

OCORIAN

GUIDE TO ECONOMIC SUBSTANCE

BVI

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INTRODUCTION TO ECONOMIC SUBSTANCE

The Economic Substance (Companies and Limited Partnerships) Act, 2018 (**ES Regime**) applies to certain British Virgin Islands (BVI) entities that are carrying on one or more “**relevant activities**”, are not tax resident in a jurisdiction outside of the BVI and have income attributable to that relevant activity in any accounting period commencing on or after 1 January 2019.

The legislation is designed to protect the reputation of offshore jurisdictions by ensuring that income streams from certain activities are based on actual local activity to substantiate the use of low tax jurisdictions.

The ES Regime does not apply to all entities in BVI – rather, it applies to only entities carrying out certain relevant activities. Depending on whether your entity is carrying on one of the relevant activities, it may be required to evidence substance on the ground in the BVI by way of being managed and directed, to have adequate employees, expenditure and physical presence and to conduct their ‘**core income generating activities**’ in the BVI.

If your entity has been classified as a Pure Equity Holding Entity (**PEHE**), although it will be considered in scope of the ES Regime, as explained in this guide it will be subject to a much reduced Economic Substance Test (**ES Test**) as well as lighter annual reporting requirements.

The importance of compliance with the new substance regulations can’t be understated given the potential liability for extensive penalties. Our experts can help you navigate the complexities of the new legislation and ensure that you are meeting the requirements.

For more information please contact



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DISCLAIMER:

OCORIAN IS NOT TYPICALLY A PROVIDER OF LEGAL OR TAX CONSULTANCY SERVICES. IF YOU ARE UNSURE OF YOUR LEGAL OBLIGATION OR TAX POSITION PLEASE GET IN TOUCH WITH YOUR USUAL OCORIAN CONTACT WHO WILL BE HAPPY TO ARRANGE FOR INDEPENDENT LEGAL AND/OR TAX ADVICE FOR YOU.

HOW CAN OCORIAN HELP?

Ocorian has a significant presence in jurisdictions affected by changes brought about by the ES Regime. Alongside this, we have comprehensive experience in gathering and reporting entity data in those jurisdictions. As a result, we are uniquely placed to help our clients understand and respond to the new legislation.

We address the following questions to deal with substance requirements.

1. Is the entity in question in scope of the new law?

Our experts can provide professional (non legal) advice to help identify entities conducting relevant activities to determine whether they are in or out of scope of the ES Regime.

2. Does the entity meet the substance requirements?

The first step is that Ocorian will perform a preliminary classification exercise of your entity through a series of client questions submitted through our online portal. From that we will be able to determine and provide a preliminary classification to you along with resolutions and advice on next steps.

If your entities are in scope of the ES Regime, we will then perform an in-depth gap analysis ES Test, which may include a request for additional information from you. The substance requirements differ depending on the type of relevant activity the entity performs. Our tests include a gap analysis versus the requirements for adequate control, people, facilities and expenditure. Should the ES Test not be met, enhanced substance may be required based on the relevant activity the entity performs.

3. How can the entity enhance its substance?

Clients whose entities don't meet the substance requirements will receive a proposal from us to add substance to the entity. For standard structures, solutions may be straightforward including additional corporate services or director activities. For more complex structures, we can facilitate the development and implementation of tailor-made solutions, including services which could be provided by Ocorian.

4. Submissions of notifications and reports

In the BVI all entities will be required to submit notifications to confirm if they are in or out of scope and Ocorian as your Registered Agent will handle this for you.

In scope entities are also required to file an economic substance report through their Registered Agent. Again, Ocorian will work with you in the preparation and submission of this report and will attend to the filing of this with the local authorities.

PENALTIES FOR NON-COMPLIANCE

The ES Regime includes specific powers to request additional information in relation to any substance information provided on or with the economic substance annual report.

The ES Regime also includes specific sanctions to address circumstances where entities have acted so as to avoid or seek to avoid the application of the ES Regime.

Penalties for failure to comply with the new substance range from increasing fines, removal from the register through to imprisonment.

