

**The storm in tax heavens.  
What risks it entails and how can  
the one take advantage of it?**

# Using a company from a low-tax **jurisdiction** is bestseller among successful businesses around the globe

## **Over 1 ml companies**

Registered in the Virgin Islands

## **over 100 000 companies**

Registered in the Cayman Islands

## **Over 100 000 companies**

Registered in Crown dependencies



# An offshore company is a popular tool within the Russian business environment

Over

**\$1 trillion**

of estimated assets are held by the Russians in offshore jurisdictions\*

This figure represents

**60%**

of Russian GDP



\*«Kommersant newspaper with the reference on American national bureau of economic research (NBER) <https://www.eg-online.ru/news/354665/>

# Recent **high rocket** development of tax rules

Progressive countries are implementing rules on automatic exchange of information and tax avoidance

**2013**



Publication of BEPS Action Plan by OECD

**2015**



Publication of final report on BEPS Action 5 plan. Economic Substance

**2018**



Resumption of BEPS Action 5 inclusive framework

**2019**



Implementation of Economic substance rules by various offshore jurisdictions

**2020**



# The storm watch:

From 2019 onwards – **economic substance requirements**

## Before

Company could be registered within a day and:

- Neither an office nor employees were needed;
- No obligation to disclose the UBO information;
- No tax residency requirement.

Besides— **0% corporate and income tax** and no exchange of financial and tax information.

## After

The company has various reporting obligations and need to comply with substance requirements:

- Physical office and adequate number of qualified employees who are physically present in the jurisdiction
- Conduct core income generated activity from the Island
- Directed and managed from the country of registration
- For IP company if it requires special equipment, that equipment should be located in the island

Am I under the storm?

Is the company registered in one of the jurisdictions from the list?

Yes

No



Am I under the storm?

Is the company registered in one of the jurisdictions from the list?

Yes

No



Am I under the storm?

What is the company's form?

Ltd or LP

Other





Am I under the storm

What is the company's form?

Ltd or LP

Other



**Am I under the storm?**

**Does the company conduct relevant activity listed below?**

- Banking business
- Insurance business
- Fund management business
- Finance and leasing business
- Headquarters business
- Shipping business
- Holding business
- Intellectual property business
- Distribution and service centre business

**Yes**

**No**



Am I under the storm?

Does the company conduct relevant activity listed below?

Yes

No



Am I under the storm?

**Is your company a tax  
resident in this  
jurisdiction?**

Yes

No



Am I under the storm?

Is your company a tax  
resident in this  
jurisdiction?

Yes

No





**The best strategy for the safe future is to be  
timely warned with the professional help**

[Back to the slide with text](#)

# If 4 boxes are ticked the company is **under** the **economic substance storm** and within the scope of legislation

## 1

Company is registered in one of the listed jurisdictions:

- BVI
- Jersey
- Isle of Man
- Guernsey
- Seychelles
- Mauritius
- Cayman islands
- Bahamas
- Bermuda

## 2

The form of the company either Ltd or LP



## 3

Company conducts relevant activity:

- Banking business
- Insurance business
- Fund management business
- Finance and leasing business
- Headquarters business
- Distribution and service centre business
- Shipping business
- Holding business
- IP business

## 4

Company is a tax resident in this jurisdiction



# Ignoring new rules entails attraction of both **contemplated** and **potential** risks

## Fines

From \$5,000 to \$50,000 Up to \$200,000.

For the first incompliance

For the second incompliance

## Criminal liability

From 2 to 5 years

Of imprisonment

## Exclusion from the register





# Aside from contemplated risks there are **potential** risks that might be far brutal

Among other — blocking of clients bank accounts, enhanced revision of clients' portfolios by banks and regulator, and even confiscation of funds in some cases

## Why should one take care of this now?

### Last summer 2018<sup>th</sup>, a “shell companies” directive

The law did not stipulate sanctions in closing client accounts but banks received instructions to conduct rigid clients check. It further led to enhanced due diligence procedures and litigation.



