



The BVI's Financing and Money Services Business Licensing Regime – An Update

As was foreshadowed in an earlier Appleby eAlert available [here](#), the British Virgin Islands' ("BVI") Financing and Money Services Act 2009 ("the Act") took effect on 31 March 2010.

A detailed explanation of the key features of the Act is available in Appleby's July 2009 Brief [here](#). In contrast to the "financing" business regime which only applies to business conducted on the ground in the BVI, it is important to emphasise that "money services" business for the purposes of the Act extends to business conducted outside the BVI by a BVI incorporated entity.

Six Month Transitional Period

The Act includes transitional provisions which provide that persons who were conducting "financing" or "money services" business prior to 31 March 2010 have six months from this date to apply for a licence under the Act, and will not be penalised for conducting unlicensed business until the outcome of this application is determined. This has been useful to provide BVI legal practitioners with some breathing space to liaise with the corporate regulator, the BVI Financial Services Commission ("FSC"), to work through the application process for the first time on behalf of their clients.

Application Form and Guidance Notes

To coincide with the commencement date of the Act, pursuant to the Financial Services (Approved Forms Publication) Regulations 2010, the FSC has also published the British Virgin Islands Financial Services Commission Approved Forms and Related Guidelines publication ("Approved Forms Publication"). The Approved Forms Publication includes the Application Form (the "Form") to apply for a financing and/or money services business licence (the Form is also to be used when applying for other regulated business licences, including insurance licences and one or more of the new investment business licences pursuant to the Securities

and Investment Business Act 2010), along with some very helpful guidance on how to complete and submit the Form. Persons applying for a financing and/or money services business licence are required to complete Parts 1 and 6 of the Form.

The Approved Forms Publication is available on the FSC's website [here](#).

Application Process

Given the amount of information that needs to be provided when applying for a licence (including separate application(s) under the FSC's Approved Persons Regime if directors and other officers of the applicant have not previously been approved by the FSC), the implications of not having an application approved first time around (particularly if the financing and/or money services business is the sole component of the applicant's existing or proposed business), and the advantage that is often derived from having an existing working relationship with the FSC, it is strongly advised that those wishing to apply for a financing and/or money services licence engage a BVI legal practitioner to assist throughout the process. It is recommended that the application be submitted by a BVI law firm along with an appropriate cover letter on behalf of the applicant to the FSC.

Fees

Also coinciding with the commencement of the Act on 31 March 2010 was the implementation of the Financial Services Commission (Financing and Money Services Fees) Regulations 2010 ("Fees Regulations"), setting out the fees payable to the FSC to apply for and obtain a licence under the Act. For example:

- the fees to apply for a money services business or financing business licence are US\$300 and \$250 respectively, or US\$550 for both; and
- the fees to obtain a licence to carry on business under the Act are US\$2,000 for a money services business licence and US\$1,000 for a financing business licence, or US\$3,000 for both.

These fees are then payable annually to renew the licence(s).

There are also separate application and licence fees for other matters requiring FSC approval under the Act, including approval of directors or senior officers of a licensee and to sell, transfer or otherwise dispose of a significant interest in a licensee.

The Fees Regulations are available on the FSC's website [here](#).

For more information, please contact:



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