



BVI at a glance

- Located 60 miles East of Puerto Rico in the Caribbean
- Capital is Road Town, Tortola
- Standard time zone (UTC/GMT -4 hours)
- Currency is the US Dollar
- 4th largest jurisdiction for Captives
- Sound reputation
- Pragmatic regulation
- Political and economic stability
- Laws based on English Common Law
- Low, competitive costs
- Tax neutral

A Bit of History

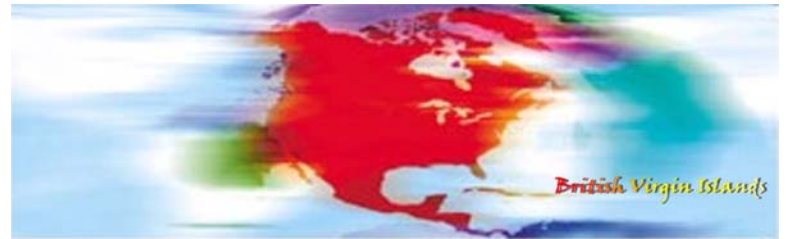
Insurance Regulation in the British Virgin Islands

The British Virgin Islands has been a self-governing overseas Territory of the UK since the granting of its constitution in 1967. The BVI is governed by a Legislative Council of elected members, the head of which is the Chief Minister, who is the leader of the party that commands the popular vote. There is a Governor appointed by the UK who has responsibility for foreign affairs and security. The legislative chamber is the Executive Council and is comprised of the Governor, four elected ministers (including the Chief Minister) and the Attorney-General.

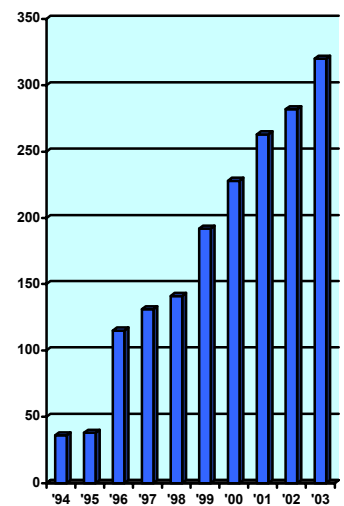
The growth and development of the financial services sector in the BVI has until recently been under a government department known as the Financial Services Department, which in turn was under the control and supervision of the Executive Council. On January 1, 2003 the Financial Services Commission Act, 2003 came into force which established a new regulatory body, the Financial Services (“Commission”) replacing

the Financial Services Department, taking over the enforcement and licensing powers. The Commission was created in response to pressure from the Organisation for Economic Co-operation and Development and the Financial Action Task Force, and to address concerns raised in the 2000 report prepared by KPMG for the UK government regarding the financial regulation of its Caribbean territories and Bermuda. Western countries like to see the function of regulation separated from political power. The new Commission is independent of government and political influence and has been given wide powers under the Financial Services Commission Act to investigate insurance companies and take enforcement action.

By 1990, there were a large number of insurance companies incorporated in the BVI, and these were essentially unregulated. The government recognized the need for a regulatory system that would promote the BVI’s image as a responsible jurisdiction, but also wanted



Growth of BVI Insurers



to grow its insurance industry by attracting reputable companies. A process of review began in 1991 and culminated with the Insurance Act in 1994 and the Insurance Regulations in 1995, which put in place a new legislative system to regulate all insurance business conducted in or from within the BVI. Anyone carrying on insurance business in or from within the BVI now had to be licensed under the new system.

The changes resulted in a drastic reduction of insurance companies, from about 1,200 in 1990 to less than 40 after implementation of the new rules. The last few years have seen a large number of new companies being established in the islands, placing the jurisdiction firmly in the top five domiciles for captives.





“The BVI stands firmly in the top five domiciles worldwide for captives”



The Application Process

It is necessary to complete and submit an application in the form required by statute. The application will contain details concerning capital, insurance management, information on the proposed directors and officers as well as information on the ultimate beneficial owners (which includes a bank reference, a professional reference and a personal character reference for each director and beneficial owner of the insurer). The directors and the beneficial shareholders must complete a questionnaire which is attached to the application. There are no residency requirements for directors, but the insurer must have a minimum of two individual directors (corporate directors are not permitted for insurance companies).

