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Expat guide: Offshore deposits by Bowman Offshore Bank Transfers

We all work hard for our money, whether we are living and working in the UK, or overseas as an expat. But the key ingredient to successful money management is often missing: we fail to make our money work hard enough.

So, if you are one of those people who just let your salary sit in an account paying paltry interest, then you need to start looking at how to make your money do more for you.

Our "guide to offshore deposits" (http://zhennmistach.racyblogs.com/2018/04/18/expat-guide-offshore-deposits-by-bowman-offshore-bank-transfers/) takes you step by step through choosing the right account and making sure you continue to get the best deal.

Know what you need

The first thing you need to do before deciding what type of account you want is to ask yourself what you need that account to do.

When doing that, you should consider all of the following points:

Do you need to visit the bank regularly?

Can you use internet access for an account?

Are you happy with using a bank you have never heard of?

Can you afford to have your money tied up for a period of time or do you need instant access?

Do you need to hold your money in a different currency to the one you are paid in?

How do you want your interest paid?

Are you subject to tax in a jurisdiction where you are not resident?

How safe will your money be in the account?

For most expats, choosing an offshore account will be the most sensible option when the answers to these questions are taken into account, as you have more control over how the tax on the interest is paid.

If you can allow the interest in the account to roll up without the tax being taken off at source each time, then you will benefit from a higher return. But you need to be careful to ensure you are not breaching any tax regulations.

There are a variety of accounts available to expats, and while this means you have a wide choice, it can make for a bewildering array of options. You should research the type of account that will work best for you.

Here are some options:

No-notice accounts

These accounts allow you to access your money at any time, without giving the bank prior notice. You will often receive a lower rate of interest than you would on an account that ties your money up for a period of time. But this is not always the case, so compare them carefully.

Notice accounts

As you can guess from the name, you have to give the bank a period of notice before you can withdraw your money without penalty.

In most cases you can withdraw your money in an emergency without giving the specified notice period; but, at the very least, you will suffer interest penalties.

Generally, you will have to give 30 days, 60 days or 90 days’ notice of withdrawal from these accounts; in return you should get a higher rate of interest.

Currency accounts

It is possible to hold your savings in specific currencies, such as pounds sterling, euro or the US dollar.

Choosing these accounts can improve the interest you receive, and mean you hold your money in the same currency you are paid in or have to spend.

Multi-currency accounts allow you to switch currencies, which can help reduce exchange fees if you have income and expenditure in different currencies.

Monthly interest

Most accounts pay interest annually, but if you would prefer to receive your interest more regularly, perhaps to augment your income, then you can use a monthly interest account.

The advantage of this is that the interest will sit in your account, if you do not withdraw it as income, and will build up each month, rather than coming as a lump sum at the end of the year.

The interest rates on these accounts are usually slightly lower than the equivalent annual interest accounts. This is calculated to take into account the additional interest you will accumulate on the monthly payments (interest on the interest) to ensure you do not receive more overall than an annual interest customer.

Fixed-interest accounts/bonds

These offer a fixed rate of interest, usually higher than elsewhere, provided you leave your money in the account for a set period of time, which can be anything from one year to five years. You can sometimes make withdrawals within strict rules. If you withdraw money outside these, you face losing all the interest you would have earned. You should never sign up to an account like this if there is even a small chance you could need your money outside the permitted allowances.

Deferred interest accounts

If you would prefer to tell the bank when you want your interest paid, for tax purposes, use a deferred interest account. In most cases, the interest on these accounts would automatically be paid when it is closed, unless you ask the bank to pay your interest at a specific time – perhaps when your other income has fallen and you want to take advantage of paying a lower amount in tax.

Compare Bank Accounts

Once you know what you need, you must find the accounts that offer you those services. This has been made a lot simpler thanks to the comparison services, such as moneyfacts.co.uk, which are now available on the internet.

You can look at everything – what the account's rate is, whether it is fixed for a period of time, how you can access the account, whether any additional bonus is applied to the interest rate for a period of time – and compare the benefits of different accounts.

The bonus rate is particularly important, as banks will often add a bonus to a standard interest rate to get the account to the top of the best-buy tables, but when the bonus expires the rate may be pedestrian at best.

There is no reason to avoid the accounts that have a bonus rate added – you may as well get the extra while it is on offer. But always make a diary note of when the bonus expires, and then check the rates on offer again to see if you can move your money to a better paying account.