- Minimum of \$5,000 to \$50,000 for non-compliance
- Any subsequent failure can increase to \$10,000 to \$200,000, and in the case of high risk IP entities fines could be up to \$400,000.
- Removal from the Companies Register

- Further provision has been included for the introduction of a penalty of \$40,000 or two years imprisonment on any person who fails to provide information requested by the BVI International Tax Authority (ITA)

WHICH ENTITIES ARE AFFECTED?

Relevant entities

The ES Regime applies to BVI companies, foreign companies registered in the BVI, BVI limited partnerships with legal personality and foreign limited partnerships registered in the BVI and which have legal personality. BVI limited partnerships which have not elected to have legal personality are not subject to the Act.

- Entities that are determined by legislation as being excluded for economic substance are:
 - Trusts
 - Foundations

What are Relevant Activities?

Legislation specifies nine categories of relevant activity that an entity is assessed against which are:

- a. Banking business
- b. Distribution and Service Centre business
- c. Finance and Leasing business
- d. Fund Management business
- e. Headquarters business
- f. Holding Company business
- g. Insurance business
- h. Intellectual property business
- i. Shipping business

It is possible for entity to perform multiple relevant activities. If this is the case, the substance requirements will need to be applied to each activity.

An entity that does not carry on a relevant activity is not subject to the economic substance requirements, however this needs to be evidenced.

The extent of the substance requirement for those entities which are conducting one or more relevant activities depends on the nature and the scale of that relevant activity.

In order to assist with classifying if an entity is performing a relevant activity, legislation defined the typical core income generating activities that the business would be performing.

MEASURING SUBSTANCE

Once it has been determined that an entity is carrying out a relevant activity and has income attributable to that relevant activity, it has to satisfy the applicable substance assessment.

The substance requirements differ depending on the type of relevant activity an entity performs.

Generally speaking an entity that is carrying out a relevant activity will meet the substance requirements if:

- It is directed and managed in the BVI
- Has adequate number of (qualified) employees proportionate to the level of activity carried on in the BVI
- It has adequate expenditure proportionate to the level of activity carried on in the BVI
- Has adequate physical presence in the BVI
- Conducts core income generating activity in the BVI

Once substance is established, the entity must file an annual economic substance report to the ITA. Ocorian will work with you on this and file the report as your Registered Agent.

RELEVANT ACTIVITY DEFINITIONS AND CORE INCOME GENERATING ACTIVITY

Core income generating activities are the key essential and valuable activities that generate the income of the entity. It is not necessary for the entity to perform all of the core income generating activities listed in the legislation for the relevant activity.

The following core income generating activities need to be carried out in The BVI to demonstrate substance

RELEVANT ACTIVITY	THE BVI CORE INCOME GENERATING ACTIVITY
Banking Business	<p>has the meaning specified in the Banks and Trust Companies Act, 1990, s2(1), being the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice, by cheque or otherwise and the employment of such deposits, either in whole or in part,</p> <ul style="list-style-type: none"> a. in making or giving loans, advances, overdrafts, guarantees or similar facilities, or b. the making of investments, <p>for the account and at the risk of the person accepting such deposits.</p> <ul style="list-style-type: none"> – raising funds, managing risk including credit, currency and interest risk – taking hedging positions – providing loans, credit or other financial services to customers – managing regulatory capital – preparing regulatory reports and returns

<p>Distribution and service centre business</p>	<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, <p>Broadly, an entity is affiliated with another entity if it is in the same group of the other entity.</p> <ul style="list-style-type: none"> – transporting and storing goods – managing stocks – taking orders – providing consulting or other administrative services
<p>Financing and leasing business</p>	<p>means the business of providing credit facilities of any kind for consideration. Consideration may include consideration by way of interest.</p> <p>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:</p> <ul style="list-style-type: none"> a. the supply of goods by hire purchase b. leasing other than any lease granting an exclusive right to occupy land c. 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 these purposes.</p> <ul style="list-style-type: none"> – agreeing funding terms – identifying and acquiring assets to be leased (in the case of leasing) – setting the terms and duration of any financing or leasing – monitoring and revising any agreements – managing any risks

