

# Redomiciling your BVI Company to Singapore

Singapore amended its companies legislation in 2017 to introduce an inward re-domiciliation regime allowing foreign companies, including companies incorporated in the British Virgin Islands (**BVI**), to transfer their registration to Singapore. Further, amendments were passed to the BVI companies legislation in on 2 January 2025 expanding the conditions for transferring out of the jurisdiction and which is covered in this guide.

While the Singapore regime now provides multinationals with greater flexibility to reorganise their corporate group structures, once a foreign company re-domiciles in Singapore the process is irreversible and there is no ability to continue back out should the company determine that the jurisdiction no longer suits its needs.

In contrast, the BVI Business Companies Act 2004 (as amended) (the **BVI Act**) provides a more flexible regime permitting:

- a foreign entity to re-domicile into the BVI (referred to as a **continuation** or **continuation in**) as a BVI Business Company (a **BVI Company**); and
- a BVI Company to continue out of the BVI under the laws of another jurisdiction (referred to as a **discontinuation** or **continuation out**).

This guide provides an overview of the process and requirements for a discontinuation out of the BVI and into Singapore.

## Continuation out of the BVI

### Eligibility to continue out of the BVI

The BVI Act permits a BVI Company to continue out of the BVI to a foreign jurisdiction if:

- it is in good standing (that is, it is up to date with payment of its government fees and is not dissolved);
- its memorandum and articles of association do not prohibit it from doing so;
- it has complied with any requirements in its memorandum and articles of association in respect of the continuation (typically, the passing of a board or shareholders' resolution); and
- the laws of the relevant foreign jurisdiction permit the continuation and the BVI Company has complied with those laws.

### Procedure

The procedure, documentation and timing for discontinuing a BVI Company out of the BVI will be largely driven by the requirements of the foreign jurisdiction. The BVI Company must take all steps necessary for it to continue into the foreign jurisdiction and it will not cease to be incorporated under the BVI Act until it has done so.

For the purposes of the BVI Act, the BVI Company must:

- pass board or shareholders' resolutions approving the discontinuation in accordance with its memorandum and articles of association;

- if a charge or other security interest is registered publicly in the BVI in respect of the BVI Company's property which has not been released or satisfied and the security document does not prohibit the BVI Company continuing to the foreign jurisdiction, the BVI Company must file a written declaration (**Security Interest Declaration**) with the Registrar of Corporate Affairs (the **Registrar**) stating that:
  - a notice of satisfaction or release of the security interest has since been filed and registered; or
  - the chargee has been notified in writing of the intention to discontinue and has consented or not objected to it; or
  - having notified the chargee in writing of the intention to discontinue, the chargee has neither consented nor objected, but that the charge will not be diminished or compromised by the discontinuation, and, the BVI Company will continue to be liable for the debts secured by the charge;
- advertise notice of such intention in the BVI Official Gazette and on the BVI Company's website (if any) and specify the jurisdiction to which it intends to continue;
- notify the BVI Company's members and creditors in writing of such intention;
- file with the Registrar a notice in the approved form which includes a declaration confirming that the BVI Company (a) has complied with the above advertising and notification obligations, (b) does not have any pending request from a competent authority to produce documents or provide information which has not been satisfied, (c) a receiver has not been appointed over it or its assets, and (d) is not aware of any legal proceedings, whether civil or criminal, pending against the company, or any of its member, director, officer or agent as it directly pertains to the affairs of the BVI Company (the **Conditions Compliance Declaration**); and
- make a written declaration confirming that the laws of the foreign jurisdiction permit the continuation and that the BVI Company has complied with those laws (the **Foreign Jurisdiction Compliance Declaration**).

The BVI Company's registered agent must then file with the Registrar:

- a notice (in the prescribed form) of the BVI Company's continuation to the foreign jurisdiction;
- the Security Interest Declaration (where relevant);
- the Conditions Compliance Declaration;
- the Foreign Jurisdiction Compliance Declaration; and
- proof that the BVI Company has continued into the foreign jurisdiction. Such proof is typically in the form of a certificate of continuance together with an extract of the foreign law relied upon or, where you have a chicken and egg scenario, that is, where the BVI Company's continuation to the foreign jurisdiction is dependent on the Registrar issuing a certificate of discontinuance, the Registrar may issue a certificate of discontinuance on the basis of a provisional certificate of continuance issued by the foreign jurisdiction. If a provisional certificate is relied upon, the registered agent must subsequently file the final certificate of continuance once issued.

