

SUPERVISION PROFILE
BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION

1. A) SUPERVISORY AGENCY

British Virgin Islands Financial Services Commission

B) CATEGORIES OF FINANCIAL INSTITUTIONS

- a) Banking and Fiduciary Services
- b) Investment Business
- c) Insurance Business
- d) Insolvency Services
- e) Financing and Money Services

2. NUMBER AND NAMES OF ENTITIES SUPERVISED IN EACH CATEGORY

Banking and Fiduciary Services @ 2010 Fourth Quarter

General Banking License-holders	6
Money Services and/or Financing Business	1
Restricted Class 1 Bank License-holders	1
Class I Trust License- holders	89
Class II Trust License-holders	7
Class III Trust License- holders	4
Restricted Class II Trust License-holders	97
Restricted Class III Trust License-holders	1
Company Management License-holders	22
Authorized Custodian License-holders	12

Investment Business @ 2010 Fourth Quarter- Live Entities

Certificates of Recognition as PROFESSIONAL Mutual Funds	1759
Certificates of Recognition as PRIVATE Mutual Funds	741
Certificates of Registration as PUBLIC Mutual Funds	206
TOTAL Active Mutual Funds under the Act	2706

Insurance Business @ 2010 Fourth Quarter

Companies:	
Captive	219
Domestic	36
Intermediaries:	
Agents	16
Brokers	7
Insurance Managers	14
Loss Adjusters	4

3. PRUDENTIAL INFORMATION/DATA REQUIRED OF LICENSED INSTITUTIONS AND REPORTING INTERVALS

- a. Banking Licence-holder
 - i. Audited Financial Statements- Submitted annually
 - ii. Prudential Banking Returns- Submitted quarterly
- b. Trust Licence-holders
 - i. Audited Financial Statements- Submitted annually
 - ii. Fiduciary Prudential Returns- Submitted semi-annually
- c. Company Management Licence-holders
 - i. Audited Financial Statements – Submitted annually
 - ii. Certificate of Compliance (from the auditors)- Submitted annually
 - iii. Fiduciary Prudential Returns – Submitted semi-annually
- d. Authorized Custodian
 - i. Report on the holding of bearer shares – Submitted annually

- e. Mutual Funds
 - i. Audited Financial Statements- submitted annually.
 - ii. Funds are also now required to submit the Mutual Fund Annual Return, which gives a snapshot of the fund's financial activities as well as a cross section of asset allocation by jurisdiction. The return is submitted six months after the reporting period which is at the end of each calendar year.
- f. Captive Insurance Licence-holders
 - i. Audited Financial Statements- Submitted annually
- g. Domestic Insurance Licence-holders
 - i. Audited Financial Statements- Submitted annually
 - ii. Reinsurance Program- Submitted annually
 - iii. Statistical Data concerning the local market- Submitted annually
 - *Actuary Reports are submitted annually from life insurance companies
- h. Financing and Money Services Licence-holders
 - i. Audited Financial Statements – submitted annually

4. PRUDENTIAL INFORMATION/DATA PUBLISHED BY SUPERVISORY AUTHORITY AND PUBLICATION INTERVALS

The names of licence-holders and the class of licence held, pursuant to the following:

- a. Financial Services Commission Act, 2001
- b. Banks and Trust Companies Act, 1990
- c. Company Management Act, 1990
- d. Insurance Act, 2008
- e. Financing and Money Services Act, 2009
- f. Securities and Investment Business Act, 2010

Information is published on an annual basis (at the licence renewal stage) with the Virgin Islands Gazette. This information is further published, and updated on an ongoing basis; on the Commission's website (<http://www.bvifsc.vg>) Prudential Statistics are also published on a quarterly basis in the Commissions Quarterly Statistical Bulletin. The bulletin is also published and available on the Commission's website.

