

BVI Update - BOSS Act Amendments and Economic Substance

July 2019

The Beneficial Ownership Secure Systems Act, 2017 (BOSS Act) created the updated beneficial ownership data collection regime that was implemented in the BVI last year. That legislation was further amended to accommodate the new economic substance filing requirements when the Economic Substance (Companies and Limited Partnerships) Act 2018 was passed.

The BOSS Act amendments were initially scheduled to come into force on 30 June 2019. However, a recent notice issued by the BVI Government has indicated that these amendments will now enter into force on 1 October 2019. This briefing note provides an overview of the BOSS Act amendments and what they mean for BVI entities.

What Is the 1 October Deadline For?

The 1 October deadline is the date on which the BOSS amendments come into force. It is not a filing deadline and does not replace the 30 June 2019 deadline for legal and corporate entities to be compliant with applicable economic substance requirements. However, by 1 October, all legal and corporate entities should have already:

- determined whether they are or wish to be tax resident in the BVI;
- conducted a classification exercise;

- determined the start and end dates of their financial periods; and
- put measures in place to meet the economic substance test related to the relevant activity in which they are engaged, if any, once they are claiming tax residency in the BVI.

For more information on economic substance requirements, click [here](#) to review our January briefing memo, particularly the section entitled "Satisfying the Economic Substance Test" and [here](#) to read our subsequent May update on the draft version of the BVI Economic Substance Code.

If you require assistance with classifying your entity, please continue reading, then contact us at bvisubstance@tridenttrust.com.

What New Entities Are Now In-Scope For the BOSS Act?

Previously, the BOSS Act only applied to active companies and expressly excluded foreign companies and limited partnerships. Now, the term "corporate and legal entity" as used in the BOSS Act includes BVI business companies, foreign companies, limited partnerships with legal personality and foreign limited partnerships with legal personality.

What Additional Information Will Be Collected Under the Substance Regime?

In addition to the name, residential address, date of birth and nationality of their beneficial owners, corporate and legal entities must now also identify their parent company (if any).

If the corporate and legal entity is tax resident in the BVI and is engaged in a relevant activity, it will also be required to provide certain information on its parent entity, such as its name, incorporation number and its jurisdiction of incorporation.

The corporate and legal entity will also be required to submit a self-assessment that includes the following information:

- Its 12-month financial period.
- If the entity is resident elsewhere for tax purposes, it must state where and provide evidence to support this claim.
- If the entity is resident in the BVI for tax purposes, it must state whether it engaged in any of the nine relevant activities during its financial period.
- If it is engaged in any relevant activity, it must indicate:
 - the total turnover generated by the relevant activity;
 - the amount of expenditure incurred in relation to the relevant activity in the BVI;
 - the total number of employees engaged in the relevant activity overall and in the BVI;
 - the address of any premises within the BVI that is used in connection with the relevant activity;
 - the nature of any equipment located in the BVI which is used in connection with the relevant activity; and
 - the names of the persons responsible for the direction and management of the relevant activity and whether they are resident in the BVI.

There are additional reporting requirements for entities engaged in intellectual property business and those which choose to outsource some of their core income-generating activities.

How Will the Self-Assessment Information Be Submitted?

Each corporate and legal entity must provide its self-assessment information to its registered agent to facilitate upload to the BOSS system before the end of the entity's filing deadline (i.e., six months after the last day of its financial period). This should be done by the entity's director(s) or, in the case of a limited partnership, the general partner. The registered agent will be responsible for ensuring the self-assessment is uploaded to the BOSS system.

Trident Trust is developing an online tool to permit entities to submit the information electronically. More information on this tool will be provided in the next few weeks.

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