

New Financing and Money Services Bill, 2009 due to be enacted shortly in the BVI

June 2009

On 27 May 2009 the BVI House of Assembly passed a bill to introduce the licensing and regulation of financing and money services businesses, to come into force on a future date yet to be announced.

The types of business covered split into two – financing on the one hand and money services on the other.

Financing

Broadly, financing captures:

- the business of providing credit to borrowers resident in the BVI;
- the provision of credit to a borrower in the BVI in the course of any business conducted in the BVI; and
- the business of leasing property (excluding real estate) to a person resident in the BVI.

Financiers not carrying on business in the BVI should not be caught by these provisions, however the definition of “resident in the BVI” will be defined in supplemental regulations to the Bill and may include all BVI Business Companies and BVI limited partnerships.

Money Services

The definition of money services is wide and includes:

- money transmission services;
- cheque cashing services;
- currency exchange services; and
- issuance, sale and redemption of money orders or travelers cheques.

As with financing, businesses not operating in the BVI should not be caught – however under the legislation BVI Business Companies are deemed to operate in the BVI solely by virtue of their registered office.

Consequences of being regulated

Businesses caught by the new licensing requirement will need to apply to the BVI Financial Services Commission for a licence and will need to comply with a number of conduct of business and prudential requirements, including carrying out appropriate checks in order to comply with the regime relating to the prevention of money laundering and terrorist financing.

Failure to obtain a licence amounts to a criminal offence.

Harneys Regulatory Group

The only specifically dedicated regulatory practice in the BVI has made representations on this Bill and is at the forefront of all regulatory developments in the BVI. We would be happy to assist your business to ensure compliance with all requirements resulting from the new legislation and lower your regulatory risk.

Please contact either Ross Munro at ross.munro@harneys.com or +1 284 494 7850 or Aki Corsoni-Husain at aki.corsoni-husain@harneys.com or +1 284 852 2565 for more information.

The foregoing discussion and analysis is for general information purposes only and not intended to be relied upon for legal advice in any specific or individual situation