



Snapshot: What to know about transfers of shares under BVI law

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BVI business companies are one of the most commonly used offshore vehicles and our expert team frequently advises on the transfer of shares in BVI companies. In this snapshot, partner Marie-Claire Fudge addresses a number of the most common questions asked about the transfer of shares in a BVI company.

Are shares in a BVI company transferrable?

Generally yes, unless there are any limitations or restrictions on the transfer of shares in the company's memorandum and articles of association (**M&A**), such as rights of first refusal, drag and tag rights or prohibitions on transfers. It is important to review and comply with the transfer provisions in the M&A in order for a share transfer to be validly made.

What is the process to transfer shares in a BVI company?

Shares in a BVI company are transferred by a written instrument of transfer, which must be signed by the transferor and contain the name and address of the transferee. The executed instrument of transfer should be sent to the company for registration.

Is there any specific form for the instrument of transfer?

There is no specific form required for the instrument of transfer, except that it must be signed by the transferor and contain the name and address of the transferee. As good practice, we would expect the instrument of transfer to include:

- the name of the company and company number
- the name and address of the transferee, and
- the number and class of shares being transferred

Does the instrument of transfer have to include details of the consideration paid?

There is no BVI legal requirement for the instrument of transfer to contain details of the consideration. However, if the transfer is for nil consideration, then the instrument of transfer should be executed as a deed.

Does the transferee need to sign the instrument of transfer?

The transferee only needs to sign the instrument of transfer if registration as a holder of the share imposes a liability to the company on the transferee (eg the share is not fully paid).

When is the share transfer effective?

The share transfer is effective when the name of the transferee is entered in the register of members.

Can the company refuse to register a transfer of shares?

The directors can only resolve to refuse or delay the transfer if permitted to do so by the company's M&A, which includes ensuring that a share transfer is made in accordance with any limitations or restrictions on share transfers contained in the M&A.

What happens if the instrument of transfer has been lost?

If the directors of a company are satisfied that an instrument of transfer has been signed but that the instrument has been lost or destroyed, they may resolve (a) to accept such evidence of the transfer of the shares as they consider appropriate; and (b) that the transferee's name should be entered in the register of members notwithstanding the absence of an instrument of transfer.

Is an instrument of transfer required if BVI company's shares are listed on a recognised exchange?

Where shares are listed on a recognised exchange and subject to the M&A, the shares may be transferred without the need for a written instrument of transfer if the transfer is carried out in accordance with all rules and regulations applicable to shares registered on the recognised exchange.

Can there be a transfer of shares by operation of law?

Shares in a company may pass by operation of law, notwithstanding anything to the contrary in the M&A.

For more information on this topic, please contact our BVI corporate team.

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