5. PRINCIPAL PIECES OF LEGISLATION GOVERNING THE OPERATION OF BANKING/FIDUCIARY LICENSEES (INCLUSIVE OF ANTI-MONEY LAUNDERING) AND ANTI-TERRORISM STATUTES WHERE APPLICABLE)

a. Financial Services Commission Act, 2001 [Consolidated]

Amendment: Financial Services Commission (Amendment) Act, 2009

- i. Financial Services Commission (Fees) Regulations, 2005*
- ii. Financial Services (Administrative Penalties) Regulations, 2006*
- iii. Financial Services (Exemption) Regulations, 2007*
- iv. Financial Services (Prudential Statistical Returns) Order, 2009*
- v. Financial Services (Recognised Custodians) Order, 2009*
- vi. Regulatory Code, 2009*
- vii. Regulatory (Amendment) Code, 2010*
- viii. Financial Services Commission (Fees) Regulations, 2010*
- ix. Financial Services Commission (Fees) (Amendment) Regulations, 2010*
- x. Financial Services (Miscellaneous Exemptions) Regulations, 2010*

b. Banks and Trust Companies Act, 1990 [Consolidated]

- i. Banks and Trust Companies Regulations, 1991, (S.I. 1991 No. 18)*
- ii. Banks and Trust Companies (No.2) Regulations, 1991*
- iii. Banks and Trust Companies (Non-Negotiable Certificates of Indebtedness) Order, 2002*
- iv. Banks and Trust Companies (Amendment) Act, 2010*

c. Company Management Act, 1990 [Consolidated]

- i. Company Management Regulations, 1991*
- ii. Company Management (Amendment) Act, 2010*

d. Insolvency Act, 2003 [Consolidated]

- i. Insolvency Practitioners Regulations, 2004*
- ii. Insolvency Rules, 2005*
- iii. Insolvency Code of Practice*

- iv. *Insolvency Practitioners (Amendment) Regulations, 2010*
- e. Insurance Act, 2008
 - i. *Insurance Regulations, 2009*
- f. Securities and Investment Business Act, 2010
 - i. *Segregated Portfolio Companies Regulations, 2005*
 - ii. *BVI Mutual Funds (Restricted Public Fund) Regulations, 2005*
 - iii. *Securities and Investment Business (Recognised Jurisdictions) Notice, 2010*
 - iv. *Securities and Investment Business (Recognised Jurisdictions) (Amendment) Notice, 2010*
 - v. *Securities and Investment Business (Amendment of Schedule 8) Order, 2010*
 - vi. *Mutual Funds Regulations, 2010*
 - vii. *Mutual Funds (Amendment) Regulations, 2010*
 - viii. *Public Funds Code, 2010*
 - ix. *Financial Services Commission (Securities and Investment Business Fees) Regulations 2010*
 - x. *Financial Services Commission (Securities and Investment Business Fees) (Amendment) Regulations, 2010*
- g. Financing and Money Services Act, 2009
 - i. *Financial Services Commission (Financing and Money Services Fees) Regulations, 2010*
- h. The BVI Business Companies Act, 2004
 - i. *BVI Business Companies (Amendment) Act, 2006*
 - ii. *BVI Business Companies (Amendment of Schedules) Order, 2006*
 - iii. *BVI Business Companies (Company Names) Regulations, 2007*
 - iv. *Segregated Portfolio Companies Regulations, 2005*
 - v. *BVI Business Companies (Amendment of Schedule 2) Order, 2009*
 - vi. *BVI Business Companies (Amendment of Schedule)(No.2) Order, 2007*

- i. Proceeds of Criminal Conduct Act, 1997 (as amended)
 - i. *Anti-money Laundering Regulations, 2008*
 - 1. *Anti-money Laundering (Amendment) Regulations, 2010*
 - ii. *Anti-money Laundering and Terrorist Financing Code of Practice, 2008*
 - 1. *Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2009*
 - 2. *Anti-money Laundering and Terrorist Financing (Amendment) (No. 2) Code of Practice, 2009*
 - 3. *Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2010*
 - 4. *Anti-money Laundering and Terrorist Financing (Amendment) (No. 2) Code of Practice, 2010*
 - iii. *Non-financial Business (Designation) Notice, 2008*
- j. The Terrorism (United Nations Measures) (Overseas Territories) Order, 2001
- k. The Afghanistan (United Sanctions) (Overseas Territories) Order, 2001
- l. The Afghanistan (United Sanctions) (Overseas Territories) (Amendment) Order, 2001
- m. Anti-terrorism (Financial and Other Measures) (Overseas Territories) Order, 2002
- n. Al-Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order, 2002
- o. EU Tax Savings Directive, 1999
- p. EU Market Abuse Directive, 2003

