

# Enhancements to BVI Trust Legislation

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In May 2013 the British Virgin Islands (“BVI”) enacted a number of enhancements to its already well-respected trust legislation, in order to increase the flexibility of the trust structures available in the BVI. Amendments have been made to both the BVI’s Trustee Act and the Virgin Islands Special Trusts Act (“VISTA”). The key changes are:

### Amendments to the Trustee Act

- The Perpetuity Period for BVI Trusts, including VISTA Trusts, has been extended from 100 years to 360 years for trusts established after 15 May 2013. BVI legislation is now in line with all other trust jurisdictions that still retain a maximum perpetuity period.
- A BVI Private Trust Company (“PTC”) can now act as the trustee of a BVI purpose trust. This enables, for instance, family-controlled non-charitable purpose trusts to be established.
- The Trust duty payable on all trust instruments (other than bare trusts and charitable trusts) is increased from \$100 to \$200.
- The rules governing the relationship between trustees and creditors have been expanded to cover other types of assets, not just money.

### Amendments to the Virgin Islands Special Trusts Act (“VISTA”)

- A PTC can be the sole or joint trustee of a VISTA trust, increasing the scope of the VISTA trust structure. A PTC is exempt from the BVI’s usual trust licensing requirements under the Bank and Trust Companies Act, 1990 and the PTC company can be family-controlled.
- VISTA declarations can be revoked, suspended or “triggered” at a later date.
- Property may be appointed or resettled into VISTA trusts from existing BVI trusts, allowing existing BVI trusts to move more easily into the VISTA regime.
- Trustees of a VISTA trust can be given express rights to receive certain documents and accounts of the underlying BVI business company.
- There are enhancements to the “office of director rules”, in that the settlor is able to specify within the trust deed a more active role for the trustee, which could trigger an obligation in certain circumstances to remove or appoint directors.
- Section 15 of the VISTA legislation, which outlines the limitation of the fiduciary duties of trustees, has been amended to allow the VISTA trust deed to include specific trustee fiduciary duties and duties of care in relation to trust assets.

For more information on BVI trusts, please contact Emma Greenaway or Stephen Bridson in our BVI office, or your usual Trident Trust representative.

Further information and key facts on BVI trusts, VISTA trusts and PTCs are available on the BVI page of the Trident Trust [website](#).

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