



British Virgin Islands Economic Substance - Classification Declaration

Please refer to the Glossary at the end of this declaration for all capitalised terms, unless defined within.

1. Entity details

Name

Registration number

Date of formation

Business address (if different from the registered address)

Financial period start Financial period end

Has the financial period end date changed? ☐ Yes ☐ No

(If yes, state the previous financial period end date)

Date on which an application was made to the Authority under (Rule 13, 15 or 16)

Gross total annual income of the entity

2. Entity Classification

Part A

Please indicate whether the entity is:

- ☐ (a) a legal entity which falls within the economic substance legislation
- ☐ (b) carrying on a relevant activity
- ☐ (c) a tax resident in a jurisdiction outside the BVI which is **NOT** on the EU list of non-cooperative jurisdictions for tax purposes
- ☐ (d) a tax resident in a jurisdiction outside the BVI which is on the EU list of non-cooperative jurisdictions for tax purposes

If Section 2 (c) or (d) has been ticked, please complete the table below providing the entity's place of tax residence and tax reference number, and the entity's MNE Group name at 2.1, if applicable. (If resident in more than one jurisdiction, detail all jurisdictions and associated tax reference numbers should also be included).

Part B

Jurisdiction (s) of tax residency	Tax reference number (eg. TIN) or other identification reference number

Where the jurisdiction of tax residence is any other jurisdiction (that is not on the list of non-cooperative jurisdictions) then the evidence outlined in Rule 3 applies. A legal entity cannot claim to be tax resident in a jurisdiction such as Guernsey, Jersey or Isle of Man where they are a transparent entity.

Certificates or letters issued by the competent tax authority of the other jurisdiction;

- tax assessments, demands, or evidence of payment issued by the competent tax authority of the other jurisdiction;
- tax returns submitted to the competent tax authority of the other jurisdiction; or
- rulings issued by the competent tax authority of the other jurisdiction.

In the case of a transparent entity, tax residence in another jurisdiction must be demonstrated by reference to each of the participators or partners on whom the legal entity's profits are taxable. "Transparent entity" means a legal entity in respect of which the entire profits and gains are treated under the law of another jurisdiction as attributable to and taxable on some or all of the direct or indirect participators or partners in the legal entity in question.

Entities claiming to be tax resident in Guernsey, Isle of Man or Jersey can only make such a claim if the legal entity is resident for corporate income tax purposes and subject to the relevant corporate income tax law and sufficient proof of this must be provided as follows:

- (a) tax assessments, demands, or evidence of payment issued by the competent tax authority of the other jurisdiction;
- (b) tax returns submitted to the competent tax authority of the other jurisdiction;
- (c) confirmation that the entity is required to submit a corporate income tax return to the competent tax authority of the jurisdiction."

Multinational Enterprise Group (MNE)

2.1. Name of MNE Group?

3. Ultimate / Immediate Parent

3.1 Does the entity have a ultimate parent? ☐ Yes ☐ No

If yes, the following information is needed:

Name of ultimate parent

Ultimate parent formation number

Ultimate parent Jurisdiction of Incorporation

Jurisdiction of Tax residency

Tax reference number

3.2 Does the entity have an Immediate parent? ☐ Yes ☐ No

If yes, the following information is needed:

Name of Immediate parent

Immediate parent formation number

Immediate parent Jurisdiction of Incorporation

Jurisdiction of Tax residency

Tax reference number

4. Relevant Activities

Please confirm if the Legal Entity undertakes any of the following Relevant Activities. Should the entity undertake more than one Relevant Activity, please ensure all Relevant Activities are selected.

- ☐ i. Banking Business
- ☐ ii. Distribution and Service Centre Business
- ☐ iii. Finance and Leasing Business
- ☐ iv. Fund Management Business
- ☐ v. Headquarters Business
- ☐ vi. Holding Company Business. Please state if the equity interests are being held on a passive or active basis²:

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- ☐ vii. Insurance Business
 - ☐ viii. Intellectual Property Business:
 - ☐ (If Intellectual Property Business has been ticked, please tick if the Legal Entity is a High Risk Intellectual Property Legal Entity).
 - ☐ ix. Shipping Business
 - ☐ x. None of the above

A supplementary declaration will be provided for completion where an entity selects i – ix.

5. Other Activities

If the entity carries on an activity other than as described in **Section 4**, please provide a brief description:

6. Declaration

We declare that the above information is true and accurate as at the date hereof and we undertake to notify the entity's Virgin Islands registered agent of any changes to the above information as soon as reasonably practicable, including any changes in the entity's activities and classification under this form.

