



Council of the
European Union

Brussels, 12 March 2019
(OR. en)

7226/19
ADD 1

FISC 158

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

To: Delegations

Subject: The EU list of non-cooperative jurisdictions for tax purposes

- British Virgin Islands: final legislation and assessment under criterion 2.2
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- (a) in the definition of "competent authority", by inserting the word "Tax" after the word "International" where it occurs a second time;
- (b) in the definition of "headquarters business", by replacing the words "holding company business" with the words "holding business" and by replacing the word "Group" wherever it occurs with the word "group";
- (c) in the definition of "limited partnership", by inserting the words ",or where the limited partnership does not have legal personality for any other reason" after the words "legal personality".

4. Section 5(2) of the principal Act is amended by inserting the words "in respect of each such relevant activity" after the words "economic substance requirements". Section 5 amended.

5. Section 8 of the principal Act is amended Section 8 amended.


- (a) in subsection (1)(c), by inserting the words "in the Virgin Islands" after the words "income-generating activity";
- (b) in subsection (2)(b), by replacing
 - (i) the words "has adequate employees" wherever they occur, with the words "has, in the Virgin Islands, adequate employees"; and
 - (ii) the words "equitable interests or shares" wherever they occur, with the words "equity participations".

6. The amendments made by this Act shall take effect as if they had been in the principal Act from the date of its enactment. Amendments to be retrospective.

Passed by the House of Assembly this 22nd day of January, 2019.


Ingrid Moses-Scatliffe,

Speaker.


Phyllis Evans,

Clerk of the House of Assembly.

LEGAL REPORT

This Act amends the Economic Substance (Companies and Limited Partnerships) Act, 2018 (No. 12 of 2018) (hereafter referred to as “the principal Act”).

Section 1 sets out the short title.

Section 2 amends section 1 of the principal Act by providing for the Minister to notify the commencement date on or before 30 June 2019 with respect to the new obligations under the Beneficial Ownership Secure Search System introduced by the Economic Substance Act 2018, failing which those obligations will come into effect on 30 June 2019.

Section 3 amends section 2 of the principal Act by correcting typographical errors in the definition of “competent tax authority” and “headquarters business”. It also amends the definition of “limited partnership” to include limited partnerships which may not have legal personality for other reasons.

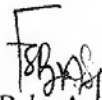
Section 4 amends section 5 of the principal Act to put beyond doubt that entities that carry on more than one relevant activity must comply with the substance requirements for each activity.

Section 5 amends section 8 of the principal Act to put beyond doubt that the economic activity must be carried on in the Virgin Islands.

Section 6 provides for the amendments made by this Act to take effect as if they were in the principal Act from the date of its enactment.

This Act was introduced in the House of Assembly on the 22nd day of January, 2019, taken through its remaining stages and passed on the same day.

In my opinion, His Excellency the Acting Governor may properly assent to this Act in the name and on behalf of Her Majesty.



Baba Aziz
Attorney General
28th January, 2019

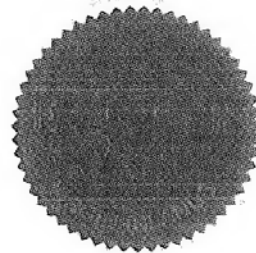
No. 3 of 2019

Beneficial Ownership Secure Search
System (Amendment) Act, 2019

Virgin
Islands

I Assent

A. J. C. 2
Governor.
30th January, 2019



VIRGIN ISLANDS

No. 3 of 2019

An Act to amend the Beneficial Ownership Secure Search System Act, 2017 (No. 15 of 2017) and to provide for matters incidental thereto.

[Gazetted _____, 2019]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and
commencement.

1. (1) This Act may be cited as the Beneficial Ownership Secure Search System (Amendment) Act, 2019.

(2) This Act shall come into force on the day that section 16 of the Economic Substance (Companies and Limited Partnerships) Act, 2018 is brought into force.

