

CAYMAN ISLANDS



LIMITED LIABILITY PARTNERSHIP (AMENDMENT) (NO. 2) BILL, 2020

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**A BILL FOR A LAW TO AMEND THE LIMITED LIABILITY PARTNERSHIP LAW, 2017
TO PROVIDE FOR THE RESERVATION OF NAMES; TO PROVIDE FOR AN
ADMINISTRATIVE PENALTY REGIME; AND FOR INCIDENTAL AND CONNECTED
PURPOSES**

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Home Affairs (FSHA)



Memorandum of OBJECTS AND REASONS

This Bill seeks to amend the Limited Liability Partnership Law, 2017 (the “principal Law”) to provide for the reservation of names and also to provide for an administrative penalty regime. The Bill would also provide for incidental and connected purposes.

Clause 1 of the Bill provides the short title and commencement provisions.

Clause 2 amends section 2 of the principal Law to introduce definitions of “dual foreign name” and “permitted electronic means”. The clause also provides for a new definition of “regulatory laws”. Clause 2 also repeals and substitutes subsection (3) which provides for anything that the managing partner is required by this Law to do where a limited liability partnership has more than one managing partner, to be done by any one of the managing partners.

Clauses 3 and 4 amend section 8 of the principal Law by repealing subsection (1) and substituting proposed new subsections (1) to (1F) and inserts proposed new section 8A to align the provisions with respect to the registration of the name of a limited liability partnership with requirements under the Companies Law (2020 Revision) and the Limited Liability Companies Law (2020 Revision).

Clause 5 amends section 9 of the principal Law to require a limited liability partnership to include in its register of partners, photographic evidence of the identity of the managing partner and the residential address of the managing partner where the managing partner is an individual.

Clause 6 amends section 18 of the principal Law to require a limited liability partnership to include in its registration statement the date of the end of the limited liability partnership’s financial year. The clause also inserts proposed new subsection (5) which requires the Registrar to make the certificates or other documents under subsection (3) available for inspection by any person on payment of a fee of such amount as prescribed by regulations made by the Cabinet, subject to such conditions as the Registrar may impose. Clause 6 also inserts proposed new subsection (6) which entitles any member of the public to be informed by the Registrar, on request, of the location of the registered office of any limited liability partnership registered under the principal Law.

Clause 7 amends section 20 of the principal Law to require a limited liability partnership to include in the statement in its annual return, the nature of the business.

Clause 8 amends section 31 of the principal Law to empower the Registrar to strike a limited liability partnership off the register where the Registrar has reasonable cause to believe that a limited liability partnership is not carrying on business or is not in operation or where an administrative fine imposed by the Registrar on a limited liability partnership in accordance with Part 9 remains unpaid.



Clause 9 amends section 38 of the principal Law to correct an incorrect reference.

Clause 10 amends section 47 by repealing and substituting subsection (2) of the principal Law with a new subsection (2) which aligns with the penalty provision in relation to making a false declaration with section 51(4) of the Limited Liability Companies Law (2020 Revision).

Clause 11 amends section 52 of the principal Law by replacing references to the list published in the Gazette and referred to in regulations 22(d) and 23(1) of the Anti-Money Laundering Regulations (2018 Revision) with references to the jurisdictions that are designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2)(a) of the Proceeds of Crime Law (2020 Revision).

Clause 12 amends section 63 of the principal Law to require the corporate services provider of a limited liability partnership as opposed to the limited liability partnership to, issue a restrictions notice to registrable persons and send a copy of the notice to the competent authority in accordance with section 63.

Clause 13 amends section 72 of the principal Law to empower require the corporate services provider of a limited liability partnership to send a restrictions notice to a person who has a relevant interest in that limited liability partnership in accordance with section 71(1). The clause also amends section 72 to provide for the factors the corporate services provider should consider in deciding whether to send a restrictions notice.

Clause 14 amends section 77 of the principal Law to empower the corporate services provider of a limited liability partnership which issues a restrictions notice, to apply to the Court for an order directing that the relevant interest cease to be subject to restrictions.

Clause 15 amends section 78 of the principal Law to provide for the Court to order that the relevant interest subject to restrictions be sold, provided that the Court approves the sale on application by the corporate services provider of a limited liability partnership that issues a restrictions notice.

Clause 16 amends section 80 of the principal Law to empower a corporate services provider of a limited liability partnership which sends out a restrictions notice, to withdraw the notice.