As an expat, you should consider using an offshore account based in a jurisdiction that has a high level of consumer protection. The key areas are the Channel Islands and the Isle of Man, and often their banks are subsidiaries of onshore banks that are household names.

It is vital you understand what protection you would get from each regime if your bank fails – something few of us worried about before the banking crisis.

Guernsey, Jersey and the Isle of Man all have depositor protection schemes that will pay out the first £50,000 of any savings deposited with a bank within their jurisdiction. Gibraltar will pay out 100 per cent of the amount deposited up to €50,000.

In the European Economic Area, the minimum deposit protection is €50,000, although Cyprus, the Netherlands and, from January 1, 2011, Ireland have increased protection to €100,000.

However, you should always check the depositor protection scheme for the bank you are interested in, as these limits can change at any time.

Find Out How to Apply

Once you have decided on an account, you need to apply for it. If you have a branch of the bank nearby, it may be easiest to call in to complete the relevant forms. That way, you can present the information the bank needs to establish who you are and where you live – usually a passport or driving license with a photo, and utility bills sent to your address within the past three months.

Of course, for many expats this is not possible, so you will have to open the account by post or online. You will still need to provide proof of identity, and usually the banks will not accept photocopies, as these are easy to doctor.

Call the bank using the relevant numbers online, and ask for the details and any paperwork you would need to open the account you want. Always check with the bank what its policy is before you send your documents through the post – and make sure you send them by registered or recorded delivery, so if they go missing you will have an idea of where they have gone astray.

Many banks will allow you to go through the account-opening process online now – Alliance & Leicester International have one of the most sophisticated online facilities – but, even so, you will have to prove who you are, so the bank complies with money laundering rules.

Read the Terms and Conditions

It is always tempting to throw the bumf you get from banks into a drawer, never to be looked at again, but if you do not know what terms are applied to your account, you could end up losing out. Yes, reading these documents can be very dull, but ignoring them can leave you open to unexpected problems.

Banking literature is never easy to get through, but remember: if it is hard to understand, that is most likely to be the area where you are going to get caught out. Make sure you read the small print and don't get stung by the banks because of your ignorance.

It works the other way too. Knowledge is power, and if you know what the bank should be offering, you can make sure it keeps its end of the bargain.

Transfer your Money

If you are transferring money from another account into the one you have just opened – and most people will be – then you have to make arrangements to do this with your existing bank.

If you want to close the account where the money is currently held, you will need to instruct the bank and fill in any necessary paperwork.

This can be easier in some countries than in others, and if you are planning on leaving a country and you want to close the account and have the money transferred before you go, give yourself plenty of time. The UK banking system is, believe it or not, relatively efficient at such requests. If you are dealing with banks in other countries, they may not act so quickly.

In any case, if you are leaving a country and closing accounts, make sure the accounts are closed before you leave to avoid any problems, such as having to go back to sign a document to release funds.

If you returning to the UK from Australia, for example, this could be an expensive mistake.

Tax

Tax for expats can be phenomenally complicated, and there is no "one-size-fits-all" solution, so the best thing is to get advice that is specific to the country you are living in and to your circumstances.

The one thing you cannot do with tax is ignore it.

The UK HM Revenue & Customs is cracking down hard on tax evasion by expats, where people have held money offshore and not declared it to the UK tax office.

The powers HMRC now has to force banks to provide details of customers are extensive and, with the announcement in the Comprehensive Spending Review that a further £900 million will be used to tackle tax

and benefit fraud, things are only going to get tougher.
It is only fair that you pay the right tax. If you have a bank account offshore and you are subject to tax in the UK, then you must declare it.
The European Savings Directive came into effect in 2005, and gives you the option of having a withholding tax automatically applied to your savings by the EU member state in which you reside, or the institution holding your money will pass on information on the interest you have been paid to the UK tax authorities. Switzerland, Jersey Guernsey and the Isle of Man, although not part of the EU, have put equivalent voluntary measures in place.
Depending on where you hold your account, you may not have this choice – some areas have a default option of the withholding tax.
You need to check with the bank holding your account to be sure what measures apply.
Monitor the Rate at which you're being paid
Banks are famous for getting your money through the door with a tempting rate, then cutting it while you are not looking. So play them at their own game – check the rate regularly and vote with your feet if you are not getting what you want.

