

Alert

Filing an Economic Substance Declaration in Bermuda

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In 2018, Bermuda enacted legislation with respect to economic substance requirements for entities based in the jurisdiction. All other major offshore jurisdictions enacted similar legislation at the same time. The Economic Substance Act 2018 (the “Act”) requires all Bermuda-based entities that are carrying on a “relevant activity” to file an Economic Substance Declaration Form (a “Declaration Form”) with the Bermuda Registrar of Companies annually, within six months of the last day of the entity’s financial year (for example, such an entity with a financial year-end of 31 December 2020 will be required to file its completed Declaration Form by 30 June 2021).

Relevant Activities

The following are relevant activities, as defined by the Act:

- Banking
- Insurance
- Fund management
- Financing and leasing
- Headquarters
- Shipping
- Intellectual property
- Distribution and service centres
- Holding entity

Economic Substance Declaration

The Declaration Form must include information demonstrating that the relevant entity has either: (a) satisfied the economic substance requirements applicable to that entity, or (b) is resident for tax purposes in another jurisdiction (which is not on the European Union’s list of non-cooperative jurisdictions for tax purposes). An entity that carries on a relevant activity is required to file a Declaration Form whether or not it earns any gross revenue in respect of the relevant activity. It should be noted, however, that entities that do not earn any gross revenue in respect of the relevant activity may file a ‘Nil’ declaration and such entities are not required to comply with the economic substance requirements.

The Registrar will determine whether or not the applicable substance or tax-residency requirements are met, based on the information provided by the relevant entity.

Economic Substance Requirements

The economic substance requirements for a Bermuda-based entity will depend on the nature of the relevant activity and the particular circumstances of the entity. For an overview of economic substance requirements for Bermuda-based entities, [click here](#). However, we recommend seeking legal advice in Bermuda concerning the individual situation of any entity or proposed entity.

How can we help?

Conyers was closely involved with the implementation of Bermuda's economic substance legislation as well as the Registrar's Economic Substance Declaration Portal. The Declaration Form can only be filed via the Economic Substance Declaration Portal, which is accessed via the following web link: www.registrarofcompanies.gov.bm

Our lawyers have advised and assisted our clients with their assessment of the impact of the economic substance requirements, as well as filing their initial Declaration Forms. As a result, we have acquired an unrivalled understanding in Bermuda of the economic substance requirements of various types of entity, across all relevant activities, as well as expertise on the filing process.

Please reach out to your usual Conyers contact, or one of the lawyers listed below, for help with:

- determining the status of an entity for economic substance purposes
- clarifying the reporting obligations of an entity
- completing and filing the Declaration Form.

Corporate Services

In some instances, entities required to meet economic substance requirements may benefit from our full suite of fiduciary services. Contact us to find out whether we can assist you in fulfilling your obligations under the law.

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