Clause 17 amends section 87 of the principal Law to provide for the Cabinet to make regulations respecting the procedure to be followed by corporate services providers of limited liability partnerships issuing and withdrawing restrictions notices.

Clause 18 provides for the insertion of Part 9 in the principal Law. The new Part 9 sets out the administrative fine framework.

The proposed new section 88 empowers the Registrar to impose administrative fines on persons who breach any provision specified in the Schedule. The proposed new section 89 further provides that the fine for an initial breach is five thousand dollars. The new section also provides that the Registrar may, in addition to the fine for the initial breach, impose a further fine of one thousand dollars for every month during which the breach continues



until either the breach stops, payment is made for the initial fine and the fines for the continuing breaches or the total of the fines amount to twenty thousand dollars. The proposed new section 93 provides that the Registrar may issue guidance on the enforcement of administrative fines. The proposed new section 95 empowers the Cabinet to, among other things, provide for the forms and procedures, for imposing fines and for appeals against decisions under Part 9 by way of regulations.

Clause 19 provides for the insertion of the Schedule into the principal Law. The new Schedule is being inserted pursuant to Part 9, to provide for administrative fines.

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(AMENDMENT) (NO. 2) BILL, 2020**

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(AMENDMENT) (NO. 2) BILL, 2020**

A BILL FOR A LAW TO AMEND THE LIMITED LIABILITY PARTNERSHIP LAW, 2017 TO PROVIDE FOR THE RESERVATION OF NAMES; TO PROVIDE FOR AN ADMINISTRATIVE PENALTY REGIME; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the Limited Liability Partnership (Amendment) (No.2) Law, 2020.
- (2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Amendment of section 2 of the Limited Liability Partnership Law, 2017 - interpretation

2. The *Limited Liability Partnership Law, 2017*, in this Law referred to as the “principal Law”, is amended in section 2 as follows —
 - (a) in subsection (1) as follows —



- (i) by inserting after the definition of the word “debt”, the following definition —

“**dual foreign name**” means an additional name in any language not utilising the Roman alphabet, utilising any letters, characters, script, accents and other diacritical marks, and which does not have to be a translation or transliteration of the name in the Roman alphabet;”;
 - (ii) by inserting after the definition of the words “partnership interest”, the following definition —

“**permitted electronic means**” means such electronic means, if any, and related procedures as the Registrar may permit from time to time to be used to file and deliver any particular documents pursuant to this Law;”;

and
 - (iii) by repealing the definition of the words “**regulatory laws**” and substituting the following definition —

“ **“regulatory laws**” has the same meaning as in section 2 of the *Monetary Authority Law (2020 Revision)*;”;
- (b) by repealing subsection (3) and substituting the following subsection —
- “(3) In this Law, where a limited liability partnership has more than one managing partner, anything that the managing partner is required by this Law to do, may be done by any one of the managing partners.”.

Amendment of section 8 - name of limited liability partnership

3. The principal Law is amended in section 8 by repealing subsection (1) and substituting the following subsections —
- (1) Subject to subsection (1A) and section 8A, every limited liability partnership shall have a name which —
 - (a) may, but need not, contain as a suffix the words “Limited Liability Partnership” or the abbreviation “L.L.P.” or “LLP”;
 - (b) in the case of a limited liability partnership carrying on special economic zone business, shall include the words “Special Economic Zone” or the letters “SEZ”; and
 - (c) may be preceded by or followed with a dual foreign name.
 - (1A) A limited liability partnership shall not be registered by or have a name which —
 - (a) is not permitted under section 8A; or
 - (b) in the opinion of the Registrar, suggests that the limited liability partnership is licensed whether in the Islands or elsewhere to carry on any type or class of business subject to the regulatory



laws of the Islands when it is not so licensed or, because of any other reason, is likely to mislead.

