

提示简报

Economic Substance – Preparing for Filing the First Declarations

经济实质 – 准备提交第一份经济实质声明

作者 : Sophia Greaves, 董事 | Neil Henderson, 董事 | Jason Piney, 董事 | Anthony D. Whaley, 董事

As you will be aware, Bermuda enacted economic substance legislation requiring every company, LLC and limited partnership that has a separate legal personality which is carrying on a “relevant activity” (each, a “relevant entity”) to file an economic substance declaration form (the Declaration Form) with the Bermuda Registrar of Companies (the Registrar). The Declaration Form must include information demonstrating that either the relevant entity: (a) has satisfied the economic substance requirements applicable to that entity, or (b) is resident for tax purposes in another jurisdiction (which is not on the European Union’s list of non-cooperative jurisdictions for tax purposes). The Registrar will determine whether or not the applicable substance requirements are met, based on the information provided by the relevant entity.

Every relevant entity is required to file its Declaration Form no later than six months after the last day of the first financial year of that entity which commenced on or after 1 January 2019. For any such entity with a financial year which ended on 31 December 2019 and which carried on a relevant activity¹ during this financial period, the filing deadline in respect of such period is **30 June 2020**².

Please note:

- The Registrar is in the process of finalising an online portal (the ESD Portal) through which you

如阁下所知，百慕大颁布了经济实质法规，要求所有从事“相关活动”的公司、有限责任公司和具有独立法人资格的有限合伙企业（均称为“相关实体”），均须向百慕大公司注册处（下称“注册处”）提交经济实质申报表（下称“申报表”）。申报表必须包含能证明相关实体符合下列条件的资料：(a) 已满足适用于该实体的经济实质要求，或 (b) 属于另一司法管辖区的税收居民（而该司法管辖区不在欧盟的税务不合作名单中）。注册处将根据相关实体提供的资料，来确定其是否符合适用的经济实质要求。

在 2019 年 1 月 1 日或之后成立的所有相关实体，均须在其首个财务年度最后一日计算起的六个月内提交其申报表。这类实体的财务年度如果于 2019 年 12 月 31 日结束，而该实体在此财务期间从事了相关活动¹，则就此期间提交申报表的截止日期为 **2020 年 6 月 30 日**²。

请注意：

- 注册处即将建成一个在线门户网站，阁下日后可

¹ “Relevant activity” means carrying on as a business any one or more of the following: banking, insurance, fund management, financing and leasing, headquarters, shipping, distribution and service centres, intellectual property and holding entity (as each term is defined in the economic substance legislation). The Registrar will consider that a “relevant activity” is being carried on as a business where the entity earns any gross income in respect of such activity during the relevant financial period.

“相关活动”指从事以下一项或多项业务：银行、保险、基金管理、融资与租赁、总部、航运、分销和服务中心、知识产权和控股实体（该等词汇的定义请见经济实质法规）。若某实体在相关财务期间因开展某项“相关活动”而赚取任何总收入，注册处将认为该实体从事了该项业务。

² Any relevant entity which fails to meet this filing deadline may be subject to sanctions imposed by the Registrar. 任何相关实体如果没有在此截止日期前提交申报表，或会遭受注册处的处罚。

will be able to file the information required to complete the Declaration Form.

- We are currently advised by the Registrar that the ESD Portal will be made available from around 1 May 2020. Between now and 12 May 2020 the Registrar will be offering a live webinar on how to use the ESD Portal and a separate on-demand webinar will be made available on 1 May 2020. Attached are the registration details and we would encourage you to attend one of the sessions ([Webinar Registration](#)).
- For an overview of the principal information that we are expecting will be required in order for you to complete your filing in respect of each registered entity, please see [ESD Portal Information](#).

It is important also to note that the Declaration Form can only be filed via the ESD Portal and we recognise that a number of clients will need advice in connection with the filing process. Conyers has been closely involved with the implementation of Bermuda's economic substance legislation as well as the ESD Portal, and we will be available to assist. Once we receive notice from the Registrar that the ESD Portal is available to be accessed, we will circulate the link to the ESD Portal, together with initial instructions. A dedicated Conyers team will be available to assist with your filing(s).

In the meantime, should you have any queries in connection with the filing process or require legal advice with respect to the economic substance requirements generally, please email us at SubstanceInfoHK@conyers.com or contact one of your usual Conyers lawyer.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information. The Chinese translation of this article has been adapted from the English original, please refer to the original in case of ambiguity.

