

## Alert

### BVI Economic Substance – ITA Commences Audit Process

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**Following the introduction of the Economic Substance (Companies and Limited Partnerships) Act, 2018 (ES Act) and the passing of the deadline for the first filings thereunder to be made by BVI entities, the BVI International Tax Authority (ITA) has now begun making targeted audit requests to verify the “relevant activities” carried out by BVI entities which have made their mandated economic substance filings.**

The questions raised by the ITA in these audit requests have included not only details of the business purpose, assets and day-to-day activities of the relevant entity, but also details as to what steps the entity took in order to make its determination as to what, if any, relevant activities were carried on by the entity during the financial period in question. It is therefore important that BVI entities properly document any legal advice which was obtained and their decision making process in determining their status under the ES Act (e.g. through written memos of advice from BVI legal counsel and director resolutions). If you have not already taken such steps, please contact one of our lawyers listed below or your usual Conyers lawyer who can assist in this regard.

BVI entities which have been determined to be carrying on any “relevant activities” under the ES Act other than “passive holding business” (including any entities which have provided multiple interest-bearing loans as lender and entities which actively manage their investments) should by now have taken concrete steps to ensure that their “core income generating activities” (as defined in the ES Act) and director meetings and other relevant decision making processes are physically taking place in the BVI. To the extent that such arrangements have not yet been put in place, please do contact one of our lawyers listed below who can assist you to make the necessary arrangements and disclosures to the ITA.

#### **We are here to help**

We recognise that the BVI economic substance regime will in some cases require changes to existing business models. Conyers Dill & Pearman is ready to assist clients in understanding their obligations under the legislation and in implementing any such changes that may be required. For further information please contact one of our lawyers listed below or your usual Conyers lawyer.

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