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Bowman Offshore Bank Transfers on Guide to share buybacks for private companies
A company may wish to undertake a share buyback for a variety of reasons, including to return surplus cash to shareholders or to buy out a particular shareholder who is seeking an exit. Any buyback of shares by a company must, unless a relevant exception applies, follow the process in Part 18 of the Companies Act 2006 (the "Act").
A buyback that is not carried in accordance with the process in the Act will be void which, in some instances, may have the consequence that the relevant shares are still in issue. This can cause significant problems where a defective buyback is discovered during due diligence by a potential buyer of a company. For example, we have worked on transactions where shares which the sellers thought had been bought back needed to be repurchased from a previous shareholder who no longer had any involvement with the company. This can cause significant delays and, at worst, can jeopardize the transaction if the previous shareholder is un-cooperative. In addition, failure to comply with Part 18 of the Act will constitute an offence by the company and each officer in default; the latter may be liable to up to 2 years in prison, an unlimited fine or both. Therefore, it is very important that the process in the Act is correctly followed.
This note sets out an overview of the process that a private company should follow when undertaking an "off-market" purchase of its own shares, whether the purchase is funded out of distributable profits or capital, including the recent changes made by the Buyback Regulations 2015. This note does not cover: (i) the process for "market" purchases which are, for the most part, relevant to public companies only; or (ii) buybacks of shares by public companies generally.
A. Preliminary issues to consider
Do the rules in the Act apply to the proposed buyback?
Under section 659 of the Act, the rules in Chapter 18 of the Act do not apply to acquisitions by private company of its own shares:

for no consideration;
pursuant to a court order;
as part of a reduction of capital in accordance with the Act; or
pursuant to a forfeiture of shares or the acceptance of shares surrendered in lieu, in pursuance of the company's articles, for failure to pay any sum payable in respect of the shares.
Otherwise, the rules will apply and the process in Chapter 18 must be followed.
Do the company's articles prohibit share buybacks or contain restrictions on the transfer of shares? Is there a shareholders' agreement in force relating to the company?
A company no longer requires a specific authorization in its articles to purchase its own shares (other than where the buyback is a small buyback out of capital – see below). However, the articles should be checked to confirm whether the company is prohibited from purchasing its own shares (or if there are any specific consent requirements). If the company is restricted from undertaking a buyback, or if there is a specific consent requirement, then the articles will need to be amended or the relevant consent sought.
In addition, the company's articles should be checked to confirm whether there are any restrictions on transfers of shares. If so, then these restrictions will either need to be waived, or the articles amended, by special resolution. If there is a shareholders' agreement in place relating to the company, the agreement should be reviewed to check if any consents are required in relation to the buyback and/or to the transfer of shares pursuant to the buyback.
Is the company undertaking the buyback pursuant to an employees' share scheme?
If the buyback is being undertaken pursuant to an employees' share scheme, then the company may be able to take advantage of some of the more flexible provisions in the Act. For example, in this situation a company may pay for shares in installments (which is otherwise prohibited), buyback the shares out of capital using a simplified process or, if the company is a private company, pass an ordinary resolution authorizing multiple buybacks in advance. Share buybacks pursuant to an employee share scheme are not covered any further in this article.
How will the buyback be financed?
The process that a company needs to follow to purchase its own shares will depend on how the buyback is to be financed. The Act provides that a buyback may be financed out of:
distributable profits;
the proceeds of a fresh issue of shares made for the purpose of financing the buyback; or
capital.
Exemption for small buybacks out of capital
In addition to the above (which are covered in sections B and C below), section 692 of the Act contains an exemption for a "de minimis" buyback out of capital. Where specifically authorized to utilize the exemption by its articles, a private company may purchase its own shares out of capital up to an amount, in any one financial year, not exceeding the lower of:
£15,000; or
the nominal value of 5% of its fully paid share capital.
Where the exemption applies, a private company will be able to use a simplified process and will not need to comply with the more onerous procedure in Chapter 5 of Part 18 relating to buybacks out of capital (see below). The buyback contract will still need to be approved the shareholders (see process below).
B. Process for a share buyback using distributable profits or a new issue of issue of shares
Step 1 – approval of the buyback contract by the shareholders
A company may only make an off-market purchase of its own shares in pursuance of a contract approved prior to the purchase in accordance with section 694 of the Act. The buyback contract should contain all the key terms of the agreement between the company and the selling shareholder(s) for the purchase of the

