

UPDATE

Changes to the BVI Banks and Trust Companies Act 1990 and the Company Management Act 1990

New amendments - which came into force on 1 October 2018 - include the creation of two new classes of licence relevant for trust business and/or company management business. These changes are likely to be of particular interest to corporate service providers, family offices and other closely held groups.

Introduction

The Banks and Trust Companies Act 1990 (the **BTCA**) and the Company Management Act 1990 (the **CMA**) were amended on 1 October 2018¹. There are now two new additional classes of licence that the BVI Financial Services Commission (the **Commission**) can issue – a **Class IV trust licence** and a **Class V licence**. These new licences may be relevant for corporate service providers, family offices and other closely held groups.

New classes of licence

- a **Class IV trust licence** permits its holder to carry on trust business and company management business by family offices and other closely held groups. The licensee is restricted to administering no more than 500 BVI companies and 50 trusts, must have a physical presence in the BVI and must not engage in introduced or third party business.
- a **Class V licence** permits its holder to carry on company management business only by family and other closely held groups. The licensee is restricted to administering no more than 300 BVI companies, must have a physical presence in the BVI and must not engage in any trust business or introduced or third party business.

The Regulatory Code 2009 (the **Code**) may be updated to define the nature and scope of family operated business and other closely held group business. At the moment, the Code remains unchanged.

Other classes of licence

The other classes of licence in relation to trust business or company management business that the Commission can issue under the BTCA are:

- a **Class I trust licence**, for the purposes of carrying on trust business and company management business.
- a **Class II trust licence**, for the purposes of carrying on trust business only (or a **restricted Class II trust licence**, where the licensee is restricted to undertaking trust business for no more than 50 trusts).
- a **Class III licence** (previously a Class III trust licence), for the purposes of carrying on company management business only (or a **restricted Class III licence** (previously a restricted Class III trust licence), where the licensee is restricted to undertaking no company management business other than providing directors and officers and nominee shareholders for BVI companies).

¹ http://www.bvifsc.vg/sites/default/files/banks_and_trust_companies_amendment_act_2018.pdf and http://www.bvifsc.vg/sites/default/files/company_management_amendment_act_2018.pdf respectively

Separate licence for a subsidiary of a licensee

A company that, before 1 October 2018, was engaged or approved to engage in company management or trust business that was listed in a schedule of the licence of a Class I or II trust licensee or a Class III licensee as a subsidiary of the licensee must, by 30 June 2019, submit a written application to the Commission to be separately licensed. The same requirement for the subsidiary of a licensee under the CMA to submit an application by 30 June 2019 to be separately licensed applies for a company engaged or approved to engage in company management business.

Other changes

The functions of an authorised agent have been updated in both the BTCA and the CMA. These now include accepting on behalf of a licensee the service of legal and other process, including any other documents.

In addition, changes to the scope of registered agent services have been made so that the Commission has the power to restrict persons from acting as a registered agent, to ensure that such persons have appropriate resources and compliance capability to provide these services in the BVI.

Mourant Ozannes

We have a dedicated team of lawyers and governance professionals that can help clients identify and comply with their obligations under the above regimes. Please do not hesitate to speak to your usual Mourant Ozannes contact or one of the team listed below for further information or advice.

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