



BVI FINANCIAL SERVICES COMMISSION NEWSLETTER

QUARTER 2
2024



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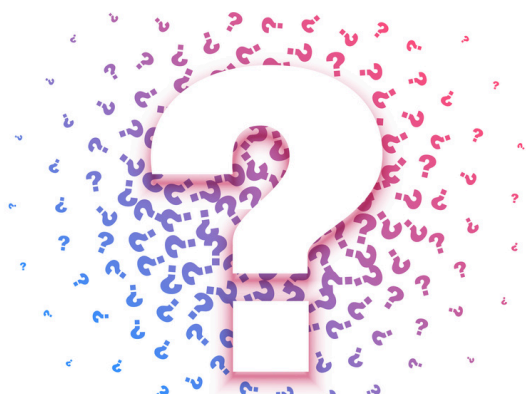
2024 CGBS BANKING CONFERENCE HELD 2-4 MAY



This year's conference, themed 'Supervision – New Age, New Approach', was designed to promote open discussions on bank supervisory practices, conditions, and financial market activities for central banks and other supervisory agencies across the English-speaking Caribbean, ensuring alignment with internationally accepted standards.

VASPs Frequently Asked Questions

The BVI Virtual Assets Providers Act came into force on 1 February 2023. In response to the high interest in the topic, the External Relations Unit team sat down with the Specialised Supervision Unit team to extract greater insight regarding the legislative framework for VASPs, the application, processing and registration requirements, and other related matters.



COMMISSION ANNOUNCES RETIREMENT OF BOARD CHAIRMAN ROBIN GAUL



The Commission issued a Press Release on Thursday, 27 June 2024, announcing that Mr Robin Gaul FCCA, Chairman of the Board of Commissioners, would be retiring with effect 30 June 2024.

Mr Gaul joined the inaugural Commission Board in 2002 as Deputy Chairman under the leadership of then-Chairman Michael Riegels, QC and was later appointed Chairman in 2006.

Known for his quiet and understated leadership style, Mr Gaul demonstrated an effective command over the Board and profound knowledge of the Commission and financial services legislation. Commissioners and executives alike have praised his preparation for Board meetings and balanced approach to resolving issues over the years.

Reflecting on Mr Gaul's contributions, Mr Kenneth Baker, Managing Director and CEO of the Commission, stated,



"We are grateful for the critical leadership role that Mr Gaul played and the major hand he had in assisting the Commission to establish a policy direction in line with its functions of maintaining stability, integrity and efficiency in the Territory's financial system." He added that Mr Gaul was "a stickler for the amplification of mechanisms which could assist the Commission and Territory in detecting and mitigating systemic risks in the financial services sector. He noted that without this calibre of foresight, systemic imbalances could easily manifest and set in motion domino effects that negatively impact the bottom line of businesses and individuals alike in the Territory. We will miss his steadfast, strong, visionary leadership and exemplary work ethic."

The governance framework established under Mr Gaul's leadership is set to remain a benchmark for future Chairpersons and Board Commissioners.

The Commission as a whole joins in wishing Chairman Robin Gaul a well-deserved and enjoyable retirement.

Read the full Press Release [here](#).

BVI FINANCIAL SERVICES COMMISSION HOSTED FSB RCG FOR THE AMERICAS MEETING, 17-18 JUNE 2024

The BVI Financial Services Commission (the Commission) hosted a meeting of the Financial Stability Board (FSB) Regional Consultative Group (RCG) (together, FSB RCG) for the Americas in the British Virgin Islands at Scrub Island Resort on 17-18 June 2024.

Mr Kenneth Baker, Managing Director/CEO, noted that he was pleased that the Commission could host the FSB RCG for the Americas meeting, which was a first for the Virgin Islands. He stated that "As a non-member FSB jurisdiction, the Territory continues to benefit from the FSB's outreach through exposure to G20 members, valuable discussions, and initiatives that promote financial stability. The discussions regarding deposit insurance and cryptocurrency were particularly timely and will greatly assist the Territory as an emerging economy."

Both Mr Baker and Mr Tiff Macklem (Governor, Bank of Canada) serve as co-chairs for the FSB RCG. Mr Macklem was represented at the Meeting by Ms. Carolyn Rogers, Senior Deputy Governor of the Bank of Canada. Mr Baker and Ms Rogers led members through various discussions, including the role of deposit insurance and resolution frameworks in maintaining depositor confidence, the sovereign-bank nexus and the risks posed to financial stability, the global framework for crypto-asset activities and the management of third-party risks



Other representatives from the Commission in attendance at the Meeting included Mr Glenford Malone, Deputy Managing Director, Regulation, Mr Leon Wheatley, Director, Authorisation and Supervision and Mrs. Kishelle Blaize-Cameron, Deputy Director, Specialised Supervision.

