



Snapshot: can you take security over the assets and shares of a BVI company?

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In the first of our new series of banking and finance snapshots focusing on BVI law, our BVI Finance and Corporate partner Christian Burns-Di Lauro answers a common question about whether you can take security over the assets and shares of a BVI company in the jurisdiction.

Security over a BVI company's assets:

A BVI company can grant security over its assets in any manner permitted or required in the local jurisdiction where such assets and/or tangible moveable property are located.

Security over shares in a BVI company:

BVI statute expressly allows for the governing law of a mortgage or charge of shares in a BVI company to be either BVI law or any law other than BVI law.

Where a law other than BVI law is chosen as the governing law of a mortgage or charge of shares in a BVI company, the remedies available to a secured party shall be any contractual remedies and those remedies available under such chosen governing law, save that any rights between the BVI company and the secured party in its capacity as a member of the BVI company shall continue to be governed by BVI law and the constitutional documents of the BVI company.

For example, if an English law is chosen (and is a bona fide choice) as the governing law of a mortgage or charge of shares in a BVI company, this may (depending on the circumstances) be preferable for a secured party. This may include any remedy of appropriation available pursuant to the Financial Collateral Arrangement (No. 2) Regulations, 2003, which has certain benefits to a secured party following an enforcement (benefits which are not available under BVI law).

For more information on this topic please contact our BVI banking and finance team.

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Meet the Author



[Christian Burns-Di Lauro](#)

Partner

[British Virgin Islands](#)

E: Christian.Burns-DiLauro@ogier.com

T: [+44 1534 514246](tel:+441534514246)

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