

**Regulation of Anguilla: /2021**

Gazette Dated: , 2021

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COMPANIES ACT, 2021

**ANGUILLA BUSINESS COMPANIES REGULATIONS, 2021**

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Regulations made by the Governor, on the advice of the [Financial Services Commission] [Commercial Registry], under section 257(1) of the Anguilla Business Companies Act, 2021

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PART I  
PRELIMINARY PROVISIONS

**Interpretation**

1. (1) In these Regulations, unless the context otherwise indicates—

“Act” means the Business Companies Act, 2021;

“affiliated company” has the same meaning specified in sub-regulation (2);

“close family member,” in relation to a person, means the person’s—

- (a) spouse;
- (b) child, including an adopted child;
- (c) parent, including a step parent;
- (d) brother or sister, including a step brother or step sister; or
- (e) grandchild;

“country” includes a territory;

“group” in relation to a company (the “first company”), means the first company and any other company that is—

- (a) a parent of the first company;
- (b) a subsidiary of the first company;
- (c) a subsidiary of a parent of the first company; or
- (d) a parent of a subsidiary of the first company;

“parent”, in relation to a company (the “first company”), means another company, whether acting alone or under an agreement with one or more other persons, that—

- (a) holds, whether legally or equitably, a majority of the issued shares of the first company;
- (b) has the power, directly or indirectly, to exercise, or control the exercise of, a majority of the voting rights in the first company;
- (c) has the right to appoint or remove the majority of the directors of the first company;
- (d) has the right to exercise a dominant influence over the management and control for the first company pursuant to a provision in the constitutional documents of the first company; or
- (e) is a parent of a parent of the first company;

“permitted character” means a character, sign or symbol specified in Schedule 1, and includes a blank space between two other permitted characters;

“publish” includes publication in digital media;

“restricted word, phrase or abbreviation” means a word, phrase or abbreviation specified by the Commission as such in a notice issued under section 17(2) of the Act;

“SPC” means segregated portfolio company;

“subsidiary”, in relation to a company (the “first company”), means a company of which the first company is a parent; and

“undischarged bankrupt” means an individual against whom a bankruptcy order has been made under the applicable insolvency legislation of Anguilla or of any country.

(2) For the purposes of sub-regulation (1) and section 239(4) of the Act, a company is affiliated with another company if it is in the same group as the other company.

(3) For the purposes of sub-regulation (2) and the definitions of “group”, “parent” and “subsidiary” in sub-regulation (1), “company” includes a foreign company and any other body corporate.

# Second Draft

PART II  
COMPANY NAMES  
*General*

## **Requirements for company name**

2. Subject to regulation (3), the name of a company shall be —
  - (a) its company number name, within the meaning of section 18 of the Act; or
  - (b) a name that comprises no more than one hundred permitted characters.

## **Requirements for company name other than a company number name**

3. A company name, other than a company number name, may only contain one or more numerals if the Registrar is satisfied that it is clear from the context that the name is not a company number name.

## **Company name in foreign language**

4. Where the proposed name for a company or the name or alternate name of a foreign company applying to be registered under Part XII of the Act or filing notice of a change in its corporate name under section 190(1)(a) of the Act has a meaning in a language other than English, the application to register the company under that name, whether on incorporation, continuation or a change of name, or to register the foreign company under that name, shall be accompanied by a translation of the name or proposed name that has been certified, in accordance with regulation 28, by the person who translated the name.

### **Company name includes restricted words, phrases or abbreviations**

5. Where the proposed name for a company, whether on incorporation, continuation or a change of name, is to include a restricted word, phrase or abbreviation, the application shall be accompanied by the written approval of the Registrar to use the restricted word, phrase or abbreviation.

### **Company may be registered with additional foreign character name**

6. (1) Subject to regulation 8, on an application made under regulation 7, the Registrar may register a company with an additional foreign character name.

(2) Where a company is registered with an additional foreign character name—

(a) the memorandum shall contain a statement that the company has a foreign character name in addition to its name and shall state the foreign character name; and

(b) wherever the name of the company appears in the memorandum or articles, there shall also be a reference to the foreign character name.

(3) A company shall not be registered with a foreign character name that is—

(a) identical to a foreign character name that is registered, or has been registered, to another company under the Act; or

(b) so similar to a foreign character name that is registered, or has been registered, to another company under the Act that the use of the name would, in the opinion of the Registrar, be likely to confuse or mislead.

(4) Notwithstanding sub-regulation (3)(b), the Registrar may register a company with an additional foreign character name that is similar to the foreign character name of another company if both companies are affiliates.

### **Application for approval and registration of foreign character name**

7. (1) An application to the Registrar for the approval and registration of a foreign character name may be made together with the application to incorporate or continue the company or at any time thereafter.

(2) An application under sub-regulation (1) shall be in the approved form and shall be accompanied by—

(a) a statement certified by a person who has the necessary competence —

(i) confirming whether or not the foreign character name is a translation of, or has a meaning equivalent to, the name or proposed name of the company; and

(ii) specifying the meaning or, where it has more than one possible meaning, the meanings of the foreign character name; and

(b) where the application is in relation to an existing company, a notice of amendment of its memorandum and articles to incorporate the matters required under regulation 5(2) or a restated memorandum and articles complying with regulation 5(2).

