

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
- f) Authorised Custodian of BVI bearer shares

2. NUMBER AND NAMES OF ENTITIES SUPERVISED IN EACH CATEGORY

Banking and Fiduciary Services @ 2012 Fourth Quarter

General Banking Licence-holders	6
Money Services/Financing Business Licence-holders	3
Restricted Banking Class 1 Banking Licence-holders	1
Class I Trust Licence-holders	84
Class II Trust Licence-holders	12
Class III Trust Licence-holders	6
Restricted Class II Trust Licence-holders	86
Restricted Class III Trust Licence-holders	1
Company Management Licence-holders	21
Authorised Custodian Licence-holders	12

Investment Business @ 2012 Fourth Quarter- Live Entities

Licences granted to Functionaries:	
Investment Business Licences	526
Authorised Representatives	46
Certificates Issued to Mutual Funds:	
Certificates of Recognition as PROFESSIONAL Mutual Funds	1590
Certificates of Recognition as PRIVATE Mutual Funds	577
Certificates of Registration as PUBLIC Mutual Funds	151
Total Active Mutual Funds under the Act	2318

Insurance Business @ 2012 Fourth Quarter

Insurers:	
Captive	157
Domestic	34
Functionaries:	
Agents	18
Brokers	4
Insurance Managers	14
Loss Adjusters	5

Insolvency Services @ 2012 Fourth Quarter

Insolvency Practitioners (Full Licence)	22
Insolvency Practitioners (Restricted Licence)	1
Total No. of Insolvency Practitioners	23

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
- iii. Publish Financial Statements – Published annually
- iv. Compliance Report - Submitted annually
- v. Large Exposure Report – Submitted quarterly
- vi. Large Exposures Policy - Submitted annually
- vii. List of reports prepared by internal audit - Submitted quarterly
- viii. Amendments to Liquidity Management Strategy – within seven days from board’s approval
- ix. Operational Risk Management Report – immediately following board’s approval

b) **Trust Licence-holders**

- i. Audited Financial Statements - Submitted annually
- ii. Fiduciary Prudential Returns - Submitted semi-annually
- iii. Compliance Report - Submitted annually

- c) Company Management Licence-holders
 - i. Audited Financial Statements – Submitted annually
 - ii. Certificate of Compliance (from the auditors)- Submitted annually
 - iii. Compliance Report - Submitted annually
 - iv. Fiduciary Prudential Returns – Submitted semi-annually

- d) Authorized Custodian
 - i. Report on the holding of bearer shares – Submitted annually
 - ii. Certificate of Compliance (from the auditors)- 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) Investment Business Licensees (*subsequent to 2010*)
 - i. Audited Financial Statements- submitted annually

- g) Captive Insurance Licence-holders
 - i. Audited Financial Statements- Submitted annually
* Actuary Reports are submitted annually for long-term insurers

- h) Domestic Insurance Licence-holders
 - i. Audited Financial Statements- Submitted annually
 - ii. Reinsurance Program- Submitted annually
 - iii. Compliance Reports - Submitted annually
 - iv. Statistical Data concerning the local market- Submitted annually
*Actuary Reports are submitted annually from long-term insurers

- i) Insurance Intermediary and Insurance Managers
 - i. Audited Financial Statements – submitted annually.

- j) Financing and Money Services Licence-holders
 - i. Audited Financial Statements – submitted annually
 - ii. Compliance Report - Submitted annually

- k) Insolvency Practitioner Licence-holder (full or restricted)
 - i. Prudential Returns- 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
- g) Insolvency Act, 2003

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]
 - i. *Financial Services Commission (Amendment) Act, 2009*
 - ii. *Financial Services Commission (Amendment) Act, 2011*
 - iii. *Financial Services Commission (Fees) Regulations, 2005*
 - iv. *Financial Services Commission (Fees) Regulations, 2010*
 - v. *Financial Services Commission (Fees) (Amendment) Regulations, 2010*
 - vi. *Financial Services (Administrative Penalties) Regulations, 2006*
 - vii. *Financial Services (Administrative Penalties) (Amendment) Regulations, 2007*
 - viii. *Financial Services (Exemption) Regulations, 2007*
 - ix. *Financial Services (Exemption) (Amendment) Regulations, 2007*

