every beneficial owner.

(2) The beneficial ownership information in respect of every beneficial owner shall be provided to the Registrar and entered into the Online Business Registry System.

(3) Notwithstanding any other section in this Act or in any other law, charter, contract, or agreement a foundation shall—

(a) update its records and other relevant information required under this Act and its Regulations to ensure that they are adequate, accurate, and up to date, and in any case, ensure that the information is updated no later than 30 days from any change in information or

from the entering into force of this Act for existing registered Foundations or at the time of registration; and

(b) retain its records and provide the Registrar with information that is accurate and up to date, no later than 7 days or earlier period if the Registrar so directs from when the Registrar makes a request for information, including beneficial ownership information.

(4) The minimum required information referred to in sub-section (1) that the Foundation shall enter in its beneficial ownership register is as follows–

(a) the beneficial owner’s full name including, if applicable, any secondary or other name;

(b) the beneficial owner’s residential address and, if different from his residential address, an address for service;

(c) the beneficial owner’s nationality;

(d) the beneficial owner’s his date of birth;

(e) the beneficial owner’s place of birth; and

(f) the beneficial owner’s Passport number and passport, and if no valid passport, then any other social security card number and the social security card, and if there is no valid social security card, then a valid driver’s license.

(5) The beneficial ownership register shall be kept at the office of the Foundation’s registered agent or at the Foundation’s office in Belize.

(6) No Foundation or Registered Agent of the Foundation or member or secretary shall fail to comply with the keeping of a Beneficial Ownership Register.

(7) No Foundation or Registered Agent of the Foundation or member or secretary shall fail to provide or produce or file the Beneficial Ownership Register or provide any false or misleading information.

(8) Every person who contravenes this section commits an offence and is liable on indictment to a fine not exceeding \$100,000, and in addition to any other penalty the

Commission may apply any administrative penalty, including but not limited to an administrative fine of up to \$100,000.00.

Duty to provide records and information.

84C. Upon the request of the Registrar, it shall be the responsibility of the Foundation or any Registered Agent or member or secretary, to provide or produce any records or information required under section 84, 84A, 84B within seven days or earlier period if the Commission or Registrar so directs from the date that the request is made.

Retention of records.

84D.—(1) Where a Foundation is struck off or is otherwise dissolved under this Act or departs from Belize, the Foundation or, its Registered Agent, or member, or Secretary or liquidator, or any other person involved in the strike out, dissolution, departure from Belize or winding up of the Foundation shall retain records, registers, documents, and information for a period of at least six years from the date on which the Foundation is struck off, dissolved, or wound up.

(2) Where a Registered Agent ceases to be the Registered Agent of the Foundation, that registered agent shall preserve all the records required to be kept under this Act in respect of that Foundation for a period of at least six years from the date on which the registered agent ceases to be the registered agent of the Foundation.”.

Amendment of section 103.

- 11.** The principal Act is amended in section 103—
- (a) in sub-section (1), by inserting after the words “an order of the Court”, the words “or a directive of the Registrar”; and
 - (b) in sub-section (2)(d), by inserting after the word “beneficiary”, the words “or beneficial owner”.

Amendment of section 104.

- 12.** The principal Act is amended in section 104—
- (a) in paragraph (a), by inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”;
 - (b) in paragraph (b)—
 - (i) in the chapeau, by inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”; and
 - (ii) in sub-paragraph (iv) by inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”;

- (c) in paragraph (c), by inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”;
- (d) in paragraph (d), by–
 - (i) inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”; and
 - (ii) inserting after the word “beneficiary”, the words “, beneficial owner”; and
- (e) in paragraph (e), by–
 - (i) inserting after the words “the Financial Intelligence Unit”, the words “or of the Registrar”; and
 - (ii) inserting after the word “beneficiary”, the words “, beneficial owner”; and
- (f) in paragraph (i)–
 - (i) in sub-paragraph (c), by deleting the full stop and substituting a “; and”; and
 - (ii) by inserting after paragraph (c), the following new sub-paragraph–
 - “(d) to any beneficial owner of the foundation, if any.”.

13. The principal Act is amended by inserting after section 104, the following new section–

Insertion of new section 104A.

“Power to obtain information and records and Retention of records etc.

104A.–(1) The Registrar may by request in writing served on a Foundation or member or registered agent or secretary require such Foundation or member or registered agent or secretary–

- (a) to provide the Registrar at such time or times or at such intervals or in respect of such period or periods as may be so specified, with such record, register, account, document, or information, including beneficial ownership information or confidential information as the Registrar may reasonably require for the performance of his functions; or
- (b) to provide the Registrar with a written report, as specified by the Registrar’s request, of any matter about which the Registrar has required or could require that Foundation or member or registered

agent or secretary to provide such record, register, account, document, or information.

(2) The Registrar shall retain records, documents, information for a period of at least 6 years from the date on which the Foundation is struck off, dissolved, departed, or wound up.”.

Repeal and replacement of section 105.

14. The principal Act is amended by repealing section 105 and replacing in with the following–

“Disclosure. **105.**–(1) Notwithstanding section 103 or section 104(1) or any other provision of this Act, or any other law, charter, contract, agreement or otherwise, a requirement imposed by or under sections 84, 84A, 84B, 84C, 84D, 103, 104, 104A, or 114A, has effect despite any obligation as to confidentiality or other restrictions on disclosure of any records, documents, accounting records, information, reports, register, including beneficial ownership information.

(2) Accordingly, a disclosure made or the sharing of any records, accounting records, documents, reports, information, including beneficial ownership information in accordance with section 84, 84A, 84B, 84C, 84D, 103, 104, 104B, 114A does not breach any–

(a) obligation of confidence in relation to the records, accounting records, documents, reports, information, including beneficial ownership information so disclosed; or

(b) other restrictions on access to or disclosure of any records, accounting records, documents, reports, information, including beneficial ownership information so accessed, however imposed.

(3) Compliance by any person with any requirement under section 84, 84A, 84B, 84C, 84D, 103, 104, 104A, 114A, to disclose or provide any records, accounting records, documents, reports, register, information, including beneficial ownership information, is an absolute defence to any claim brought against that person in respect of any act done or any omission made by him in good faith in compliance with the Act.”.

Amendment of section 107.

15. The principal Act is amended by repealing section 107(4).

16. The principal Act is amended in section 108(1) by deleting the words “Unless the Minister expressly appoints otherwise,”.

Amendment of section 108.

17. The principal Act is amended in section 114–

Amendment of section 114.

(a) in sub-section (1), by inserting after the words “the Court”, the words “or the Registrar”; and

(b) in sub-section (2) by inserting after the words “The order of the Court”, the words “or the directive of the Registrar”.

18. The principal Act is amended by inserting after section 114, the following new section–

Insertion of new section 114A.

“Powers of cooperation and information sharing.

114A. The Commission shall have the same powers of cooperation and information sharing as stipulated in sections 51 and 52 of the Financial Services Commission Act.

19. The principal Act is amended by inserting after section 129, the following new section–

Insertion of new section 130.

“General offence and penalty.

130.–(1) Any person who contravenes any of the provisions of this Act or incites or attempts to incite a person to contravene any of the provisions of this Act commits an offence.

(2) Any person who contravenes any of the provisions of this Act for which no penalty is specifically provided is liable on indictment to a fine not exceeding one hundred thousand dollars.

(3) Any person who contravenes any of the provisions of this Act for which no penalty is specifically provided, may in addition to any other penalty, be liable to an administrative fine imposed by the Commission, not exceeding one hundred thousand dollars.”.