We acknowledge that the entity's Virgin Islands registered agent may be legally obligated to report such information to the competent authority in the Virgin Islands in accordance with applicable law and hereby consent to such information being provided to the competent authority for this purpose.

Signature

Name

Capacity

Date

GLOSSARY

Unless defined elsewhere, the following definitions have the meaning given to them in the Economic Substance (Companies and Limited Partnerships) Act, 2018 ("Economic Substance Law"), which came into force on 1 January 2019.

Affiliate – bears the same meaning as 'affiliated company' specified in regulation 2(2) of the BVI Business Companies Regulations, 2012, modified so that references to a company include references to a limited partnership, and other expression appropriate to companies shall be construed as including references to the corresponding persons, documents or organs, as the case may be appropriate to limited partnerships.

Authority – means the International Tax Authority established under the International Tax Authority Act 2018.

Core Income Generating Activity or CIGA – the Legal Entity which is carrying out one or more Relevant Activities must conduct CIGA in the Virgin Islands in relation to such activity. CIGA in relation to each Relevant Activity include the following non-exhaustive activities:

Relevant Activity	Virgin Islands CIGA
Banking Business	<ul style="list-style-type: none"> i. raising funds, managing risk including credit, currency and interest risk; ii. taking hedging positions; iii. providing loans, credit or other financial services to customers; iv. managing regulatory capital; v. preparing regulatory reports and returns.
Distribution and Service Centre Business	<ul style="list-style-type: none"> i. transporting and storing goods; ii. managing stocks; iii. taking orders; iv. providing consulting or other administrative services.
Finance and Leasing Business	<ul style="list-style-type: none"> i. agreeing funding terms; ii. identifying and acquiring assets to be leased (in the case of leasing) iii. setting the terms and duration of financing or leasing; iv. monitoring and revising any agreements v. managing any risks.
Fund Management Business	<ul style="list-style-type: none"> i. taking decisions on the holding and selling of investments; ii. calculating risk and reserves; iii. taking decisions on currency or interest fluctuations and hedging positions; iv. preparing relevant regulatory or other reports for government authorities and investors.
Headquarters Business	<ul style="list-style-type: none"> i. taking relevant management decisions; ii. incurring expenditures on behalf of Affiliates; iii. co-ordinating group activities.
Holding Company Business	None given
Insurance Business	<ul style="list-style-type: none"> i. predicting or calculating risk; ii. insuring or re-insuring against risk; iii. providing insurance business services to clients.
Intellectual Property Business	<ul style="list-style-type: none"> i. where the business concerns intellectual property assets such as patents, research and development; ii. where the business concerns non-trade intangible assets such as brand, trademark and customer data, marketing, branding and distribution.
Shipping Business	<ul style="list-style-type: none"> i. managing crew (including hiring, paying and overseeing crew members); ii. hauling and maintaining ships; iii. overseeing and tracking deliveries; iv. determining what goods to order and when to deliver them; v. organising and overseeing voyages.

Economic Substance Test – a Legal Entity which carries on a Relevant Activity during any Financial Period, must comply with the economic substance requirements. A Legal Entity complies with the economic substance requirements if:

- (a) the Relevant Activity is directed and managed in the Virgin Islands;
- (b) having regard to the nature and scale of the Relevant Activity:
 - (i) there are an adequate number of suitably qualified employees in relation to that activity who are physically present in the Virgin Islands (whether or not employed by the Legal Entity or by another entity and whether on temporary or long term contracts);
 - (ii) there is adequate expenditure incurred in the Virgin Islands;
 - (iii) there are physical offices or premises as may be appropriate for the CIGA; and
 - (iv) where the Relevant Activity is intellectual property business and requires the use of specific equipment, that equipment is located in the Virgin Islands;
- (c) the Legal Entity conducts CIGA; and
- (d) in the case of income-generating activity carried out for the Legal Entity by another entity:
 - (i) no CIGA is carried on outside the Virgin Islands;
 - (ii) only that part of the activities of that other entity which are solely attributable to generating income for the Legal Entity and not for any other legal entity shall be taken into account when considering if the Legal Entity meets the economic substance requirements;
 - (iii) the Legal Entity is able to monitor and control the carrying out of that activity by the other entity.