### **Approval of foreign character name**

8. (1) The Registrar shall not approve a foreign character name if—

- (a) the name does not comply with the Act or these Regulations; or
  - (b) he considers that—
    - (i) the name is offensive or objectionable; or
    - (ii) it would be contrary to public policy or the public interest to register the name.
- (2) The Registrar may refuse to approve a foreign character name if—
- (a) he is not satisfied that he understands the full or true meaning of the name, whether by reason of the accuracy of the translation, the context in which the name will, or may be, used or otherwise; or
  - (b) it is not, whether for technical or other reasons, practicable to register the name.
- (3) On approving a foreign character name, whether on incorporation, continuation, change of name or otherwise, the Registrar shall—
- (a) register the foreign character company name against the company in the Register of Companies; and
  - (b) issue a certificate of incorporation, continuation or registration of additional foreign character name, as appropriate, which shall—
    - (i) indicate that the company has a foreign character name in addition to its name; and
    - (ii) state both its name and the foreign character name.

### **Change of name where company has foreign character name**

**9.** (1) If a company that has a foreign character name applies to change its foreign character name, it shall file with the application for a change of name, the documents specified in regulation 7(2).

(2) Where a company applies to change its foreign character name, regulation 7 applies, with suitable modifications.

### **Deregistration of foreign character name**

**10.** (1) A company that is registered with a foreign character name may apply to the Registrar for the deregistration of its foreign character name.

(2) An application under sub-regulation (1) shall be in the approved form and shall be accompanied by—

- (i) a notice of amendment of its memorandum and articles removing all references to the foreign character name; and

- (ii) a restated memorandum and articles which contains no references to a foreign character name.

(3) On an application under sub-regulation (1), the Registrar may deregister the foreign character name and remove it from the Register.

(4) If the Registrar deregisters the foreign character name of a company, he shall issue a certificate of deregistration of the foreign character name.

### **Powers of Registrar in relation to foreign character names**

**11.** (1) The Registrar may issue a notice under sub-regulation (2) to a company if—

(a) he considers that—

- (i) the company’s foreign character name does not comply with the Act or these Regulations or is offensive or objectionable; or
- (ii) it is contrary to public policy or to the public interest for the foreign character name to remain on the Register; or

(b) he forms the opinion that he does not understand the full or true meaning of the name.

(2) Where sub-regulation (1) applies, the Registrar may issue a notice to the company directing it to apply to change its foreign character name to a foreign character name approved by the Registrar on or before a date specified in the notice, which shall be not less than fourteen days after the date of the notice.

(3) If a company that has received a notice under sub-regulation (2) fails to file an application to change its foreign character name to a foreign character name approved by the Registrar on or before the date specified in the notice, the Registrar may deregister the name.

(4) Where the Registrar deregisters a foreign character name under this regulation it shall, within fourteen days of the date of the certificate of change of name, file—

- (a) a notice of amendment of its memorandum and articles removing all references to the foreign character name; or
- (b) a restated memorandum and articles which contains no references to a foreign character name.

### *Re-use of company names*

### **Interpretation for regulations 12 to 17**

**12.** (1) For the purposes of regulations 12 to 17—

“change date” means the date on which the first company changed its name;

“discontinued company” means a company in respect of which the Registrar has issued a certificate of discontinuance under section 193(4) of the Act;

“dissolved company” means a company that has been dissolved under the act or a former Act;

“first company” means—

- (a) the company or former Act company that has, as the case may be—
  - (i) changed its name;
  - (ii) been dissolved under the Act or a former Act; or

(b) the discontinued company;

“insolvent company” means, subject to sub- regulation (2), a company that is—

(a) in liquidation or has been dissolved following the termination of its liquidation; or

(b) in administrative receivership, or has been dissolved within two years after the termination of its administrative receivership, without entering into liquidation; and

“second company” means the company that seeks to use the name of the first company, whether on incorporation, continuation or through a change of name.

(2) A company that has been dissolved for seven years or more ceases to be an “insolvent company” for the purposes of regulations 12 to 17.

### **Registrar may permit re-use of company names**

**13.** (1) Where permitted under regulation 22 and 23, the Registrar may incorporate or continue a company under, or register a change of name of a company to, a name that is identical or similar to the name of—

(a) a company or former Act company that has—

(i) changed its name; or

(ii) been dissolved under the Act or a former Act; or

(b) a discontinued company.

(2) Regulations 22 and 23 are subject to regulations 24 and 25.

(3) Nothing in regulations 20 to 25 is intended to give a company, whether the first company or the second company, any entitlement to the transfer of the name from the first company to the second company.

### **Use of changed name**

**14.** (1) Where the first company is a company that has changed its name, the Registrar may permit the previous name of the first company, or a name similar to the previous name of the first company, to be registered to a second company—

(a) at any time after the expiry of a period of seven years from the date that the first company changed its name; or

(b) if the first company provides its written consent—

(i) where the Registrar is satisfied that the change of name is part of a genuine sale of the business or undertaking, or a substantial part of the business or undertaking, of the first company to the second company, at any time after the first company has changed its name;

(ii) where the Registrar is satisfied that the first company and the second company are affiliates, at any time after the first company has changed its name; or

- (iii) in any other case, after the expiry of a period of three years from the date that the first company changed its name.

