

British Virgin Islands - Updated February 2016

Snapshot

- Duty on all companies to file Register of Directors with the BVI Registry
- Important changes to Eligible Introducer Regime
- Duty on Eligible Introducers to provide beneficial ownership information to BVI Registered Agents
- New Government Fees affecting BVI companies

Changes to the Requirements for BVI Companies – FAQs

Q1 I've heard that there have been some changes in respect of the arrangements for BVI companies?

A1 Yes, the BVI government has enacted new laws and regulations to enhance the compliance regime for BVI companies. These changes mainly affect the requirements regarding providing information in respect of **directors** and **ultimate beneficial owners** of BVI companies and are intended to ensure that the BVI maintains its position as a successful financial services jurisdiction by keeping pace with international standards for compliance in relation to the automatic exchange of information and the fight against money laundering and terrorist financing.

Supra-national government bodies have demonstrated that offshore jurisdictions that do not keep pace with international compliance expectations will be targeted (and blacklisted in the event of non-compliance) in the future and that failure to do so will create barriers to doing business with those offshore centres. With this in mind and given all of the well-known qualities that BVI has to offer, clients should rest assured that BVI remains the premier offshore finance centre in which to do business.

Changes relating to Directors (Questions 2-11)

Q2 What are the changes in respect of providing information concerning directors?

A2 Effective 1 April 2016, every BVI company will be required to file its Register of Directors with the BVI Registry of Corporate Affairs.

Q3 When does this have to be done?

A3 For **existing companies**, there will be a *transition period* for filing the Register of Directors from 1 April 2016 to 31 March 2017.

For **new incorporations**, the Register of Directors needs to be filed within **21 days** after the appointment of the first directors; and

Any **changes** have to be filed with the Registrar within **30 days**.



British Virgin Islands - Updated February 2016

Q4 What information needs to be included in the Register of Directors for an individual director?

A4 For an individual director the information required is:-

- (i) full name;
- (ii) former name, if any, unless the former name was changed by deed poll or other legal means or disused for more than 10 years;
- (iii) date of appointment as director or nomination as reserve director;
- (iv) date of cessation as director or reserve director;
- (v) address for the service of documents;
- (vi) usual residential address, unless that address is the same as the individual's address for the service of documents;
- (vii) date and place of birth;
- (viii) nationality.

Where a person is or was formerly known by more than one name, each name must be stated.

Q5 Can a BVI company still have a corporate director?

A5 Yes, and for a corporate director the information that needs to be included in the Register is:-

- (i) corporate name;
- (ii) corporate or registration number, if any;
- (iii) registered office or principal office;
- (iv) address, but if the corporate director is incorporated or registered in the Virgin Islands, its corporate or registration number only;
- (v) date of appointment as corporate director;
- (vi) date of cessation as corporate director; and
- (vii) place of incorporation or registration and date of such incorporation or registration.

Q6 What if my company has already voluntarily filed a copy of the Register of Directors with the Registry?

A6 The company has until **31 March 2017** to ensure that all the required particulars are included in the filed Register of Directors.



British Virgin Islands - Updated February 2016

Q7 Will the information about directors filed at the Registry be public?

A7 No. Information about directors filed at the registry will be private and will only be accessible with written authorization by the company, or by Court order or on a written request by a BVI regulator or law enforcement entity acting within the scope of its authority.

Q8 If I was previously a director of a BVI company but have resigned, will my information be filed with the Registry?

A8 No. Information will only be filed about current directors at the time of filing.

Q9 What if I don't want my information to be filed?

A9 You can appoint a professional corporate service team to provide a corporate director. Newhaven can assist in providing an appropriate corporate director on payment of an annual fee. If this service is of interest, please make contact with your usual client services executive, or alternatively make contact at info@newhavengroup.net.

Q10 Is there a Government fee for filing the Register of Directors?