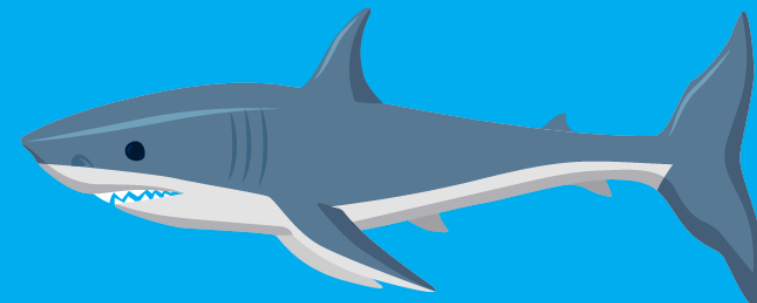
### As a result \$7 billion

Was blocked or confiscated\* from non compliant accounts. Beneficiaries of most of those accounts were decent businessmen.

\* Preliminary data



Seems like here is something tasty...



# Do not await a **message from the bottle:** banks reaction is just a matter of time

## **FINMA representative:**

So far it's too early to say something exactly. We will wait some guidance from the legislators or from competent authorities, but it's obvious that Swiss banks will be recommended to have their clients to comply with the provisions of economic substance legislation

## **Head of compliance of the Swiss bank :**

We recommend to our clients religiously analyse requirements and applicability of the EU law and have their companies complied with it.

## **Rep of Cyprus Bank :**

Rather soon we will review our clients' portfolio against their economic activities in offshore jurisdictions and will provide them with further instructions in due course.



**The most important step is  
to choose the right strategy**

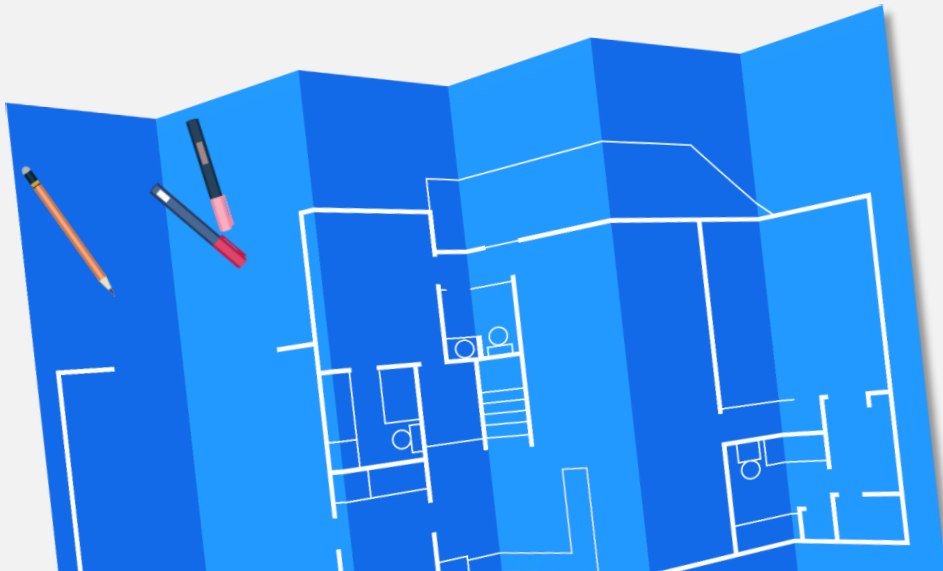


# The key is to pick **optimal strategy**

In other words, to find the best option for the business

## Option1

Comply with Economic substance requirements



## Option 2

Change tax residency

## Option 3

Redomicile



## Option 4

Restructure of the business

# Option 1: comply with economic substance

What the company needs to do?

