

Corporate Registers (Miscellaneous Amendments) Bill

Bill No. /2021.

Read the first time on .

A BILL

i n t i t u l e d

An Act to amend the Companies Act (Chapter 50 of the 2006 Revised Edition) and the Limited Liability Partnerships Act (Chapter 163A of the 2006 Revised Edition) in relation to registers of controllers, registers of nominee directors and registers of nominee shareholders of companies and limited liability partnerships, to give effect to certain recommendations

relating to the prevention of money laundering and the financing of terrorism adopted by the intergovernmental body known as the Financial Action Task Force.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Corporate Registers (Miscellaneous Amendments) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of Companies Act

2. The Companies Act (Cap. 50) is amended —

(a) by inserting, immediately after subsection (3) of section 380, the following subsection:

10 “(4) If there is any change in the particulars mentioned in subsection (1) contained in the register of members of a foreign company, the foreign company must, within 14 days after the change, update the register of members to reflect the change.”;

15 (b) by deleting the words “CONTROLLERS AND NOMINEE DIRECTORS” in the Part heading of Part XIA and substituting the words “CONTROLLERS, NOMINEE DIRECTORS AND NOMINEE SHAREHOLDERS”;

(c) by inserting, immediately after paragraph (a) of section 386AF(7), the following paragraph:

20 “(aa) contains the note and prescribed particulars required under section 386AFA(3), if applicable;”;

25 (d) by inserting, immediately after the word “particulars” in section 386AF(7)(b), the words “mentioned in paragraph (a) or (aa)”;

(e) by inserting, immediately after section 386AF, the following section:

“Additional particulars

30 **386AFA.**—(1) This section applies where a company or foreign company knows, or has reasonable grounds to believe —

(a) that the company or foreign company has no registrable controller; or

(b) that the company or foreign company has a registrable controller but has not been able to identify the registrable controller.

(2) Where this section applies, each director with executive control and each chief executive officer of the company or foreign company is, subject to subsection (9), taken to be a registrable controller of the company or foreign company for the purposes of this Part.

(3) Where this section applies, the company or foreign company must enter the following in its register of controllers:

(a) a note stating —

(i) that the company or foreign company knows, or has reasonable grounds to believe (as the case may be) —

(A) that the company or foreign company has no registrable controller; or

(B) that the company or foreign company has a registrable controller but has not been able to identify the registrable controller; and

(ii) that each director with executive control and each chief executive officer of the company or foreign company is taken to be a registrable controller of the company or foreign company under subsection (2);

(b) the prescribed particulars of each director with executive control and each chief executive officer of the company or foreign company.

(4) A company or foreign company must enter the matters mentioned in subsection (3) in its register of controllers within the prescribed period after —

5 (a) (in the case of a company or foreign company that knows, or has reasonable grounds to believe, that it has no registrable controller) the date on which the company or foreign company knows, or has reasonable grounds to believe that the company or foreign company has no registrable controller; or

10 (b) (in the case of a company or foreign company that knows, or has reasonable grounds to believe, that it has a registrable controller but has not been able to identify the registrable controller) the date on which the company or foreign company, having taken the reasonable steps required by section 386AG(1), forms the opinion that it is unable to identify the registrable controller.

15 (5) A company or foreign company must, within the prescribed period after the date on which the company or foreign company knows, or has reasonable grounds to believe, that any change to the particulars entered in its register of controllers under subsection (3)(b) has occurred, update its register of controllers to reflect the change.

20 (6) If a company or foreign company mentioned in subsection (1) enters the particulars of a registrable controller in its register of controllers under section 386AF(9), the company or foreign company must, at the same time, enter on its register of controllers a note stating —

25 (a) that each director with executive control and each chief executive officer of the company or foreign company is no longer taken to be a

registrable controller of the company or foreign company under subsection (2); and

(b) the date on which the particulars of the registrable controller were entered in its register of controllers under section 386AF(9).

(7) If a company or foreign company fails to comply with subsection (3), (4), (5) or (6), the company or foreign company, and every officer of the company or foreign company who is in default, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000.

(8) In this section —

“chief executive officer” —

(a) in relation to a company, has the meaning given by section 4(1); and

(b) in relation to a foreign company, has the meaning given by section 4(1), subject to the modification that each reference to a company is a reference to the foreign company;

“director with executive control”, in relation to a company or foreign company, means a director of the company or foreign company who exercises executive control over the daily or regular affairs of the company or foreign company through a senior management position.

(9) Despite anything in this Part, a reference in section 386AF(9) or (10), 386AG(1) or (2), 386AH(1), 386AI(1), 386AJ(1) or 386AK(1) to a controller or a registrable controller does not include a director or chief executive officer taken to be a registrable controller under subsection (2).”;

(f) by inserting, immediately after section 386AK, the following section:

“Register of nominee directors

5 **386AKA.**—(1) A company must keep a register of its directors who are nominees (called in this Part the register of nominee directors) in such form and at such place as may be prescribed.

10 (2) Subject to section 386AM, a company must not disclose, or make available for inspection, the register of nominee directors or any particulars contained in the register of nominee directors to any member of the public.