- (1B) A person may apply to reserve a specified name for use by a limited liability partnership by —
- (a) filing with the Registrar (including by permitted electronic means) an application executed by the applicant specifying the name to be reserved and the name and address of the applicant; and
 - (b) paying the prescribed application fee,
- and if the Registrar finds that the name is available for use by the limited liability partnership, the Registrar may reserve the name for the exclusive use of the applicant for a period of up to one hundred and twenty days.
- (1C) On or before the expiry of the period for name reservation under subsection (1B), the applicant may make further successive applications pursuant to subsection (1B) to reserve the specified name.
- (1D) A limited liability partnership's dual foreign name shall only be entered on the Register if its translated name conforms with the provisions of this section and if it does not so conform then that dual foreign name and that translated name shall not be entered on the Register.
- (1E) If, through inadvertence or otherwise, a limited liability partnership on its first registration or on its registration by a new name or new translated name is registered by a name or a translated name which in any way contravenes this section or which, in the opinion of the Registrar, is misleading or undesirable, then the limited liability partnership may, with the sanction of the Registrar, change its name or its translated name as the case may be and shall, if the Registrar so directs, change its name or translated name within six weeks of the date of such direction or within such longer period as the Registrar may think fit.
- (1F) A limited liability partnership which defaults in complying with a direction under subsection (1E) is liable to a fine of two hundred dollars for every day during which the default continues.”.

Insertion of section 8A - restrictions on registration of certain names

4. The principal Law is amended by inserting after section 8, the following section —

“Restrictions on registration of certain names



- 8A.** (1) A limited liability partnership shall not be registered by a name which is identical with a name by which a limited liability partnership in existence is already registered or any translated name entered in the register or so nearly resembles such name or translated name so as to be calculated to deceive, except where the limited liability partnership in existence is in the course of being dissolved and signified its consent in such manner as the Registrar requires.
- (2) Except with the consent of the Registrar, a limited liability partnership shall not be registered by a name which —
- (a) contains the words “royal”, “imperial” or “empire” or in the opinion of the Registrar suggests, or is calculated to suggest the patronage of Her Majesty or of any member of the Royal Family or connection with Her Majesty’s Government or any department thereof in the United Kingdom or elsewhere;
 - (b) contains the words “municipal” or “chartered” or any words which in the opinion of the Registrar suggest, or are calculated to suggest, connection with any public board or other local authority or with any society or body incorporated by Royal Charter;
 - (c) contains the words “co-operative”, “assurance”, “bank”, “insurance”, “building society” or any similar word which in the opinion of the Registrar connotes any such activity or any derivative of any of such words or of such similar word, whether in English or in any other language, or in the opinion of the Registrar suggests or is calculated to suggest any such activities; or
 - (d) contains the word “gaming” or “lottery” or any similar word which in the opinion of the Registrar connotes any such activity or any derivative of any such words or of such similar word, whether in English or in any other language, or in the opinion of the Registrar suggests or is calculated to suggest any such activity.
- (3) The provisions of the regulatory laws shall apply to any translated name as if it were the name of the limited liability partnership and a limited liability partnership shall not have a translated name which is a name —
- (a) prohibited under any regulatory laws; or
 - (b) which requires approval or permission under any regulatory laws unless such approval or permission as is necessary for the use of such name under the relevant regulatory laws has first been obtained.



- (4) A limited liability partnership’s dual foreign name shall only be entered on the register if its translated name conforms with the provisions of this section and if it does not so conform then such dual foreign name and such translated name shall not be entered on the register.”.

Amendment of section 9 - registered office

5. The principal Law is amended in section 9(3) by repealing paragraph (a) and substituting the following paragraph —

“(a) a register of partners showing —

- (i) the name and address of each partner, which may include a business address and indicating which partner, if any, is a managing partner; and
- (ii) photographic evidence of the identity of the managing partner and the residential address of the managing partner where the managing partner is an individual;”.

Amendment of section 18 - registration of limited liability partnership

6. The principal Law is amended in section 18 as follows —

(a) in subsection (3) as follows —

- (i) in paragraph (c), by deleting the word “general”; and
- (ii) by inserting after paragraph (d), the following paragraph —

“(da) the date of the end of the limited liability partnership’s financial year;”;

(b) by inserting after subsection (4), the following subsections —

“(5) The Registrar shall make the certificates or other documents under subsection (3) available for inspection by any person on payment of a fee of such amount as prescribed by regulations made by the Cabinet and the inspection shall be subject to such conditions as the Registrar may impose.

(6) Any member of the public shall be entitled to be informed by the Registrar, on request, of the location of the registered office of any limited liability partnership registered under this Law.”.

Amendment of section 20 - annual return

7. The principal Law is amended in section 20(1) by inserting after the words “Registrar stating” the words “the nature of the business and”.

Amendment of section 31 - strike off

8. The principal Law is amended in section 31 by repealing subsection (1) and substituting the following subsection —

“(1) The Registrar may strike a limited liability partnership off the register where —

- (a) the Registrar has reasonable cause to believe that a limited liability partnership is not carrying on business or is not in operation; or
- (b) where an administrative fine imposed by the Registrar on a limited liability partnership in accordance with Part 9 remains unpaid for ninety days after the imposition of the fine,

and the limited liability partnership shall thereupon be dissolved.”

