



ADDRESS BY

THE HON. KEVIN PETER TURNQUEST, M.P.

DEPUTY PRIME MINISTER AND MINISTER OF FINANCE

DEBATE ON AMENDMENT TO THE REGISTER OF BENEFICIAL OWNERSHIP ACT

HOUSE OF ASSEMBLY

Mr. Speaker,

Members of this House will recall that in December 2018, we enacted a suite of laws aimed at defending the integrity of the Bahamas' financial sector. At that time, we faced the threat of severe reduction of business and jobs in the financial services industry (and the consequential erosion of our middle class), as the closure of financial institution and the loss of investor confidence became more and more real with each day that we were on lists such as the European Union List of Non-Cooperative Jurisdictions for Tax Purposes and the Financial Action Task Force's List of Countries with Strategic AML/CFT deficiencies. Our action was decisive and necessarily swift. We passed the Commercial Entities (Substance Requirements) Act, the Removal of Preferential

Exemptions Act, an amendment to the Penal Code criminalizing tax evasion and the Register of Beneficial Ownership Act.

This was not the first time that we walked the thin line between balancing business sustainability and compliance with the international financial regulations in an attempt to safeguard our financial services industry. Since the early 1990's, The Bahamas has endured the intense scrutiny of watchdogs like the OECD and the Financial Action Task Force with respect to our legal framework to curtail financial crimes. Like other financial centers in the Caribbean, The Bahamas has had to guard against the encroachment on its sovereignty, disguised as calls for greater transparency and cooperation, by international organizations and governments alike. We have had to commit resources, at both a

high financial and human capital cost, to combat the stigmatization of our financial services industry as the bastion of money derived from illegal activity.

Oftentimes, in response to our adoption of international financial standards, we are accused of simply acquiescing to the “diktat” of advanced economy countries, by those who do not know (and sometimes by those that should know and do know) of the real damage that just the mere whisper of the possibility of a blacklisting can do to our financial services industry and by extension, to our economy at large.

But it is simple.

If The Bahamas is to remain in the global financial ecosystem, we must comply with the rules that govern operating in that environment. If only, to be able to support a) our arguments on the legitimacy of our industry and b) to decry the use of blacklists and other punitive actions by certain countries to coerce us to implement measures that expand the parameters of the accepted standards, and c) to demand that the global standards be equitably applied against all participants in the global financial arena. To borrow a common maxim that the legally trained among us will be very familiar with, “He who comes to equity, must come with clean hands.” Meaning, if we are asking to be treated fairly, we must be able to show that we are also acting fairly.

And so, Mr. Speaker...and members of this honorable chamber...this Bill to amend the Register of Beneficial Ownership Act that we are debating today is another weapon in our arsenal to counter the narrative that The Bahamas' financial services industry operates outside of the regulatory bounds accepted by the international financial community. More importantly, Mr. Speaker, it is protection against the abuse of our financial services industry by persons attempting to use our financial institutions and products to avoid declaring or to abate the true extent of their financial assets to the relevant authorities in their home countries, or as a shield to hide or launder illicit assets.

The Bill provides for the specific inclusion of the Non-Profit Organization limited by Shares ("NPO") and the Segregated

Accounts Company (“SAC”) in the definition of entities covered by the Act. While it can be argued that a SAC would have already been within the scope of the Act on the basis that a SAC is either an IBC or a Companies Act company, we felt that it was important to expressly state that SACs were included, given that the intrinsic operation of a SAC could be viewed as a vulnerability to our anti-money laundering framework with respect to the identification of beneficial owners. This is because the assets of a SAC are not pooled and deemed to be owned by the shareholder of the company as is usually the case. But rather, different individuals other than the shareholders of the SAC beneficially own the assets of the SAC in separate accounts within the SAC.

The Bill also fine tunes the definition of beneficial owner with respect to NPOs and Partnerships (Common Law Partnerships, Limited Liability Partnerships and Exempted Limited Partnerships) by defining who the beneficial owners of such entities are.

The Bill imposes a duty on the Registrar General to provide beneficial ownership information in those cases where a legal entity does not have a registered agent. A Compliance Unit has been established in the Registrar General's Department to monitor the provision of beneficial owner information and other compliance measures related to the Register of Beneficial Ownership registry. Two senior attorneys of the Office of the Attorney General have been assigned to this unit and a third is being retained.



Mr. Speaker, this Bill will address a major recommendation by the Financial Action Task Force with respect to ensuring that no person is able to hide their identity through the use of a Bahamian entity.

There was consultation and consensus on the provisions of the Bill with our key financial services stakeholders, including the Association of International Banks and Trust Companies, the Bahamas Financial Services Board and the Securities Commission as Inspector of Financial and Corporate Services Providers under the FCSP Act. There is unanimous agreement that the Bill, once passed, will bolster our efforts to be removed from the FATF ICRG process. Due to COVID 19 related travel restrictions, FATF has not been able to conduct the in-country assessment of our AML/CFT regime, which is the last hurdle to being removed from the FATF List of Countries with Strategic AML/CFT deficiencies. Removal

from the FATF list has been cited by the EU as a requirement for them to not include The Bahamas in the impending EU AML/CFT List of Third Countries. So as Members of this House will agree, the implications of this Bill for The Bahamas are far-reaching and the implementation of the measures proposed, vital to safeguarding the integrity of the financial sector and the reputation of the jurisdiction. I implore this House to put its support behind this Bill.

Thank You.