

Update on Bermuda's Economic Substance Legislation

We are pleased to report recent developments relating to the Bermuda economic substance regime.

Entities Tax Resident Overseas – Out of Scope

The Economic Substance Amendment Act 2019 now exempts from the requirements of the Bermuda Economic Substance regime those Bermuda entities that are tax resident in another jurisdiction, provided that their home base is not on the EU “blacklist” of non-cooperative jurisdictions for tax purposes.

Such non-resident entities carrying on a relevant activity will not be subject to the economic substance requirements. However, they are obliged to provide to the Registrar of Companies (the “Registrar”) the name of the jurisdiction in which it claims to be resident for tax purposes together with sufficient evidence to support that tax residence for each relevant financial period.

This is a critically important amendment that has been a welcome relief for the international business community. The Minister of Finance had previously confirmed that it was important that competing jurisdictions operate on a level playing field. This amendment restores a level playing field for Bermuda's substantial international business community.

Guidance Notes

The Registrar has released Draft Economic Substance Requirements – General Principles on 26 June 2019 (the “Guidance Notes”) for industry consultation.

The Guidance Notes are intended to assist and guide entities in determining how they can comply and maintain compliance with the economic substance requirements. . The Registrar has advised that industry-specific guidance notes will be released in due course. The Guidance Notes have been submitted for review by the EU Code of Conduct Group and the OECD, which are expected to meet later in the autumn.

e-Registration System

The Registrar is in the process of creating an e-registration system to accept and manage the statutory declarations required under the economic substance regime, in anticipation of this system being operational in the second quarter of 2020. In a recent update meeting with industry, the Registrar indicated his anticipation that the first filing deadline for in-scope and non-resident entities is currently expected to be 30 June 2020.

The corporate team at CHW is available to advise on any queries relating to Economic Substance requirements.

Principal contacts:

Ernest Morrison	Managing Director	441 294-1503	emorrisson@chw.com
Janice Gutteridge	Senior Associate	441 294-1508	jpgutteridge@chw.com
Kathleen Moniz	Senior Associate	441 294-1510	kmoniz@chw.com