

Rawlinson & Hunter in  
the British Virgin Islands



RAWLINSON & HUNTER

## The British Virgin Islands

Located in the north east Caribbean Sea, the British Virgin Islands are not only a favoured location for international business. A magnificent climate, dramatic landscapes and a superb sailing environment combine to offer a vacation experience second to none. The Islands are generally acknowledged to offer the most scenic sailing waters in the world and a wealth of other outdoor activities are available. Many business visitors take the opportunity to combine their working commitments with relaxation in one of the world's few remaining unspoilt holiday destinations.

Business and tourism are the twin pillars of the BVI economy. The Government is committed to the healthy, responsible development of both sectors whilst protecting the natural beauty of the environment. The BVI has a service-based economy and the friendliness of its people is legendary.

The British Virgin Islands have enjoyed steady growth as an international business centre since the mid 1980s. The BVI Government is locally elected and has responsibility for internal affairs including legislation affecting the international business industry. The BVI has a history of dealing with these matters in a responsible and progressive manner. There is strong local consensus that continued development of

the international business sector is beneficial to the entire community and there is a determination to maintain the profile of the BVI as a high quality financial centre. The Government and the BVI financial community have built a partnership that works together in attaining these objectives. For example, there is a strong consultative mechanism in place that ensures close co-operation on legislative and regulatory issues.

As the British Virgin Islands are a British Overseas Territory the United Kingdom remains responsible for external affairs, defence, internal security and the administration of the courts.

The legal system in the BVI is based upon English law with locally enacted statutes. The right of final appeal is to the UK Privy Council. The court system is well established and there is a good range of legal advice available. Rawlinson & Hunter Limited can assist with the selection of legal counsel if necessary.



## Regulation in the British Virgin Islands

The Financial Services Commission is responsible for regulating international business activities in the BVI. The Government places a high priority on ensuring that the reputation of the territory is maintained and improved. This is done through the establishment of an efficient regime of licensing and supervision intended to safeguard the integrity of the BVI without hindering legitimate and proper business activity. Regulation is consistently brought up to date with internationally accepted standards.

The Financial Services Commission is instrumental in co-ordinating the development of the legislation which keeps the BVI financial services sector in the forefront of international business centres.

Modern and carefully drafted laws are drawn up with input from the private sector and the following areas are all among those governed by comprehensive legislation:

- Establishment and administration of companies;
- Establishment and administration of trusts;
- Insurance activities;
- Mutual Fund activities;
- Restructuring and insolvency;

In addition there is properly balanced legislation designed to prevent money laundering and other criminal activity.

The Financial Services Commission will examine any application to establish banks or trust companies in the BVI. The Commission follows a consistent policy of selective licensing, focused on encouraging only service providers of undoubted and untainted stature. A policy of subsequent prudential visits is designed to ensure high standards of vigilance and appropriate levels of due diligence and supervision of business undertaken.

Similar application processes apply to companies wishing to engage in insurance business and mutual fund management or administration.

### **Mutual Funds**

The Mutual Funds Act 1996 (as amended) forms the basis for the licencing of managers and administrators of mutual funds.

Mutual funds themselves require registration or recognition depending on whether the fund is public, private or professional in nature. The legislation applicable to mutual funds allows for a higher level of information and regulation in funds offered to the general public than for funds offered solely to professional or private investors. This allows a faster approval process and recognises the specialist nature of many funds.

The BVI offers a sound base for mutual fund operations and the legislative framework is designed to provide realistic and appropriate supervision recognising the wide variety of fund products available.

## Business Companies

The BVI has earned a solid reputation as the world's leading domicile for international companies. The first international companies legislation was passed as far back as 1984 and proved to be a milestone in the development of the financial services industry. Whilst many other jurisdictions have attempted to introduce similar legislation, the BVI has maintained its leadership position as the most favoured corporate domicile. BVI Business Companies have the flexibility to be used for most types of corporate purpose, for example:

- Investments
- Real estate
- Intellectual property
- Equipment leasing
- Commissions
- Employment

BVI law now allows for several different types of companies which will add to the attractiveness of the jurisdiction for joint ventures, restricted purpose companies, special purpose vehicles, structured finance, securitisation and more.

Some activities are restricted and require licensing i.e. banking, trust, insurance and mutual fund business.

BVI companies have a reputation for efficiency and flexibility, hence their popularity. A well proven system of incorporation by registration allows companies to be established within 24 hours in most cases. Business Companies are exempt from all local taxes and stamp duties, paying only a modest annual licence fee.