shares by the company.
Either the terms of the contract must be authorized by a resolution of the company before the contract is entered into, or the contract must provide that no shares may be purchased under the contract until its terms have been so authorized by resolution. The contract will need to be approved by an ordinary resolution passed by the holders of over 50% of the voting shares in the company, unless the articles require a higher majority. The resolution can be passed as a written resolution or at a general meeting.
In addition, the buyback contract will need to be made available to shareholders as follows:
where the contract is being approved by written resolution, a copy of the contract should be circulated to the shareholders, along with the written resolution (where the contract is not in writing, a memorandum summarizing its terms will suffice); or
where the contract is being approved at a general meeting, a copy of the contract (or where not in writing, a memorandum summarizing its terms) must be made available for inspection by shareholders at the company's registered office for at least 15 days ending with the date of the general meeting and at the general meeting itself.
The shareholder whose shares are being purchased will not be able to vote on the written resolution. If the resolution is passed at a general meeting, then the resolution will be ineffective if the shareholder holding shares to which the resolution relates exercises the voting rights carried by those shares and the resolution would not have been passed if those votes had not been exercised.
The resolution approving the buyback contract is not limited in time, so the company may purchase the shares at any time following the passing of the resolution. Please see above in relation to approval in advance for buybacks of shares pursuant to an employees' share scheme.
An authority for a buyback of shares, or a buyback contract, may be varied by ordinary resolution (unless the articles require a higher majority). Again, the proposed variation must be authorized in advance, and the terms of such proposed variation must be made available to shareholders in the same way as set out above.
Step 2 - payment for the shares
Unless shares are bought back pursuant to an employees' share scheme (see the above), section 691 (2) of the Act requires that the shares must be paid for at the time they are purchased. If the buyback agreement provides for the shares to be paid for in installments, then the buyback will be void (Pena v. Dale [2003] EWHC 1065 (Ch)). Although this is fairly restrictive, it is permissible for a company to enter into a buyback agreement with multiple completions for the purchase of separate tranches of shares on different dates. However, each tranche of shares will need to be paid for at the time the relevant shares are bought back. Therefore, a company that enters into a buyback agreement involving multiple completions should ensure in advance that it will have sufficient distributable reserves to purchase each tranche of shares.
The generally held view is that a company must pay for shares purchased pursuant to a share buyback in cash (although there is a case suggesting that a non-cash asset or set-off of a liability will suffice, this is not settled law; therefore, a cash payment is the safest option).
Where the company is financing the buyback using the proceeds of a new issue of shares, the Act does not stipulate a time limit for the buyback once the new shares have been issued. However, the company should ensure that the buyback is undertaken as soon as possible following the new issue of shares, so that there is a clear link between the issue and the buyback. The holders of the new shares should be entered into the register of shareholders before the proceeds of the issue are applied to buy back the shares.
Step 3 – post buyback
Any shares purchased using distributable profits may be cancelled or held in treasury, under section 724 of the Act.