Amendment of section 38 - deregistration for purposes of continuation in another jurisdiction

9. The principal Law is amended in section 38(2)(b) by deleting the words “section 19(1)” and substituting the words “section 20(1)”.

Amendment of section 47 - offences

10. The principal Law is amended in section 47 by repealing subsection (2) and substituting the following subsection —

“(2) A person who makes a false declaration under this Law commits an offence and is liable on summary conviction to a fine of one thousand dollars or to imprisonment for a term of three months, or to both.”

Amendment of section 52 - application

11. The principal Law is amended in section 52 as follows —

- (a) in subsection (1) as follows —
 - (i) by repealing paragraph (b); and
 - (ii) by repealing paragraph (d) and substituting the following paragraph —

“(d) regulated in an equivalent legislation jurisdiction that is designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2)(a) of the *Proceeds of Crime Law (2020 Revision)*”; and
- (b) in subsection (3) as follows —
 - (i) by repealing paragraphs (a) and (b) and substituting the following paragraphs —



- “(a) regulated, registered or holding a licence in the Islands under a regulatory law;
- (b) regulated in an equivalent legislation jurisdiction that is designated as having measures for combating money laundering and the financing of terrorism which are equivalent to that of the Islands in accordance with section 5(2)(a) of the *Proceeds of Crime Law (2020 Revision)*; or”.

Amendment of section 63 - consequences of failure to disclose beneficial ownership

12. The principal Law is amended in section 63(3) by deleting the words “the limited liability partnership shall” and substituting the words “the limited liability partnership’s corporate services provider shall”.

Amendment of section 72 - right to issue restrictions notice

13. The principal Law is amended in section 72 as follows —
- (a) in subsection (1) as follows —
 - (ii) by deleting the words “A limited liability partnership” and substituting the words “A corporate services provider for a limited liability partnership”; and
 - (ii) in paragraph (b)(ii), by deleting the words “limited liability partnership” and substituting the words “corporate services provider for a limited liability partnership”; and
 - (b) in subsection (2), by deleting the words “limited liability partnership” and substituting the words “corporate services provider for a limited liability partnership”.

Amendment of section 77 - relaxation of restrictions

14. The principal Law is amended in section 77(1) by deleting the words “A limited liability partnership” and substituting the words “A limited liability partnership’s corporate services provider”.

Amendment of section 78 - orders for sale

15. The principal Law is amended in sections 78(1) and 78(2)(a) by deleting the words “limited liability partnership” wherever they appear and substituting the words “corporate services provider for a limited liability partnership”.

Amendment of section 80 - limited liability partnership may withdraw restrictions notice

16. The principal Law is amended in section 80 as follows —

- (a) by deleting the words “A limited liability partnership” and substituting the words “A corporate services provider for a limited liability partnership”; and
- (b) in paragraph (c), by deleting the words “limited liability partnership” and substituting the words “corporate services provider for a limited liability partnership”.

Amendment of section 87 - regulations under this Part

17. The principal Law is amended in section 87(1)(h) by inserting after the words “followed by”, the words “corporate services providers for”.

Insertion of Part 9 - administrative fines

18. The principal Law is amended by inserting after Part 8, the following Part —

“Part 9 – Administrative fines

Registrar’s power to fine

88. (1) The Registrar has the power to impose an administrative fine on a person who breaches a provision of this Law that is specified in the Schedule.
- (2) Cabinet may by order amend the Schedule.

Fine amounts

89. The fine shall be five thousand dollars for a breach of a provision of this Law that is specified in the Schedule and the Registrar may, in addition to the fine for the initial breach, impose a further fine of one thousand dollars for every month that the breach continues until one of the following occurs —
- (a) the breach stops or is remedied;
 - (b) payment of the initial fine and all fines imposed for the continuing breach; or
 - (c) the total of the initial fine and all fines for the continuing breach amounts to twenty thousand dollars.

The power to fine

90. For the avoidance of doubt —
- (a) a fine may be imposed for a breach that is not an offence; and
 - (b) where a breach set out in the Schedule is also an offence, a fine for the breach is not limited by the penalty under the provision



or by sections 6(2) and 8 of the *Criminal Procedure Code (2019 Revision)*.