A10 –

Existing companies (as at 31 March 2016)

Before 30 September 2016	No fee
1 October 2016 – 31 March 2017	US\$25

New incorporations

Newly incorporated BVI companies will be required to pay a government fee of US\$50.

Changes

The government fee for registering any changes will be US\$50.

Q11 What if a company fails to file its Register of Directors within the stipulated time?

A11 The penalty of a BVI company for failing to register within the stipulated time is US\$100. This includes failing to file the register or file changes, in particular a Register of Directors that has already been filed. Additional penalties will be applied to the company as follows:

(i)	for the first month	US\$ 300
(ii)	during the next 3 months after (i), add	US\$ 500
(iii)	during the next 3 months after (ii), add	US\$ 750
(iv)	thereafter, per month, add	US\$ 1,000



British Virgin Islands - Updated February 2016

Client Aide-Memoire

	Filing Period	Gov. Fee (US\$) 1/4/16-30/9/16	Gov. Fee (US\$) 1/10/16-31/3/17
Existing Companies	1/4/16 – 31/3/17	0	25
New Companies	21 days	50	50
Changes	30 days	50	50

Changes relating to Eligible Introducers (EIs) (Questions 12-23)

Q12 What are the changes relating to provision of information concerning the beneficial owners of BVI companies?

A12 The changes **only** affect the BVI's Eligible Introducer Regime, which is the system under which certain approved introducers of BVI business (Eligible Introducers or EIs), which are regulated in their own jurisdictions, are eligible to incorporate BVI companies without immediately providing full DD/KYC information, including information on the ultimate beneficial owner (BO) to the BVI registered agent, on the basis that the information is obtained and kept by the introducer and supplied to the BVI Registered agent immediately on request.

Q13 If I'm not an Eligible Introducer, do these changes have any impact on me in relation to the information that I need to provide in order to incorporate a BVI company?

A13 No. There is no change at all in relation to the details which you need to supply regarding the beneficial owner of the company and the DD/KYC documents and information which you need to supply, and there is no need for you to refer to the remainder of these FAQs, but please contact your Newhaven representative should you have any further questions.

Q14 I'm an existing Eligible Introducer for Newhaven. What are the changes in the Eligible Introducer Regime?

A14 The changes are twofold.

Firstly they impose requirements on Eligible Introducers to provide BVI registered agents with certain information relating to the ultimate beneficial owner(s) of BVI companies which they have introduced.

Secondly, the Eligible Introducer Regime has been strengthened to make the standards which need to be met to be approved as an Eligible Introducer more rigorous.



British Virgin Islands - Updated February 2016

Q15 What are the requirements on Eligible Introducers to provide BVI registered agents with information relating to beneficial owners of BVI companies which they have introduced?

A15 The information to be supplied on each beneficial owner is:-

- (i) name;
- (ii) date of birth;
- (iii) residential address;
- (iv) nationality;
- (v) intended activities of the company.

Q16 Do supporting documents need to be supplied to the BVI registered agent to verify the information?

A16 No. Supporting documentation does not need to be supplied

Q17 Who constitutes a beneficial owner of a BVI company whose information needs to be supplied?

A17 The definition of beneficial owner is very wide and includes, but isn't confined to the following:-

- (a) in the case of a company other than one listed on a recognised stock exchange, a natural person who ultimately owns or controls, whether directly or indirectly, ten or more per cent (>10%) of the shares or voting rights in the company;
- (b) in the case of a company, a natural person who otherwise exercises control over the management of the company; and
- (c) in the case of a trust or partnership: –
 - (i) the partner or partners who control the partnership;
 - (ii) the trustee or other person who controls the trust;
 - (iii) the settlor or other person by whom the trust is established.



British Virgin Islands - Updated February 2016

Q18 When does this information need to be supplied?

A18 The new provisions are effective from **1 January 2016**.

For **existing companies**, there is a transition period for the information to be provided until **31 December 2016**. Your Newhaven client services executive will be in touch to agree the most efficient and secure means of obtaining this information.