First day meeting discussions were attended by representatives from the International Association of Deposit Insurers.

About the FSB

The FSB coordinates at the international level, the work of national financial authorities and international standard-setting bodies. It also promotes and develops the implementation of regulatory, supervisory, and other financial sector policies in the interest of financial stability. The FSB has six Regional Consultative Groups established under the FSB Charter - namely the Americas, Asia, the Commonwealth of Independent States, Europe, the Middle East and North Africa and Sub-Saharan Africa.

The FSB RCG for the Americas membership includes financial authorities from Argentina, Bahamas, Barbados, Bermuda, Bolivia, Brazil, British Virgin Islands, Canada, Cayman Islands, Chile, Colombia, Costa Rica, Guatemala, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, the United States of America and Uruguay.

The next meeting of the FSB RCG for the Americas will be held later in 2024 in Chile.

A copy of the recent FSB RCG for the Americas' press release can be found [here](#). For further information on the FSB, please visit their [website](#).

BVI FSC BANKING ON SUCCESS: HOSTED 2024 CGBS BANKING CONFERENCE 2-4 MAY 2024

Against recent developments in Artificial Intelligence and a higher interest rate environment across the region, the 41st Caribbean Group of Banking Supervisors Conference was hosted in the Virgin Islands by the BVI Financial Services Commission (the Commission).

This year's conference, themed 'Supervision – New Age, New Approach', was designed to promote open discussions on bank supervisory practices, conditions, and financial market activities for central banks and other supervisory agencies across the English-speaking Caribbean, ensuring alignment with internationally accepted standards.

The need for agile, cross-border supervisory strategies was highlighted as the region continues to recover from several economic shocks, including the COVID-19 pandemic. Members discussed developments in banking supervision and crisis management in their relevant jurisdictions, including provisioning for adequate cross-border supervision of financial groups.

Adequate supervision of cross-border financial groups requires appropriate allocation of responsibilities between parent and host supervisory authorities, which in turn involves contact and cooperation between them. This understanding has been, and remains, a core principle supporting effective cross-border supervision.



The Conference dialogue also focused on:

1. Follow-up work on the lessons learned from shocks within the sector and the region's ability to develop the capacity to manage emerging risks, such as climate change, market volatility and liquidity risks, cyber threats, concentration risk, and geopolitical uncertainty.

CGBS Members expressed the need for enhanced risk assessment and monitoring frameworks to identify emerging risks early. This may involve leveraging advanced analytics, data visualisation techniques, and scenario analysis to detect new vulnerabilities and trends that may pose systemic threats. The need for regulatory frameworks to have sufficient flexibility to adapt regulations and policies in response to emerging risks was also expressed.

Market convergence following post-COVID market recovery.

2. CGBS members noted concerns about increased market concentration and market power. Likewise, they highlighted the need for established frameworks that govern the engagement of financial firms with their customers in member jurisdictions.

3. Members considered and embraced the revised Core Principles for Effective Banking Supervision, which provide global standards for sound prudential regulation and the supervision of banks and banking systems.

The Commission remains attentive and committed to monitoring profound industry changes and emerging technologies while executing its digital transformation priorities and responding to current and new macroeconomic and geopolitical realities.

BVI FSC REFLECTS ON ITS PARTICIPATION IN THE 2024 BVI-ASIA TRADE MISSION



The BVI Financial Services Commission (the Commission) had a hectic start to its second quarter as it engaged in Asia Pacific region outreach, lending representation to various aspects of the 2024 ‘BVI-Asia Trade Mission & Road Show’ held 20 – 30 May 2024.

Meet the Regulator Forum – Hong Kong

As part of the Hong Kong leg, the Commission hosted 80 industry stakeholders, regulatory professionals, and business leaders at its *‘Meet the Regulator’* Forum (the **HK MTR**), which was held at Conrad Hong Kong on 20 May 2024.