15 (3) A company must, within 7 days after the company is informed of any fact and provided with any particulars mentioned in section 386AL(1) or (2), enter that fact and those particulars on its register of nominee directors.

20 (4) A company must, within 7 days after the company is informed under section 386AL(3)(a) that a director of the company has ceased to be a nominee, enter the following on the company’s register of nominee directors:

25 (a) the fact that the director has ceased to be a nominee;

 (b) the date on which the director ceased to be a nominee.

30 (5) A company must, within 7 days after the company is informed under section 386AL(3)(b) of any change to the particulars of a person for whom a director is a nominee, enter the following on the company’s register of nominee directors:

 (a) the new particulars of that person;

 (b) the date on which the particulars of that person changed.

 (6) If a company fails to comply with subsection (1), (2), (3), (4) or (5), the company, and every officer of the company who is in default, shall each be guilty of an

offence and shall each be liable on conviction to a fine not exceeding \$5,000.”;

- (g) by deleting subsections (4), (5) and (7) of section 386AL;
- (h) by inserting, immediately after the word “section” in section 386AL(8), the words “and section 386AKA”;
- (i) by inserting, immediately after section 386AL, the following sections:

“Register of nominee shareholders

386ALA.—(1) A company or foreign company must keep a register of its shareholders who are nominees (called in this Part the register of nominee shareholders) in the prescribed form and at the prescribed place.

(2) A company or foreign company must, within 7 days after the company or foreign company is informed of any fact and provided with any particulars mentioned in section 386ALB(1), (2), (3) or (4), enter that fact and those particulars on its register of nominee shareholders:

(3) A company or foreign company must, within 7 days after the company or foreign company is informed under section 386ALB(5)(a) that a shareholder of the company or foreign company has ceased to be a nominee, enter the following on its register of nominee shareholders:

(a) the fact that the shareholder has ceased to be a nominee;

(b) the date on which the shareholder ceased to be a nominee.

(4) A company or foreign company must, within 7 days after the company or foreign company is informed under section 386ALB(5)(b) of any change to the particulars of a person for whom a shareholder is a nominee, enter the following on its register of nominee shareholders:

- (a) the new particulars of that person;
- (b) the date on which the particulars of that person changed.

5 (5) Subject to section 386AM, a company or foreign company must not disclose, or make available for inspection, the register of nominee shareholders or any particulars contained in the register of nominee shareholders to any member of the public.

10 (6) If a company or foreign company fails to comply with subsection (1), (2), (3), (4) or (5), the company or foreign company, and every officer of the company or foreign company who is in default, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000.

15 **Nominee shareholders**

386ALB.—(1) A shareholder of a company incorporated on or after the appointed day —

- 20 (a) who is a nominee must inform the company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date of incorporation; and
- (b) who becomes a nominee must inform the company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date on which the shareholder becomes a nominee.

25 (2) A shareholder of a company incorporated before the appointed day —

- 30 (a) who is a nominee must inform the company of that fact and provide such prescribed particulars of the person for whom the shareholder is a

nominee within 60 days after the appointed day;
and

(b) who becomes a nominee must inform the company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date on which the shareholder becomes a nominee.

(3) A shareholder of a foreign company registered under Division 2 of Part XI on or after the appointed day —

(a) who is a nominee must inform the foreign company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date of registration; and

(b) who becomes a nominee must inform the foreign company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date on which the shareholder becomes a nominee.

(4) A shareholder of a foreign company registered under Division 2 of Part XI before the appointed day —

(a) who is a nominee must inform the foreign company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 60 days after the appointed day; and

(b) who becomes a nominee must inform the foreign company of that fact and provide such prescribed particulars of the person for whom the shareholder is a nominee within 30 days after the date on which the shareholder becomes a nominee.

(5) A shareholder of a company or foreign company mentioned in subsection (1), (2), (3) or (4) must —

5 (a) within 30 days after the shareholder ceases to be a nominee, inform the company or foreign company of the fact that the shareholder has ceased to be a nominee; and

10 (b) within 30 days after any change to the particulars provided to the company or foreign company under subsection (1), (2), (3) or (4), inform the company or foreign company of the change.

(6) If a shareholder fails to comply with subsection (1), (2), (3), (4) or (5), the shareholder shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

15 (7) In this section and section 386ALA, a shareholder of a company or foreign company is a nominee if the shareholder —

20 (a) is accustomed or under an obligation whether formal or informal to vote, in respect of shares in the company or foreign company of which the shareholder is the registered holder, in accordance with the directions, instructions or wishes of any other person; and

25 (b) receives dividends, in respect of shares in the company of which the shareholder or foreign company is the registered holder, on behalf of any other person.

