

## Ongoing obligations of approved managers

The Investment Business (Approved Managers) Regulations 2012 (the **Regulations**) and Approved Investment Managers Guidelines (the **Guidelines**) establish a regime that allows eligible investment managers and advisers to be regulated under a simple approval process and avoid the licensing regime under Part I of the Securities and Investment Business Act 2010 (**SIBA**).

We outline below some of the ongoing obligations of approved investment managers and advisers (each referred to as an Approved Manager) under the Regulations and the Guidelines.

Obligation	Provision	What to do and when?
<b>Submission of annual returns</b>	Reg 16/Guideline 6.4	<p>An Approved Manager must file an annual return with the Commission no later than 31 January each year</p> <p>The annual return must be in the prescribed form and must contain:</p> <ul style="list-style-type: none"> <li>a) A statement that the Approved Manager is not in breach of the requirements of the Regulations</li> <li>b) A confirmation that each director and senior officer of, and shareholder with a “significant interest” (generally speaking, more than ten per cent) in, the Approved Manager is fit and proper</li> <li>c) Details, as at 31 December of the preceding year, of: <ul style="list-style-type: none"> <li>i. the funds (and persons) for which it provides services</li> <li>ii. the assets under management of each fund (and person) for which it acts</li> <li>iii. the number of investors in each fund for which it acts</li> <li>iv. any significant complaints received by the Approved Manager</li> </ul> </li> </ul>
<b>Renewal fee</b>	Reg 6(2)/Guideline 7.1	An Approved Manager must pay an annual renewal fee of US\$1,500 to the Financial Services Commission (the <b>Commission</b> ) by 31 March of each year *
<b>Payment of Registry fees</b>	BVI Companies Act 2004 (as amended)	For companies incorporated from 1 January to 30 June, pay the Registry licence fee by 31 May and for companies incorporated from 1 July to 31 December, pay the Registry licence fee by 30 November.* The Registry licence fee is US\$550 for companies authorised issue up to 50,000 shares and US\$1,350 for companies authorised to issue more than 50,000 shares

**Preparation and submission of financial statements**

Regulation 14(1)/Guideline 6.2

An Approved Manager must prepare financial statements for each financial year in accordance with either UK GAAP, US GAAP, Canadian GAAP, IFRS or such other recognised international accounting standards as may be approved by the Commission on a case-by-case basis. The financial statements do not need to be audited

Financial statements must be signed by a director and submitted to the Commission within six months of the end of the financial year to which they relate. Such statements must be accompanied by a director's certificate (in the prescribed form) and a report on the affairs of the Approved Manager

**Directors and authorised representative**

Reg 13(1)/Guideline 6.1.1

An Approved Manager must at all times have:

- a) At least two directors, at least one of whom shall be an individual (or in the case of a limited partnership, at least one general partner)
- b) An authorised representative – this entity acts as the conduit between the Approved Manager and the Commission. An affiliate entity of Harneys (Craigmuir Authorised Representative Limited) provides this service

**Anti-money laundering/Countering the Financing of Terrorism**

Anti-Money Laundering Regulations 2008

Anti-Money Laundering and Terrorist Financing Code of Practice, 2008

The BVI anti-money laundering regime applies to all Approved Managers as they are classified as "relevant persons" under the Anti-Money Laundering Regulations, 2008. In summary, an Approved Manager will be required to:

- a) Put in place client onboarding procedures which address typical "know your client" requirements in respect of the funds (and persons) that will be clients of the Approved Manager
- b) Appoint an officer or another individual as Money Laundering Reporting Officer
- c) Report suspicious transactions to the BVI Financial Investigation Agency
- d) Put in place documentation, such as a compliance manual, which outlines how the Approved Manager complies with the BVI anti-money laundering requirements (the **Manual**) and review the Manual on an annual basis to ensure compliance with the AML regime in the British Virgin Islands.
- e) submit the anti-money laundering/countering the financing of terrorism (AML/CFT) return on or before 31 March each year, for the previous calendar year. A copy of the return can be downloaded by clicking the following link: [Click here](#). The return can be submitted:
  - i. to the authorised representative by emailing the following email address: [BVIFundServices@harneys.com](mailto:BVIFundServices@harneys.com); or
  - ii. directly to the BVI FSC by emailing the completed return to the following address: [amlreturns@bvifsc.vg](mailto:amlreturns@bvifsc.vg) and copying in

