COLLAS CRILL

Reflections from the BVI on the Speech from the Throne

JANUARY 2022

On 18 January, His Excellency the Governor, Mr. John Rankin, delivered his first Speech from the Throne and the ears of the financial services industry pricked as we heard that:

"*The BVI Business Companies (Amendment) Act, 2022 will mainly address issues surrounding* ***struck-off companies***, ***abolition of bearer shares***, *and* ***record-keeping measures***. *The reforms will also include amendments to require persons wishing to act as* ***voluntary liquidators*** *of BVI business companies to be either licensed insolvency practitioners or persons resident in the Virgin Islands and holding specific qualifications and skills. Amendments will also be effected to Schedule 1 of the Act by reviewing and, as necessary, enhancing the* ***registry fees*** *regime*" (the emphases are mine).

Our clients are now asking what these new measures will look like.

The news in relation to the rather antiquated concept of bearer shares comes as no surprise; BVI companies have been unable to issue them for more than ten years as we all knew it was only a matter of time before they were abolished completely.

What is more interesting is the changes to the strike off regime, record keeping, and voluntary liquidators. While we don't know exactly what the changes will look like, the BVI Financial Services Commission (**FSC**)'s consultation document gives us a good steer:

- in relation to strike off, it is proposed that companies are dissolved after a period of strike off of 12 months, rather than seven years. Subsequently, court-based restoration will only be possible where:
  - it is purely for the purpose of commencing or continuing legal proceedings in relation to the company;
  - it is purely for the purpose of defending an action against the company; or
  - it is purely for the purpose of distributing outstanding assets or claiming assets that have vested in the Crown *bona vacantia*;
- in relation to record keeping, where records and underlying documentation are maintained outside the BVI, there is likely to be a requirement that copies of such records and underlying documentation should, at least once a year, be filed by the company with its registered agent and that such copies agent must relate to a company's financial statements (audited or, if unaudited, the unaudited statements), balance sheet, profit and loss account with relevant schedules and annual reports; and
- going forward, persons wishing to act as voluntary liquidators of BVI business companies will have to be either licensed insolvency practitioners or persons resident in BVI and holding specific qualifications and

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.

skills.

We have certainty on fees as the FSC has already made an order relating to continuation fees and fees for foreign registered companies. The details can be consulted here, but the most salient change is that the Registry fee for companies continuing in to the jurisdiction has halved, to $500. It makes perfect commercial sense to incentivise companies looking to avail themselves of the BVI Advantage and we welcome this change.

To discuss any of these issues in more detail, please contact Ellie Crespi, BVI Managing Partner and head of Collas Crill's corporate, finance and funds team on the island.

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.