If satisfied that the requirements of the BVI Act have been complied with, the Registrar will:

- issue a certificate of discontinuance (which will usually be dated the date the notice in the prescribed form is filed by the registered agent);
- strike the name of the BVI Company off the register of companies with effect from the date specified in the certificate of discontinuance; and
- publish a notice of the BVI Company's striking off in BVI Official Gazette.

The certificate of discontinuance is prima facie evidence that all requirements of the BVI Act have been complied with and the BVI Company is discontinued on the date specified in the certificate.

## Inward Re-domiciliation into Singapore

### Eligibility to re-domicile into Singapore

In order to give the Foreign Jurisdiction Compliance Declaration in the BVI, the BVI Company needs to consider whether it meets the criteria for re-domiciliation into Singapore.

In Singapore, the minimum requirements that the BVI Company seeking to re-domicile must meet are:

- it must be a body corporate that is capable of adapting its legal structure to the companies limited by shares structure under the Singapore companies legislation;
- it must meet any **two** of the following:
  - the value of its total assets exceeds S\$10 million;
  - its annual revenue exceeds S\$10 million;
  - it has more than 50 employees;
- it must meet all of the following solvency criteria:
  - there is no ground on which it could be found to be unable to pay its debts;
  - it is able to pay its debts as they fall due during the period of 12 months after the date of the application for re-domiciliation;
  - it is able to pay its debts in full within the period of 12 months after the date of winding up (if it intends to wind up within 12 months after applying for re-domiciliation); and
  - the value of its assets is not less than the value of its liabilities (including contingent liabilities);
- it is authorised to transfer its incorporation under BVI law (which it is so permitted);
- it has complied with the requirements of BVI law in relation to its discontinuation out of the BVI;
- the application for re-domiciliation by the BVI Company is:
  - not intended to defraud its existing creditors; and
  - made in good faith;
- as at the date of the application, its first financial year end in the BVI has passed; and
- it is not under judicial management, not in liquidation or being wound up etc.

## Effect of discontinuations from the BVI into Singapore

### BVI Side

It is a commonly held misconception that the process of re-domiciliation to another jurisdiction may be disruptive to the company's business operations. Under the BVI Act, a discontinuation out of the BVI will not change the company's legal personality nor will it affect any of the company's assets, rights or liabilities. Broadly, the BVI Act provides that:

- the company will continue to be liable for all of its obligations and liabilities that existed prior to its discontinuation;
- no conviction, judgement, ruling or order against the company or any member, director, officer or agent is released by its discontinuation;
- no proceedings, whether civil or criminal, by or against the company, any member, director, officer or agent will be impaired by the discontinuation, and such proceedings may be enforced, prosecuted, settled or compromised; and
- any Security Interest Declaration will not operate as a bar to any legal action a creditor is entitled to take.

It should be noted that, in the case of a BVI Company that has been discontinued, service of process may continue to be effected on its BVI registered agent in respect of any claim, debt, liability or obligation of the company during the period of its existence under the BVI Act.

## Singapore Side

The position in Singapore is consistent with the BVI. Under the Singapore legislation the re-domiciliation of a foreign company as a Singapore company does not:

- create a new legal entity;
- prejudice or affect the identity of the body corporate constituted by the foreign corporate entity or its continuity as a body corporate;
- affect its property, or its rights or obligations; or
- render defective any legal proceedings by or against it,

and any legal proceedings that could have been continued or commenced by or against the foreign corporate entity before its re-domiciliation into Singapore may be continued or commenced by or against the company after its re-domiciliation.

## Conclusion

The BVI is the world's leading incorporation jurisdiction due to the clarity and flexibility of its modern company law. It also provides the flexibility to move your company to another jurisdiction, such as Singapore, should this be necessary for your investment or organisational objectives. The continuation regime, which allows a company to preserve its corporate history, branding and goodwill, provides a valuable alternative to setting up a new subsidiary which may have regulatory, strategic and organisational implications.

When conducting such an exercise, timing of applications in both jurisdictions is critical to ensuring the process runs smoothly. Harneys would be pleased to assist you with re-domiciling your BVI Company to Singapore (or any other jurisdiction). Harneys will only advise on the BVI discontinuation and you will need to engage Singapore legal counsel to advise on the inward re-domiciliation.



For more information and key contacts please visit [harneys.com](https://www.harneys.com)

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