If the shares are bought back using the proceeds of a fresh issue of shares, or from cash using the de minimis exemption, then they must be cancelled (section 706 (b)). The amount of the company's issued share capital will be diminished by the nominal value of the shares cancelled.
Where (as in most cases) the buyback contract is approved by ordinary resolution, the resolution will not need to be filed at Companies House. If, because of a requirement in the company's articles or otherwise, the buyback contract has been approved by special resolution, then the resolution will need to be filed. The Act does not require that the buyback contract itself is filed, but the company is obliged to keep the contract available for inspection at its registered office for a period of 10 years.
The company will also need to file a form SH03 at Companies House within 28 days of the buyback. Unless the consideration paid for the shares is less than £1,000, the form SH03 will need to be sent to HMRC for stamping before it is filed. Stamp duly of 0.5% (rounded up to the nearest £5.00) is payable on the consideration paid for the shares.
In addition, where the shares which are the subject of the buyback are cancelled, the company will need to file a notice of cancellation on form SH06 with Companies House.
The company should update its register of shareholders to reflect the buyback.
C. Process for share buyback out of capital
Step 1 – directors' statement
Where the buyback is to be funded out of capital the directors of the company must, in accordance with section 714 of the Act, give a statement which includes the following matters:
the amount of the permissible capital repayment for the shares (shares may only be purchased out of capital to the extent that any available profits and the proceeds of any fresh issue of shares have first been applied – this is referred to as the "permissible capital repayment" – section 710);
having made full enquiry into the affairs and prospects of the company, the directors must give the opinion that:
as regards its initial situation immediately following the date on which the payment out of capital is proposed to be made, that there will be no grounds on which the company could then be found unable to pay its debts; and
as regards its prospects for the year immediately following the date on which the payment out of capital is proposed to be made, that, having regard to their intentions with respect to the management of the "company's business" (https://bloghunt.me/bowman-offshore-bank-transfers/) and the "financial resources" (https://www.polarsteps.com/reihmclaine16/635738-bowman-offshore-bank-transfers) available to the company during that year, the company will be able to continue to carry on business as a going concern and pay its debts as they fall due throughout that year.
If a director makes the statement without having reasonable grounds, then such director will have committed a criminal offence. In addition, where the company is wound up within the year following the buyback, the seller of the shares and any director that signed the statement may be liable, in certain circumstances, to repay the liquidator the amount paid for the shares.
The statement must have annexed to it an auditor's report, stating that:
the auditor has inquired into the company's affairs;
the amount of the permissible capital payment has been properly determined in accordance with the Act; and
the auditor is not aware of anything to indicate that the opinion expressed by the directors is unreasonable.
The directors' statement should be signed on the same day as, or in the week before, the date on which the shareholders' resolution approving the payment out of capital is passed (see below).
Step 2 – shareholder approval
Where the buyback is funded out of capital, the buyback contract will need to be approved by the

shareholders (see step 1 of section B above). In addition, a further special resolution is required to approve the payment out of capital under section 716 of the Act. The special resolution (which will require approval by the holders of 75% of the voting shares) may be passed as a written resolution or at a general meeting:
where passed as a written resolution, the directors' statement and auditors report should be circulated with the resolution (failure to do this will render the resolution ineffective); or
where passed at a general meeting, the directors' statement and auditor's report should be available to shareholders at the general meeting.
As with the resolution approving the buyback contract, a shareholder holding shares which are the subject of the buyback will not be an eligible member for the purposes of the shareholder resolution. If the resolution is passed at a general meeting, then the resolution will only be effective if passed without counting any votes attaching to the shares to which the resolution relates.
Step 3 – notice in the Gazette and a national newspaper/period for objection
Within the week following the resolution approving the payment out of capital, the company must publish a notice in the Gazette and in an appropriate national newspaper or give notice to each of its creditors, stating:
that the company has approved a payment out of capital for the purposes of a share buyback;
the amount of the permissible capital payment;
the place where the directors' statement and auditor's report are available for inspection; and
that any creditor may, within the 5 weeks following the date of the resolution, apply to court to prevent the payment.
The company must make the directors' statement and auditor's report available for inspection at its registered office by any shareholder or creditor from the date of the Gazette notice until 5 weeks after the date of the resolution approving the payment out of capital.
In the five weeks following the resolution approving the payment out of capital, any shareholder or creditor may apply to court for the resolution approving the payment out of capital to be cancelled. Where such an application is made, the court hearing the application may order a variety of things, including that the resolution is either cancelled or confirmed. Where an application to court is made, both the applicant and the company must notify Companies House of the application by filing forms SH16 (applicant) and SH17 (the company).
Step 4 – timing for the payment out capital
The payment out of capital must be made no earlier than 5 weeks, and no later than 7 weeks, after the date of the resolution approving the payment out of capital.
Step 5 – post buyback
The special resolution approving the payment out of capital should be filed at Companies House within 15 days. The directors' statement and auditor's report should also be filed with Companies House on the earlier of: (i) the date of the Gazette notice; or (ii) the date on which a notice is published in a national newspapers or the notice is given to creditors.
Any shares purchased from capital must be cancelled. Therefore, the company will need to file both forms SH03 and SH06 at Companies House, and also pay stamp duty on the buyback of the shares (if payable); please see step 3 of section B above.
As with a buyback out of distributable profits, the company will need to update its register of members and keep a copy of the buyback contract available for inspection (again, refer to step 3 of section B above).
Buybacks out of capital have become less popular as a way of returning capital to shareholders since the introduction of the solvency state route as a way of reducing a company's capital in order to create distributable reserves.

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