No. 9 of 2024

VIRGIN ISLANDS

BENEFICIAL OWNERSHIP SECURE SEARCH SYSTEM (AMENDMENT) ACT, 2024

ARRANGEMENT OF SECTIONS

SECTION

1. Short title, commencement and application
2. Section 2 amended
3. Section 10 amended
4. Section 13 amended

I ASSENT

Daniel Pruce,
Governor
19th July, 2024

VIRGIN ISLANDS

No. 9 of 2024

AN ACT TO AMEND THE BENEFICIAL OWNERSHIP SECURE SEARCH SYSTEM ACT, REVISED EDITION 2020, AND TO PROVIDE FOR MATTERS CONCERNING THEREWITH.

[Gazetted 24th July, 2024]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title, commencement and application

1. (1) This Act may be cited as the Beneficial Ownership Secure Search System (Amendment) Act, 2024.

(2) The amendments made to section 10 of the principal Act shall apply to all financial periods beginning on or after 1st January, 2025.

Section 2 amended

2. The Beneficial Ownership Secure Search System Act, Revised Edition 2020 (hereinafter referred to as the "principal Act") is amended in section 2 by deleting the definition of "beneficial ownership secure search system" and replacing it with the following:

> ""beneficial ownership secure search system" means the Secure Search system, an electronic platform or system established and maintained under this Act to provide access to prescribed information contained in RA databases as prescribed by this Act;".

Section 10 amended

3. Section 10 of the principal Act is amended

(a) by deleting subsection (3)(i) and replacing it with:

"(i) with respect to any corporate and legal entity which carries on a relevant activity, and which does not claim to be outside of the scope of the economic substance requirements by reason

of being a non-resident company or a non-resident limited partnership, in relation to each such activity which it carries on during a financial period, and in respect of each financial period

(i) taxpayer identification number ("TIN"), if any;

(ii) gross income in relation to the relevant activity;

(iii) total annual gross income of the corporate and legal entity;

(iv) the total amount of expenditure incurred in relation to the relevant activity generally;

(v) the total amount of expenditure incurred in relation to the relevant activity in the Virgin Islands;

(vi) assets held in the course of carrying on the relevant activity;

(vii) net book values of tangible assets held in the course of carrying out the relevant activity;

(viii) the total number of employees of the corporate and legal entity;

(ix) the total number of employees engaged in the relevant activity generally;

(x) the number of employees engaged in the relevant activity within the Virgin Islands;

(xi) details of the employees engaged in the relevant activity including

a. name; and

b. whether the employee is full time or part time; and

c. qualification; or

d. years of relevant experience;

(xii) the core income generating activity in relation to each relevant activity being conducted;

(xiii) the address of any premises within the Virgin Islands which is used, in connection with the relevant activity;

(xiv) details of the persons responsible for the direction and management of the relevant activity, together with their relationship to the corporate and legal entity and whether they are resident in the Virgin Islands;

(xv) details of the board meetings held by the corporate and legal entity including

a. total number of board meetings held generally;

b. total number of board meetings held in the Virgin Islands;

c. the quorum of board meetings;

d. whether the meetings and decisions were minuted and kept in the Virgin Islands;

e. whether the quorum of directors was physically present in the Virgin Islands;

f. details of the directors of the corporate and legal entity including

i. name;

ii. qualifications;

iii. years of relevant experience; and

iv. whether they are physically present in the Virgin Islands;"

(b) in subsection (3)(j) by inserting the following as subsection (3)(j)(i) and re-designating the existing subparagraphs (i), (ii), (iii), (iv) and (v) as subparagraphs (ii), (iii), (iv), (v) and (vi) respectively:

"(i) the type of gross income in relation to the relevant activity;"

(c) by deleting subsection (3)(k) and replacing it with

"(k) with respect to the corporate and legal entity which carries on holding business, and which does not claim to be outside of the scope of the economic substance requirements by reason of being a non-resident company or a non-resident limited partnership, the prescribed information in subsection (3)(i) shall be limited to subparagraphs (i) to (iii); and

(i) whether the activities carried on by the corporate and legal entity are active or passive;

(ii) whether the activities of the corporate and legal entity are active

a. details of qualified employees engaged in the relevant activity including

i. name; and

ii. whether the employee is full time or part time; and

iii. qualification; or

iv. years of relevant experience;

b. details of appropriate premises;

c. the total amount of expenditure incurred in relation to the relevant activity generally;

d. the total amount of expenditure incurred in relation to the relevant activity in the Virgin Islands;

(iii) where the activities of the corporate and legal entity are passive, a statement that the corporate and legal entity complies with its statutory obligations under the BVI Business Companies Act, Revised Edition 2020, or the Limited Partnership Act, Revised Edition 2020;"

Section 13 amended

4. Section 13 of the principal Act is amended by

(a) deleting subsection (6) and replacing it with the following:

"(6) A designated person shall execute a search of the Beneficial Ownership Secure Search System if formally requested to do so by a senior officer of any of the following authorities:

(a) the Financial Investigation Agency;

(b) the Financial Services Commission;

(c) the International Tax Authority;

(d) the Attorney General's Chambers; and

(e) the Governor's Office.

(6a) For the purposes of subsection (6)(d) and (e) senior officer means a senior public officer included under salary scale 17 or above."

(b) by inserting after subsection (10) the following new subsection:

"(11) Any information received by an authority listed under subsection (6) shall be treated as confidential and shall not be disclosed to any other person or authority except where

(a) the disclosure of the same is required under the legislation governing the affairs of the authority making the request and any international agreement administered by it; or

(b) it is being disclosed to a designated law enforcement authority listed in Schedule 2."

Made by the House of Assembly this 2nd day of July, 2024.

(Sgd.) Corine N. George-Massicote,
Speaker.

(Sgd.) Bethsaida Smith-Hanley,
Clerk of the House of Assembly.