It is a statutory requirement that the insurer retain a licensed insurance manager who is resident in the BVI to ensure compliance with the Act and Regulations. It is

also a statutory requirement that each applicant satisfy the authorities in the BVI that it has available sufficient expertise. This expertise can be provided by the insurance manager.

A business plan must be included with the application. This doesn't have to be an extensive document and is usually only three or four pages long. The plan describes the nature of the risks to be covered and it may attach a copy of the proposed form of policy to be used, but it is not necessary to do so. The Director of Insurance will examine the business plan to ensure that the company has sufficient capital and surplus on an initial basis to cover the largest claims possible under the relevant policy. In other words, it will not be sufficient to take the position that the company will build up reserves over the years, based upon premium payments, so that it could meet maximum claims in the

future. However, it is acceptable for the company to include in its plan that it will be purchasing reinsurance to provide sufficient comfort for the Director. The business plan must include financial projections for 3 years. It is expected that such projections will be favourable and reflect continued compliance with the regulatory requirements of minimum capital and margin of solvency.

The application must specify the type of licence requested and where there is to be any change in such business, it is necessary to obtain the prior consent of the BVI authorities. There are essentially two types of insurance companies or two basic types of licences available in the BVI - long term (life and health) and general (P&C). Minimum capital and margin of solvency will depend on the types of risks being covered by the company.

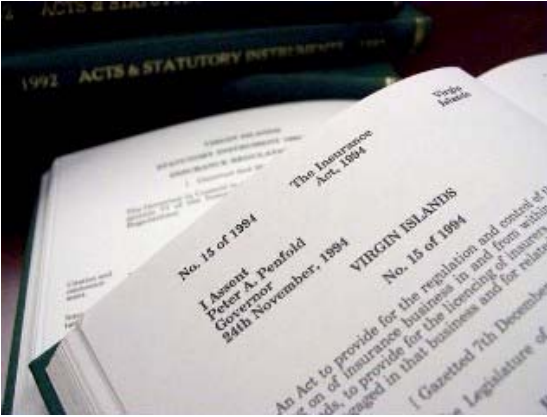
Minimum Capital Requirements

The minimum fully paid up share capital of an insurance company or the contributed reserve fund of a mutual insurance company is:

- \$100,000 where the insurer proposes to carry on general business
- \$200,000 where the insurer proposes to carry on long-term business
- \$300,000 where the insurer proposes to carry on both long-term business and general business

The capital or contributed reserve fund may be in US Dollars or the equivalent in a foreign currency and may take the form of cash or an irrevocable letter of credit issued by a financial institution approved by the Commission.





Margin of Solvency

An insurer is also required to maintain a minimum margin of solvency. This is the amount by which the total value of an insurer's assets must exceed the total amount of its liabilities as set out in the Regulations.

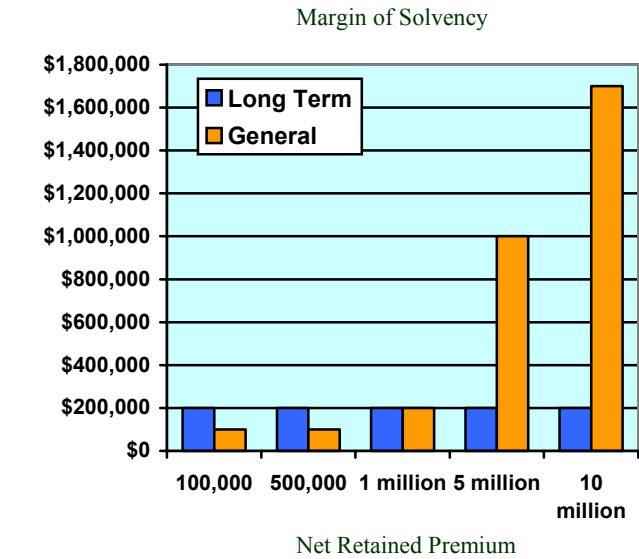
For long term business only, the amount is \$250,000. For general business there is a sliding scale based on net retained premium income.

The term "net retained annual premium" is defined as the gross premium income earned in respect of general business during any financial

year of the insurer reduced by any premiums paid by the insurer for approved reinsurance during such financial year.

