



The latest changes to BVI Economic Substance Act

January 2019

As part of BVI's continued commitment to remain at the forefront of international tax transparency, the Economic Substance (Companies and Limited Partnerships) Act, 2018 (the Act) was enacted, and came into force on 1 January 2019.

Who does it apply to?

To all companies and limited partnerships (excluding limited partnerships without legal personality) registered in the BVI that carry on "relevant activities".

What are "relevant activities"?

- Banking business
- Insurance business
- Shipping business
- Fund management business
- Finance and leasing business
- Headquarters business
- Holding business
- Intellectual property business
- Distribution and service centre business

We expect further guidance will be issued that will assist in determining if a particular entity is carrying on a "relevant activity".

What will "relevant entities" be required to do?

Relevant entities will be required to:

1. carry out core income-generating activities in the BVI; and
2. show that they have adequate expenditure and employees in the BVI with appropriate physical offices or premises (outsourcing of core income generating activity is permitted in certain circumstances).

A pure equity holding entity will be subject to a reduced economic test whereas intellectual property companies will face more rigorous requirements.

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What reporting obligations will be imposed?

The Act amended the BVI Beneficial Ownership Secure Search System Act 2018 (BOSS). As a result, all legal entities subject to the BOSS reporting requirements will be required to disclose information about their tax residency status and activities to the BVI International Tax Authority (ITA) on an annual basis.

Who will have access to the disclosed information?

The ITA may disclose information to overseas authorities to monitor whether the entity is carrying on relevant activity and, if so, whether the entity meets the economic substance tests.

Are there any penalties?

Both criminal and financial sanctions can be imposed for non-compliance.

What is next?

We will provide more information to clarify the substance requirements once regulations, rules and related guidance is released.

Please get in touch should you have any questions or require any assistance with ensuring that your entity is meeting the substance requirements.

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