



Updates in Respect of the Common Reporting Standard ("CRS")

British Virgin Islands

29 October 2018

An amendment to the existing BVI CRS legislation has been published which introduces new requirements to the existing CRS regime. The amendment is in the form of the Mutual Legal Assistance (Tax Matters) (Amendment) Act, 2018 ("Amendment"), which was published on 4 October 2018.

The CRS regime has been in force in the BVI since 1 January 2016. The Amendment requires all British Virgin Islands Financial Institutions to take additional steps to remain compliant with the CRS regime. This Advisory provides a high-level summary of the key new requirements.

Extended Registration Requirements

The one-off registration requirement which previously only applied to Virgin Islands Reporting Financial Institutions has now been expanded to include all Virgin Islands Financial Institutions, regardless of whether Reporting or Non-Reporting. The annual registration deadline is 30 April. Therefore, all Virgin Islands Financial Institutions must register via the BVI Financial Account Reporting System ("BVIFARS") by 30 April 2019 if they have not already done so.

Nil Returns

Virgin Islands Financial Institutions that did not maintain any reportable accounts in a given year are now required to submit a nil return via BVIFARS on a mandatory basis. Nil returns were previously optional. Therefore, all Virgin Islands Financial Institutions that did not maintain any reportable accounts in 2018 will need to submit a nil return via BVIFARS by 31 May 2019 for the 2018 year. The reporting deadline is 31 May each year, with either reports or nil returns required on an annual basis.

Written Policies and Procedures

All Virgin Islands Financial Institutions must now establish, implement and maintain written policies and procedures setting out how they will comply with due the diligence, reporting and record-keeping requirements of the CRS regime.



Offences and Penalties

The Amendment introduces a number of new offences, including failure by a BVI Financial Institution to establish and maintain written policies and procedures, failure by a BVI Financial Institution to register via BVIFARS and by any person wilfully or knowingly signing or affirming a false self-certification. The Amendment also states that a BVI Financial Institution will be in contravention of the necessary policies and procedures regarding self-certification or documentary evidence if it knows, or has reason to believe, the self-certification or documentary evidence is inaccurate in a material way or files a return that relies on the accuracy of such a self-certification or based on documentary evidence. The maximum fine for committing an offence under the CRS regime remains US\$100,000.

Conclusion and next steps

Walkers is able to assist with all aspects of the BVI CRS and FATCA regimes, including advising on classification and any resulting obligations, providing the necessary written CRS policies and procedures and, together with Walkers Fiduciary, assisting with all aspects of operational compliance including investor due diligence, notification and reporting.

Contacts

Walkers can assist with any questions you may have in relation to the above or regulatory matters more generally. For further information please speak with your usual contact at Walkers or one of the following:

Legal Services



Patrick Ormond
Partner - British Virgin Islands
T: +1 284 852 2260
E: patrick.ormond@walkersglobal.com



Lucy Frew
Partner - Cayman Islands
T: +1 345 814 4676
E: lucy.frew@walkersglobal.com



Daniel Wood
Managing Partner - Dubai
T: +971 4 363 7912
E: daniel.wood@walkersglobal.com



Jack Boldarin
Managing Partner - London
T: +44 (0)20 7220 4995
E: jack.boldarin@walkersglobal.com



Laura Rogers
Partner - Singapore
T: +65 6595 4675
E: laura.rogers@walkersglobal.com



Lisa Penn-Lettsome
Senior Counsel - British Virgin Islands
T: +1 284 852 2241
E: lisa.penn-lettsome@walkersglobal.com



Alice Molan
Counsel - Hong Kong
T: +852 2596 3425
E: alice.molan@walkersglobal.com



Andrew Howarth
Associate - Cayman Islands
T: +1 345 814 4561
E: andrew.howarth@walkersglobal.com

Fiduciary Services



Steven Manning
Director - Cayman Islands
T: +1 345 814 7612
E: steven.manning@walkersglobal.com



Megan English
Assistant Vice President - Cayman Islands
T: +1 345 814 7640
E: megan.english@walkersglobal.com