- x. *Financial Services (Exemption) (Amendment) Regulations, 2008*
- xi. *Financial Services (Exemption) (Amendment) Regulations, 2013*
- xii. *Financial Services (Prudential Statistical Returns) Order, 2009*
- xiii. *Regulatory Code, 2009*
- xiv. *Regulatory (Amendment) Code, 2010*
- xv. *Financial Services (Miscellaneous Exemptions) Regulations, 2010*
- xvi. *Financial Services (Miscellaneous Exemptions) Regulations, 2011*
- xvii. *Financial Services (Miscellaneous Exemptions) (Amendment) Regulations, 2011*
- xviii. *Financial Services Commission (Approved Forms Publication) 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 (Amendment) Act, 1995*
- iii. *Banks and Trust Companies (Amendment) Act, 2006*
- iv. *Banks and Trust Companies (Amendment) Act, 2010*
- v. *Virgin Islands Special Trusts Act, 2003*
- vi. *Trustee (Amendment) Act, 2003*
- vii. *Property (Miscellaneous Provisions) Act, 2003*

c) Company Management Act, 1990 [Consolidated]

- i. *Company Management Regulations, 1991*
- ii. *Company Management (Amendment) Act, 1995*
- iii. *Company Management (Amendment) Act, 2006*
- iv. *Company Management (Amendment) Act, 2010*

d) Insolvency Act, 2003 [Consolidated]

- i. *Insolvency Practitioners Regulations, 2004*
- ii. *Insolvency (Transitional Provision) regulations, 2004*
- iii. *Insolvency (Amendment And Consequential Provisions) Act, 2004*
- iv. *Insolvency Rules, 2005*
- v. *Insolvency Code of Practice*
- vi. *Insolvency Practitioners (Amendment) Regulations, 2010*

e) Insurance Act, 2008

- i. *Insurance Act, 1994*
- ii. *Insurance Regulations, 2009*
- iii. *Insurance (Amendment) Regulations, 2011*

f) Securities and Investment Business Act, 2010

- i. *Securities and Investment Business Act, 2012*
- ii. *Segregated Portfolio Companies Regulations, 2005*
- iii. *BVI Mutual Funds (Restricted Public Fund) Regulations, 2005*

- iv. *Securities and Investment Business (Recognised Jurisdictions) Notice, 2010*
- v. *Securities and Investment Business (Recognised Jurisdictions) (Amendment) Notice, 2010*
- vi. *Securities and Investment Business (Amendment of Schedule 8) Order, 2010*
- vii. *Mutual Funds Regulations, 2010*
- viii. *Mutual Funds (Amendment) Regulations, 2010*
- ix. *Public Funds Code, 2010*
- x. *Financial Services Commission (Securities and Investment Business Fees) Regulations 2010*
- xi. *Financial Services Commission (Securities and Investment Business Fees) (Amendment) Regulations, 2010*
- xii. *Financial Services Commission (Securities and Investment Business Fees) (Amendment) Regulations, 2012*
- xiii. *Investment Business (Approved Managers) Regulations, 2012*