<p>Fund management business</p>	<p>means the conduct of an activity that requires the legal entity to hold an investment business license pursuant to section 4 and category 3 of Schedule 3 of the Securities and Investment Business Act, 2010, which includes the following sub-categories:</p> <p>Investment Management</p> <p>Sub-category A: managing Segregated Portfolios (Excluding Mutual Funds)</p> <p>Sub-category B: Managing Mutual Funds</p> <p>Sub-category C: Managing Pension Schemes</p> <p>Sub-category D: Managing Insurance Products</p> <p>Sub-category E: Managing Other Types of Investment</p> <ul style="list-style-type: none"> – taking decisions on the holding and selling of investments – calculating risks and reserves – taking decisions on currency or interest fluctuations and hedging positions – preparing relevant regulatory or other reports for government authorities and investors
<p>Headquarters business</p>	<p>means the business of providing any of the following services to an entity in the same group:</p> <ol 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 the assumption or control of risk referred to in paragraph (b) <ul style="list-style-type: none"> – taking relevant management decisions – incurring expenditures on behalf of affiliates – co-ordinating group activities
<p>Holding company business</p>	<p>means the business of being a Pure Equity Holding Entity (PEHE), that being an entity that only holds equity participations in other entities and only earns dividends and capital gains.</p> <p>An entity which holds assets which are not equity participations is not a pure equity holding entity. An entity which holds a mixed asset portfolio (shares and real estate for example), or non-equity assets such as bonds, government securities or land, falls outside the definition of PEHE.</p>

<p>Insurance business</p>	<p>has the meaning specified in the Insurance Act, 2008, s3(1), being 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> <ul style="list-style-type: none"> – predicting and calculating risk – insuring or re-insuring against risk – providing insurance business services to clients
<p>Intellectual property business</p>	<p>means the business of holding “intellectual property assets”, meaning any intellectual property right in intangible assets, including but not limited to copyright, patents, trademarks, brand, and technical know-how, from which identifiable income accrues to the business (such income being separately identifiable from any income generated from any tangible asset in which the right subsists).</p> <p>“income” in respect of an intellectual property asset 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 <p>The focus here is on entities receiving income from licensing or otherwise exploiting the intellectual property rights, rather than owning IP relating to its business activities.</p> <ul style="list-style-type: none"> – where the business concerns intellectual property assets such as patents, research and development – where the business concerns non-trade intangible assets such as brand, trademark and customer data, marketing, branding and distribution

Shipping Business	<p>means any of the following activities involving the operation of a ship anywhere in the world other than solely within British 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, animals, goods or mail b. the renting or chartering of ships for the purpose described in paragraph (a) 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 e. the management of the crew of a ship <p>The definition of “ship” for these purposes does not include a “fishing vessel”, “pleasure vessel”, or a “small ship” (under 24m) as defined in the Merchant Shipping Act, 2001.</p> <ul style="list-style-type: none"> – managing the crew (including hiring, paying and overseeing crewmembers) – hauling and maintaining ships – overseeing and tracking deliveries – determining what goods to order and when to deliver them – organising and overseeing voyages
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DIRECTED AND MANAGED

Generally BVI tax resident entities undertaking relevant activities are now required to be directed and managed in the BVI in addition to undertaking core income generating activities in the BVI.

This consists of the following requirements, all of which must be complied with for each accounting period:

- The Board of Directors must meet in the BVI at an adequate frequency given the level of decision making required.
- During the meeting in the BVI, there must be a quorum of the Board of Directors physically present in The BVI.
- Strategic decisions of the entity must be set at meetings of the Board of Directors and the minutes must reflect those decisions. If an entity has one director, then they should evidence that written resolutions were passed by that director when he is physically present in the BVI.
- The Board of Directors, as a whole, must have the necessary knowledge and expertise to discharge their duties as a board.
- All minutes and entity records must be kept in the BVI.

Where there are corporate directors, these will be looked through, to the individuals (officers of the corporate director) actually performing the duties of the director.

