

Update on Bearer Share Transition in the British Virgin Islands

The BVI's bearer share regime has undergone significant changes in the past several years. This update serves to remind clients as to the existing law relating to bearer shares and to explain its practical implications.

If a company is authorised to issue bearer shares but has not in fact done so, there is no need to take action. By way of statutory enactment any such company will automatically lose the power to issue bearer shares at the end of 2009.

Where a company has issued bearer shares, the company must before the end of 2009 either arrange for the bearer shares to be converted into registered shares, or, if it wishes to continue with bearer shares, it must take special action for this purpose. This special action involves disapplying paragraph 34A(1) of Schedule 2 of the BVI Business Companies Act and having the bearer share certificates deposited with an authorised custodian.

A bearer share that is not deposited with an authorised custodian becomes disabled for any period during which it is held by any person other than an authorised custodian. This means that the bearer share does not carry any of the rights and entitlements which it would otherwise carry and any transfer of interest in the share is void. The company will then become liable to higher annual government fees.

Harneys Corporate Services has applied to the BVI Financial Services Commission to be registered as an authorised custodian for the purpose of holding issued BVI bearer shares.

If you have any questions about the bearer share regime or if you are interested in depositing your bearer share certificates with us, please contact Director of Operations Gwenyth Vanterpool (gwenyth.vanterpool@harneys.com) or your usual Harneys contact as soon as possible.

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The foregoing discussion and analysis is for general information purposes only and not intended to be relied upon for legal advice in any specific or individual situation.