6. MAJOR CHANGES TO BANKING/ FINANCIAL STATUES OVER THE PAST TEN YEARS

The enactment of the Financial Services Commission Act, 2001 represents the most significant change made to BVI banking/financial statutes in so far as regulation and supervision of the financial services industry is concerned. This Act was amended in 2006 and 2009 by way of the FSC Act, 2006 and the FSC Act, 2009. Other changes effected to banking/financial statutes over the same period comprise the following:

- a. The Banks and Trust Companies Act was amended in 2001, 2006 and 2010;
- b. The Company Management Act was amended in 2001, 2006 and 2010;
- c. The Securities and Investment Business Act, 2010 replaced the Mutual Funds Act, 1996;
- d. The Insurance Act, 2008 replaced the Insurance Act, 1994;

- e. The Anti-money Laundering and Terrorist Code of Practice, 2008 was introduced and subsequently amended in 2009 and 2010;
- f. The Anti-money Laundering Regulations, 2008 replaced the Anti-money Laundering Code of Practice, 1999 and were subsequently amended in 2010;
- g. The Financing and Money Services Act, 2009 was introduced;
- h. Insurance Regulations, 2009 were introduced;
- i. The Regulatory Code, 2009 was introduced and subsequently amended in 2010;
- j. The Public Funds Code, 2010 was introduced;
- k. The Proceeds of Criminal Conduct Act, 1997 was amended in 2003, 2006, 2008 and 2010;
- l. The BVI Business Companies Act, 2004 was amended in 2005, 2006 and 2008;
- m. BVI Mutual Funds (Restricted Public Funds) Regulations, 2005;
- n. Segregated Portfolio Companies Regulations, 2005

7. AREAS IDENTIFIED FOR FURTHER LEGISLATIVE CHANGE AND DETAILS/ STATUS OF ANY NOW IN PROCESS

- a. A review and amendment of the BVI Business Companies Act, 2004 is in the works. Relevant regulations to complement the Act will also be made.

8. FORMAL DIRECTIVES, POLICIES, GUIDELINES/ GUIDANCE NOTES ISSUED BY SUPERVISORY AUTHORITY TO LICENSEES

- a. Guidelines for Bank Licensing
- b. Guidelines for Mutual Fund Managers and Administrators
- c. Guidance Notes for Accounting and Audit Procedures for Insurance Companies
- d. Guidelines and Operating Procedures of the Licensing and Supervisory Committee
- e. Guidelines and Operating Procedures of the Enforcement Committee
- f. Guidance Notes on the Revocation or Cancellation, including Solvent Liquidations
- g. Guidance Notes of Mutual Funds Annual Returns
- h. Guidelines for the Approved Persons Regime
- i. Approved Forms and Related Guidelines

9. STATUS OF JURISDICTION VIS A VIS BASEL CORE PRINCIPLES OF BANKING SUPERVISION

Date and Result of Initial Self Assessment

N/A

Date and Result of External Assessment¹

April 2010

Name of Agency/ Consultant Conducting External Assessment

- IMF Country Report No. 10/323 “British Virgin Islands: Financial Sector Assessment Program Update” - issued October 2010.
- IMF Report No. 10/324 – BVI: Financial Sector Assessment Program Update – Detailed Assessment of Basel Core Principles for Effective Banking Supervision – October 2010

Areas Identified as Requiring Ameliorative Action:

- a. Process to amend Regulatory Code to include provisions on market risk of trading accounts and provisioning to address possible losses and general reserves should be completed.
- b. Level of training of regulatory staff should be kept under constant review, given the FSC’s increasing work load and increasing complexity of banking supervision.
- c. Term of appointment of Managing Director should be fixed and stated reasons for dismissal should be introduced.
- d. FSC should ensure that staff costs are paid in the defense of their actions and/or omissions in carrying out their supervisory functions in good faith.
- e. The six month timeframe for the submission to the FSC and publication of annual audited statements by regulated firms should be shortened to three or at most four months.

10. JURISDICTION STATUS VIS A VIS FINANCIAL SECTOR ASSESSMENT PROGRAMME (FSAP)

- a. IMF FSAP was conducted in April 2010. The final Report was published in October 2010

¹ The BVI was subject to Mutual Evaluation conducted by the Caribbean Action Task Force (CFATF) in February, 2008. The final report was tabled at the CFATF Plenary held in St. Kitts in November, 2008, and was published on 24th December, 2008 by CFATF. A copy is also available on the Commission’s website.