- Real office or premises
- Conduct core income generated activity
- Directed and managed from the jurisdiction of residence
- Adequate number of suitably qualified employees who are physically present in the island
- For IP companies – specific equipment is located in the island



# Option 2: change tax residence

Find a optimal tax zone for the business

- Reject the tax residence
- Analyse the tax efficiency
- Apply for tax residence
- Provide a tax certificate



# Option 3: Redomiciliation

Bear in mind, not all countries allow redomiciliation

## Countries that allow redomiciliation

BVI, Cyprus, Cayman, Jersey

## Countries that prohibit redomiciliation

Hong Kong, Gibraltar



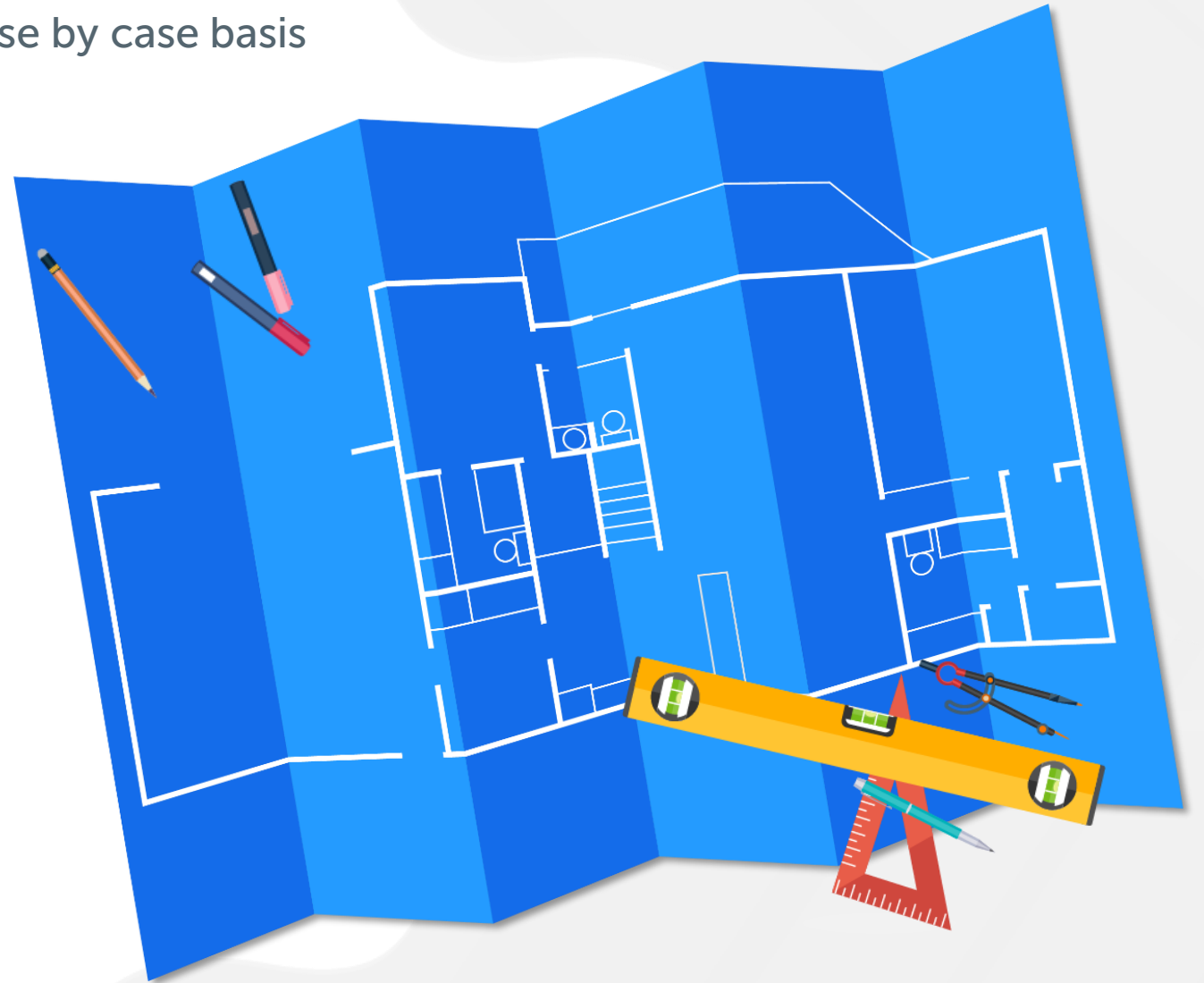


# Option 4: business restructuring

Includes complex solutions and advised on a case by case basis

## Possible options

- Registration and liquidation
- Share sale and purchase, business sale, M&A
- Trust settlement



