

# BVI Economic Substance Rules Update

March 2020

Further to our update in October 2019 regarding the issuance of the Economic Substance Rules (the "Rules"), the BVI International Tax Authority (ITA) published a revised version of the Rules on 10 February 2020.

The revisions do not substantially alter the obligations or procedures set out under the earlier version of the Rules, but rather clarify and elaborate on certain key points which are set out below.

## **Compliance Plan for Relocation of Relevant Activity to the BVI**

If an entity notifies the ITA of its intention to relocate to the BVI a relevant activity that is being conducted in another jurisdiction, section 2.12 makes it clear that the entity's time scale for full compliance with the legislation will not extend beyond two financial periods.

This is inclusive of the financial period in which the entity has given notice of such intention. The financial period in which the entity notified the ITA of its intention to re-locate the activity to the BVI is considered the first financial period, and the subsequent financial period is considered the second financial period.

## **Procedure to Provide Evidence of Foreign Tax Residency**

Where an entity claims to be a non-resident company or non-resident limited partnership, it must upload its claim and evidence as part of the prescribed information to the Registered Agent database under section 10(3)(g) of the BOSS Act.

## **Additional Examples of Intellectual Property (IP) Holding Business, and Distribution and Service Centre Business**

The updated Rules provide further examples aimed at clarifying what does and does not constitute IP business and distribution and service centre business.

## **Clarification on Direction and Management of a Relevant Activity in the BVI**

Section 7.4 was amended to include clarification on what is meant by the relevant activity being directed and managed in the BVI. In essence, the strategic decisions for the relevant activity are required to be taken in the BVI in order to meet the requirement for direction and management under section 7.3(a) of the Rules.

#### Clarification on Conducting Core-Income Generating Activity (CIGA) in the BVI

Section 7.19 clarifies that it is not necessary for a legal entity to perform all of the CIGA listed in the legislation for a particular relevant activity. The legal entity must, however, perform the CIGA that generates the income it receives from the relevant activity.

#### Clarification on Outsourcing CIGA to a Third Party

Where an entity has outsourced any part of its CIGA to a third party, the legal entity is required to monitor the outsourced work from within the BVI.

#### Licensed/Regulated Entities

It is expected that legal entities that are licensed and subject to supervision by the Financial Services Commission (FSC), i.e., entities licensed to carry on banking, insurance and fund management business, already have adequate resources and expenditure from operating within the BVI. However, those entities are still subject to the economic substance legislation and must comply with filing obligations, CIGA requirements and being monitored by the ITA for economic substance compliance.

Additionally, regulated entities are required to comply with any relevant restrictions on outsourcing imposed by their licence and those set out under the economic substance legislation.

#### Applicability of Economic Substance Act to Foreign Companies

Section 11.10 is expanded to make it clear that a body corporate that is incorporated in a foreign jurisdiction and is lawfully carrying on business in the BVI is subject to the requirements of economic substance legislation.

#### How We Can Help

The full text of the updated Rules can be accessed [here](#). For more general information on economic substance in the BVI, please refer to our [Guide to Economic Substance in the BVI](#).

For more information on how to classify your entity or to obtain information about the services we can provide to help your entity have adequate economic substance in the BVI, please contact your usual Trident representative.

# Offices

## The Americas/Caribbean

### Bahamas

Trident Corporate Services  
(Bahamas) Ltd  
T: +1 242 322 6154  
bahamas@tridenttrust.com

### Barbados

Trident Corporate Services  
(Barbados) Ltd  
T: +1 246 621 0760  
barbados@tridenttrust.com

### British Virgin Islands

Trident Trust Company (BVI) Ltd  
T: +1 284 494 2434  
bvi@tridenttrust.com

### Canada

TT Services (Canada) Ltd  
T: +1 604 687 0811  
vancouver@tridenttrust.com

### Cayman Islands

Trident Trust Company  
(Cayman) Ltd  
T: +1 345 949 0880  
cayman@tridenttrust.com

### Nevis

Morning Star Holdings Ltd  
T: +1 869 469 1817  
nevis@tridenttrust.com

### Meridian Trust Company Ltd

T: +1 869 469 1333  
nevis@tridenttrust.com

### Panama

Trident Trust (Panama) S.A.  
T: +507 302 7494  
panama@tridenttrust.com

### United States

Atlanta  
Trident Corporate Services, Inc  
T: +1 404 233 5275  
usa@tridenttrust.com

### Trident Fund Services, Inc

T: +1 404 364 2019  
americasfunds@tridenttrust.com

### Miami

Integritas, Inc  
T: +1 305 405 9006  
contact@integritastrust.com

### New York

Trident Corporate Services, Inc  
T: +1 212 840 8280  
nyc@tridenttrust.com

### Sioux Falls

Trident Trust Company  
(South Dakota) Inc  
T: +1 605 679 4355  
sd@tridenttrust.com

### US Virgin Islands

Trident Trust Company (VI) Ltd  
T: +1 340 774 7322  
usvi@tridenttrust.com

## Asia

### Hong Kong

Trident Corporate Services (Asia) Ltd,  
Trident Fund Services (HK) Ltd  
& Trident Trust Company (HK) Ltd  
T: +852 2805 2000  
hongkong@tridenttrust.com

### New Zealand

Trident Trust Company (NZ) Ltd  
T: +64 9 300 6067  
nz@tridenttrust.com

### Singapore

Trident Corporate Services  
(Singapore) Pte Ltd, Trident Fund  
Services (Singapore) Pte Ltd &  
Trident Trust Company (Singapore)  
Pte Ltd  
T: +65 6653 1800  
singapore@tridenttrust.com

## EMEA

### Cyprus

Trident Trust Company (Cyprus) Ltd  
T: +357 258 20 650  
cyprus@tridenttrust.com

### Dubai

Trident Trust Company (UAE) Ltd  
DMCC Branch  
T: +971 4 423 9988  
dubai@tridenttrust.com

### Trident Fund Services (DIFC) Ltd

T: +971 4 277 1191  
dubai@tridenttrust.com

### Guernsey

Trident Trust Company  
(Guernsey) Ltd  
T: +44 1481 727571  
guernsey@tridenttrust.com

### Isle of Man

Trident Trust Company (IOM) Ltd  
T: +44 1624 646700  
iom@tridenttrust.com

### Jersey

Trident Trust Company Ltd  
T: +44 1534 733401  
jersey@tridenttrust.com

### Luxembourg

Trident Trust Company  
(Luxembourg) S.A.  
T: +352 26 30 28 48  
luxembourg@tridenttrust.com

### Malta

Trident Corporate Services  
(Malta) Limited &  
Trident Trust Company (Malta) Ltd  
T: +356 21 434 525  
malta@tridenttrust.com

### Mauritius

Trident Trust Company  
(Mauritius) Ltd  
T: +230 210 9770  
mauritius@tridenttrust.com

### Seychelles

Trident Trust Company  
(Seychelles) Ltd  
T: +248 4 422 000  
seychelles@tridenttrust.com

### Switzerland

Trident Corporate Services AG  
T: +41 44 396 1080  
switzerland@tridenttrust.com

### United Kingdom

Trident Trust Company (UK) Ltd  
T: +44 20 7935 1503  
uk@tridenttrust.com

### Trident Company

Services (UK) Ltd  
T: +44 20 7487 0460  
corpservices@tridenttrust.com