

BVI Economic Substance Amendments

September 2022

Following the introduction of the BVI's Economic Substance regime, through the Economic Substance (Companies and Limited Partnerships) Act, 2018 (ESA) on 28 December 2018, important amendments to the regime were made through the Economic Substance (Companies and Limited Partnerships) (Amendment) Act, 2021, which are to:

- Bring limited partnerships without legal personality in scope of the legislation
- Clarify that "investment fund business" and "investment funds" are not counted as a relevant activity for the purposes of economic substance
- Expand on the wording relating to core income-generating activities

A detailed summary of the changes are included below and the full text of the amendments can be accessed [here](#).

Limited Partnerships

Initially, the ESA did not apply to limited partnerships without legal personality; however, the updated legislation, which came into force on 28 June 2021, changed that position.

With this amendment, all BVI limited partnerships (with or without legal personality) are now

considered a "legal entity" and consequently fall within the scope of the ESA, which requires each BVI limited partnership to complete an annual economic substance report.

Financial Period for Limited Partnerships Without Legal Personality

The financial period for BVI limited partnerships without legal personality formed before 1 July 2021 must commence no later than 1 January 2022 and run for the ensuing 12 months.

The first financial period for a BVI limited partnership without legal personality formed on or after 1 July 2021 will commence on its formation or registration date and then run for the ensuing 12 months.

A submission must be filed with the International Tax Authority (ITA) within six months of the end of the entity's financial period via our [client portal](#).

Investment Funds

Section 2 of the ESA has been updated to include a comprehensive definition of the term "investment fund business" and "investment funds". Section 6 of the ESA clarifies that investment funds are not one of the nine relevant activities that trigger the requirement for demonstrable economic substance

in the BVI. However, “fund management business”, which includes the management of mutual funds, pension schemes, insurance products and other investments, remains on the list of relevant activities.

Core Income-Generating Activity

The definition of the term “core income-generating activity” is also expanded to clarify that it refers to activities of central importance to a relevant entity in terms of generating relevant income and stipulates that these must be carried on in the BVI.

Reminders

Clients should be conscious of the importance of section 11 of the ESA, which requires legal entities to provide information to the ITA to assist it in assessing their compliance with economic substance requirements.

The ITA is reviewing the economic substance declarations submitted for each entity and where the ITA requires additional information to assess compliance with the ESA, it will issue a section 11 notice to the legal entity stipulating that a response be provided within a specified period. It is imperative that these notices are attended to by the deadline stated in the notice. Failure to comply without a reasonable excuse is an offence and the penalty is either a fine and/or imprisonment.

The filing period ends on 30 December 2022 for those clients whose financial periods ended on 29 June 2022. Every effort should be made to complete these filings as early as possible. Declarations received after 15 November 2022 cannot be guaranteed to be submitted to the ITA by the December deadline and late filings may be subject to a late fee.

Please contact your usual Trident representative for information on the services that can be provided to help your entity have adequate economic substance in the BVI.

Offices

The Americas/Caribbean

Bahamas

Trident Trust Company
(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 Corporate Services
(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

Trident Corporate Services, Inc
T: +1 305 405 9006
miami@tridenttrust.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) Ltd & Trident
Trust Company (Malta) Ltd
T: +356 21 434 525
malta@tridenttrust.com

Trident Fund Services (Malta) Ltd

T: +356 23 715 500
malta@tridenttrust.com

Mauritius

Trident Trust Company
(Mauritius) Ltd
T: +230 460 7890
mauritius@tridenttrust.com

Seychelles

Trident Trust Company
(Seychelles) Ltd
T: +248 432 5593
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