Financial Period – under Economic Substance Law, unless the context otherwise requires, “financial period” means:

- (a) in the case of a company incorporated on or after 1 January 2019, such period of not more than one year from the date of incorporation as the company shall notify to the competent authority and thereafter each successive period of one year running from the end of that period;
- (b) in the case of a limited partnership formed on or after 1 January 2019, such period of not more than one year from the date of formation as the limited partnership shall notify to the competent authority and thereafter each successive period of one year running from the end of that period;
- (c) in any other case such period one year from commencing on a date not later than 30 June 2019 as the legal entity shall notify to the competent authority and thereafter each successive period of one year running from the end of that period.

Group – has the meaning specified in regulation 2(1) of the BVO Business Companies Regulations, 2012, modified so that reference to a company include reference to a limited partnership, and other expressions appropriate to companies shall be construed as including references to the corresponding persons, documents or organs, as the case may be, appropriate limited partnerships.

High Risk Intellectual Property Legal Entity – means a Legal Entity which undertakes Intellectual Property Business and which:

- (a) acquired the intellectual property asset
 - (i) from an affiliate; or
 - (ii) in consideration for funding research and development by another person situated in a country or territory other than the Virgin Islands; and
- (b) licenses the intellectual property asset to one or more affiliates or otherwise generates income from the asset in consequence of activities (such as facilitating sale agreements) performed by foreign affiliates.

Immediate parent – any entity/entities that own(s) directly 25% or more of the ownership or voting interests in the corporate and legal entity. The immediate parent may be a corporate or a noncorporate entity, for example a partnership.

Legal Entity means a company and a limited partnership with -

“company” is defined as follows:

- (a) a company within the meaning of section 3(1) of the BVI Business Companies Act, 2004;
- (b) a foreign company within the meaning of section 3(2) of the BVI Companies Act, 2004 which is registered under Part XI of that Act, but does not include a non-resident company;

“limited partnership” is defined as follows:

- (a) an existing limited partnership within the meaning of section 2 of the Limited Partnership Act,
- (b) a limited partnership within the meaning of section 2 of the Limited Partnership Act, 2017; and
- (c) a foreign limited partnership within the meaning of section 2 of the Limited Partnership Act, 2017 which is registered under Part VI of that Act, but does not include a non-resident limited partnership.

MNE - The term "MNE Group" where used in the BOSSs Act shall be construed consistently with the term as defined for the purposes of Part IV of the Mutual Legal Assistance (Tax Matters) Act, Revised Edition 2020, as amended (MLA 2020).

Part IV of the MLA 2020 defines MNE Group as follows:

"Multinational Enterprises (MNE) Group" means any Group that— (a) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and (b) is not an Excluded MNE Group

Reduced Economic Substance Test – a Pure Equity Holding Entity, which carries on no Relevant Activity other than holding equity participations in other entities and earning dividends and capital gains, has adequate substance if it:

- (a) complies with its statutory obligations under the BVI Business Companies Act, 2004 or the Limited Partnership Act, 2017 (whichever is relevant); and
- (b) in the Virgin Islands, has adequate employees and premises for holding equitable interests or shares and, where it manages those equitable interests or shares, has adequate employees and premises for carrying out that management.

Relevant Activities – Economic Substance Law requires a Legal Entity that is carrying on a Relevant Activity to satisfy the Economic Substance Test in relation to each Relevant Activity (or Reduced Economic Substance Test in relation to pure equity holding business). Relevant Activities under the Economic Substance Law are as follows:

Relevant Activity	
Banking Business	<p>has the meaning specified in section 2(1) of the Banks and Trust Companies Act, 1990.</p> <p>"banking business" means the business of receiving (other than from a bank or trust company) and holding on current, savings, deposit or similar account money that is repayable by cheque or order and is capable of being invested by way of advances to customers or otherwise but does not include the receiving on savings, deposit or similar account money which is paid by one company to another at a time when:</p> <ul style="list-style-type: none"> (a) one is the subsidiary of the other; or (b) both are subsidiaries of another company.
Distribution and Service Centre Business	<p>means the business of either or both of the following-</p> <ul style="list-style-type: none"> (a) purchasing from foreign affiliates – <ul style="list-style-type: none"> i. component parts or materials for goods; or ii. goods ready for sale; and iii. reselling such component parts, materials or goods. (b) providing services to foreign affiliates in connection with the business but does not include any activity included in any other relevant activity except holding business.
Finance and Leasing Business	<p>means the business of providing credit facilities for any kind of consideration For this purpose, but without limiting the generality:</p> <ul style="list-style-type: none"> (a) consideration may include consideration by way of interest; (b) the provision of credit may be by way of instalments for which a separate charge is made and disclosed to the customer in connection with: <ul style="list-style-type: none"> i. the supply of goods by hire purchase; ii. leasing other than any lease granting an exclusive right to occupy land; or iii. conditional sale or credit sale. <p>where an advance or credit repayable by a customer to a person is assigned to another person, that other person is deemed to be providing the credit facility for the purpose of above.</p> <p>but does not include any activity falling within the definition of banking business, fund management business, or insurance business</p>

