

Economic Substance Rules released for the British Virgin Islands

News - 10/10/2019

In response to the requirements of the EU Code of Conduct Group (the **Code of Conduct Group**), from 1 January 2019 the British Virgin Islands implemented new legislation setting out economic substance requirements which would apply to certain British Virgin Islands entities in certain circumstances.

The Economic Substance (Companies and Limited Partnerships) Act, 2018 (the **Act**) applies to all companies and limited partnerships (excluding limited partnerships without legal personality) registered in the British Virgin Islands (or foreign companies and limited partnerships doing business in the territory), other than British Virgin Islands registered companies or limited partnerships that are resident for tax purposes in a jurisdiction outside the British Virgin Islands.

The Act imposes economic substance requirements for British Virgin Islands companies and limited partnerships that are not tax "resident" in countries outside the British Virgin Islands and carry on "relevant activities".

On 22 April 2019, the Act was supplemented by a draft Economic Substance Code (the **Code**) issued by the British Virgin Islands International Tax Authority (the **ITA**) which aimed to clarify the substance requirements prescribed by the Act and provide guidance on the interpretation of its terms.

The final version of the Code has now been published by the ITA as the renamed Rules (and Explanatory Notes) on Economic Substance (the **Rules**). While the Rules reflect much of the same substance of the draft Code, the previous version has been reformatted and incorporates a number of amendments that were deemed necessary by the Code of Conduct Group and the Government of the Virgin Islands (including in response to concerns raised by both public and private stakeholders), as well as other changes and additions necessary following recent related legislative changes – including in relation to the reporting requirements under the Act.

While the Rules are now finalised, they will not however become effective until a further amendment to the BVI's Beneficial Ownership Secure System Act comes into effect – this amendment, which is already anticipated by the Rules, is expected to be passed and become effective very shortly.

We will provide summary details of the Rules in due course however if you require further information or would like to discuss how the Act or the Rules may impact your business, get in touch with your usual Ogier contact.

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