

## Financing and Money Services Act, 2009 (“FMSA”) due to come into force on 31 March 2010 in the BVI

On 31 December 2009 the enactment of the FMSA was finalised. It will come into force on 31 March 2010. We write to you because the FMSA could mean previously unregulated businesses may, as of **31 March 2010**, be subject to regulation in the BVI.

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 Act 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.

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