Financial Services (Prudential and Statistical Returns) Order, 2009

<p><b>Record keeping</b></p>	<p>Mutual Legal Assistance (Tax Matters) Act 2003</p>	<p>An Approved Manager is required to maintain records and underlying documentation and to keep such records and underlying documentation for a minimum of five years. The records and underlying documentation can be kept at any location but if they are not kept at the office of the Approved Manager's registered agent, the Approved Manager must provide a written record to its registered agent of the physical address of the place or places at which the records and underlying documentation are kept</p>
<p><b>Notification of changes</b></p>	<p>Reg 13(2)/Guideline 6.1.2</p>	<p>An Approved Manager must, within fourteen days, give the Commission written notice of any change to the information provided in its application for approval together with a written declaration as to whether or not the change complies with the requirements of the Regulations</p> <p>The following must be notified to the Commission:</p> <ul style="list-style-type: none"> <li>a) Changes to the Approved Manager's constitutional documents</li> <li>b) Changes in the details of any director or senior officer of, or holder of a significant interest in, the Approved Manager (including changes of address)</li> <li>c) Changes in the number and details of the funds that the Approved Manager acts for</li> <li>d) Changes to any investment advisory or investment management agreement entered into by the Approved Manager</li> <li>e) Changes in the individuals carrying out the day-to-day investment business functions of the Approved Manager</li> <li>f) A change of the BVI legal practitioner or authorised representative advising the Approved Manager</li> </ul>
<p><b>Notification of material or significant matters</b></p>	<p>Reg 13(3)/Guideline 6.1.3</p>	<p>An Approved Manager must also notify the Commission of any matter which has or is likely to have a material impact or a significant regulatory impact with respect to it or its investment management or advisory business</p>
<p><b>Delegation of relevant business functions</b></p>	<p>Reg 5(3)</p>	<p>An Approved Manager that has delegated or intends to delegate any of its investment management or investment advisory functions must notify the Commission and:</p> <ul style="list-style-type: none"> <li>a) Outline the functions that have been delegated or that it intends to delegate</li> <li>b) Indicate the person to whom the functions have been delegated or are intended to be delegated</li> <li>c) Provide a copy of the agreement relating to the delegation</li> </ul>
<p><b>Notification of excess assets under management</b></p>	<p>Reg 12</p>	<p>If the funds managed or advised by an Approved Manager have:</p> <ul style="list-style-type: none"> <li>a) More than US\$400 million of assets (in the case of the open ended funds); or</li> </ul>

- b) More than US\$1 billion of assets (in the case of closed ended funds)

then the Approved Manager must notify the Commission in writing of that fact within seven days

**Ceasing to qualify as an Approved Manager and new relevant business**

Regs 11 and 12 /Guideline 4

An Approved Manager ceases to qualify as such under the Regulations if its assets under management exceeds either of the thresholds noted above unless within three months of the date the threshold was exceeded:

- a) It no longer exceeds such threshold
- b) It submits an application to be licensed to carry on investment business under Part I of SIBA; or
- c) The Commission, having regard to any risk that may be associated with the Approved Manager or any of the funds (or persons) for which it acts, approves in writing that it may continue to function as an Approved Manager

When either of the thresholds noted above is exceeded, the Approved Manager must not take on any new investment management or investment advisory business

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\* Harneys Corporate Services' invoices for disbursements are distributed annually in November and are payable by 15 January.



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