Limitation period

- 91.** (1) The Registrar shall not impose a fine after the expiration of six months after the date on which the Registrar became aware of the commission of the breach.
- (2) For subsection (1), the Registrar shall be deemed to have become aware of the breach when information was first received from which the breach can reasonably be inferred.

Relationship with penalties

- 92.** If a breach set out in the Schedule is an offence, a fine for the breach shall not preclude a prosecution for the breach or liability for any relevant fees.

Registrar may issue guidance

- 93.** The Registrar may issue guidance on the enforcement of administrative fines under this Law.

Registrar's rule-making power for this Part

- 94.** The Registrar may, by rules published in the *Gazette*, provide for —
- (a) aggravating and mitigating factors for fines; and
 - (b) the publication of fines imposed in accordance with this Part.

Regulation-making powers for this Part

- 95.** Regulations made by Cabinet may provide for —
- (a) forms and procedures for imposing fines;
 - (b) appeals against decisions under this Part;
 - (c) how fines shall be paid and may be enforced;
 - (d) interest on outstanding fines;
 - (e) evidentiary provisions for proceedings relating to this Part; and
 - (f) such other matters that are necessary or convenient to give effect to the purposes or provisions of this Part.”.

Amendment of the principal Law - insertion of Schedule

- 19.** The principal Law is amended by inserting after section 95, the following Schedule —

“SCHEDULE

(section 88)

Administrative fines

No.	Section	Description of breach
1.	54(1)	Failure of a limited liability partnership to take reasonable steps to identify any beneficial owner of the limited liability partnership.
2.	55(1)	Failure of a limited liability partnership to take reasonable steps to identify any relevant legal entities that exist in relation to the limited liability partnership.
3.	56(1)	Failure of a limited liability partnership to give notice in writing to beneficial owners and relevant legal entities identified by the limited liability partnership under sections 54 and 55.
4.	56(2)	Failure of a beneficial owner or relevant legal entity to supply information under section 56(2) within the timeframe specified under section 56(2).
5.	59	Failure of a limited liability partnership to keep its beneficial ownership register at the limited liability partnership's registered office.
6.	60(1)	Failure of a limited liability partnership to which Part 8 applies, to provide in writing to the corporate services provider or to the Registrar the required particulars of registrable persons once the required particulars have been confirmed.
7.	60(2)	Failure of a limited liability partnership which is exempt from Part 8 to provide — (a) written confirmation of the exemption of the corporate services provider; or (b) instructions to file the written confirmation with the competent authority.
8.	62(1)	Failure of a limited liability partnership to which Part 8 applies to give notice requesting confirmation of the change under section 62(1) to a registrable person as soon as reasonably practicable after the limited liability partnership becomes aware



No.	Section	Description of breach
		of a relevant change with respect to a registrable person.
9.	62(2)	Failure of a limited liability partnership which receives confirmation of a relevant change to instruct the corporate services provider or the Registrar to enter the change in the limited liability partnership's beneficial ownership register in accordance with section 62(2).
10.	63(1)	Failure of the corporate services provider to give notice of its opinion to the limited liability partnership if it is of the opinion that the limited liability partnership has failed to comply with section 60 or 62 without reasonable excuse, or has made a statement that is false, deceptive or misleading in accordance with section 63(1).
11.	63(2)	Failure of the limited liability partnership to provide the corporate services provider or the Registrar with a response to a notice under section 63(2).
12.	63(3)	Failure of a corporate service provider to — (a) issue a restrictions notice; and (b) send a copy of the notice to the competent authority within two weeks, where the registrable person does not comply with its obligations under section 63(3).
13.	64(3)	Failure of a person to whom the section applies — (a) to notify the limited liability partnership of the relevant change; (b) to state the date the change occurred; or (c) to give the limited liability partnership any information needed to update the beneficial ownership register under section 64(2), within the timeframe specified at section 64(3).
14.	68(2)	Failure of the corporate services provider to regularly deposit beneficial ownership information received from the limited liability partnerships that have engaged the corporate services provider, in such place, such manner and at such intervals as may be prescribed in accordance with section 68(2).

No.	Section	Description of breach
15.	72(1)	Failure of a limited liability partnership to issue a restrictions notice in accordance with section 72(1).
16.	73(1)	Failure of a limited liability partnership to act in a manner consistent with the terms of a restrictions notice issued under section 72(1).”.

Passed by the Legislative Assembly the day of , 2020.

Speaker

Clerk of the Legislative Assembly