以通过该门户网站提交申报表所需填写的资料。

- 根据注册处近期发出的通知，该门户网站将于2020年5月1日前后开放。从现在到2020年5月12日期间，注册处会提供有关如何使用该门户网站的直播网络研讨会，另外会于2020年5月1日提供点播网络研讨。随附登记详情，希望阁下能择一参加（报名参加[直播网络研讨会](#)）。
- 阁下就各个注册实体提交申报表所需的主要资料概览，请参见 [ESD Portal Information](#)。

敬请注意，申报表只能透过注册处的在线门户网站提交，我们了解到许多客户将需要提交流程方面的意见。康德明密切参与和留意百慕大经济实质法规的落实以及在线门户网站的启用情况，我们很乐意向阁下提供协助。一经收到注册处关于门户网站开放的通知，我们会立即向阁下发送该网站的链接以及初始指示。康德明将专设团队协助阁下提交申报表。

同时，如果阁下对提交流程有任何疑问，或需要经济实质要求方面的一般法律意见，请发电邮至 SubstanceInfoHK@conyers.com，或联系阁下通常联络的康德明律师。

本文的内容并非详尽无遗，旨在提供简要概述和一般资料，而不应用于替代法律建议或法律意见。中文译本仅供参考，如有歧义，请以英文原文为准。

作者 **Authors:**

Sophia Greaves

董事

sophia.greaves@conyers.com

+1 441 294 5929

Neil Henderson

董事

neil.henderson@conyers.com

+1 441 298 7846

Jason Piney

董事

jason.piney@conyers.com

+1 441 299 4993

Anthony D. Whaley

董事

anthony.whaley@conyers.com

+1 441 299 4927

其他联络人 **Other Contact:**

白基诺 **Christopher W.H. Bickley**

合伙人，香港办事处负责人

christopher.bickley@conyers.com

+852 2842 9556

卢宝莹 **Mimen Lo**

香港企业服务主管

mimen.lo@conyers.com

+852 2842 9515

Graham B.R. Collis

董事，百慕大企业负责人

graham.collis@conyers.com

+1 441 299 4965

Appendix 1 附录 1

Economic Substance Declaration Webinars 经济实质声明网络研讨会

During the webinar, presenters will demonstrate functionality of the ESD Portal and the Declaration Form submission process. In addition, the presentation will include a brief reminder of the economic substance requirements in Bermuda including an overview of the entities and relevant activities in scope. A live Q&A session will be included.

Please note that each session will cover the same material. To register for a session, click on the relevant link below :

Date: Monday 20 April 2020

Time: 12pm – 1.30pm (EDT, New York)
1pm – 2.30pm (ADT, Bermuda)
5pm – 6.30pm (BST, London)

Date: Tuesday 21 April 2020

Time: 12am – 1.30am (GMT, Hong Kong/Singapore)

[Click here to register for this webinar.](#)

Date: Thursday 23 April 2020

Time: 1pm – 2.30pm (EDT, New York)
2pm – 3.30pm (ADT, Bermuda)
6pm – 7.30pm (BST, London)

Date: Friday 24 April 2020

Time: 1am – 2.30am (GMT, Hong Kong/Singapore)

[Click here to register for this webinar.](#)

Date: Monday 4 May 2020

Time: 12pm – 1.30pm (EDT, New York)
1pm – 2.30pm (ADT, Bermuda)
5pm – 6.30pm (BST, London)

Date: Tuesday 5 May 2020

Time: 12am – 1.30am (GMT, Hong Kong/Singapore)

[Click here to register for this webinar.](#)

Date: Tuesday 12 May 2020

Time: 10am – 11.30am (EDT, New York)
11am – 12.30pm (ADT, Bermuda)
3pm – 4.30pm (BST, London)
10pm – 11.30pm (GMT, Hong Kong/Singapore)

[Click here to register for this webinar.](#)

在直播网络研讨会上，讲解人将说明 ESD 门户网站的功能，并演示提交声明表格的流程。此外，亦会对百慕大的经济实质规定作简要提示，包括须遵守规定的实体和相关活动的概述。会议亦设有现场问答环节。

敬请留意，每场研讨会均涵盖相同的资讯。请点击下方的相关链接登记会研讨会次：

日期：2020年4月20日，星期一

时间：下午12时 – 下午1时30分 (EDT, 纽约)
下午1时 – 下午2时30分 (ADT, 百慕大)
下午5时 – 下午6时30分 (BST, 伦敦)

日期：2020年4月21日，星期二

时间：上午12时 – 上午1时30分 (GMT, 香港/新加坡)

[点击此处登记该场次的网络研讨会。](#)

日期：2020年4月23日，星期四

时间：下午1时 – 下午2时30分 (EDT, 纽约)
下午2时 – 下午3时30分 (ADT, 百慕大)
下午6时 – 下午7时30分 (BST, 伦敦)

日期：2020年4月24日，星期五

时间：上午1时 – 上午2时30分 (GMT, 香港/新加坡)