(2) Where a company has changed its name, and the name, or a similar name, has not been registered to a second company, the Registrar may permit the company to change its name to its previous name, or a similar name.

#### **Use of name of dissolved company**

**15.** Where the first company is a dissolved company, the Registrar may permit the name of the first company, or a name similar to the name of the first company, to be registered to a second company at any time after the date that the first company was dissolved.

#### **Use of name of discontinued company**

**16.** (1) Where the first company is a discontinued company, the Registrar may permit the name of the first company, or a name similar to the name of the first company, to be registered to a second company at any time after the expiry of a period of seven years from the date of the certificate of discontinuance issued in respect of the first company.

(2) If a discontinued company is subsequently continued under the Act, the Registrar may permit the company to be continued under its previous name, as stated in the certificate of discontinuance, unless the name has been reused in accordance with these Regulations.

#### **Restrictions on multiple uses of same or similar names**

**17.** The Registrar shall not permit a name, including a similar name, to be registered to—

- (a) more than two different companies; or
- (b) more than twice to the same company,

in any period of seven years.

#### **Restrictions on re-use of names of insolvent companies**

**18.** (1) Regulations 13 to 16 do not apply where the first company is an insolvent company.

(2) If the first company is an insolvent company, the name of the first company, or a name similar to the name of the first company, may only be registered to a second company—

- (a) if the liquidator or administrative receiver has sold the business or undertaking, or a substantial part of the business or undertaking, of the first company to the second company; or
- (b) with the leave of the Court.

## PART III

### SEGREGATED PORTFOLIO COMPANIES

#### **Application for approval to incorporate or register an Anguilla business company SPC**

**19.** (1) Any person who wishes to incorporate or register an Anguilla business company as a segregated portfolio company shall submit an application to the Commission in the approved form.

(2) An application under subregulation (1) shall include the following information –

- (a) the name, or proposed name, of the segregated portfolio company;
- (b) details of the persons who are, or who will be appointed as, the directors of the segregated portfolio company;
- (c) a list of the initial segregated portfolios that it is intended will be created, including the name, identification or designation of each segregated portfolio; and
- (d) in respect of each of the initial segregated portfolios that it is intended will be created, details of at least one director who will be appointed by the segregated portfolio company to act in respect of the segregated portfolio.

(3) An application under subregulation (1) shall be accompanied by the documents required under the Act for the incorporation or registration of a company, including a copy of the memorandum and articles proposed for the segregated portfolio company.

(4) An application under subregulation (1) for approval to register an existing Anguilla business company as a segregated portfolio company shall be in the approved form and shall be accompanied by –

- (a) its memorandum and articles and the changes proposed to be made to the memorandum and articles should its application be approved;
- (b) a statement in the approved form, signed by at least one director of the company on behalf of the board, setting out –
  - (i) the assets and liabilities of the company as at a date no more than 6 months prior to the date of the application;
  - (ii) details of any transactions, events or other matters not reflected in the statement of assets and liabilities that the directors consider have materially affected or, prior to its registration as a segregated portfolio company are likely to materially affect, the assets and liabilities of the company;
  - (iii) the assets of the company that it is intended will be segregated portfolio assets, specifying in respect of which portfolio, and the assets that it is intended will be general assets; and
  - (iv) how the liabilities of the company will be satisfied; and
- (c) a declaration in the approved form signed by at least one director of the company on behalf of the board that –

- (i) resolutions of the directors have been passed approving the registration of the company as a segregated portfolio company;
  - (ii) the company is solvent and that the company and each proposed segregated portfolio will, after the assets of the company have been allocated to segregated portfolios, be solvent; and
  - (iii) the company has given notice to members of its intention to apply for registration as a segregated portfolio company.
- (5) For purposes of subregulation (2)(d) –
- (a) any director of the segregated portfolio company may be appointed by the company to act in respect of the segregated portfolio; and
  - (b) the same director may be appointed in respect of more than one segregated portfolio.

### **Approval of application**

**20.** (1) Where the Commission is satisfied that the requirements for an application under regulation 3 for the incorporation or registration of a segregated portfolio company have been complied with, the Commission shall approve the application.

(2) The requirements for an application under regulation 3 shall not be considered to be complied with, unless the Commission is satisfied that the application is in the approved form and provides all required information and is accompanied by the relevant documents or other information specified in that regulation.

### **Purpose for which an Anguillan business company segregated portfolio may be used**

**21.** In addition to the purposes for which a segregated portfolio company may establish and use segregated portfolios under Part VII of the Act, a segregated portfolio may be used for any of the following purposes –

- (a) holding assets for high net worth persons, including institutional investors;
- (b) operating multiple businesses or types of businesses, including setting up new business ventures, which require segregation from the business of the segregated portfolio company;
- (c) engaging in property development and management, including the acquisition of, trading in, leasing of, or otherwise generally dealing in, real estate, ships, aircraft, and other property which the company considers will be more efficient and cost-effective to be managed or otherwise dealt with through a segregated portfolio;
- (d) engaging in bankruptcy remote vehicles in structured finance and capital markets transactions; and
- (e) performing such other duties, responsibilities and investments as are not inconsistent with any restriction or prohibition under the Act or these Regulations.

### **Financial statements and records**

**22.** (1) An Anguilla business company SPC shall –

- (a) prepare its financial statements having regard to the provisions of section 148 of the Act; and

(b) maintain its records and underlying documentation in accordance with and in the form required by section 98 of the Act.

