COLLAS CRILL

# BVI versus Cayman? Your choice for structuring

APRIL 2025

When structuring a new investment, a common question posed by clients is whether the British Virgin Islands (BVI) or Cayman is a more suitable jurisdiction of incorporation for a corporate entity.

While there is no one-size-fits-all answer, and our advice will always be framed with reference to a client's particular circumstances - including commercial factors, we have set out some common considerations that may help you below.

## What unites us

I write regularly about the BVI Advantage and a key point to make is that a lot of the elements of what makes the BVI a leading global offshore financial centre apply equally in Cayman. Similarly, many of the legal and structural advantages of doing business offshore are common to both territories.

## The BVI Advantage

In summary the key aspects of the BVI Advantage are:

- Flexible, modern and evolving corporate laws
- Legal certainty
- Creditor friendly legislation
- Light but effective and stable regulation
- Tax neutrality
- Access to legitimate privacy
- Superior corporate services infrastructure
- Ease and speed of incorporation and competitive set-up and annual costs
- Jurisdictional neutrality and stability
- A dependence on offshore business that renders material adverse change in tax and law almost unthinkable

## Available in the BVI and Cayman (but not always onshore)

| | |
|---|---|
| **Statutory merger** | Yes |

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

| | |
|---|---|
| **Migration (in and out)** | Yes |
| **Forex restrictions** | No |
| **Government expropriation** | No |
| **Financial assistance** | Permitted |
| **Stamp duty on share transfer** | N/A (unless local real estate in involved) |
| **Ability to hold shares in treasury** | Yes |
| **Board and members, and their meetings global** | Yes, subject to ES |
| **Chapter 11 or administration equivalent?** | Not currently in force |
| **Share buyback without court consent** | Yes |
| **Bearer shares** | Not permitted |
| **Foreign character names** | Permitted |
| **Treatment of creditors** | Pari passu treatment of claims, subject to respecting the rights of secured creditors, preferential creditors and rights of set-off |

## Key differences between BVI and Cayman corporate vehicles

| Key differences | BVI | Cayman |
|---|---|---|
| **Security registration** | Public regime for the registration of security that confers statutory priority | No statutory regime for general security registration |
| **Documents available from a company search** | Incorporation documents and memorandum and articles of association, as well as any security registrations | Name, registered number, registered office address |

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

COLLAS CRILL

| | | |
|---|---|---|
| **Concept of share capital** | Abolished | Exists; reduction of share capital requires a court application |
| **Laws** | Heavily codified | Leaner law;' more common law analysis required |
| **Solvency test** | English style, two pronged test:<br>• Cash flow solvency<br>• Balance sheet solvency | Cash flow only:<br>• a company must be able to repay its debts as they fall due in the ordinary course of business.<br>• An easier threshold to meet (and avoids trying to decipher the applicability of the Eurosail case) |
| **Deeds** | Mandatory to maintain but optional to use a seal; deeds must be signed in wet ink | Optional to maintain and use a seal; deeds may be signed electronically |
| **Statutory validation of subordination and netting arrangements** | Bilateral only | Multilateral |
| **Voidable (antecedent) transactions** | Preference, undervalue transaction, extortionate credit, voidable floating charge | Unfair preferences, undervalue transactions |
| **Restructuring tools** | • Schemes and plans of arrangement<br>• Company creditors' arrangements<br>• Light touch provisional liquidation | • Schemes of arrangement only<br>• No CCAs<br>• Light touch provisional liquidation |

If you would like to discuss any aspect of structuring a new investment vehicle please do get in touch with the contacts listed to the right of this page.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

COLLAS CRILL

**For more information please contact:**




## Ellie Crespi

BVI Managing Partner | BVI

**t:** +1 284 852 6335 | **e:** ellie.crespi@collascrill.com


This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.