Section 2
amended.
No. 15 of 2017


2. Section 2 of the Beneficial Ownership Secure Search System Act, 2017 (referred to in this Act as "the principal Act") is amended in the definition of "corporate and legal entity" by inserting after paragraph (e) the following post-amble:


“but shall not include a limited partnership, foreign limited partnership or existing limited partnership where the general partners have elected pursuant to either section 8(2)(b) or section 67(1)(c) of the Limited Partnership Act 2017 that the limited partnership shall not have legal personality, or where the limited partnership, foreign limited partnership or existing limited partnership does not have legal personality for any other reason;”.

3. Section 4 of the principal Act is amended in subsection (1), by replacing paragraph (b) with the following: Section 4 amended.
- “(b) the provision of information to enable the competent authority to effect disclosure of information in accordance with Schedule 4;”.
4. Section 9 of the principal Act is amended in subsection (6A) by Section 9 amended.
- (a) replacing the words “section 10(3)(f) to (h) with the words “section 10(3)(e) to (j)”;
- (b) by inserting after the words “by regulations” the words “and shall notify the registered agent of any matters prescribed in section 10(3)(a) to (d), excluding section 10(3)(a)(vi), within 15 days of identifying those matters.”.
5. Section 10 of the principal Act is amended Section 10 amended.
- (a) in subsection 3(e), by
- (i) replacing the words “the corporate and legal entity” with the words “any corporate and legal entity which carries on a relevant activity and which is not a non-resident company or a non-resident limited partnership”; and
- (ii) replacing in sub paragraph (i) the words “in subsection (3)(a)” with the words “in subsection (3)(a) (i) and (ii)”;
- (b) in subsection 3(h), by deleting the words “ending after 31st December 2019”;
- (c) inserting after subsection (3), the following new subsection:
- “(3A) Prescribed information required by subsections (3)(a)(vi) and subsections (3)(e) to (j) shall be entered by the registered agent on the RA database by reference to each financial period of the corporate and legal entity on a basis and within a time period to be prescribed by regulations.”.
6. Section 10A of the principal Act is repealed. Section 10A repealed.

7. Schedule 4 to the principal Act is amended Schedule amended.
- (a) in paragraph 1, in the definition of “relevant overseas competent authority”, by replacing the words “the competent authority” with the words “the overseas competent authority”;
 - (b) in paragraph 2, replacing the words “company or” with the words “corporate and”;
 - (c) in paragraph 2(b), by replacing the words “section 10(3)(h)(ii)” with the words “section 10(3)(i)(ii)” wherever they occur;
 - (d) in paragraph 2(c) by inserting after the words “ Virgin Islands” the words “, in which case disclosure shall be made only to the relevant overseas competent authority of that jurisdiction”.

Passed by the House of Assembly this 22nd day of January, 2019.


Ingrid Moses-Scatliffe,
Speaker.


Phyllis Evans,
Clerk of the House of Assembly.

LEGAL REPORT

This Act amends the Beneficial Ownership Secure Search System Act, 2017 (No. 17 of 2017) (hereafter referred to as “the principal Act”).

Section 1 sets out the short title and commencement.

Section 2 amends section 2 of the principal Act, in the definition of “corporate and legal entity” by removing limited partnerships with no legal personality from that definition.

Section 3 amends section 4 of the principal Act by providing for the Act to apply to information required by the competent authority for the purposes of economic substance requirements.

Section 4 amends section 9(6A) of the principal Act by correcting a cross referencing error. It also requires corporate and legal entities to notify the registered agents of beneficial ownership information within 15 days of identifying it.

Section 5 amends section 10(3) of the principal Act by clarifying that parent corporate and legal entities are only required to provide the prescribed information if the entity is carrying on the relevant activity and is non-resident. It also inserts a new subsection (3A) which requires the prescribed information relating to relevant activities to be entered in the RA database after the end of the financial period of the corporate and legal entity.

Section 6 repeals section 10A of the principal Act. This amendment is consequential as a result of the insertion of the new subsection (3A).

Section 7 amends Schedule 4 to the principal Act.

This Act was introduced in the House of Assembly on the 22nd day of January, 2019, taken through its remaining stages and passed on the same day.

In my opinion, His Excellency the Acting Governor may properly assent to this Act in the name and on behalf of Her Majesty.



Baba Aziz
Attorney General
28th January, 2019