

COMPANIES (AMENDMENT) ACT, 2016

No. 16



of 2016

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement
2. Amendment of Cap. 42:01
3. Amendment of section 2 of the Act
4. Amendment of section 82 of the Act
5. Amendment of section 295 of the Act
6. Amendment of section 297 of the Act
7. Amendment of section 323 of the Act
8. Deletion of section 324 of the Act
9. Deletion of section 325 of the Act
10. Deletion of section 326 of the Act
11. Deletion of section 327 of the Act
12. Deletion of section 328 of the Act
13. Amendment of section 329 of the Act
14. Amendment of section 501 of the Act

An Act to amend the Companies Act.

Date of Assent: 20.09.16

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

Short title and commencement	1. This Act may be cited as the Companies (Amendment) Act, 2016, and shall come into operation on such date as the Minister may, by Order published in the <i>Gazette</i> , appoint.
Amendment of Cap. 42:01	2. The Companies Act, (hereinafter referred to as “the Act”) is amended by substituting for the words “Stock Exchange” wherever they appear in the Act, the words “securities exchange”.
Amendment of section 2 of the Act	3. Section 2 of the Act is amended by — (a) substituting for the definition of “securities” the following new definition — ““securities” has the meaning assigned to it in the Securities Act”;
Act No. 26 of 2014	(b) substituting for the definition of “stock exchange” the following new definition — ““securities exchange” has the meaning assigned to it in the Non-Bank Financial Institutions Regulatory Authority Act;”;
	(c) substituting for the definition of “stock market” the following new definition — ““stock market” means such primary and secondary or other stock market as may be established by a securities exchange;”.

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| 4. Section 82 of the Act is amended by substituting for subsection (1), the following new subsection — | Amendment of section 82 of the Act |
| “(1) Ownership or transfer of shares in a company may pass by operation of law notwithstanding the constitution of the company.” | |
| 5. Section 295 of the Act is amended by substituting for the definition of “rights offer” the following new definition — | Amendment of section 295 of the Act |
| ““rights offer” means an offer for subscription with a right to renounce in favour of other persons, to those shareholders or debenture holders of a company who are not excluded from such offer under subsection (2), for any securities of that company or any other company, where a securities exchange has granted or has agreed to grant a listing for the shares which are the subject of the offer;” | |
| 6. Section 297 of the Act is amended by substituting for subparagraph (a) (iv) the following new subparagraph — | Amendment of section 297 of the Act |
| “(iv) any other company which carries on the business of portfolio fund management and is approved for the purposes of this section by a securities exchange which is acting as principal, and also to a wholly owned subsidiary of such bank or insurer or other company when it acts as agent in the capacity of authorised portfolio manager for a pension fund approved by the Minister responsible for finance and development planning, or for a Collective Investment Undertaking licensed under the Collective Investment Undertakings Act, managed by the said wholly owned subsidiary which is a management company in terms of the Collective Investment Undertakings Act.” | |
| 7. Section 323 of the Act is amended by — | Amendment of section 323 of the Act |
| (a) deleting the definition of “affected transaction”; and | |
| (b) by inserting the following definition in its correct alphabetical order — | |
| “securities transaction” means any transaction (including a transaction which forms part of a series of transactions) or scheme, whatever form it may take, which, taking into account any securities held before such transaction or scheme, has or would have the effect in the event of any offers to acquire securities of a company being accepted of the transfer of all the securities included in a class of securities being transferred to the offeror;” | |
| 8. The Act is amended by deleting section 324. | Deletion of section 324 of the Act |
| 9. The Act is amended by deleting section 325. | Deletion of section 325 of the Act |
| 10. The Act is amended by deleting section 326. | Deletion of section 326 of the Act |
| 11. The Act is amended by deleting section 327. | Deletion of section 327 of the Act |
| 12. The Act is amended by deleting section 328. | Deletion of section 328 of the Act |

Amendment of
section 329 of
the Act

13. Section 329 of the Act is amended —

(a) by substituting for the definition of “Exchange” the following new definition —

““exchange” means non-bank financial institution licensed under the Non-Bank Financial Institutions Regulatory Authority Act to operate a securities exchange;” and

(b) in subsection (6) by substituting for the words “Committee of the Botswana Stock Exchange”, the word “exchange”.

Amendment
of section 501
of the Act

14. Section 501 of the Act is amended in subsection (1) (a) (i) by substituting for the words “Botswana Stock Exchange Act”, the words “Securities Act”.

PASSED by the National Assembly this 3rd day of August, 2016.

BARBARAN N. DITHAPO,
Clerk of the National Assembly.