

Fast and simple in BVI

The British Virgin Islands have responded to regulatory changes by making fund and manager domiciling painless and efficient.

The continuing efforts of the private and public sector in the BVI to remain at the forefront of the financial services market has resulted in the recent promulgation of regulations designed to usher in a new, 'lighter' touch regime for BVI Investment fund managers.

The new regime creates an alternate path for approval for qualifying fund managers. To qualify the fund manager must be a BVI partnership or company; must apply for approval at least seven days prior to commencing business; must have the intention of managing or advising a BVI private or professional fund (including a closed-ended fund) or a non-BVI fund that invests all or a substantial part of its assets in a BVI fund; must meet the BVI's fit and proper requirements; and must have total assets under management of less than \$400 million for open-ended funds (the threshold for closed-ended funds has not yet been published, but is expected to be set at a higher figure.) The BVI regulator, the Financial Services Commission, also has to

managers, both in the BVI and elsewhere.

Another attractive feature of the new regime is the facility for quick start-up. An investment manager, provided he meets all of the other requirements, can commence business as an approved manager once the manager submits a complete application at least seven days prior to actually commencing business. Coupled with the ability of a BVI entity to commence business as a professional fund for up to 21 days prior to submitting an application for recognition, this quick start-up ability maximises the usefulness of the BVI fund regime for managers who need to be first to market and for whom timing is crucial.

Not only does the new regime facilitate quick start-up, but it also permits the manager to carry on business for up to 30 days after submitting the application. The FSC can also extend that period for a further 30 days. It is likely that the application will be approved long before then, but the 30-day period (and any extension) provides a great deal of certainty for the manager and any persons who will be dealing with him at



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Securities and Investment Business Act. In addition, the regulator is also working on guidelines that will provide some additional details (such as forms) and clarifications to the procedures applicable to the new regulations. It is expected that these will be published soon.

Nevertheless, the establishment of the new approved fund managers regime is a welcome improvement to the BVI funds scene and certainly puts the BVI front and centre for new fund managers. ■

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be satisfied that approving the manager will not be contrary to the public interest.

The primary benefit for fund managers that can take advantage of the new regulations is that many of the regulations that currently apply to BVI fund managers will not apply to managers under the new 'approved managers' regime. For instance, approved managers will be exempt from the requirement to appoint a compliance officer and to establish and maintain a compliance manual. The approved managers will also be exempt from the provisions of the Regulatory Code, 2009, though approved managers will be required to submit financials. This will mean that approved managers should have significantly lower operating costs than fully-licensed fund

managers at this stage. During the 30-day period and any extension of it, the applicant will be deemed to be an approved manager, even if for some reason the application is subsequently denied.

The timing for these new regulations could not have been better. In the current financial climate, investment funding is difficult for new fund managers to obtain. As such, setting up and running a small or new fund manager in a manner that is inexpensive and not overly burdensome is exactly what the market needs; and the BVI has answered the call.

It should be pointed out that the regulations have not yet been brought into force. This will occur simultaneously with some minor amendments to the

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