(2) Subject to subregulation (3), an Anguilla business company SPC may prepare financial statements of its segregated portfolios separately, or consolidate the financial statements of the Anguilla business company SPC but in each case identifying the segregated portfolios.

(3) The Commission may, in respect of any segregated portfolio company or class of segregated portfolio company, exempt the company from the requirement to prepare and submit financial statements in relation to a segregated portfolio or segregated portfolios of that company.

### **Creation of segregated portfolios**

**23.** (1) Subject to subregulation (2), an Anguilla business company SPC may create a segregated portfolio or such number of segregated portfolios as it wishes so long as it complies with the requirements of the Act and this regulation with regard to the creation of the segregated portfolios.

(2) Where a segregated portfolio company creates a segregated portfolio, it shall, within 14 days of the creation of the segregated portfolio, notify the Commission in writing of that fact.

(3) Without prejudice to Part IV of the Schedule, where a segregated portfolio company fails to comply with the requirement of subregulation (2), the company and every director of the company is liable to the imposition by the Commission of an administrative penalty.

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### **Terminating a segregated portfolio**

**24.** (1) A segregated portfolio company may terminate a segregated portfolio by submitting to the Commission in writing a notification that –

- (a) the company has terminated or intends to terminate the segregated portfolio, indicating when the termination took effect or will take effect;
- (b) the segregated portfolio does not, or on the date of termination did not or will not, have segregated portfolio assets attributable to the segregated portfolio;
- (c) the segregated portfolio has no, or on the date of termination did not or will not have any, outstanding liability;
- (d) where the segregated portfolio has, or on the date of termination had or will have, an outstanding liability, the liability had been or will be paid from the general assets of the company; and
- (e) confirming that the segregated portfolio was not terminated or is not being terminated in a manner prejudicial to investors and creditors.

(2) Where a segregated portfolio has not engaged in any business since its creation, the segregated portfolio company shall, in addition to or as part of the notification submitted under subregulation (1) –

- (a) confirm that the segregated portfolio has never commenced business; and

- (b) provide the reason or reasons why the segregated portfolio never commenced business.

### **Effect of termination of a segregated portfolio**

**25.** (1) Subject to subregulation (2), where a segregated portfolio is terminated by a segregated portfolio company under regulation 24, neither the company nor a creditor of the segregated portfolio or any other person may –

- (a) commence legal proceedings, carry on any business or in any way deal with the segregated portfolio assets attributable to the segregated portfolio prior to the termination of the segregated portfolio under regulation 24;
- (b) defend any legal proceedings, make any claim or claim any rights for, or in the name of, the segregated portfolio; or
- (c) act in any way with the affairs of the segregated portfolio.

(2) Where a segregated portfolio is terminated in accordance with regulation 24, the segregated portfolio company, creditor or other person may –

- (a) in the case of the company, reinstate the segregated portfolio; or
- (b) in the case of a creditor or any other person, make application to the Court for an order reinstating the segregated portfolio;
- (c) continue to carry on legal proceedings that were instituted in relation to the segregated portfolio prior to its termination; or
- (d) pursue a claim on behalf of or in relation to the segregated portfolio.

(3) The reinstatement of a segregated portfolio under this regulation shall terminate as soon as the purpose of the reinstatement comes to an end.

(4) Where a reinstated segregated portfolio terminates pursuant to subregulation (3), the segregated portfolio company, creditor or other person on whose initiative the segregated portfolio was reinstated under subregulation (2) shall, within 14 days of the termination, notify the Commission of the termination.

(5) Subregulation (3) does not affect a segregated portfolio company's power or authority to reinstate a segregated portfolio in accordance with section 146(4) of the Act.

(6) A segregated portfolio company, creditor or other person who fails to comply with the requirement of subregulation (4) is liable to the imposition by the Commission of an administrative penalty.

### **Reuse of a reinstated segregated portfolio**

**26.** Regulations 22 and 23 shall apply to a segregated portfolio reinstated pursuant to regulation 25(2), if the reinstatement is effectively a reuse of the segregated portfolio and not for the purpose outlined in regulation 21.

### **Notification on reinstatement of a segregated portfolio**

**27.** (1) Where a segregated portfolio company reinstates a segregated portfolio, the company shall, within 14 days of the date of reinstatement, notify the Commission in writing of the reinstatement of the segregated portfolio and pay the requisite fee.

(2) Where the Court makes an order under regulation 25(2)(b) reinstating a segregated portfolio, the creditor or other person on whose initiative the order was made, shall within 7 days of the making of the order, provide a copy of the order to the Commission.

(3) A person who fails to comply with subregulation (1) or (2) is liable to the imposition by the Commission of an administrative penalty.

### **Control over names**

**28.** (1) If the Commission considers that the name, identification or designation of a segregated portfolio is misleading or undesirable, it may by written notice direct the segregated portfolio company to change the name of the segregated portfolio on or before the date specified in the notice, which shall not be less than 21 days after the date of the notice.

(2) A segregated portfolio company that fails to comply with a notice issued under subregulation (1) is liable to the imposition by the Commission of an administrative penalty.

(3) The imposition of an administrative penalty by the Commission under subsection (2) is without prejudice to the Registrar's exercise of his under section 22 of the Act to direct a company to change its name.

