



## BVI Financing and Money Services Business Rules to Take Effect March 2010

In May 2009, the House of Assembly in the British Virgin Islands (BVI) passed the Financing and Money Services Act 2009 (the “Act”). It has now been announced that the Act will take effect on 31 March 2010. The date set for the Act to come into effect has been delayed until now, as it was intended that the Act would not take effect until the BVI Regulatory Code 2009 (the “Code”) was in operation.

The Code is to come into effect on 1 February 2010. Part VI of the Code, which will take effect on 31 March 2010, regulates those holding a licence to conduct “money services business” in or from within the BVI.

The Act introduces a prohibition on carrying or holding oneself out as carrying on, in or from within the BVI, “financing” business or “money services” business, unless one is the holder of a licence. This new licensing regime will be administered and supervised by the BVI Financial Services Commission (the “FSC”).

Under the Act, a person is considered to carry on “financing business” if:

- (a) s/he carried on, in the BVI, the business of providing credit under financing agreements to borrowers resident in the BVI;
- (b) in the course of any business carried on by the person in the BVI, s/he provides credit under a financing agreement, in an amount or to a value exceeding US\$50,000 to a borrower in the BVI;
- (c) s/he carries on, in the BVI, the business of leasing property to a person resident in the BVI under a financing lease, or
- (d) s/he carries on such other business or activity as may be specified in the regulations as financing business.

A person is considered to carry on “money services business” if the person carries on the business of any one or more of the following services:

- (a) money transmission services
- (b) cheque cashing services
- (c) currency exchange services
- (d) the issuance, sale or redemption of money orders or traveller’s cheques
- (e) such other services as may be specified in regulations
- (f) operating as an agent or franchise holder of a person carrying on one of the businesses specified above

A more comprehensive explanation of the Act is available in our July 2009 article [here](#)

Part VI of the Code supplements the Act in setting out the obligations of, and the requirements relating to, licensed money services businesses and their supervision by the FSC. Part VI of the Code deals with the capital resource and corporate governance requirements of money services licensees. Part I of the Code (general Principles for Business) and aspects of Part II of the Code (dealing with licensing, fit and proper criteria for directors and senior managers, and requirements relating to financial statements, auditors and audits and customer assets) also apply to money services licensees.

It is important to note that the Code applies only to money services licensees. It does not apply to financing licensees under the Act.

Appleby will be releasing a series of guides to the Code shortly after its implementation. To request a copy of these guides, please [click here](#).

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