

**INTERNATIONAL COMPANIES AMENDMENT
BILL 2014**

SAMOA

Explanatory Memorandum

Introduction

The Bill seeks to amend the International Companies Act 1988 (Act) to address the deficiencies identified in Samoa's Phase 1 Peer Review Report under the Organisation for Economic Co-operation and Development Global Forums peer review mechanism that took place in September 2012. The Bill will:

- (a) eliminate the issuing of bearer of shares and share warrants under sections 39 and 39A;
- (b) require an international company to keep accounting records; and
- (c) repeal sections 35 to 38 of the Act.

Clauses:

- Clause 1:** - states that, when enacted, the Bill will be called the International Companies Amendment Act 2014, and will commence on the date it is assented to by the Head of State.
- Clause 2:** - substitutes sections 39 and 39A.
- Clause 3:** - substitutes section 113(1).
- Clause 4:** - repeals sections 35 to 38 and provides consequential amendments to the Special Purpose International Companies Act 2012 and the International Partnership and Limited Partnership Act 1998.


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(Hon FAUMUINA Tiatia Faaolatane Liuga)
MINISTER OF FINANCE

**INTERNATIONAL COMPANIES AMENDMENT
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Arrangement of Provisions

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| 1. Short title and commencement | 4. Repeal and consequential amendments |
| 2. Sections 39 and 39A substituted | |
| 3. Section 113 amended | |

2014, No.

A BILL INTITULED

AN ACT to amend the International Companies Act 1988 (“Principal Act”).

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement-(1) This Act may be cited as the International Companies Amendment Act 2014.

(2) This Act commences on the date it is assented to by the Head of State.

2. Sections 39 and 39A substituted - For sections 39 and 39A of the Principal Act substitute:

“39. Bearer shares and share warrants - A memorandum of a grandfather bearer share company is deemed to be amended with effect from 27 January 2014 to state that the company is not authorised to issue bearer shares or share warrants to bearer, convert registered shares; and with effect from that date, the company shall cease to be a bearer share company.

39A. Transitional provision - Any bearer shares or share warrants that have been issued by an international company to bearer prior to 27 January 2014 shall continue for a period of 12 months from the commencement of the International Companies Amendment Act 2014 and thereafter shall cease to be bearer share or share warrants.”.

3. Section 113 amended - For section 113(1) of the Principal Act substitute:

“(1) An international company must keep accounting records to disclose:

- (a) the current financial position of the company; and
- (b) enable the directors to check that any accounts prepared by the company under this Part comply with the requirements of this Act; and
- (c) allow for the preparation of financial statements; and
- (d) details of the following -
 - (i) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place;
 - (ii) all sales and purchases and other transactions; and
 - (iii) the assets and liabilities of the relevant entity or arrangements.”.

4. Repeal and consequential amendments-(1) Sections 35 to 38 of the Principal Act are repealed.

(2) In section 58 of the Special Purpose International Companies Act 2012, for subsection (1) substitute:

“(1) A company must keep accounting records to disclose:

- (a) the current financial position of the company;
and
- (b) enable the directors to check that any accounts prepared by the company under this Part comply with the requirements of this Act;
and
- (c) allow for the preparation of financial statements;
and
- (d) details of the following -
 - (i) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place;
 - (ii) all sales and purchases and other transactions; and
 - (iii) the assets and liabilities of the relevant entity or arrangements.”.

(3) After section 45 of the International Partnership and Limited Partnership Act 1998, insert:

“46. Accounts to be kept-(1) An international partnership or limited partnership must keep accounting records to disclose:

- (a) the current financial position of the partnership;
and
- (b) enable the partners to check that any accounts prepared by the partnership; and
- (c) allow for the preparation of financial statements;
and

(d) details of the following -

(i) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place;

(ii) all sales and purchases and other transactions; and

(iii) the assets and liabilities of the relevant entity or arrangements.

(2) The accounts of partner shall be kept at the office of the partner or at such other place as the partner thinks fit and shall at all times be open to inspection by any partner.

(3) The Registrar may in any particular case direct that the accounting and other records of an international partnership or limited partnership be open to inspection by an auditor acting for a partner, but only upon an undertaking in writing given to the Registrar that information acquired by the auditor during his or her inspection shall not be disclosed by him or her except to that partner.

(4) A person who, being a partner to an international partnership or limited partnership, fails to take all reasonable steps to secure compliance by the partner with the partnership agreement commits an offence.”.