### **Notification of changes in information submitted to the Commission**

**29.** (1) Subject to subregulation (2), a segregated portfolio company shall, by notice in the approved form, notify the Commission of any change in information that the company is required to submit to the Commission under these Regulations, within 14 days of the date that the information changed.

(2) A segregated portfolio company that fails to notify the Commission of any change in information as provided in subregulation (1) is liable to the imposition by the Commission of an administrative penalty.

## PART IV

### MISCELLANEOUS

#### *Voluntary Liquidation*

#### **Individuals eligible to be appointed, or act, as voluntary liquidator**

**30.** (1) For the purposes of section 217(5) of the Act, an individual is eligible to be appointed and to act as the voluntary liquidator of a company if the individual is not disqualified from acting as the voluntary liquidator of a company under sub-regulation (2).

(2) The following individuals are disqualified from being appointed, or acting, as the voluntary liquidator of a company:

- (a) a disqualified person under the laws of Anguilla or a country outside Anguilla;
- (b) a restricted person under the laws of Anguilla or a country outside Anguilla;
- (c) a minor;
- (d) an undischarged bankrupt;
- (e) an individual who is, or at any time in the previous two years has been, a director of the company or an affiliated company;
- (f) an individual who acts, or at any time in the previous two years has acted, in a senior management position in relation to the company or an affiliated company and whose functions or responsibilities have included functions or responsibilities in relation to the financial management of the company or an affiliated company; and
- (g) an individual who is a close family member of an individual specified in paragraph (e) or (f).

#### **Extract of declaration of solvency**

**31.** An extract of the declaration of solvency filed under section 222 (a)(i)—

- (a) sets out the entire statutory declaration of solvency, except for the names and signatures of the directors;
- (b) state that the names and signatures of the directors are omitted; and
- (c) be certified by the registered agent of the company as an accurate extract of the declaration of solvency that is complete, except for the names and signatures of the directors.

### **Advertisement by voluntary liquidator of notice of appointment**

**32.** For the purposes of section 222(b) and section 223(3)(b) of the Act, the voluntary liquidator of a company shall advertise notice of his appointment—

- (a) in at least one issue of a newspaper published and circulating in Anguilla; and
- (b) unless the company's principal place of business is in Anguilla—
  - (i) in at least one issue of a newspaper circulating in the place outside Anguilla in which its place of business, or if it has more than one, its principal place of business, is situated; or
  - (ii) if the company does not have a place of business, or the voluntary liquidator does not know where its place of business is situated, in such manner as the liquidator considers is most likely to come to the attention of any creditors of the company.

### *Registrar and Commission*

### **Publication of approved agents**

**33.** The Commission shall publish on its Internet site, and keep up to date, a list of persons who are approved to provide registered agent services.

### **Register of charges**

**34.** The Register of Registered Charges maintained under section 171 of the Act in respect of a company shall contain the following information in respect of each charge registered—

- (a) the company number and name of the company that has created the charge;
- (b) the date and time of registration of the charge;
- (c) if the charge is a charge created by the company, the date of its creation or, if the charge is a charge existing on property acquired by the company, the date on which the property was acquired;
- (d) a short description of the liability secured by the charge;
- (e) a short description of the property charged;
- (f) the name and address of the agent or trustee for the security or, if there is no such agent or trustee, the name and address of the charge;
- (g) unless the charge is a security to bearer, the name and address of the holder of the charge;
- (h) details of any prohibition or restriction, if any, contained in the instrument creating the

charge on the power of the company to create any future charge ranking in priority to or equally with the charge;

- (i) the name and address of the person who filed the charge for registration and the person's entitlement to file the charge;
- (j) details of any variation of the charge registered under section 172 of the Act;
- (k) the date and time of registration of any variation of the charge registered under section 172 of the Act;
- (l) the name and address of the person who filed the variation of the charge for registration and the person's entitlement to file the variation;
- (m) where a notice of satisfaction or release is registered under section 173 of the Act, details of the satisfaction of any charge registered under section 171 of the Act or, where a charge has ceased to affect the property, or any part of the property of the company, details of the property that has ceased to be affected by the charge, stating whether this is the whole or part of the company's property; and
- (n) the date and time of registration of the notice of satisfaction or release registered under section 173 of the Act.

### **Certificate of good standing**

**35.** A certificate of good standing issued under section 252 of the Act shall contain a statement—

- (a) that, at the date of the certificate, the company —
  - (i) is on the Register of Companies; and
  - (ii) has paid all fees and penalties due under the Act; and
- (b) as to whether, at the date of the certificate —
  - (i) the company has filed articles of merger or consolidation that have not yet become effective;
  - (ii) the company has filed articles of arrangement that have not yet become effective;
  - (iii) the company is in voluntary liquidation;
  - (iv) the company is in liquidation or receivership and where, appropriate, stating that it is in administrative receivership; or
  - (v) any proceedings to strike the name of the company off the Register of Companies have been instituted.

## **Publication of approved forms**

**36.** For the purposes of section 258(1) of the Act, the Registrar publishes an approved form in the prescribed manner by publishing the form or its contents on its Internet site.

## **Fees**

**37.** (1) The fees and penalties specified in the Schedule 3 shall be payable to the Commission.

(2) Annual Fees and Annual Returns shall be paid by all companies by the end of the anniversary quarter of the incorporation date.