Relevant Activity	
Fund Management Business	means the conduct of an activity that requires the legal entity to hold an investment business licence pursuant to section 4 and category 3 of Schedule 3 of the Securities and Investment Business Act, 2010.
Headquarters Business	<p>means the business of providing any of the following services to an entity in the same Group -</p> <ul style="list-style-type: none"> (a) the provision of senior management (b) the assumption or control of material risk for activities carried out by any of those entities in the same Group; or (c) the provision of substantive advice in connection with assumption or control risk referred to in (b). <p>but does not include banking business, finance and leasing business, fund management business, intellectual property business, holding company business or insurance business.</p>
Holding Company Business	<p>means the business of a pure equity holding entity (Pure Equity Holding Entity).</p> <p>a Pure Equity Holding Entity a legal entity that only holds equity participations in other entities and only earns dividends and capital gains.</p> <p>a Pure Equity Holding Entity holds nothing but equity participations, yielding dividends or capital gains. The ownership of any other form of investment or asset will take the entity out of definition.</p>
Insurance Business	<p>has the meaning specified in section 3(1) of the Insurance Act, 2008.</p> <p>"insurance business" means the business of undertaking liability under a contract of insurance to indemnify or compensate a person in respect of loss or damage, including the liability to pay damages or compensation contingent upon the happening of a specified event, and includes life insurance business and reinsurance business.</p>
Intellectual Property Business	<p>means the business of holding intellectual property assets, being any intellectual property right in intangible assets, including but not limited to copyright, patents, trade marks, brand and technical know-how, from which identifiable income accrues to the business (such income being separately identifiable from any income generate from any tangible asset in which the right subsists).</p> <p>"income" in respect of an intellectual property assets includes:</p> <ul style="list-style-type: none"> (a) royalties; (b) capital gains and other income from the sale of an intellectual property asset; (c) income from a franchise agreement; and (d) income from licensing the intangible asset.
Shipping Business	<p>means any of the following activities involving the operation of a ship anywhere in the world other than solely within the Virgin Islands waters (as defined in section 2(2)(a) of the Merchant Shipping Act, 2001)</p> <ul style="list-style-type: none"> (a) the business of transporting, by sea, persons or animals, goods or mail; (b) the renting or chartering of ships for the purpose described above; (c) the sale of travel tickets or equivalent, and ancillary services connected with the operation of a ship; (d) the use, maintenance or rental of containers, including trailers and other vehicles or equipment for the transport of containers, used for the transport of anything by sea; or (e) the management of the crew of a ship

Notes

1. Information regarding tax residency has been requested because the Authority will require evidence to demonstrate that the entity is resident for tax purposes in another jurisdiction than the Virgin Islands.

Evidence includes:

- (a) a letter or certificate from, or issued by, the competent authority for the jurisdiction in question stating that the entity is considered to be resident for tax purposes in that jurisdiction; or
- (b) an assessment to tax on the entity, a confirmation of self-assessment to tax, a tax demand, evidence of tax payment, or any other document issued by the competent authority of the jurisdiction in question.

In the case of a transparent entity, tax residence in another jurisdiction must be demonstrated by reference to each of the participators or partners on whom the entity's profits are taxable.

It is necessary to demonstrate tax residence for the Financial Period under consideration.

2. If the Legal Entity is a Pure Equity Holding Entity that during the Financial Period acts only passively in relation to its equity participations then the retention of a registered agent, and the performance of its services may be taken into account when assessing whether the Pure Equity Holding Entity is in substantial compliance with the Reduced Economic Substance Test in respect of that Relevant Activity.

If on the other hand, the Legal Entity performs functions to actively manage its equity participations, then the Legal Entity may be required to show that it has adequate and suitably qualified employees, and appropriate premises in the Virgin Islands to carry out these functions (in addition to basic registered agent services in the Virgin Islands).

Ultimate parent - An entity that meets the following criteria (1) owns a sufficient interest in the corporate and legal entity, whether directly or indirectly, such that it is required to prepare consolidated financial statements under accounting principles generally applied in its jurisdiction of residence or would be so required if its equity interest were traded on a public securities exchange in its jurisdiction of residence. (2) There is no other entity that owns - directly or indirectly, an interest described in paragraph (a) above in the first mentioned entity.