[点击此处登记该场次的网络研讨会。](#)

日期：2020年5月4日，星期一

时间：下午12时 – 下午1时30分 (EDT, 纽约)
下午1时 – 下午2时30分 (ADT, 百慕大)
下午5时 – 下午6时30分 (BST, 伦敦)

日期：2020年5月5日，星期二

时间：上午12时 – 上午1时30分 (GMT, 香港/新加坡)

[点击此处登记该场次的网络研讨会。](#)

日期：2020年5月12日，星期二

时间：上午10时 – 上午11时30分 (EDT, 纽约)
上午11时 – 下午12时30分 (ADT, 百慕大)
下午3时 – 下午4时30分 (BST, 伦敦)
下午10时 – 下午11时30分 (GMT, 香港/新加坡)

[点击此处登记该场次的网络研讨会。](#)

Appendix 2 附录 2

Overview of Information Required for Economic Substance Declaration^{1 2}

所需资料概览^{1 2}

Below is an overview of the principal information that we are expecting will be required in order for you to complete your filing in respect of each registered entity.

以下为本所预期须提供的主要信息之概览，以便阁下完成每个注册实体的备案。

1. General Information³

- Entity name*
- Registration number*
- Year of incorporation/formation*
- Registered office address
- Financial period
- Financial period reporting currency
- Relevant Activity

1. 一般资料³

- 实体名称*
- 注册号*
- 注册成立/组建年份*
- 注册办事处地址
- 财务期间
- 财务期间列报货币
- 相关活动

2. Management and Direction

- Number of board/manager/partnership (including executive/committee) meetings held in Bermuda and elsewhere
- Number of board/manager/partnership (including executive/committee) meetings held in Bermuda where strategic decisions were made
- Number of board/manager/partnership (including executive/committee) meetings held in Bermuda where risk management and operational decisions were made
- Details of directors/managers ordinarily resident in Bermuda

2. 管理及指示

- 在百慕大及其他地方举行董事会/管理人/合伙（包括常务/委员会）会议的次数
- 在百慕大举行的作出战略决策的董事会/管理人/合伙（包括常务/委员会）会议的次数
- 在百慕大举行的作出风险管理及经营决策的董事会/管理人/合伙（包括常务/委员会）会议的次数
- 通常居于百慕大的董事/管理人的详情

3. Ownership Structure⁴

- Details of immediate and ultimate parent

3. 所有权结构⁴

- 直接及最终母公司的详情

4. Beneficial Owners⁵

- Details of beneficial owner(s)

4. 实益拥有人⁵

- 实益拥有人的详情

5. Entity Information - Details of the following, if applicable:

- physical premises in Bermuda
- net book value of tangible assets
- total annual gross income
- outsourcing arrangements for core income

5. 实体资料 – 下列各项的详情（如适用）：

- 位于百慕大的实体经营场所
- 有形资产的账面净值
- 年度总收入
- 相关活动之核心创收活动的外包安排

¹ Please note that this is not a comprehensive list of all information which will be required by the online portal and that each “relevant activity” will have separate requirements. The information requested relates to the relevant financial period.

请留意，此概览并非在线门户网站将要求填写的所有资料的完整列表，每项“相关活动”都会有各自的要求。要求提供的资料与相关财务期间有关。

² An entity which is tax resident outside of Bermuda will be required to upload evidence of such tax residency and provide its tax identification number (“TIN”) (or a reason why it does not have or require a TIN).

属于百慕大境外税务居民的实体，将须上传税务居民身份的证明，并提供其税务识别编码（下称“TIN”）（或其没有或者无需 TIN 的原因）。

³ Items marked (*) are required in order to access the online portal.

标有(*)号的项目是必填项，以便登入在线门户网站。

⁴ Note that a TIN (or a reason why the entity does not have or require a TIN) will be required for each entity in the ownership structure (and beneficial owner(s)) listed in the Declaration Form.

请留意，须提供申报表所列的所有权结构中的每个实体（及实益拥有人）的 TIN（或实体没有或无需 TIN 的原因）。

⁵ “Beneficial owner” has the meaning given to such term in s. 98E of the Companies Act 1981.

“实益拥有人”具有《1981年公司法》第98E条赋予该词汇的涵义。

generating activities (“**CIGA**”) in respect of a relevant activity

6. Relevant Activity

- Indication of which CIGA the entity performed
- Gross income
- Annual operating expenditure in Bermuda
- Outsourcing expenditure incurred in Bermuda
- Qualified Full Time Equivalent in Bermuda

6. 相关活动

- 指出实体进行了哪项核心创收活动
- 总收入
- 百慕大的年度营运开支
- 在百慕大产生的外包支出
- 百慕大的合资格全职人力工时