(3) An annual return shall be filed within the anniversary quarter, but no later than the end of the quarter.

(4) A person who fails to comply with sub regulation (2) or (3) is liable to the imposition of an additional penalty fee as set out in Schedule 2 .

## *General*

### **Prescribed period under section 37(2) of the Act**

**38.** For the purpose of section 37(2) of the Act, the prescribed period is the period of five years from the date on which the authorised custodian transfers possession of the bearer share to which the copy of the notices to be retained relates.

### **Certificates of translation**

**39.** (1) This regulation applies where a translation into the English language of any document required to be filed, submitted or provided to the Registrar, is required by the Act to be certified as accurate.

(2) The person who made the translation shall certify, or verify, before a person authorised to act as a Notary Public or to administer oaths that—

(a) the translation is an accurate translation of the document concerned; and

(b) he has the necessary competence to translate the document into English.

(3) Where a translation is certified or verified in a country outside Anguilla, the translation shall be certified or verified before a person authorised under the law of the country concerned—

(a) to act as a Notary Public, or equivalent; or

(b) administer oaths, or their equivalent.

(4) This regulation applies to the certified statement required under regulation 7(2)(a), with appropriate modifications.

**Annual return and fees**

**40.** The annual return and annual fees contained in Schedule 2 shall be implemented from January 2022.

**Citation**

**41.** These Regulations may be cited as the Anguilla Business Companies Regulations, 2021.

Made by the Governor, after consultation with the [Financial Services Commission] [Commercial Registry],  
this            day of            , 2021

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GOVERNOR OF ANGUILLA

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Second Draft

## SCHEDULE 1

[Regulation 2(1)]

### PERMITTED CHARACTERS

1. The letters A to Z, in lower and upper case in the characters of any recognised language and where in a foreign language, a certified translation must be provided.

2. Subject to regulation 3(2), the numerals 0 to 9.

3. Any roman numerals.

4. The following punctuation marks:

Full stop	.
Comma	,
Dash	-
Underscore	—
Apostrophe	‘ ’ ’
Brackets	[ ] ( ) { }
Exclamation mark	!
Question mark	?
Inverted commas	“ ” ”

5. The following symbols:

@ & \* / \ < > + = # %

6. The Registrar may, generally or on a case-by-case basis, permit the use of

- (a) accents with one or more letters; and
- (b) symbols that indicate a particular currency.

## SCHEDULE 2

### PART I

#### FEES FOR INCORPORATION OF COMPANIES

Fee Description	Fee US\$	Temp fees Jun '21 to Dec '21
For the incorporation of:		
(a) a company limited by shares; a company limited by guarantee that is authorised to issue shares; or an unlimited company that is authorised to issue shares or that is authorized to issue no more than 50,000 shares.	350	250
(b) a company limited by shares; a company limited by guarantee that is authorised to issue shares; or an unlimited company that is authorised to issue shares; that is authorized to issue more than 50,000 shares.	500	250
(c) a company limited by guarantee that is not authorised to issue shares; or an unlimited company that is not authorised to issue shares.	400	250
(d) a non-profit company.	300	300
For the registration of a notice of amendment of the articles or of a restated articles:		
(a) filed within 90 days after the date of the resolution	100	100
(b) filed 90 days after the date of the resolution	120	100
(c) filed pursuant to an order made by the court under section 12(5)	200	100
For the registration of a restated articles	100	100
For an application for consent to use a restricted word or phrase	200	0
For the registration and issuance of a certificate of amendment for the change of name or foreign character name	150	100
For the application and issuance of a certificate of amendment for a change of name or its foreign character name. Change of name applications may include the use of the abbreviation "(PTC)" immediately before the ending permitted by section 16(1)(a), (b) or (c)	300	300
For the reservation of a name	\$0 up to 10 days, \$50 from 11 to 90 days	\$0 up to 10 days; \$25 from 11 to 90 days
For filing a notice of change in the number of shares a company is authorized to issue:		
(a) where the number of shares is increased from 50,000 or less to more than 50,000	400	200
(b) in any other case	100	100

For the registration of a change in either or both the register of members and the register of directors	25	25
For the registration of a notice that a company has elected to cease to register a copy of its register of members and/or its register of directors	25	25
For filing a notice of change of registered office or registered agent under section 82(4).	\$25 per company	25
For filing a notice for a person wishing to resign as the registered agent of a company under section 83(2).	\$25 per company	25
For the registration of charge	200	200
For the registration of a variation of a registered charge	100	50
For the registration of a notice that a registered charge has ceased to affect property of a company	50	50
For the registration of articles of merger or consolidation and issuance of certificate of dissolution (a) where, the consolidated or surviving company is a company limited by shares, a company limited by guarantee that is authorised to issue shares; or an unlimited company that is authorized to issue shares, authorised to issue no more than 50,000 shares (b) where, in the case of a consolidation, the consolidated company is a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, that is authorized to issue more than 50,000 shares (c) where, in the case of a merger, the surviving company is a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, that, as a result of the merger is authorized to issue more than 50,000 shares (d) where the consolidated or surviving company is a company limited by guarantee that is not authorised to issue shares; or an unlimited company that is not authorised to issue shares; or a non-profit company	800 1000 1000 800	500 500 500 500
For filing documents specified where surviving company or consolidated company is to be incorporated outside the Anguilla	350	350
For the registration of articles of arrangement – (a) in the case of a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorised to issue no more than 50,000 shares (b) in the case of a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorised to issue more than 50,000 shares (c) in the case of a company limited by guarantee that is not authorised to issue shares; or an unlimited company that is not authorised to issue shares or a nonprofit company	800 1000 800	500 500 500

