

The changing face of the BVI

By Calum Mckenzie

The BVI has long been recognised as the 'go-to' domicile for the incorporation of offshore companies. There is no question that this can be attributed in large part to the basic tenet of the jurisdiction being tax neutral, highly cost efficient and offering a good degree of privacy within which to conduct business affairs. However many other far less successful jurisdictions offer such benefits so what has led to the unquestionable success of the BVI?

BVI business core principles

The BVI has a highly regarded legal system based on English common law and is home to the Commercial Court of the Eastern Caribbean Supreme Court which provides unparalleled legal access to practitioners. The legal framework is modern yet proven and trusted with prudent modern regulations. There is a stable political climate, as the recent change in the Governing party demonstrates. There is a dedicated network of high quality sophisticated corporate and financial service providers based in the BVI. It is home to the full array of global offshore law firms and also all of the 'Big 4' accounting & audit firms, along with a very good range of niche and boutique service providers.

It is OECD 'white listed' and is a member of IOSCO (International Organisation of Securities Commissions). It has also recently undergone another review by the IMF and has in large part been given a glowing report. General living standards in the BVI are very high compared to most other Caribbean islands and indeed compared to many other supposedly more sophisticated jurisdictions and as a result of this the BVI has a very high GDP per capita.

All of these factors have contributed to the success of the BVI and its core product of the BVI business company.

However, with all of that said, the BVI as a jurisdiction has not been resting on its laurels and its principal product of the BVI business company. The jurisdiction has for some time been seeking to add value to its core company product and indeed has created a number of successful complimentary products and structures resulting in more sophisticated options for clients.



Products and uses

In the main, since the creation of the original BVI business company in 1984, BVI companies have been used by individuals for traditional purposes such as trading, holding, contracting or uses such as succession and wealth planning.

For corporate users BVI business companies are the vehicle of choice for those wishing to establish subsidiaries to fulfill a wide range of corporate and group functions at low cost and great efficiency. Such uses would include special purpose vehicles for one-off transactions, joint ventures, or other more general operations such as treasury functions or to provide access to foreign capital markets. However the maturation of the BVI as a jurisdiction means that the BVI is ideally placed to handle much more sophisticated types of business.

Investment business

The BVI is the number two domicile in the world by number of registered mutual funds. The current number is fast approaching 3,000.

In order to bolster this segment of the industry the Securities & Investment Business Act ("SIBA") was passed into law in 2010 and created a legislative & regulatory framework governing the entire investment business industry (as opposed to simply mutual funds as per the 1996 Mutual Funds Act). SIBA in itself has done little to change the landscape of mutual funds business in the BVI (aside from codifying certain requirements which were previously imposed by the Financial Services Commission).

However SIBA has created a regime for the licencing and operation of investment advisors, broker dealers, market makers, custodians and broker dealers, where such activities were previously unregulated. SIBA also introduced a market abuse regime which provides protection for investors by criminalising insider trading, circulating misleading information and market manipulation.

As a BVI Fund is a regulated entity the establishment and use of such a licensed entity is, as one would assume, a more complicated, costly and time consuming process than establishing a simple BVI business company. However on a relative basis BVI mutual funds are a highly attractive product. The set-up procedure is efficient, quick and relatively low cost. They do not provide investment restrictions (aside from Public Funds) and returns are not subject to tax at corporate level.

They can provide access to international markets and allow international investor's access to locally managed assets and globally held investments.

The key in this regard is to ensure that you choose the correct BVI service provider for your needs as not all BVI based service providers offer such value added services.

Insurance business

In addition to the value added products available in the investment business sector, the BVI continues to be a popular domicile for insurance products most notably captive & re-insurance vehicles.

However with the onset of more demanding and discerning clients, the BVI now has service providers who are able to facilitate clients demanding products such as high net worth life insurance and specialty products such as professional indemnity insurance and directors & officers insurance.

These can be facilitated and provided through BVI based specialty brokers with access to premier international insurers and the Lloyd's market.

Using a licensed broker based in the BVI that specializes in financial services ensures that you have someone who understands both the needs of the specific client, albeit a fund, private trust company or service provider, and the regulatory and legal obligations of BVI licensees.

Having such providers available is another important development to the local industry, which in many other jurisdictions remains underserved by overseas brokers that do not fully understand the nuances and complexities of offshore financial services jurisdictions.

Directorships and Governance

One area of business that is anticipated to grow significantly in the BVI is the provision of BVI based independent directors who can implement and administer an appropriate good corporate governance structure.

Such a path of progression is inevitable on the back of the recent financial scandals and the ongoing economic crisis, both of which have led to a world of increasing compliance and a need for transparency.

The professional and experienced service providers in the BVI are well placed to capitalize on this segment of the industry as an increasing and exciting opportunity.

The future

In conclusion it can be said that the BVI is placing itself well in the competitive world of finance. It has demonstrated over an extended period of time its ability to meet the changing demands of its customers and yet simultaneously enhance its products and reputation. The BVI is an ideal place to do business and will continue to be the leading choice for the discerning needs of the global financial community.

Calum Mckenzie has worked in the offshore financial services industry for approximately 14 years. He has extensive experience and knowledge of fiduciary services, including providing director and trustee services to entities varying greatly in terms of structural complexity, asset value and activity, more lately with a focus on providing services to mutual funds.

Mr. McKenzie is currently a non-executive Director of a BVI Class I General Trust Company, a director of a BVI Company Management company and is presently approved as a director in a number of offshore jurisdictions, including the BVI, Cayman Islands, Nevis and Anguilla.

He is a sitting member of the BVI Financial Services Commission ("FSC") Fiduciary and Registry Liaison Committee providing operational advice and guidance to the BVI FSC and a sitting Council member of the BVI Association of Registered Agents. Calum is a member of the Institute of Directors, London and by birth is a British citizen who has been resident in the British Virgin Islands since 1998.

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