There, Mr Glenford Malone – Deputy Managing Director, Regulation, delivered presentations highlighting upcoming amendments to Commission capstone legislation – the BVI Business Companies Act, the Virgin Islands Fourth Round Mutual Evaluation Report, and the Financial Returns Order; Mr Malone also addressed queries and concerns of attendees, that related to his presentation. Deputy Premier and Minister for Financial Services, Labour and Trade – Honourable Lorna Smith, OBE, leader of the Trade Mission and delegation, was on hand at the HK MTR to deliver remarks and reaffirm the Territory’s dedication to the region.

Meeting with Hong Kong Monetary Authority

Mr Malone and Mr Shane Baptiste, Director (Asia Representative) for the BVI Financial Services Commission (HK) Limited, represented the Commission in high-level talks with the Hong Kong Monetary Authority, aimed at strengthening the partnership among both authorities to enhance regulatory cooperation. The dialogue highlighted key regulatory topics, including the oversight of virtual assets and addressed concerns related to fraud and regulatory risks within the virtual asset space. The meeting underscored a mutual commitment to exploring collaborative opportunities and enhancing the regulatory framework to better manage emerging financial sector challenges.

Trade Mission - Hong Kong

Mr Malone served as a panellist for discussions forming part of the Hong Kong leg of the Trade Mission, namely 'Charting a Course through the International Landscape'. His contributions to the panel discussions centred around:

- a) overviewing current trends in international regulation, including increasing scrutiny on cross-border transactions and evolving standards for transparency; and,

- b) the challenges faced by financial institutions and businesses in maintaining compliance with varying regulations across different jurisdictions and the importance of stakeholders staying abreast of regulatory changes.

Trade Mission - China

Mr Baptiste joined other Trade Mission delegates in enlivening stakeholders in Shenzhen, Beijing and Shanghai, China, on the advantages of utilising BVI corporate vehicles, the ease of doing business with BVI, and other benefits associated with patronising BVI financial services.

As the Trade Mission continued throughout mainland China, Mr Baptiste participated as a regulatory expert on a panel titled 'Charting a Course through the International Landscape'. He discussed the necessity for cross-border cooperation among financial services regulators and the outlook for the financial services sector.



Trade Mission - Singapore

During the Trade Mission's second week, Commission Managing Director/CEO, Mr Kenneth Baker, served as a panellist in Singapore for the discussion titled '*Charting a Course through the International Landscape*'. Amid the discourse, Mr Baker used the opportunity to underscore the operation approaches that the Commission firmly employed with the aim of aligning with internationally accepted standards in financial services regulation and supervision. Mr Baker also contributed to the delicate conversation surrounding the requirement to uphold principles of confidentiality while the Territory concurrently sought to meet compliance obligations.



Apart from the events listed on the principal agendas, Commission representatives made courtesy calls on stakeholders who substantially promoted BVI financial services in the region. Discussions in these private meetings generally revolved around the use of BVI fund products, particularly the Approved Manager and Approved Fund, and the Private Investment Fund. Executives also participated in other meetings with the Minister/Deputy Premier and other delegates.

In conclusion, Honourable Smith, OBE, hailed the Trade Mission as a huge success and stated that the consultations and gatherings opened up new opportunities for collaboration.

BVI VASPs FREQUENTLY ASKED QUESTIONS

The BVI Virtual Assets Providers Act came into force on 1 February 2023. In response to the high interest in the topic, the External Relations Unit team sat down with the Specialised Supervision Unit team to extract greater insight regarding the legislative framework for VASPs, the application, processing and registration requirements, and other related matters.

LEGISLATION

Q1. What is the principal legislation governing VASPs and supporting guidance?

A1. The [Virtual Assets Service Providers Act, 2022](#) - is the principal legislation governing the registration and supervision of virtual assets service providers in the British Virgin Islands (**VASP**).

The [Regulatory Code \(Revised Edition\) 2020](#) applies to all persons holding a licence as set out in Schedule 1 of the Code (each, a **licensee**). While the Schedule does not specifically refer to persons holding a VASP licence, licensees are expected to comply. The Code contains detailed requirements in relation to the regulation and conduct of (1) licensees and (2) officers and agents of licensees who are conducting financial services in the BVI. Persons pursuing a VASP licence should pay particular attention to the following sections of the Regulatory Code:

- **Preliminary Part**, which gives an overview of the Code as it relates to the regulatory legislation in the BVI
- **Part I**, which contains high-level principles of business that are applicable to all regulated entities in the BVI
- **Part II**, which, among other things, contains rules relating to management, corporate governance, internal controls, record keeping, compliance, outsourcing and financial reporting (these are also applicable to all regulated entities in the BVI); and
- **Part VII**, which contains rules specific to investment business licensees but that are also applicable to VASP licensees

- [Guidance on Regulation of Virtual Assets in the Virgin Islands \(BVI\)](#)
- [BVI FSC Guidance on Application for Registration of a Virtual Assets Service Provider](#)
- [Virtual Assets Service Providers Guide to the Prevention of Money Laundering, Terrorist Financing and Proliferation Financing](#)

Q2. Who is required to obtain a VASP license?

