



ADVISORY
Industry Information

BVI Beneficial Ownership Economic Substance Reporting Regime

October 2022

The Beneficial Ownership Secure Search System (Amendment) (No.2) Act, 2021 (“Amendment Act”) was gazetted in the BVI on 31 December 2021 and came into force on 1 January 2022. The Amendment Act amends the BVI’s Beneficial Ownership Secure Search System Act 2017 (“BOSS Act”).

The BOSS Act is the BVI’s key legislation relating to the confidential reporting of beneficial ownership (“BO”) information to regulators. Since the BOSS Act’s implementation in 2017, it has also come to include economic substance (“ES”) information reporting in connection with the Economic Substance (Companies and Limited Partnerships) Act 2018 (the “ESA”). The BOSS Act also covers the circumstances in which BO and ES information may also be spontaneously exchanged with overseas competent authorities under the OECD substantial activities standard and related guidance (“OECD Guidance”).

Changes implemented to the BOSS Act in 2021

The first amendments to the BOSS Act in 2021 came into effect on 1 July 2021 by way of an amendment to the ESA which required consequential amendments to the BOSS Act. The key changes brought about by these amendments included clarifying that all limited partnerships (including foreign limited partnerships) registered in the BVI would fall within the definition of relevant legal entities (“Relevant LPs”) and therefore within the remit of the BOSS Act reporting regime. In addition there was an express carve-out clarifying that “investment fund business” was not a relevant activity requiring ES.

The second amendments brought about by the Amendment Act entered into force on 1 January 2022 and from an ES perspective applies to ES financial periods (“FPs”) commencing on or after that date.

Key BOSS Act changes effective 1 January 2022

- » *BO reporting for limited partnerships without legal personality* - Relevant LPs now fall within the definition of a “corporate and legal entity” (a “CLE”) and must report prescribed BO information to their registered agent within 15 days of identifying those matters following 1 January 2022. Limited partnerships with legal personality were already within the BO reporting regime but were relatively few in number.
- » The prescribed particulars to be reported in respect of each beneficial owner of a CLE must include a taxpayer identification number (“TIN”) or other ID reference number (if any). Any CLE’s that are carrying on relevant activities for the purposes of the ES regime, but which claims to be out of scope by being a non-resident company or limited partnership, the reporting requirements now include a TIN or other identification reference number and details of the multinational enterprise group



("MNE group"). Entities required to report under the BVI's ES regime must now also report the following additional information for each applicable FP:

- any TIN;
 - the type of mobile income;
 - the amount and type of gross income in relation to each relevant activity conducted;
 - information regarding the nature and value of assets used in the conduct of the relevant activity;
 - information relating to employees and employee numbers, both globally and those engaged in the relevant activity conducted;
 - details of the directors of the CLE, including name, qualifications, experience and physical presence in the BVI; and
 - details of board meetings held throughout the period.
- » For those CLEs reporting in relation to the relevant activity of holding business, the reporting must now include:
- a statement as to whether the holding business conducted is active or passive;
 - if active, details of the employees and premises engaged/used in the relevant activity; and
 - where passive, a statement that the CLE has complied with the applicable statutory obligations.
- » *Exemption for investment funds and "exempt persons"* - However, this requirement does not apply where the Relevant LP is an "exempt person" (for the purposes of the BOSS Act) that does not carry on any "relevant activity" under the ESA. It is important to note that the majority of Relevant LPs are investment funds regulated by the Securities and Investment Business Act 2010 and therefore should continue to fall within this exemption, as there is an express carve-out in the ESA for "investment fund business".
- » *ES reporting for FPs commencing on or after 1 January 2022* - The potential scope of the ES reporting information for FPs beginning on or after 1 January 2022 has expanded significantly. There is also an obligation for Entities to identify and report certain prescribed information in respect of any "immediate parent" and "ultimate parent" of the Entity, as part of their ES reporting (which must broadly be completed within six months of the end of the relevant FP). Potentially, spontaneous.

In February 2020, the BVI International Tax Authority ("ITA") published its [Economic Substance Rules](#) containing an overview and guidance on the ES and BO legislation. The last version of this was published in February 2020. A new version has not yet been published setting out the 2021 changes to the regime.

Walkers has a dedicated Regulatory & Risk Advisory group which assists BVI entities in satisfying their BVI regulatory obligations. If you would like advice regarding how these updates might apply to your BVI entity, please get in touch with your usual Walkers contact or alternatively contact the authors overleaf directly.



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