



Introduction of substance requirements for entities based in Bermuda

In June 2018, the EU's inter-governmental Code of Conduct Group (Business Taxation) issued a scoping paper on requirements that certain jurisdictions outside the EU must adopt with regards to the economic substance of entities based in those jurisdictions. The majority of offshore jurisdictions¹ will be affected and have committed to implement appropriate legislation in order to avoid being added to a listing of non-cooperative jurisdictions by the EU.

The Bermuda Government is committed to satisfying the EU's requirements and has been working with the EU's Code of Conduct Group to develop legislation. In accordance with the Government's commitment to the EU, this legislation should be in place in by 31 December, 2018.

Entities within scope

Entities within the scope of the legislation will be those which carry out 'relevant activities' as defined by the scoping paper. Relevant activities are:

- Banking
- Insurance
- Fund management
- Finance and leasing
- Headquarters
- Shipping
- Intellectual property
- Distribution and service centres
- Holding companies that carry on any of these activities

Companies carrying on a relevant activity will be required to file an annual 'economic substance declaration' confirming that the company maintains a substantial economic presence in the jurisdiction.

Entities that do not carry out relevant activities will be outside of scope. Additionally, certain companies whose regulatory regimes already require elements of substance in the jurisdiction (e.g. banking and insurance companies in Bermuda) will satisfy the requirements through their existing arrangements.

¹ Anguilla, Bahamas, Bahrain, Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Marshall Islands, Turks and Caicos Islands, United Arab Emirates, Vanuatu

Discussions are still in process with the EU, but are at an advanced state. We expect draft legislation to be finalized in the coming weeks and we will keep you informed with detailed guidance as soon as that draft legislation is published. Your usual contacts at Conyers will be available to answer any questions you may have at that time.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

For further information please contact: media@conyersdill.com