MEETINGS AND MINUTES OF THE BOARD OF DIRECTORS

The directed and managed assessment is designed to ensure that there are an adequate number of board meetings held and attended in the BVI, although it is not necessary for all board meetings to be held in the BVI, or that a quorum of directors is always present in the BVI.

Quorum in this context will be determined in accordance with BVI Business Companies Law, 2004 and the entity's Memorandum and Articles of Association.

What constitutes an adequate number of meetings in the BVI will be dependent on the relevant activities of the entity. Although it is also expected that even for entities with a minimal level of activity there will be at least one meeting of its board of directors held in the BVI in each year.

The requirement also looks to ensure that the board is a decision making body, in that it has the necessary knowledge and experience, and is not simply giving effect to decisions taken outside of the BVI whether taken by the directors or others.

It is unlikely to be accepted that the Board of Directors is making the strategic decisions if there is evidence that substantive decision making is taking place in any forums, or by any persons, without reference to or the oversight to the Board of Directors.

The minutes of the board meetings should refer to all the relevant decisions taken, even where the board considers courses of action and rejects them.

Entity records expected to be maintained and physically reside, or be electronically available, in the BVI consist of: certificates of incorporation, articles of association/incorporation, financial statements, relevant certifications to operate and major funding documentation.

PURE EQUITY HOLDING ENTITIES – SUBSTANCE LIGHT

If your entity has been classified as a PEHE it would be considered in scope but would only be required to satisfy a reduced ES Test, that being:

- a. The Company has complied with its statutory obligations under the BVI Business Companies Act, 2004; and
- b. The Company has in the BVI adequate employees and premises for holding equity participations, and, where it makes those equity participations, has, in the BVI, adequate employees and premises for carrying out that management.

REDUCED SUBSTANCE TEST GUIDANCE FOR PEHE

Based on the ITA's guidance issued to date, PEHE's will be able to satisfy this reduced ES Test by ensuring it is compliant with the BVI Business Companies Act, 2004 and by having a BVI Registered Agent and a BVI Registered Office (both functions Ocorian already provides to your Company).

In the rare scenario where a PEHE is significantly active in the management of the equity interests it holds it could be expected to have a greater level of substance in the BVI to reflect this. If you think this may be the case then please let us know and we would be happy to discuss ways in which we can help you fill any substance gap.

REPORTING SUBSTANCE

If your entity is considered in scope as carrying on a relevant activity (other than as a PEHE), the entity via Ocorian as your Registered Agent, will be required by law to make a report each year to the ITA in relation to:

- Total turnover generated by the relevant activity.

- The amount of Expenditure incurred on the relevant activity within the BVI.
- The total number of employees engaged in the relevant activity.
- The total number of employees engaged in the relevant activity in the BVI.
- The address of any premises within the BVI which is used in connection with the relevant activity and the address of each such premises.
- The nature of the any equipment within the BVI which is used in connection with the Relevant activity and
- The names of the persons responsible for the direction and management of the relevant activity, together with their relationship to the entity and whether they are resident in the BVI.

PEHE REPORTING

If your entity is classified as a PEHE, in addition to the reduced ES Test, the annual reporting requirements will be significantly less than the above which Ocorian will handle on your entity's behalf.

REPORTING/ EVIDENCE OF TAX RESIDENCY ELSEWHERE

If your entity is considered out of scope of the ES Regime by way of carrying on a Relevant activity but not being Tax Resident in the BVI, the entity via Ocorian as your Registered Agent, is now required by law to report this each year to the ITA and provide documentary evidence of such

It's important to note that the overseas jurisdiction that the entity is claiming tax residency must not be on the EU's blacklist of jurisdictions (located on Annex 1 to the EU list of non-cooperative jurisdictions for tax purposes).
<https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions>

What the ITA will expect to receive as "documentary evidence" of overseas Tax Residency is still evolving, but we would expect it ultimately to be confirmation in writing from the relevant overseas Tax Authority stating that the entity is Tax Resident in that jurisdiction. However, for the initial reporting we expect that copies of filed tax returns by the entity in that foreign tax jurisdiction will likely suffice.

