



15 January 2008

The following is a brief summary of important current events in the British Virgin Islands financial services industry:

<p><b>Private Trust Company Regulations</b></p>	<p>As anticipated in the July 2007 newsletter, the Financial Services (Exemptions) Amendment Regulations, (“the Regulations”), were introduced on 2 August 2007, and amended on 27 December 2007. The Regulations replaced the Banks &amp; Trust Companies (Application Procedures) Directions, 1991, and further clarified the BVI’s legislation for Private Trust Companies, (“PTCs”).</p> <p>To qualify as a PTC under the Regulations, and thus be exempt from any approval or licensing process, the company must be incorporated, or re-registered, under the BVI Business Companies Act 2004, a clause in the Memorandum of the company must state that it is a PTC, and the company must include “PTC” in its name. The incorporation, and ongoing licence, fee for PTCs is US\$750.</p> <p>In order for the PTC to remain exempt, the company must either (a) receive no direct or indirect remuneration for trustee services, (the remuneration of professional directors &amp; payments made to meet costs do not constitute remuneration); and / or (b) carry on “related trust business”, (i.e. only act as trustee of one of more trusts of which the beneficiaries have a specified family relationship to a single settlor or to related settlors). In addition, the PTC must carry on no business other than trust business, as per (a) &amp;/or (b) above, and must not solicit business from the public.</p> <p>If all requirements are met, as above, then exemption is automatic and no approval is required from the BVI Regulator.</p> <p>The Regulations do confer an obligation on the BVI registered agent, (who must hold a Class 1 trust licence, as Nerine BVI does), to ensure compliance at incorporation, &amp; periodically thereafter. The registered agent must retain a copy of the trust deed, and any deed or document that varies the trust, and must, on a periodic basis, take all reasonable steps to ensure that the PTC continues to comply with the Regulations.</p> <p>The Regulations were amended on 28 December 2007, with the effect that all PTCs existing prior to August 2007, (that had previously relied on the 1991 Directions), will need to comply with the Regulations by 31 July 2008.</p> <p><i>Clients will, therefore, need to review their portfolios carefully and identify any such companies, so that the statutory documents may be amended accordingly, prior to the deadline.</i></p> <p>We believe that the Regulations provide a clear, efficient and cost-effective regime for the incorporation of PTCs and ensure that the BVI remains an excellent jurisdiction for such structures.</p>
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<p><b>Local BVI Companies</b></p>	<p>The BVI Business Companies Act, 2004, (“BCA”), was amended by means of the BVI Business Companies Act (Amendment of Schedules) Order, 2007. This amendment only relates to local BVI companies that were incorporated prior to 2006, and have yet to re-register under the BCA.</p> <p>The effect of the amendment is to extend the re-registration period for local BVI companies for another year. Such companies may now voluntarily re-register to the BCA up until 30 November 2008 or will be automatically re-registered on 1 January 2009.</p> <p>This affects only our local BVI clients and those international clients, who have utilised such companies, (for example, trust companies that are deemed to be conducting business in the BVI).</p>
<p><b>The BVI Registry and “VIRRGIN”</b></p>	<p>As detailed in previous newsletters, “VIRRGIN”, (Virtual Integrated Registry &amp; Regulatory General Information Network!) is the BVI Registry’s on-line system, which was introduced in late 2006.</p> <p>Phase 2 of VIRRGIN, (which deals with online filings for post-incorporation transactions), was implemented on 17 September 2007. The result is that all incorporation and post-incorporation transactions are now submitted electronically to the BVI Registry by the licensed BVI user, (the registered agent).</p> <p>The use of VIRRGIN has resulted in further significant improvements in turn-around times for processing documents at the BVI Registry. The majority of new incorporations, (and requests for Certificates of Good Standing), are now turned around in less than 24 hours. All other post-incorporation transactions are turned around in approximately 48 hours.</p> <p>With the success of the BCA, since its introduction in late 2004, and improved turn-around times at the BVI Registry, the BVI financial services sector continues to go from strength to strength. As at 30 June 2007, there were over 800,000 companies on the Register, with 38,914 companies incorporated in the first half of 2007 alone, (a 16% increase over the first half of 2006).</p>
<p><b>Happy New Year!</b></p>	<p>We wish all of our clients and friends a very successful and prosperous 2008!</p>
<p><b>Enquiries</b></p>	<p>If you have any questions, concerning the above information, please contact Simon Filmer in the BVI office, (<a href="mailto:simon.filmer@nerinebvi.com">simon.filmer@nerinebvi.com</a> or +284 494 8790), or your usual Nerine contact.</p>

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