

BRITISH VIRGIN ISLANDS

Changes to BVI legislation – 2016 Amendment Act

FAQs (updated 4 February 2016)

Q1

I have heard that there will be some changes in the BVI. Is this correct?

On 15 October 2015, the Government of the British Virgin Islands (BVI) announced that there would be changes to the BVI's Anti-Money Laundering (AML) regime, which would take effect from 1 January 2016. Further, that Register of Director information would need to be filed at the BVI Registry.

Q2

What exactly are these AML changes?

The relevant legislation effecting the changes to the BVI's AML legislation is in force with effect from 1 January 2016, and are largely limited to the BVI's Eligible Introducer Regime.

This is the system whereby approved Introducers of Business (at OIL, we generally refer to these as Professional Intermediary clients or PI), are permitted to incorporate BVI companies without providing ultimate beneficial ownership (UBO) information – but that this information and documentation must be provided to the BVI registered agent (e.g. OIL) immediately upon request.

Q3

If I, and/or my clients, are not PI clients, will there be any changes to the Know-Your-Client (KYC), documents that we need to provide to OIL?

If you, or your clients, are not PI clients, there will be no changes to the UBO information required. Please proceed to question Q10.

Q4

If I, and/or my clients, are PI clients, what information will we now need to provide, and when will we need to provide it?

With effect from 1 January 2016, the following items of information will be required for all new incorporations for PI clients for each UBO of the company: (i) name; (ii) date of birth; (iii) residential address; (iv) nationality. Information will also be required on the intended activities of the company.

Q5

How will this information be provided to OIL?

Approved PI clients are able to submit the required information using OIL Client Portal. Approved PI clients will, therefore, still be able to incorporate BVI companies in a fast and efficient manner. If you are not a registered OIL Client Portal user yet, please [click here](#) to register your account.

Q6

If I, and/or my clients are approved PI clients, do we need to provide any additional documents to support the information provided for each UBO, e.g. passport copy?

PI clients will only need to submit information through OIL Client Portal, which will clearly state what is required. In the majority of cases, no passport copy, proof of address or other document will need to be provided. In a small number of cases, OIL's Compliance Department may request supporting documentation, such as passport copy, etc.

Q7

What about existing active BVI companies, which are under the PI regime?

The same information, detailed above, will need to be provided for all existing and active companies. This information can also be provided via the OIL Client Portal.

Q8

When do we need to submit the UBO information for existing companies?

For existing companies, there will be a 12-month transitional period from the date of the new legislation being introduced, i.e. the UBO information would need to be submitted for each company via the OIL Client Portal by 31 December 2016.

Q9

What happens if I, and/or my clients, do not provide the required UBO information for existing companies by the end of the transitional period?

It is likely that OIL would need to resign as registered agent for non-compliant companies. This would render a company liable for strike-off and your PI status may also be revoked.

Q10

Are there any other changes in the BVI?

The BVI Business Companies (Amendment) Act, 2015, (the "Amendment Act") was published on 31 December 2015 and came into force on 15 January 2016. Sections 27 and 28 of the Amendment Act (which include the provisions on the registers of directors) will come into force on 1 April 2016. The BVI Business Companies (Amendment) Act, 2016, which was passed on 29 January 2016, makes some additional changes, which are mentioned further below.

Q11

What are the new requirements for Registers of Directors?

A key provision is requirement for companies to file their Register of Directors with the BVI Registry. From 1 April 2016, for new incorporations, the Register of Directors would need to be filed within 21 days after the first directors have been appointed. Thereafter, any changes to the Register are to be recorded within 30 days. Penalties will be levied by the Registry for failure to comply with these filing requirements.

For existing companies, there will be a 12-month transitional period, from 1 April 2016 until 31 March 2017 to comply with the requirement.

Q12

Will director information filed at the BVI Registry be public?

No. Director information filed at the BVI Registry will be private, and will not be available to anybody other than BVI regulatory and law enforcement authorities. A very similar system is currently in force in the Cayman Islands.

Q13

What information will need to be filed at the BVI Registry for each individual director of a BVI company?