REPORTING TIMEFRAME

1. New entities formed from 1 January 2019 onwards

The initial financial year end is deemed to be 12 months from the date of formation, or sooner if the entity decides. Reporting is required 6 months after the financial year end.

2. Existing companies formed prior to 1 January 2019

The initial financial year end is deemed to be 12 months from 30 June 2019 (i.e. 30 June 2020), or sooner if the company decides. Reporting is required 6 months after the financial year end.

By 31 December 2020- all first year ES reporting should have occurred for existing entities incorporated prior to 1 January 2019. An entity can always apply to the ITA to amend the dates of its financial period provided that the revised financial period does not exceed 12 months.

FREQUENTLY ASKED QUESTIONS

1. What information will be required to complete the substance assessment?

In order to complete the full economic substance assessment you will require:

- Financial statements with accounting that demonstrates the entity’s gross income and expenditure and also that incurred in The BVI during the accounting period.
- Full Time Equivalent (FTE) employee calculations. Ocorian will provide information where it relates to its employees, however information will be required for alternate outsource providers not contracted by Ocorian and also external directors.
- The qualifications of directors and employees to evidence the Direction and Managed requirements. Ocorian will provide information where Ocorian provides directors to your entity, however information will be required for external directors.

2. The entity is tax resident outside of the BVI, does it still need to perform the assessment?

Entities that can evidence that they are tax resident outside the BVI will need to evidence:

- A tax assessment or certificate of tax residency.
- The entity is not tax resident in a jurisdiction which is on the EU’s list of non-cooperative jurisdictions. <https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/>

3. Can the entity be incorporated and managed & controlled in different jurisdictions?

It is possible for an entity can be incorporated in one country but the country of management and control to be different.

4. What does ‘Adequacy’ mean?

Legislation refers to the term “adequate”. However, this term is not defined and therefore has its ordinary meaning. The dictionary definition of adequate is “Enough or satisfactory for a particular purpose”.

What is adequate for each entity will be dependent on the particular circumstances of the entity and its business activity. An entity will have to ensure it maintains and retains appropriate records to demonstrate the adequacy of the resources utilised and expenditure incurred.

5. What constitutes outsourcing?

Outsourcing some or all of its activity is not prohibited. Outsourcing, in this context, includes outsourcing, contracting or delegating to third parties or group companies.

Outsourcing activities must be performed in the BVI.

If core income generating activities are outsourced within the BVI the entity must be able to prove the ability to monitor and control the outsourced activity.

Where a core income generating activity is outsourced the resources of the service provider in the BVI will be taken into consideration when determining whether the people and premises test is met.

However, there must be no double counting if the services are provided to more than one entity.

The entity remains responsible for ensuring accurate information is reported on its return and this will include precise details of the resources employed by its service providers, for example based on the use of timesheets.

6. What is the definition of financial statements?

Gross income and operating expenditure should be the figures from the financial statements, provided they have been prepared in accordance with recognised accounting principles.

Financial statements are required to demonstrate the entity's gross income and expenditure and also that incurred in the BVI during the accounting period.

7. What is a PEHE?

It is generally accepted that at least 85% of all BVI entities are holding companies of some nature. Although there is a category of relevant activity for holding companies this is restricted to PEHE's. If a holding entity fits within this strict definition of PEHE then it is technically in scope for the ES Regime, but the ES Test and reporting are very light (see above for more details).

If the holding entity does not fall within the strict definition of PEHE, and it does not fall within the other types of relevant activity, then the entity will be out of scope. Accordingly, if a holding entity holds any other asset than pure equity it is out of scope, e.g. land, bonds, debt etc. (providing it is not caught by one of the other relevant activities).

8. What if an entity has no income?

The ITA's guidance suggests that if there is no Core Income Generating Activity at all then the entity is not "carrying on" a relevant activity. However, if there is income but not in the current financial year, then it is still may classified as a carrying on a relevant activity.

