



27<sup>th</sup> January, 2015

Mr. James Duddridge, MP  
Minister for the Overseas Territories  
Foreign and Commonwealth Office  
Kings Charles Street  
London  
SW1A 2AH

Dear Minister Duddridge,

### **BVI Consultation on Beneficial Ownership**

I should like to take this opportunity to thank you and Her Majesty's Government for the continued engagement with the Virgin Islands on the subject of beneficial ownership as it relates to companies. My Government continues to value its relationship with the United Kingdom as we continue in our quest to properly and effectively represent the people of the Virgin Islands.

You will recall that in 2013 the Virgin Islands made a commitment to support the United Kingdom's position on tax and transparency and as a result undertook a public consultation on the issue of whether or not the Virgin Islands should adopt a central register and, if so, whether that register should be made public. The objective of the consultation was to engage all stakeholders to express opinions on this subject which would in turn enable my Government to formulate an appropriate policy with regard to the way forward on beneficial ownership. The consultation process concluded in March 2014 and since then we had been trying to piece together and analyse the representations received. I am pleased to advise that our work on the results of the consultation has now been completed and a copy of the report is attached herewith for your kind information.

As you will see in the report, the overwhelming majority of respondents to the public consultation have not supported the idea of the Virgin Islands establishing a central register of beneficial ownership; this effectively makes the idea of public accessibility to such a register mute.

However, as the public consultation was designed to enable the Government to chart an appropriate way forward in dealing with the issue of beneficial ownership and where such information should be maintained, my Government recognises the need for ensuring a fully transparent system that meets the objective of having a central register – to facilitate cooperation in the areas of law enforcement, tax compliance and regulatory inquiries thereby ensuring greater

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transparency in the use of corporate entities as vehicles of trade and commerce. In this vein, my Government recognises at the same time that global rules on beneficial ownership and related transparency issues continue to be the subject of discussion at different fora and we will continue to monitor events in that regard.

In this context, my Government has with the greatest constrain decided that it would be in the best interest of the Virgin Islands that we explore another system that would, in our considered opinion, achieve the full goal of beneficial ownership. While recognising that the current arrangement in place whereby trust and company service providers (TCSPs) are required to collect and verify beneficial ownership information has had some lapses in the past, we still believe that it is the best model for the Virgin Islands as it has been shown to work. TCSPs have always been regulated in the Virgin Islands (for more than 20 years now) and the large majority of them have always complied with requests/orders to produce beneficial ownership information – whether pursuant to mutual legal assistance requests or for domestic regulatory purposes. This formula has ensured integrity in the information collected and shared, and has spread the costs associated with collecting and verifying beneficial ownership information and developing and maintaining appropriate technology in that regard.

As a way of demonstrating our continued commitment to transparency and advancing an appropriate beneficial ownership regime, the Virgin Islands undertakes to strengthen its current regime and perform the following, work on some of which has already commenced:

1. The Virgin Islands commits to full compliance with the established FATF Standards on beneficial ownership and also supports and undertakes to abide by the G20 principles on transparency – bearing in mind that these standards and principles are of universal application;
2. As a way forward on this commitment, the Virgin Islands has carried out its initial review and amendment of laws to embody FATF Recommendation 17 on third party introduced business; this will ensure that going forward all beneficial ownership information resides in the Virgin Islands and can therefore be accessed in a timely manner;
3. The Virgin Islands has commenced its consultations on these reforms and expects to complete this process as soon as practicable;
4. In addition, the Virgin Islands has embarked on necessary legislative reform whereby the register of directors of companies will be filed with and maintained at the Registry of Corporate Affairs to be directly accessible to all law enforcement and tax authorities (in full compliance with Recommendation 24); the BVI Business Companies (Amendment) Act, 2015 has been prepared and is to be presented for approval in February 2015 before being opened to wider industry consultation and subsequent enactment;

5. During the second half of 2014, the Financial Services Commission undertook a thematic inspection of TCSPs on beneficial ownership; the results of this process are being collated and analysed to establish the level of compliance with regard to the identification and verification of beneficial ownership information which should in turn enable appropriate remedial measures to be developed and the enforcement mechanism strengthened to ensure full compliance.

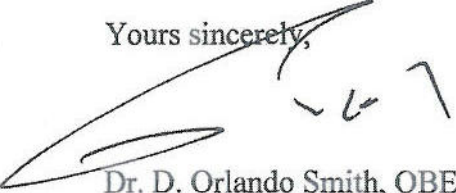
While undertaking these reforms to strengthen the current regime, my Government continues to monitor the debate on and developments surrounding the subject of beneficial ownership and related matters. It is hoped that emerging standards on transparency generally can be elevated to global standards to prevent arbitrage that has the potential to destroy a small economy like that of the Virgin Islands which faces intense competition from other jurisdictions that may not otherwise be bound by the same emerging standards.

I trust that you will understand and appreciate the Virgin Islands' position and the importance of not sidelining or disregarding strong public opinion on this subject. I trust further that the United Kingdom will continue to engage with the Virgin Islands as we continue to face evolving challenges in different areas of international cooperation. I reiterate my Government's continued support for the leadership of Her Majesty's Government in championing the cause of effective international cooperation as well as my Government's continued commitment to ensure a robust and more effective regime that effectively delivers on beneficial ownership and other issues relative to international cooperation in order to facilitate the work of all law enforcement agencies, tax authorities and regulators.

Finally, it is my Government's plan to publish the attached report shortly.

Please accept my best wishes.

Yours sincerely,



Dr. D. Orlando Smith, OBE  
Premier

Enc.