

February 28th, 2023

**Government of the Virgin Islands**

Ministry of Financial Services, Economic  
Development and Digital Transformation  
265 Waterfront Drive  
Road Town  
Tortola VG1110  
British Virgin Islands

Att: **Honourable Dr. Natalio Wheatley**

**VIA EMAIL**

**Re: Rights of Access to the Register of Beneficial Ownership for  
BVI Business Companies and Limited Partnerships**

Dear Honourable Dr. Natalio Wheatley,

I hope this letter finds you well and that you are off to a great start in 2025.

First, we would like to thank the Government of the Virgin Islands ("BVI") for this consultative process.

The ongoing dialogue between the public and private sectors has always been a strong point for the BVI as a jurisdiction, and it's one of the reasons it remains the top choice for clients worldwide.

That said, **we understand that rushing to expand access to information on beneficial owners to the public would be a mistake for several reasons.**

Among them are the following:

1. It has not yet been proven how the system will function with the limited access that will be available starting June 2025, or, in the case of extensions, by the end of this year;
2. the highest judicial court of the European Union has firmly opposed a registry with unlimited public access, emphasizing the need for a balance between transparency and privacy;

3. the United States is experiencing severe difficulties in establishing a system that is more like the current BOSS than to the one intended to be implemented (in fact, its mandatory nature has been suspended three times by court decisions, and its future remains uncertain);
4. the United Kingdom appears to have greater issues and other priorities (or at least urgencies) currently; and finally,
5. there is no international standard that obliges the jurisdiction to make this decision now. Best practices also do not include the obligation to make this very sensitive and private information available to everyone.

Regarding “**The 1841 Foundation**” and why this is a fundamental topic for our organization, please note that **the remit of our non-profit foundation is precisely to defend and promote tax competition among countries, as well as strong property and privacy rights for individuals and that, among our distinguished members, supporters, and officers are people who live, work, and invest in the BVI.**

At “**1841**”, we have always been strong defenders of the BOSS adopted by the BVI as a solution that both protects the privacy of the beneficial owners of entities established in the jurisdiction and allows law enforcement to combat money laundering and terrorism financing.

**It was a great compromise and a good equilibrium.**

We have always noted that the creation of public registries of beneficial owners would unnecessarily swing the pendulum in favour of law enforcement. This, in turn, would create significant risks for private citizens, especially those who live in countries with weak rule of law and high crime. It should also be noted that these are the individuals who use offshore centres the most.

There are very serious privacy issues that every HNW and UHNW client would face if a public registry of UBOs were mandated in the BVI.

Our comment on privacy pertains not only to the human rights component of this issue but also to the ongoing safety of clients who would be exposed to a myriad of threats—from kidnapping to robbery to extortion—if their personal details were made available in a public registry.

This concern is especially relevant for clients in developing countries, where such violence is already part of their daily lives.

Other reasons to consider not expanding access to information on UBOs this quickly include the potential loss of business and jobs.

Our concern is that companies currently doing business in the BVI would be compelled to move their operations and clients to "safer" jurisdictions, such as the USA, the UAE, Nevis, or the Bahamas, to maintain some sense of privacy for their clients. Alternatively, they might open branches in these locations and divide their clients among various jurisdictions. **This trend has already begun to manifest in 2023 and especially into 2024.**

In fact, a poll we conducted through our social media showed that **93% of users would simply stop using an offshore jurisdiction if a registry with public access showing company ownership was established.**

A more specific poll, carried out by Zac Lucas, from Spencer West LLP, indicated that 68% of the owners of BVI entities would relocate their entities to another jurisdiction, 21% would transfer their assets to a different structure (such as a PPLI policy), and 7% would close their company. If we combine these figures, the result is even more alarming: **96% of users would stop using the BVI in one way or another.**

The loss of ownership privacy is simply not good for the jurisdiction, and it will not only affect business within the trust industry but, more importantly, jobs.

**In this context, our position remains unchanged: the BVI has a robust tool to fight financial crime, and no additional changes need to be made to how information concerning beneficial owners of BVI entities is handled after the implementation of the most recent amendments.**

There are already sufficient controls in place (the Register of Beneficial Ownership, CRS, FATCA, etc.) to ensure a balance between combating crime and corruption and an individual's right to privacy and safety within the jurisdiction.

Law enforcement (both in the BVI and abroad) already has the mechanisms to request and receive information on individuals if they are suspected of criminal activity.

While we understand that the previous system (BOSS) worked well, that the recent changes strengthen even more the position of law enforcement, and therefore that no changes are needed at all, we have discussed in depth all the questions and issues included in [Appendix A](#) of the consultation.

Below are our comments regarding some of the points:

Eligible Categories:

The definition of “legitimate interest” is clear. Our main concern relates to the “eligible categories.”

**While we can understand, though not necessarily agree with, why financial institutions and designated non-financial businesses and professions might have a valid interest in accessing information on ultimate beneficial owners, we firmly believe that the last three categories should be deleted. They are excessively broad and may have their own agendas for accessing this information (political, ideological, etc.). If we were to decide who should be granted access, we would only include individuals whose rights might be adversely affected by the creation of a BVI entity. We refer specifically to creditors and/or heirs of a UBO of a BVI company or partnership. Allowing journalists access is problematic, especially since anyone with a decent number of followers on social media can claim to be one. Also, given the damage caused over the years by the ICIJ to offshore centres, this would be akin to shooting ourselves in the foot—or worse.**

Exemptions for Beneficial Owners:

We agree with the circumstances under which beneficial owners can apply for an exemption.

**We suggest adding the condition of residing in a country with political instability and/or high crime to these circumstances.**

Notification Process for Beneficial Owners:

Five business days appears to be an insufficient amount of time for a beneficial owner to review this matter with their advisors and provide a response.

**We appreciate the urgency that may exist but also recognize the importance of the information being shared or disclosed. We believe that a person should be given at least thirty (30) business days.**

Balance of Transparency and Privacy:



**We do not believe that this policy strikes the right balance between the need for transparency and the protection of privacy for beneficial owners, for all the reasons outlined in this letter.**

Transition:

**We disagree with the proposed transitional period.**

There have been longer adjustment periods for changes that were less controversial and/or easier to implement.

Moreover, we understand that these changes should not take effect until both service providers and users of BVI entities have familiarized themselves with the system that was introduced in January of this year.

General Feedback:

**We believe that implementing these changes currently is not advisable. If changes are made, we propose that all our suggested modifications be included, that strong sanctions be established for individuals who misuse the system, and that the costs of these searches be set high to disincentivize any misuse or abuse.**

Yours sincerely,

A handwritten signature in black ink that reads "Martin Litwak".

**Martin Litwak**  
The 1841 Foundation  
Chairman