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. *Partnership Act, 1996*
- ii. *Virgin Islands Partnership (Amendment) Act, 2012*
- iii. *BVI Business Companies (Amendment) Act, 2012*
- iv. *Segregated Portfolio Companies Regulations, 2005*
- v. *BVI Business Companies (Amendment) Act, 2006*
- vi. *BVI Business Companies (Amendment of Schedules) Order, 2006*
- vii. *BVI Business Companies (Amendment of Schedule) Order, 2007*
- viii. *BVI Business Companies (Amendment of Schedule 1) Order, 2013*
- ix. *BVI Business Companies (Company Names) Regulations, 2007*
- x. *BVI Business Companies (Amendment of Schedule 2) Order, 2009*
- xi. *BVI Business Companies Regulations, 2012*

i) *Proceeds of Criminal Conduct Act, 1997 (as amended)*

- i. *Proceeds of Criminal Conduct (Amendment) Act, 2006*
- ii. *Proceeds of Criminal Conduct (Amendment) Act, 2008*
- iii. *Proceeds of Criminal Conduct (Amendment) Act, 2009*
- iv. *Proceeds of Criminal Conduct (Amendment) Act, 2010*
- v. *Anti-money Laundering Regulations, 2008*
- vi. *Anti-money Laundering (Amendment) Regulations, 2010*
- vii. *Anti-money Laundering (Amendment) Regulations, 2012*
- viii. *Anti-money Laundering and Terrorist Financing Code of Practice, 2008*
- ix. *Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2009*

- x. *Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2010*
- xi. *Anti-money Laundering and Terrorist Financing (Amendment) Code of Practice, 2012*
- xii. *Anti-money Laundering and Terrorist Financing (Amendment) (No. 2) Code of Practice, 2009*
- xiii. *Anti-money Laundering and Terrorist Financing (Amendment) (No. 2) Code of Practice, 2010*
- xiv. *Anti-money Laundering and Terrorist Financing (Amendment) (No. 2) Code of Practice, 2012*
- xv. *Non-financial Business (Designation) Notice, 2008*

Information is published, and updated, on an ongoing basis on the Commission's website (<http://www.bvifsc.vg>). Specifically, various AML legislation and Orders can be found in the Legislation Library and Alerts sections of the Commission's website.

6. MAJOR CHANGES TO BANKING/ FINANCIAL STATUTES 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, 2009 and more recently in 2011. Other changes effected to banking/financial statutes over the same period comprise the following:

- a) Financial Services Commission Act, 2001; amended in 2009 and 2011.
- b) Banks and Trust Companies Act, 1990; amended in 2006 and 2010.
- c) Company Management Act, 1990; amended in 2006 and 2010.
- d) Securities and Investment Business Act, 2010; amended in 2012.
- e) Insurance Act, 2008 replaced the Insurance Act, 1994.
- f) The Anti-money Laundering and Terrorist Code of Practice, 2008 was introduced and amended in 2009, 2010 and 2012.
- g) The Anti-money Laundering Regulations, 2008 replaced the Anti-money Laundering Code of Practice, 1999 and was amended in 2010 and 2012.
- h) The Financing and Money Services Act, 2009 was introduced.
- i) The Regulatory Code, 2009; introduced in 2009 amended in 2010.
- j) The Public Funds Code, 2010; introduced in 2010.
- k) The Proceeds of Criminal Conduct Act, 1997; amended in 2006, 2008, 2009 and 2010.
- l) The BVI Business Companies Act, 2004; amended in 2006.

Please refer to section 5 of this profile as it contains specific updates to the various Financial statutes of the British Virgin Islands.

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

Various pieces of legislation are presently under review. Amendments are currently being considered for the further development of the Financial Services Act, 2001 (as amended), the Financing and Money Services Act, 2009. Relevant regulations to complement the Acts 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
- j) Policy Regarding the Handling of Complaints
- k) Guidelines for Approved Investment Managers
- l) Guidelines for Custodian and Investment Manager Exemptions
- m) BVI Business Companies (Restricted Company Names) Notice, 2011
- n) Practice Direction Number 3 of 2006 - Books and Records for Captive Insurance Companies
- o) Practice Direction Number 2 of 2006 –Investment Policy for Captive Insurance Companies
- p) Practice Direction Number 1 of 2006 – Definition of Terms – Insurance Allowable Assets
- q) BVI Business Companies (Restricted Company Names) Notice, 2011

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 Assessment

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)

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