Net retained premium income up to \$500,000 requires a margin of solvency of \$100,000. Over \$500,000 but less than \$5,000,000, the margin of solvency is 20%. Over \$5,000,000 the margin of solvency is \$1,200,000 plus 10% over \$5,000,000.

Allowable assets taken into account in the solvency calculation are cash, certain



bonds, CDs, premiums, reinsurance receivables and (approved) Letters of Credit. Up to 20% of the money may be invested in securities listed on a recognised exchange. Real estate, unlisted securities and parental investments do not qualify as admissible assets.

The list of allowable assets is currently under review and is expected to be broadened.

Long Term Insurers

In addition to the minimum capital and solvency requirements referred to above, long-term insurers are required to appoint an actuary approved by the Commission and to prepare and file a certified actuarial valuation of their assets and liabilities annually and at other intervals which may be determined by the Commission.

An insurer carrying on long-term business is required to keep separate and distinct accounts in respect of its long-term business and to

maintain a segregated fund consisting of money or securities in which trustees may invest trust money which is available only to meet the liabilities arising under contracts of long-term business in respect of which the segregated fund is maintained. Withdrawal of money from such funds is subject to statutory restrictions.

Under the Insurance Act, a long-term insurer shall not declare any dividend, redeem any debenture or preference share or purchase, redeem or

cancel any of its own shares unless a certificate from the insurer's approved actuary is filed with the Commission. The certificate must state that the insurer's prescribed margin of solvency is sound and will not be breached and that the assets in the insurer's segregated funds continue to be sufficient at all times to meet its long-term liabilities.



Exemptions

The Commission generally has the ability to grant exemptions from the application of any of the provisions of the Act or the Regulations where it is satisfied that it is in the public interest to do so.



The Commission must have access to all the books, securities, records and documents which relate to its insurance business

Segregated Portfolio Companies

Segregated portfolio companies (“SPC”) are permitted under the Act. This permits a company to segregate an asset or pool of assets from the rest of its assets without incurring the expense and complications of incorporating a separate company.

An SPC may create and issue shares in one or more classes, the proceeds of the issue of which are included in the segregated portfolio assets of the relevant segregated portfolio.

The directors of an SPC are required to segregate portfolio assets from assets of other segregated portfolios or general assets. Segregated portfolio assets are only available to meet liabilities to creditors of the SPC in respect of the relevant segregated portfolio who are entitled to have recourse to the segregated

portfolio assets and are protected from creditors of the SPC who are not creditors in respect of that segregated portfolio.

An application for registration as an SPC must be accompanied by an adequate business plan for the proposed SPC and for each proposed segregated portfolio of that company.

An SPC is required to include in its name the letters “SPC” or the words “Segregated Portfolio Company” and each segregated portfolio must be separately identified or designated and include the words “Segregated Portfolio”.



The widely used BVI international business company provides flexibility and is cost effective.

Books and Records

Records maintained in the BVI

Every insurance company must maintain permanently at its office in the BVI such books and records as will show adequately the type and classes of insurance business carried on by the insurance company. At a minimum, the following must be kept in the BVI:

- *financial statements*
- *record of premium income and claims paid including reinsurance*
- *register of directors and officers*
- *minutes of all proceedings*
- *general and subsidiary ledgers and general journals*
- *record of the insurance company's reinsurance programs*
- *list of all the insurance company's agents*



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Annual Filings

Every licensed insurer is required to prepare accounts for each financial year in accordance with accounting principles acceptable to the Commission (usually US, Great Britain or Canadian GAAP or International Accounting Standards) and such accounts must be audited by the insurer's auditor approved by the Commission.

Insurers must deliver copies of the audited statements to the Commission within three months of the end of its financial year, however, the Commission routinely extends this period to six months.

Companies licensed to carry on long-term business must also have its actuary prepare and file a certified actuarial

valuation of the insurer's assets and liabilities annually and at other intervals which may be determined by the Commission.



Fees and Costs

Consideration of the license application by the Commission is \$500. The annual insurance license is \$2,000.

The costs of incorporating the international business company generally run around \$3,000, which includes the annual government fee of \$1000

and the annual registered/registered office fees for the first year.

The insurer will require an auditor, but the auditor need not be located in the BVI provided they are acceptable to the regulator.

Each insurer must have an Insurance Manager resident in the BVI. The provision of core compliance services usually start for as low as \$10,000 annually.

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