For **new incorporations**, the information must be supplied **immediately**. Our order forms will be updated accordingly, so please don't be surprised when you see the request for additional information.

Q19 What happens if the information on beneficial owners is not provided to the BVI registered agent within the stipulated time?

A19 A breach of these Regulations is a **criminal offence** and as a BVI registered agent would be unable to continue as registered agent for a non-compliant company and would be required to resign, the company would be liable to be **struck off**.

Q20 What are the changes to strengthen the Eligible Introducer Regime?

A20 Under the strengthened Eligible Introducer regime the following requirements apply:-

- (i) A BVI Registered Agent can rely only on Eligible Introducers that are:
 - a. a regulated person;
 - b. a foreign regulated person; or
 - c. a member of a professional body (i) whose rules of conduct or practice embody legal requirements for the detection and prevention of money laundering consistent with the FATF recommendations generally; and (ii) who, in relation to customer due diligence and record keeping procedures specifically, is regulated, supervised or monitored by that body for compliance with those requirements; and
 - d. located in a country or territory that is in the Financial Services Commission's List of Recognized Jurisdictions.

- (ii) For Eligible Introducers that meet the requirements above, the BVI registered agent must have in place a new written agreement which includes the requirements of the new legislation;



British Virgin Islands - Updated February 2016

- (iii) A BVI registered agent cannot rely on an Eligible Introducer that is relying itself on a third party or other third parties to conduct and maintain information on the customer due diligence;
- (iv) Due diligence information must be held at the Eligible Introducer directly conducting business with the BVI registered agent;
- (v) The BVI registered agent must regularly test the compliance of the Eligible Introducer with the requirements and be able to satisfy the BVI regulator of the adequacy of the testing procedures and that the Eligible Introducer is compliant.

Q21 What does this mean in respect of my relationship with Newhaven as an Eligible Introducer?

A21 As BVI Registered agent, Newhaven will need to:

Assess your qualification as an Eligible Introducer to confirm that you meet the new criteria stipulated by BVI Regulations, and, if the terms of the existing agreement do not satisfy the new requirements, to arrange for an appropriate written agreement to be entered into documenting the relationship.

Establish a programme for periodic testing of your compliance with the Eligible Introducer requirements.

* Failure by Newhaven (or any other BVI registered agents) to undertake any of these steps and to be able to produce evidence of having done so to the satisfaction of the BVI regulators would constitute offences by Newhaven leading to immediate and severe sanctions including substantial fines.

Q22 What if I am unable to meet the qualifications required by BVI Regulations to continue my relationship with Newhaven as an Eligible Introducer?

A22 In those circumstances, unfortunately, there would be no alternative but to discontinue the Eligible Introducer relationship, however Newhaven would work closely with you in order to establish a suitable alternative environment for satisfaction of the necessary compliance processes in connection with BVI companies.

Q23 What are the next steps?

A23 Should you have any further questions, please contact your Newhaven client services executive, who will in any event be in contact with you shortly to arrange the action necessary to bring your Eligible Introducer status within the new requirements and to establish procedures for collection of information on beneficial ownership of introduced BVI companies.



British Virgin Islands - Updated February 2016

Contact

Janice Skelton (Americas)
+1 284 494 5108
jskelton@newhavenbvi.net

David Gough (Europe)
+44 1481 740517
david.gough@newhaventrust.net

Hayden Mollard (Middle East)
+ 971 559 704 824
hayden.mollard@newhavengroup.net

Alan Collins (Asia Pacific)
+852 2882 2002
alancollins@newhavenhk.net

BVI Guernsey London Dubai Mauritius Hong Kong New Zealand
www.newhavengroup.net

Disclaimer. Every effort is made to ensure the accuracy of the information appearing herein, but accuracy and completeness cannot be guaranteed. No company within Newhaven Group provides legal, investment or taxation advice. All clients and prospective clients are strongly recommended to obtain professional advice as required. Clients resident in certain jurisdictions may be ineligible to receive services from companies within the Newhaven Group.