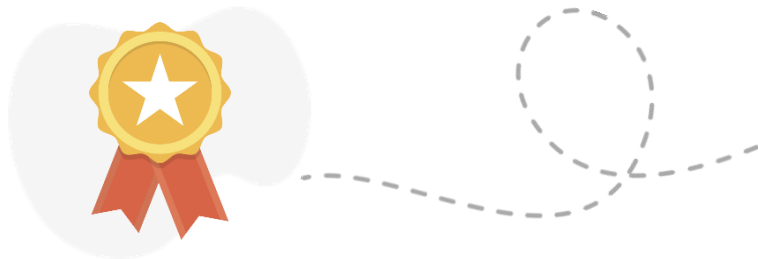


# Each of these options can be a **solution**, if it realised professionally

Strengths of the consultant are recognized in the result

## Result guarantee

Self realisation of solutions requires investments and the failure will bear extra costs



## Relevant experience and expertise

Number of akin closed projects and qualified experienced team



## Access to the relevant information

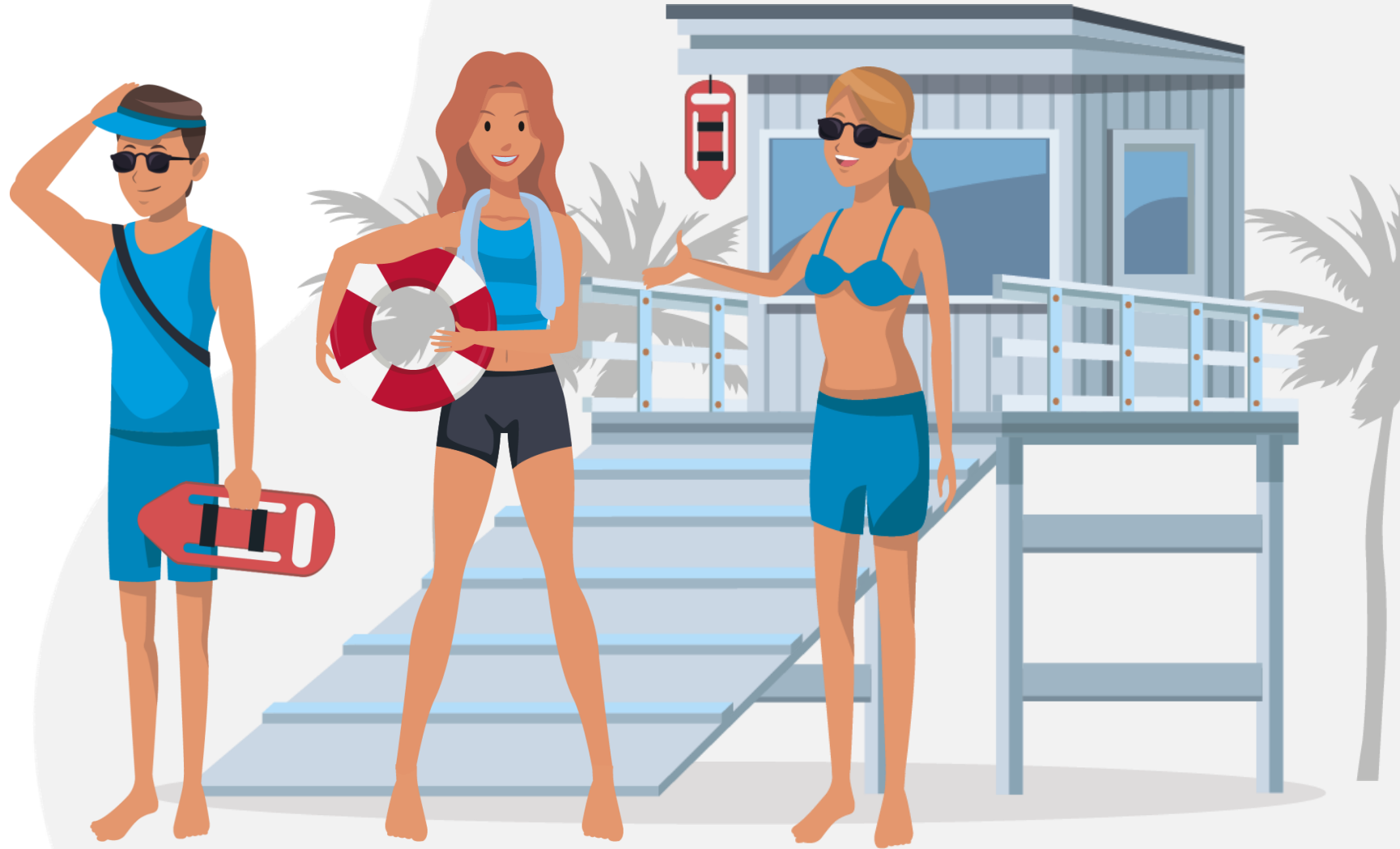
Daily update and monitoring of legislation and case law, constant contact with relevant authorities allow to think tactically while choosing the flexible strategy