For filing a copy of a Court order	650	25
For the continuation of a company as –		
(a) a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorized to issue no more than 50,000 shares	250	100
(b) a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorised to issue more than 50,000 shares	400	100
(c) a company limited by guarantee that is not authorised to issue shares or an unlimited company that is not authorised to issue shares	250	100
For the issuance of a certificate of discontinuance out of the Anguilla	400	50
For the registration of a company as a foreign company carrying on business in the Anguilla	1000	1000
For the registration of a change of particulars of foreign company	200	100
For the registration of notice and issuance of a certificate of dissolution of appointment of voluntary liquidator	225	125
For the registration of a Court order terminating a voluntary liquidation	100	100
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For the restoration of the name of a company to the Register by the Registrar —		
(a) if the application for the restoration is made 6 months or less after the date that the name of the company was struck from the Register	325	300
(b) if the application for restoration is made more than 6 months after the date that the name of the company was struck from the Register	650	600
For the restoration of the name of a company to the register pursuant to an order of the Court and issuing a certificate of restoration to the Register	800	800
For inspecting the records on the Register of Companies relating to a company or on the Register of Foreign Companies relating to a foreign company –		
(a) where the inspection takes place at the office of the Registrar, whether the inspection is of electronic or paper records	30	10
(b) in any other case	30	10
For inspecting the Register of Charges	30	10
For a certificate of good standing	50	50

<p>Annual fee, payable on the date specified in the Schedule, for a company which, on the date that the fee is due, is –</p> <p>(a) a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorised to issue no more than 50,000 shares</p> <p>(b) a company limited by shares, a company limited by guarantee that is authorised to issue shares or an unlimited company that is authorised to issue shares, authorised to issue more than 50,000 shares</p> <p>(c) a company limited by guarantee that is not authorised to issue shares or an unlimited company that is not authorised to issue shares</p> <p>(d) a non-profit company</p> <p>(e) a company registered as a foreign company carrying on business in the Anguilla</p> <p>(f) a Private Trust Company</p>	<p>350</p> <p>500</p> <p>400</p> <p>300</p> <p>200</p> <p>1200</p>	<p>230</p> <p>230</p> <p>230</p> <p>180</p> <p>197</p> <p>1200</p>				
<p>For the issue by the Registrar of –</p> <p>(a) a duplicate certificate</p> <p>(b) a certified copy, or certified extract of, any document</p>	<p>50</p> <p>25</p>	<p>50</p> <p>25</p>				
<p>For the registration of any document required or permitted to be registered under this Act for which a charge is not specified above.</p>	<p>75</p>	<p>25</p>				
<p><b>LATE PAYMENT PENALTY</b></p> <p><b>Fees to be paid to the Registry</b></p> <p>Annual fees should be paid based on the following schedule:</p> <p>Incorporated in Q1: by 31 March          Incorporated in Q2: by 30 June          Incorporated in Q3: by 30 September          Incorporated in Q4: by 31 December</p> <table border="1" data-bbox="203 1507 1101 1944"> <thead> <tr> <th data-bbox="203 1507 833 1543">DESCRIPTION OF CONTRAVENTION</th> <th data-bbox="833 1507 1101 1543">Penalty US\$</th> </tr> </thead> <tbody> <tr> <td data-bbox="203 1543 833 1944"> <p>For failure to pay annual fee in full on or before the prescribed period specified in the schedule above.</p> <p>Late payment penalties will be applied for each of the three months following the due date of the annual fee and will be applied on the first day of each month based on the following schedule:</p> <p><i>First month of Penalties</i></p> </td> <td data-bbox="833 1543 1101 1944"></td> </tr> </tbody> </table>			DESCRIPTION OF CONTRAVENTION	Penalty US\$	<p>For failure to pay annual fee in full on or before the prescribed period specified in the schedule above.</p> <p>Late payment penalties will be applied for each of the three months following the due date of the annual fee and will be applied on the first day of each month based on the following schedule:</p> <p><i>First month of Penalties</i></p>	
DESCRIPTION OF CONTRAVENTION	Penalty US\$					
<p>For failure to pay annual fee in full on or before the prescribed period specified in the schedule above.</p> <p>Late payment penalties will be applied for each of the three months following the due date of the annual fee and will be applied on the first day of each month based on the following schedule:</p> <p><i>First month of Penalties</i></p>						

Q1: 1 Apr; Q2: 1 Jul; Q3: 1 Oct; Q4: 1 Jan	10% of the annual fee		10% of the annual fee
<i>Second month of Penalties</i> Q1: 1 May; Q2: 1 Aug; Q3: 1 Nov; Q4: 1 Feb	30% of the annual fee		10% of the annual fee
<i>Third month of Penalties</i> Q1: 1 Jun; Q2: 1 Sep; Q3: 1 Dec; Q4: 1 Mar	50% of the annual fee		50% of the annual fee