The BVI Registry of Corporate Affairs provides a range of post-incorporation services on a speedy and cost effective basis, including:

- Certificates of Good Standing
- Certified copies of corporate documents
- Searches
- Continuation and/or re-domiciliation of companies into or out of the BVI
- Registration of mortgages and charges

Through a joint venture company, Rawlinson and Hunter Limited is able to offer liquidation, restructuring and recovery services to BVI companies which enter creditor's arrangements or are to be wound up by court order.

Rawlinson & Hunter Limited can provide detailed advice on the incorporation and use of BVI companies.



## Trusts

The use of trusts is well established in international tax and estate planning. In the BVI, a well developed range of trust laws are based upon English legislation which is supplemented by local law designed to encourage and develop high quality trust work. Clients and their advisors can be assured of a strong legal and judicial framework within which trust business is conducted to a high standard monitored by the Financial Services Commission.

Typically the owner of assets ("the Settlor") will transfer assets to a trustee in the BVI who will hold and administer them for the benefit of beneficiaries named by the Settlor. The relationship will be governed by a trust deed that is legally binding on the trustee and sets out the terms and conditions under which the trust assets, and the income generated, will be held. Many such trusts are "discretionary" in nature whereby the trustees have discretion as to the timing and amounts paid to the beneficiaries. In these circumstances it is usual to receive an indication of the Settlor's wishes concerning distributions and to whom they might be made. This arrangement provides flexibility for changing circumstances in that the Settlor can update his wishes from time to time.

Other types of trust are also available including fixed interest and purpose (including charitable) trusts. BVI law also permits the formation of "private trust companies" whereby a special purpose trust company can be formed to administer complex family wealth.

The benefits of using a trust structure might include:

- Avoidance of estate taxes in other jurisdictions
- Avoidance of probate procedures over the assets transferred to the trust
- Protection of assets from exchange controls or appropriation
- Protection of family wealth within a legally secure and private trust structure
- Mitigation of forced heirship provisions in other jurisdictions

The BVI is also able to offer VISTA trusts. Standing for Virgin Islands Special Trusts Act, VISTA trusts, established under this landmark legislation, will allow settlors in suitable circumstances to have much greater control over the assets underlying the VISTA trust. This permits settlors to enjoy the benefits in estate planning afforded by trusts while at the same time allowing them management control of the underlying assets. Whilst not suitable in all circumstances, VISTA is undoubtedly an innovative and useful tool to have available.

Trusts are usually specifically created to meet individual circumstances and typically involve professional advisors from the client's home jurisdiction. Trustees have a strict duty of confidentiality to the parties involved. Rawlinson & Hunter Limited offers a complete range of trustee services and, through R & H Trust Co. (BVI) Ltd., a wholly owned subsidiary, acts as trustee of all types of BVI trusts.



## About Rawlinson & Hunter

Rawlinson & Hunter Limited was established in the British Virgin Islands in the late 1980s. As such it was amongst the earliest trust companies to recognise the potential of this British Overseas Territory for a successful and respected international business industry.

Rawlinson & Hunter Limited is fully licenced by the BVI Financial Services Commission to provide a complete range of trust and corporate services. These include:

- Company formation and administration
- Provision of directors and nominee shareholders
- Secretarial services
- Trust formation and administration
- Corporate recovery, restructuring and liquidation

A subsidiary company, R & H Fund Services Ltd. (licenced under the Mutual Funds Act 1996) can provide mutual fund administration including:

- Net Asset Value calculation
- Shareholder communications
- Subscriptions and redemptions processing
- Accounting
- Secretarial services

Through Nexia Reconstruction and Recovery Ltd we can provide a full range of insolvency services.

This is a joint venture with Smith & Williamson Corporate Recovery Ltd, London

Rawlinson & Hunter is an international firm of chartered accountants, specialising in taxation and financial advice. Our network of international offices covers a broad range of the prime offshore and onshore financial centres. Please see the inside back cover for full details.

For over 80 years Rawlinson & Hunter has been providing outstanding services to our corporate and private clients, combining excellent technical skills with a uniquely personal approach. Our worldwide reputation has been built on our ability to deliver the best solutions to our clients, exactly when they need them.

Our skill lies in maximising the rewards that prosperity can bring. For our private clients, we can take the strain, safeguarding their assets and allowing them to enjoy the benefits and not the burdens of wealth. The success of our many corporate clients is built around our ability to find innovative solutions that match their own distinctive financial circumstances.

Rawlinson & Hunter is different, as is our way of working. Our partners like to get to know their clients well and carry out much of the work in person, often face to face. Most of our clients have come to us through a personal recommendation, evidence of our strong reputation as a leading firm in our field.

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