9. What are the rules around Intellectual Property?

Where an entity receives income from IP, it will also have to consider if it is a "high risk IP entity". There is a rebuttable presumption that a high risk IP entity has failed the substance requirement as the risks of artificial profit shifting are considered to be greater. As a result the competent authority will exchange all of the information, provided by the entity, with the relevant competent authority where the immediate parent company, ultimate parent company and/or ultimate beneficial owner is resident. Such exchange of information will be in accordance with the existing international tax exchange agreements. To rebut the presumption and not incur further penalties, a high risk IP entity will have to produce materials which will explain how the DEMPE (development, enhancement, maintenance, protection and exploitation) functions have been under its control, and that this has involved people who are highly skilled and perform their core activities in the BVI.

The high evidential threshold requires:

- Detailed business plans which clearly lay out the commercial rationale for holding the Intellectual Property asset(s) in the BVI.
- Concrete evidence that the decision making is taking place in the BVI, and not elsewhere.
- Information on employees in the BVI, their experience, the contractual terms, their qualifications, and their length of service. Periodic decisions by non-resident directors or board members, or local staff passively holding intangible assets, cannot rebut the presumption.

10. The entity is in liquidation – do I still need to undertake the assessment and reporting?

If an entity in liquidation is still carrying on a relevant activity and continues to generate income then it is subject to the substance requirements.

If a liquidator is appointed all powers of the directors cease, it will be the liquidators of the entity that are required to demonstrate that the entity is directed and managed in the BVI, the directed and managed requirements are aligned to be the liquidator.

11. Who do I classify as an employee?

Employees for this purpose includes:

- a. Employees
- b. Persons working for the enterprise being subordinated to it and deemed to be employees under The BVI law
- c. Owner-managers and directors

The employee count will be based on the number of full time equivalents (FTEs), i.e. the number of persons who worked full time within the entity in question, or on its behalf during the entire accounting period.

The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of an FTE. For this purpose, a standard working week will be considered as 35 hours.

Directors, including Non-Executive Directors, should be counted as a fraction of an FTE commensurate with the time commitment of the role.

If the entity outsources, contracts or delegates some or all of its activity, then the resources of the service provider in the BVI will be taken into consideration.

When considering what an adequate number of qualified employees is, this must relate to the employees needed to be able to conduct the relevant activity as a whole (not just the core income generating activities).

12. What does 'qualified' employees mean?

Qualified is not directly mentioned in the legislation however it is referenced in the EU scoping paper, and prescribes Level 5NQF, EQF or equivalent.

The qualifications that are considered to be adequate will depend on the relevant sector that the entity has activity in, the core income generating activities undertaken in the BVI and the duties performed by those employees.

The BVI guidance provides that qualifications taken into account could include academic qualifications, vocational qualifications, relevant industry technical qualifications and also qualification by relevant experience.

13. Who is my information shared with?

If the ITA determines that a resident entity has not met the ES Test for a financial period, the ITA must disclose the information provided relating to that entity for that period to –

- a. The competent authority of the country or territory in which resides –
 - i. A holding body
 - ii. The ultimate holding body of the resident entity, and
 - iii. An ultimate beneficial owner, and
- b. If the resident entity is incorporated outside the BVI, the competent authority of the country or territory in which the resident entity is incorporated.

In respect of a high risk IP entity, regardless of whether or not the ITA has made a determination, the ITA must provide the information that has been provided to them in respect of that entity for each financial period of the entity starting on or after 1st January 2019 to –

- a. The competent authority of the country or territory in which resides –

- i. A holding body
 - ii. The ultimate holding body of the resident entity, and
 - iii. An ultimate beneficial owner, and
- b. If the high risk IP entity is incorporated outside of the BVI, the competent authority of the country or territory in which the entity is incorporated.

Nothing requires the ITA to provide information to the competent authority of a country or territory unless the provision of the information is permitted under –

- a. A bilateral agreement made between the BVI and that country or territory
- b. OECD and Council of Europe (2011), Multilateral Convention on Mutual Administrative Assistance in Tax Matters; Amended by the 2010 Protocol.

ECONOMIC SUBSTANCE FLOWCHART

