

No. 4 of 2018

VIRGIN ISLANDS

BVI BUSINESS COMPANIES (AMENDMENT) ACT, 2018

ARRANGEMENT OF SECTIONS

Section

- 1... Short title and commencement.
- 2... Section 135 amended.
- 3... Section 138A amended.
- 4... Section 141 amended.
- 5... Section 142A inserted.
- 6... Section 235 amended.

I Assent
(Sgd.) Augustus J. U. Jaspert,
Governor.
27th July, 2018

VIRGIN ISLANDS

No. 4 of 2018

An Act to amend the BVI Business Companies Act, 2004 (No. 16 of 2004).

[Gazetted 3rd August, 2018]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement

1. (1) This Act may be cited as the BVI Business Companies (Amendment) Act, 2018.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, determine.

Section 135 amended

2. Section 135 of the BVI Business Companies Act, 2004 (hereinafter referred to as the “principal Act”) is amend –

(a) in subsection (2), by deleting the word “or” in paragraph (b);

(b) by renumbering the existing paragraph (c) as paragraph (d); and

(c) by inserting after paragraph (b), the following new paragraph –

“(c) is, or on its incorporation will be, a company that is not licensed

- (i) as an investment business company under the Securities and Investment Business Act, 2010;
- (ii) as an insurance manager or insurance intermediary under the Insurance Act, 2008; and
- (iii) to carry on any activity that is regulated under the Banks and Trust Companies Act, 1990, Company Management Act, 1990 or Financing and Money Services Act, 2009; or”.

Section 138A amended

3. Section 138A of the principal Act is amended –

(a) by inserting after subsection (1), the following new subsection –

“(1A) The termination of a segregated portfolio under subsection (1) shall be carried out in accordance with such regulations as may be made under section 159.”; and

(b) by deleting subsection (4) and substituting the following subsection:

“(4) Where a segregated portfolio company reinstates a segregated portfolio under subsection (3), the company shall, within such period of the reinstatement of the segregated portfolio as may be prescribed in Regulations made under section 159, give written notice to the Commission of the reinstatement of the segregated portfolio.”.

Section 141 amended

4. Section 141 of the principal Act is amended by repealing subsection (4) and substituting the following subsection –

“(4) Regulations made under section 159 may –

- (a) prescribe restrictions on the power of a segregated portfolio company to make distributions, including segregated portfolio distributions, where the company or any segregated portfolio of or within the company does not satisfy the solvency test;
- (b) notwithstanding the solvency test outlined in section 57, prescribe different solvency tests and minimum capital requirements for segregated portfolios of a segregated portfolio company; and

- (c) restrict the application of paragraphs (a) and (b) to any particular type of segregated portfolio company and segregated portfolios.”.

Section 142A inserted

- 5. The principal Act is amended by inserting after section 142, the following new section –

“Segregated portfolio may enter into contract or other agreement

“142A.(1) Without prejudice to section 142, a segregated portfolio of a segregated portfolio company may enter into a contract or other agreement with another segregated portfolio in the same segregated portfolio company.

(2) The directors of a segregated portfolio company may, by a resolution of the directors, permit a segregated portfolio of the company to enter into a contract or other agreement with another segregated portfolio of another segregated portfolio company, with another segregated portfolio company or with any other entity that a segregated portfolio may properly enter into a contract or other agreement with.”.

Section 235 amended

- 6. Section 235 of the principal Act is amended –

- (a) in subsection (1) –

- (i) by deleting “and” at the end of paragraph (a);

- (ii) by deleting the full-stop at the end of paragraph (b) and substituting “; and”; and

- (iii) by adding after paragraph (b), the following new paragraph–

- “(c) the company has filed with the Registrar a copy of its register of directors which is complete.”; and

- (b) by adding after subsection (2), the following new subsection –

- “3) For purposes of subsection (1) (c), a copy of a register of directors filed with the Registrar is complete if the Registrar is satisfied that all the requisite information relating to each director of the company has been provided and properly filed.”.

Passed by the House of Assembly this 10th day of July, 2018.

(Sgd.) Ingrid Moses-Scatliffe,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.