The following items of information will be required for each individual director of a BVI company: (i) name; (ii) former name; (iii) date and place of birth; (iv) address; (v) service address (if different); and (vi) nationality.

Q14

Will there be any costs for making these filings?

For new companies, there will be a Registry filing fee of US\$50 for filing the first Register of Directors.

For existing companies, a Register of Directors may be filed without attracting a Registry filing fee from 1 April 2016 to 30 September 2016. From 1 October 2016 to 31 March 2017, the Registry filing fee will be US\$25 per company.

From 31 March 2017 (when the transitional period ends), the Registry filing fee will revert to US\$50, (as it is for companies incorporated after 1 April 2016).

We will shortly be advising clients the fees that OIL will charge for conducting these filings.

Q15

If I, and/or my client, was a director of a BVI company in the past, but has resigned or is intending to resign, will my name still be included in the Register of Directors that is filed at the BVI Registry?

Only the names of those persons, who are directors at the time that the Register of Directors is filed, should be included on the Register. Any director who has resigned, prior to the filing of the Register of Directors at the BVI Registry, his/her name should be omitted from the Register that is filed.

The information in this document is of a general nature only. OIL has made every effort to ensure the information is correct and up-to-date and does not accept any responsibility for any errors or omission. OIL strongly recommends that applicable professional advice be taken prior to purchasing a company or establishing any corporate structure.

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Q16

Can I file Register of Director information at the BVI Registry prior to 1 April 2016?

As it stands now, it is not possible to file the Register of Directors, in accordance with the Amendment Act, until 1 April 2016.

Q17

I, and/or my client, do not wish our name to appear on the Register of Directors. Can OIL assist to provide me with corporate director services?

Yes, OIL can assist. In order to provide this service, additional KYC information and details of the activities of the company would need to be provided, along with payment of an annual fee. Please contact your OIL account manager.

Q18

What happens next and will OIL provide further information during this time of change?

Yes, we will continue to provide further updates, and details on how OIL can assist clients, during this time of change. Specifically, we will be contacting all clients in the coming months with further information on how director details are required to be filed at the Registry.

Q19

Is there any good news?

Yes. In addition to the new director filing requirements, the Amendment Act also includes other changes.

The other changes are very much seen as improvements, and are intended to maintain the BVI's position as the most popular offshore corporate domicile. This is achieved by ensuring that its corporate legislation remains modern and flexible, and also keeps pace with international regulatory standards. The changes include, but are not limited to:

Listed Companies: Express statutory recognition of share transfers through stock exchange clearing systems and greater flexibility in relation to the form and contents of its share register.

Bonus Shares: Bonus Shares are deemed fully paid on issue.

Surrender of Shares: Companies are empowered to accept a surrender of shares for no consideration.

Instructions to Registered Agent: Registered Agent must act upon a valid resolution of the board of directors of a company.

Register of Charges: A company is required to update its private register of charges within 14 days of any change.

Q20

Why is the BVI making these changes?

Since the global financial crisis at the end of the previous decade, international regulatory and law enforcement bodies have evolved the standards which financial services providers and jurisdictions must meet. Specifically, the requirement for UBO information, even for PI cases, and the filing of Register of Director information are both now international standards. In order for the BVI to remain a successful financial services jurisdiction, it is important that its legislation keeps pace with these requirements.

Q21

Does OIL still recommend that I, and/or my clients, continue to incorporate BVI companies?

Yes. The BVI is the largest offshore jurisdiction for company incorporations and still has many benefits. These include, but are not limited to, up-to-date modern and efficient legislation; strong rule of law, including access to BVI lawyers in multiple time-zones, and a dedicated Commercial Court; willingness on the part of global financial institutions to work with, lend to and transact with BVI structures; ability to list on public stock exchanges in most major financial centres, including New York, London and Hong Kong; and access to experienced and efficient service providers, such as OIL, with global networks to assist clients in their time-zone.

Q22

I have some more questions. What should I do?

Please contact your OIL account manager, who will be pleased to assist.