(8) In this section and section 386ALA —

30 “appointed day” means the date of commencement of section 2(i) of the Corporate Registers (Miscellaneous Amendments) Act 2021;

“company” means a company having a share capital;

“foreign company” means a foreign company having a share capital;

“shareholder”, in relation to a company or foreign company, means a person who is registered on the register of members of the company or foreign company as a holder of shares in the company or foreign company.”;

(j) by inserting, immediately after the word “directors” in section 386AM(1)(a), the words “, its register of nominee shareholders”;

(k) by inserting, immediately after the words “section 386AF” in section 386AN(2)(b)(i), the words “(including the matters mentioned in section 386AFA(3))”;

(l) by deleting subsection (3) of section 386AN and substituting the following subsection:

“(3) Where the Registrar requires a company or foreign company to lodge with the Registrar the particulars, matters and updates mentioned in subsection (2)(b), the company or foreign company must lodge the particulars, matters and updates in the prescribed manner and within the prescribed time.”; and

(m) by deleting the words “(2)(b) or” in section 386AN(4).

Amendment of Limited Liability Partnerships Act

3. The Limited Liability Partnerships Act (Cap. 163A) is amended —

(a) by inserting, immediately after paragraph (a) of section 32F(4), the following paragraph:

“(aa) contains the note and prescribed particulars required under section 32FA(1), if applicable;”;

(b) by inserting, immediately after the word “particulars” in section 32F(4)(b), the words “mentioned in paragraph (a) or (aa)”;

(c) by inserting, immediately after section 32F, the following section:

“Additional particulars

32FA.—(1) This section applies where a limited liability partnership knows, or has reasonable grounds to believe —

- 5 (a) that the limited liability partnership has no registrable controller; or
- (b) that the limited liability partnership has a registrable controller but has not been able to identify the registrable controller.

10 (2) Where this section applies, each partner with executive control of the limited liability partnership is, subject to subsection (9), taken to be a registrable controller of the limited liability partnership for the purposes of this Part.

15 (3) Where this section applies, the limited liability partnership must enter the following in its register of controllers:

- (a) a note stating —
- (i) that the limited liability partnership knows, or has reasonable grounds to believe (as the case may be) —
- (A) that the limited liability partnership has no registrable controller; or
- (B) that the limited liability partnership has a registrable controller but has not been able to identify the registrable controller;
- (ii) that each partner with executive control of the limited liability partnership is taken to be a registrable controller of the limited liability partnership under subsection (2);
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(b) the prescribed particulars of each partner with executive control of the limited liability partnership.

5 (4) A limited liability partnership must enter the matters mentioned in subsection (3) in its register of controllers within the prescribed period after —

10 (a) (in the case of a limited liability partnership that knows, or has reasonable grounds to believe, that it has no registrable controller) the date on which the limited liability partnership knows, or has reasonable grounds to believe that the limited liability partnership has no registrable controller; or

15 (b) (in the case of a limited liability partnership that knows, or has reasonable grounds to believe, that it has a registrable controller but has not been able to identify the registrable controller) the date on which the limited liability partnership, having taken the reasonable steps required by
20 section 32G(1), forms the opinion that it is unable to identify the registrable controller.

25 (5) A limited liability partnership must, within the prescribed period after the date on which the limited liability partnership knows, or has reasonable grounds to believe, that any change to the particulars entered in its register of controllers under subsection (3)(b) has occurred, update its register of controllers to reflect the change.

30 (6) If a limited liability partnership mentioned in subsection (1) enters the particulars of a registrable controller in its register of controllers under section 32F(6), the limited liability partnership must, at the same time, enter on its register of controllers a note stating —

(a) that each partner with executive control of the limited liability partnership is no longer taken to be a registrable controller of the limited liability partnership under subsection (2); and

5 (b) the date on which the particulars of the registrable controller were entered in its register of controllers under section 32F(6).

10 (7) If a limited liability partnership fails to comply with subsection (3), (4), (5) or (6), the limited liability partnership, and every partner of the limited liability partnership who is in default, shall each be guilty of an offence and shall each be liable on conviction to a fine not exceeding \$5,000.

15 (8) In this section, “partner with executive control”, in relation to a limited liability partnership, means a partner of the limited liability partnership who exercises executive control over the daily or regular affairs of the limited liability partnership through a senior management position.

20 (9) Despite anything in this Part, a reference in section 32F(6) or (7), 32G(1) or (2), 32H(1), 32I(1), 32J(1) or 32K(1) to a controller or a registrable controller does not include a partner taken to be a registrable controller under subsection (2).”;

25 (d) by inserting, immediately after the words “section 32F” in section 32M(2)(b)(i), the words “(including the matters mentioned in section 32FA(3))”;

(e) by deleting subsection (3) of section 32M and substituting the following subsection:

30 “(3) Where the Registrar requires a limited liability partnership to lodge with the Registrar the particulars, matters and updates mentioned in subsection (2)(b), the limited liability partnership must lodge the particulars, matters and updates in the prescribed manner and within
35 the prescribed time.”; and

(f) by deleting the words “(2)(b) or” in section 32M(4).

Saving and transitional provisions

4.—(1) A register of nominee directors kept by a company under and in compliance with section 386AL(4) of the Companies Act as
 5 in force immediately before the date of commencement of section 2(f) is, on or after that date, treated as the register of nominee directors kept by a company under section 386AKA(1) of the Companies Act.

(2) For a period of 2 years after the date of commencement of any
 10 provision of this Act, the Minister may, by regulations, prescribe such provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