## PART II

### FEES PAYABLE BY A SEGREGATED PORTFOLIO COMPANY

#### APPLICATION AND APPROVAL FEES (INSURANCE)

##### Fees to be paid to the Commission

Fee Description	Fee US\$
For application to register a company as a Anguilla business company SPC with the Commission–	
(a) In respect of the company	700
(b) In respect of each segregated portfolio included in the application	400
Application for the creation of a segregated portfolio by a Anguilla business company SPC	250
Application for termination or intent to terminate a segregated portfolio by a Anguilla business company SPC	250
Application for exempting a Anguilla Business Company SPC from preparing financial statements in respect of a segregated portfolio	250
Application to the Commission for the reinstatement of a segregated portfolio by a Anguilla business company SPC	250
For the provision of any other service by the Commission for which a fee has not been prescribed	250

##### Fees to be paid to the Commercial Registry

Fee Description	Fee US\$
For application to incorporate a company as a Anguilla business company SPC –	
(a) In respect of the company	700
(b) In respect of each segregated portfolio included in the application	400

For application to restructure an existing Anguilla business company as a segregated portfolio company	1150
For notification of the creation of a segregated portfolio by a Anguilla business company SPC	250
For notification of termination or intent to terminate a segregated portfolio by a Anguilla business company SPC	250
For notification to the Commission of the reinstatement of a segregated portfolio by a Anguilla business company SPC	250

### PART III

#### ANNUAL FEES

##### Fees to be paid to the Commercial Registry

Fee Description	Fee US\$
For the renewal of an Anguilla business company annually by the end of the calendar quarter of its incorporation date, a fee –	
(a) In respect of the segregated portfolio company	450
(b) In respect of each segregated portfolio approved	400
Annual fees should be paid based on the following schedule:	
Incorporated in Q1: by 31 March	
Incorporated in Q2: by 30 June	
Incorporated in Q3: by 30 September	
Incorporated in Q4: by 31 December	

### PART IV

#### ANNUAL FEES

##### Fees to be paid to the Commission

Fee Description	Fee US\$
An Anguilla business company SPC shall pay an annual fee on or before the 15 <sup>th</sup> of January annually –	
(a) In respect of the segregated portfolio company	1500
(b) For each segregated portfolio in existence as at the date of the 31 December of the prior year	400

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**PART V**

**LATE PAYMENT PENALTY**

**Fees to be paid to the Commission**

<b>DESCRIPTION OF CONTRAVENTION</b>	<b>Penalty US\$</b>
For failure to file an application within the prescribed period by a Anguilla business company SPC	15% of the application fee for each month or part thereof that the application remains outstanding

**SCHEDULE 3**

**FEES PAYABLE BY A SEGREGATED PORTFOLIO COMPANY**

**PART I**

**APPLICATION AND APPROVAL FEES (MUTUAL FUNDS)**

**Fees to be paid to the Commission**

<b>Fee Description</b>	<b>Fee US\$</b>
For application to register a company as a Anguilla business company SPC with the Commission–	
(c) In respect of the company	700
(d) In respect of each segregated portfolio included in the application	400
Application for the creation of a segregated portfolio by a Anguilla business company SPC	250
Application for termination or intent to terminate a segregated portfolio by a Anguilla business company SPC	250
Application for exempting a Anguilla Business Company SPC from preparing financial statements in respect of a segregated portfolio	250
Application to the Commission for the reinstatement of a segregated portfolio by a Anguilla business company SPC	250
For the provision of any other service by the Commission for	250

which a fee has not been prescribed	
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### Fees to be paid to the Commercial Registry

Fee Description	Fee US\$
For application to incorporate a company as a Anguilla business company SPC –	
(c) In respect of the company	700
(d) In respect of each segregated portfolio included in the application	400
For application to restructure an existing Anguilla business company as a segregated portfolio company	1150
For notification of the creation of a segregated portfolio by a Anguilla business company SPC	250
For notification of termination or intent to terminate a segregated portfolio by a Anguilla business company SPC	250
For notification to the Commission of the reinstatement of a segregated portfolio by a Anguilla business company SPC	250

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## PART II ANNUAL FEES

### Fees to be paid to the Commercial Registry

Fee Description	Fee US\$
For the renewal of an Anguilla business company annually by the end of the calendar quarter of its incorporation date, a fee –	
(c) In respect of the segregated portfolio company	450
(d) In respect of each segregated portfolio approved	400
Annual fees should be paid based on the following schedule:	
Incorporated in Q1: by 31 March	
Incorporated in Q2: by 30 June	
Incorporated in Q3: by 30 September	
Incorporated in Q4: by 31 December	

## PART III

### ANNUAL FEES

### Fees to be paid to the Commission

<b>Fee Description</b>	<b>Fee US\$</b>
An Anguilla business company SPC shall pay an annual fee on or before the 15 <sup>th</sup> of January annually –	
(c) In respect of the segregated portfolio company	1500
(d) For each segregated portfolio in existence as at the date of the 31 December of the prior year.	400

#### **PART IV**

#### **LATE PAYMENT PENALTY**

#### **Fees to be paid to the Commission**

<b>DESCRIPTION OF CONTRAVENTION</b>	<b>Penalty US\$</b>
For failure to file an application within the prescribed period by a Anguilla business company SPC	15% of the application fee for each month or part thereof that the application remains outstanding