

BVI updates Investment Legislation

Introduction

The Securities and Investment Business Act of 2010 (SIBA) was passed into law in the BVI in April 2010 and will come into force on 17th May 2010. A full copy of the Act is available from the FSC website at www.bvifsc.vg under the legislation tab.

This legislation seeks to amend all “investment business” legislation in the BVI, and is to be supplemented by regulations over time, some of which are already available. The Act will repeal the Mutual Funds Act of 1996 and has introduced the regulation of investment advice, as well regulating against market abuse. Although the Act has immediate application for new business, existing businesses have a period of 6 months before it is of application.

SIBA requires any person carrying on investment business from within the BVI to hold a licence issued by the FSC. This includes:

- Investment Funds
- Investment Managers
- Investment Advisors
- Other service providers

The Act does not apply to foreign entities which provide services to BVI licenced entities.

Impact on Funds

Although SIBA repeals the Mutual Funds Act, the basic funds landscape remains largely unchanged, but codifies existing practice and provides new application forms and guidelines which are aimed at improving the service provided by the FSC.

Some points to take accounts of are as follows:

- The requirement to invest a minimum of \$100 000 now applies to all investors as opposed to the majority of investors;

- There is now a requirement for private and professional funds to be audited unless they are exempted;

- A fund must now give the FSC 7 days notice of changes to any functionary to a fund;

- All funds must have at least two directors one of which must be an individual;

- Funds need FSC consent to change their name;

- All funds must appoint a manager, custodian and administrator. Existing funds must comply by 3 August 2010.

Impact on Investment Managers

Points to take account of are as follows:

Any disposal of a significant interest in a management company requires FSC approval, as does a change in shareholding percentage;

Approval is required to establish a subsidiary or branch of a manager;

Client assets must be segregated from the managers own assets;

Impact on Investment Advisors

For the first time investment advisors are now regulated, but this will not apply to advisors based outside of the BVI.

Market Abuse

Insider trading, misleading statements and market manipulation are now criminal offences. This will include exposure where BVI entities are used from outside of the BVI.

Key Contact:

If you require advice or assistance in regard to any of the matters raised in this brochure, please contact your usual contact or

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