# O2 Consulting

Independent consulting firm

- Trusted team of professionals qualified in different jurisdictions
- International recognition
- Expertise and realisation to the point



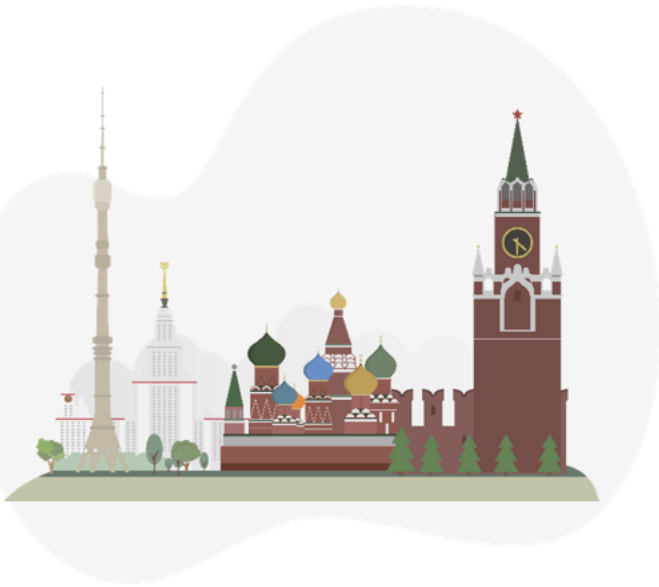
# **We are a unique team: in one office we have qualified lawyers from different jurisdictions**

**US, UK, Holland, Cyprus and other  
jurisdictions where our lawyers and tax  
advisers are admitted to practice**

**BVI qualified solicitor with 10 years PQ  
experience and over 50 of successfully closed  
deals**



# Our offices



**Moscow**



**Zurich**



**Nicosia**

# We are in direct contact with local tax authorities, regulators and banks

We receive relevant information before it's being published



# We do not only **diagnose** the problem, work out **best options, but** further manage the turn-key implementation

We perform and plan the chosen  
option along with the client



# Other companies can do the analysis but it's not enough for the **result**

## Big 4 companies and international law firms:

- ✓ May provide quality analysis and describe possible options
- ✗ Usually, **DO NOT** execute the solution provided (registration, liquidation, redomiciliation, negotiations with banks)
- ! Clients need to execute the plan by himself or seek other firms to help



# Companies that will execute the strategy usually do not possess relevant **legal expertise**

It is similar to the house building. In order for the house to last for long it needs as professional builders as architectural blueprint





# Our firm will accompany **every step** of the strategy



**Quality analysis**



**Quick and precise solution**

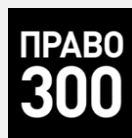


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International ranking agency Legal 500 recommends O2 Consulting as a consultant in **(Private Client, M&A and Corporate law practices)**



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Chambers and Partners included O2 Consulting in the list of **leading law firms** in M&A,



O2 Consulting recognized by «Kommersant» in ranking **«Best law practice (top 5)»** in such practice as Corporate law, M&A, international law (mid-market)



International ranking agency recommends O2 Consulting as a **leading consulting firm in M&A**

# Our **professional team** is ready to provide you with the best solution



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# We help you to be stronger than other both in storm and in sunny day

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