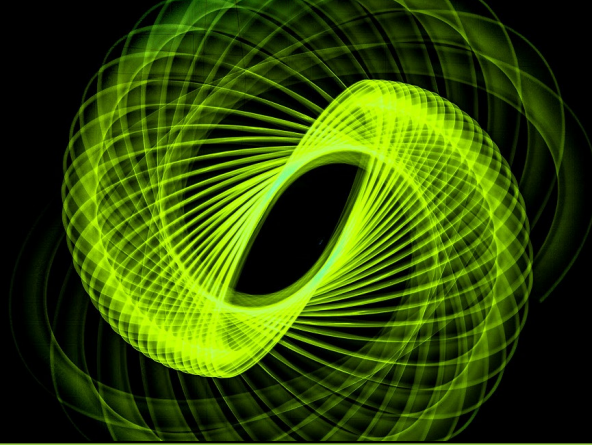


New Annual Financial Return Filing for BVI Companies



A new requirement applies for certain companies incorporated or registered in the British Virgin Islands (BVI) to file annual financial returns for years commencing on or after 1 January 2023. The filing deadline depends on the company's year end, with the first returns being due by 30 September 2024. This article summarizes key points relating to the new rules, including the meaning of the term "year," filing requirements, exemptions from the requirements, and potential penalties for noncompliance.

Background

On 1 January 2023, a number of amendments to the BVI Business Companies Act (the Act) entered into force. One such amendment introduces a requirement for companies to prepare and file a financial return in respect of each year (the Annual Return). This amendment affects all companies incorporated or registered in the BVI, unless an exemption applies (as described below). The Annual Return is to be filed privately with the company's registered agent and must be prepared in the prescribed form, including a simple unaudited balance sheet/statement of financial position and an income statement. There is no requirement for detailed notes and additional supporting information to accompany the Annual Return. While the Annual Return will not be made public, the registered agent will be required to submit a copy to the BVI Financial Services Commission (the Commission) or a competent authority upon request.

The BVI Business Companies (Financial Return) Order, 2023 (the Order) issued by the Commission also entered into effect on 1

January 2023. The Order provides a template form for the annual return and provides guidance to companies to assist them with complying with the Act. Neither the Order nor the Act specifies any stipulated accounting standards to be used for the Annual Return and, therefore, companies have a degree of flexibility in the accounting method to be followed. However, directors of a company have a reasonable duty of care to ensure the financial position of the company can be determined with reasonable accuracy. Submission of audited accounts will not satisfy the requirement to file an Annual Return.

Financial year and filing requirements

The Annual Return must be filed for all years commencing on or after 1 January 2023, meaning that the earliest year for which the requirement may be applicable is the year ending on 31 December 2023.

The term "year" relates to a company's fiscal or financial year, which may be a calendar year. If a company's fiscal or financial year does not correspond to a calendar year, references to "year" relate to the company's stated fiscal or financial year.

A company must file its Annual Return within nine months of the end of each fiscal or financial year. The first deadlines for common financial year ends are set out below.

Financial year end	Filing deadline
31 December 2023	30 September 2024
31 March 2024	31 December 2024
30 June 2024	31 March 2025

If a company has not yet established a financial or fiscal year end, a simple board resolution may be passed to establish a year end date.

Exemptions

The following companies are exempt, under section 98A(5) and (5A) of the Act, from the requirement to file an Annual Return:

- A listed company, meaning a company that is listed on a stock exchange. The BVI company must be the listed entity;
- A company that is regulated under BVI financial services legislation and provides financial statements to the Commission in accordance with the requirements of that financial services legislation;
- A company that files its annual tax return to the BVI Inland Revenue Department, accompanied by the company's financial statements (this refers to an annual return filed for payroll tax purposes); and
- A company in liquidation; however, this exemption does not apply if the company's Annual Return becomes due prior to the commencement of the liquidation.

Noncompliance

If a company fails to file its Annual Return, the registered agent is required to notify the Registrar of Corporate Affairs (the Registrar), in writing, within 30 days after the date the Annual Return was due.

Financial penalties will be imposed on the company for failing to file the Annual Return. The financial penalties are as follows:

- For the first month, or part thereof, after the filing of the Annual Return was due, the penalty will be USD 300; and
- For each month, or part thereof, after the

first month referred to in (a) above, the penalty will be USD 200, up to a maximum of USD 5,000.

If the company has failed to file the Annual Return and has become liable to the maximum penalty, the Registrar may proceed to strike the name of the company off the BVI Companies Register.

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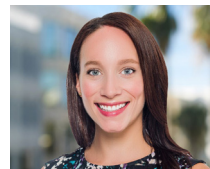


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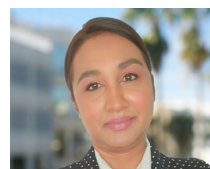


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