



Year of Exciting Legislative Developments

By Stephanie Sanderson, Corporate Attorney

2016 was a rather exciting year for Bermuda from the legislative and regulatory perspective not only for the quantity and quality of developments in this arena over the past year but also because of the notable achievements of the jurisdiction such as attaining EU Solvency II equivalence and the establishment of brand new LLC legislation – milestones that ensure Bermuda maintains its competitive edge. Some brief highlights of 2016 follow:

- **Limited Liability Companies Law** - The Limited Liability Company Act was passed in 2016 which introduced the limited liability company (LLC) vehicle for the first time ever in Bermuda. The LLC is a hybrid entity which merges characteristics of both a partnership and a company limited by shares. It is a very flexible vehicle which provides a useful alternative structuring option to complement the existing choice of vehicles in Bermuda. The introduction of the LLC arose from requests from US stakeholders and is significant given the substantial amount of US business and investment in Bermuda.
- **Partnerships Law** - Bermuda's limited partnership legislation was extensively updated recently and further fine-tuned in 2016. The changes grant partnerships additional rights enjoyed by exempted companies and include greater flexibility for internal governance, conversion to and from exempted limited companies, establishment of a register of charges for partnerships with separate legal personality, continuance and discontinuance procedures. These amendments benefit Bermuda's asset management sector and improve our jurisdiction's product offering.
- **Rights of Third Parties** - The Contracts (Rights of Third Parties) Act 2016 (Rights of Third Parties Act) was modelled on the UK equivalent which allows parties to vary the common law doctrine of "*privity of contract*". The Bermuda legislation allows third parties to enjoy the benefits and enforce the provisions of a contract if the third party is expressly identified in the contract and the contract expressly provides that the third party may enforce the contract's terms. The Rights of Third Parties Act is particularly appealing to the investment funds industry, third party service providers, advisors and consultants.
- **Public Directors' Register** - In Bermuda, director and officer registers as well as shareholder registers are accessible to the public at a company's registered office. However, recent company law changes mean that Bermuda companies are also now required to file director information with the Registrar of Companies to be held in a central database that will be open to public inspection.
- **Corporate Service Providers Regulation** - 2016 saw the implementation of the requirement by the Bermuda Monetary Authority for Bermuda's corporate service providers to be licensed and regulated. The regime regulates the activities of entities providing (*inter alia*) company secretarial and administrative services as well as company formation services, and ensures that corporate service providers act within best practices whilst maintaining Bermuda's reputation as a well-regulated jurisdiction.
- **Corporate and Tax Transparency** – Bermuda is internationally recognised as a jurisdiction that advances corporate and tax transparency and compliance. It is an early adopter of the OECD's Common Reporting Standard (CRS) which effectively began on 1 January, 2016 and in April 2016 Bermuda became the 33rd signatory of the Multilateral Competent Authority Agreement for Country-by-Country (CbC) reporting which is a component of the OECD's Base Erosion and Profit Shifting (BEPS) Project.

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Multinational groups based in Bermuda which satisfy the criteria requiring submission of a CbC report are required to collect and submit information for fiscal years starting on or after 1 January, 2016.

- **EU Solvency II Equivalence** - Bermuda achieved coveted full “third-country equivalence” with the EU Solvency II equivalence regime in 2016 which ensures that Bermuda’s commercial (re)insurers and insurance groups do not face market barriers when competing for and writing business in the EU, a boon to Bermuda’s thriving (re)insurance industry.

As originally published in *The Royal Gazette* on 10 January, 2017. This article is intended for informational purposes only and is not a substitute for legal advice.

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