A2. Section 5 of the Virtual Assets Service Providers Act states that “(1) no person shall carry on in or from within the Virgin Islands the business of providing a virtual asset service without being registered by the Commission in that regard. (2) An individual shall not carry on, or hold himself or herself out as carrying on, in or from within the Virgin Islands, virtual assets service as a business or in the course of business.”

Section 6(1) states that an application for registration as a VASP must be made to the Commission to undertake business in one or more of the following categories:

- a. carrying on the business of providing a virtual assets service
- b. engaging in the business of providing a virtual assets custody
- c. operating a virtual assets exchange”

Q3. What business models are not covered under the VASP Act?

A3. *Businesses models not covered under the VASP Act are as follows:*

- *Providing ancillary infrastructure*
- *Software developers/ unhosted wallets suppliers*
- *Creating/developing VA platforms (technological development)*
- *Operating a VA Network without the provider acting as a VASP to customers*
- *Provision of closed-loop, non-convertible items*
- *Acceptance of VA’s payment for goods and services*

APPLICATION REQUIREMENTS AND PROCESS

Q4. What are the application requirements?

A4. *In accordance with Section 6 of the VASP Act, where a person intends to engage in virtual assets services, virtual service custody and/or operate a virtual assets exchange, a person may make an application to the Commission for a VASP licence. The application should contain, inter alia, the following:*

- **Application Forms**- *The following forms must be submitted: VASP Application form and Form A applications for all proposed directors, senior officers and shareholders. All Sections must be completed. The Applicant must ensure that all documents including those that evidence robust Corporate Governance, Risk Management, Compliance and Operational Frameworks, have been submitted. An application for registration as a VASP must be submitted by an approved VASP Authorised Representative (**VASP AR**), legal advisor or other local service providers such as registered agents.*
- **Application Fees**- *Each application should be accompanied by the relevant application fees. Applications will not be processed without the requisite fee. Please see Guidance for more information.*
- **Authorised Representative**- *Section 12 of VASP requires a licensee to appoint and at all times have an approved VASP Authorised Representative. The Authorised Representative will act as the liaison between the Commission and the Applicant / Licensee (post-licensing). The proposed VASP AR should be identified in the Applicant's application.*
- **Comprehensive Business Plan**- *Each application should be accompanied by a business plan in compliance with Section 6 (4)(g) of VASP and section 11(4) of the Regulatory Code. The Business Plan should be detailed, separately addressing each category for which licensing is being sought.*
- **Compliance Manual**- *Each application should be accompanied by a Compliance Manual which is compliant with Section 46 of the Regulatory Code and Section 6(4)(i) of VASP.*
- **Auditor**- *When making an application, an applicant should provide details of its proposed auditor. These details should (inter alia) be accompanied by a completed form B1 and relevant fees (the form can be found in the Guidelines for the Approved Persons Regime)*

and a letter from the proposed auditor which confirms their willingness to act on behalf of the Applicant.

- **Capital**- *Please note that pursuant to Section 181 of the Regulatory Code (Revised Edition) 2020, the Commission requires a licensee to maintain “capital resources at a level that is adequate to support its investment business...” and “its risk profile” as well as “maintain adequate systems and controls to monitor and assess capital adequacy requirements on an ongoing basis”. When making an application to the Commission an applicant should therefore demonstrate that it retains adequate capital for the nature, size, and complexity of its business.*
- **List of Applicant’s Blockchain addresses (per coin)**.
- **Resources**- *When submitting an application, the applicant should demonstrate that it has available and adequate resources and expertise to carry out the activities for the category of licence being sought. This will include, at minimum, the appointment of at least two directors (see section 19(2)(a) of the Regulatory Code and Section 11 (1) of VASP) and a Compliance Officer (see Section 34(3) of the FSC Act and Section 41 VASP). Please note that the Applicant, each director, compliance officer and any other person acting as a senior officer for the Applicant will be subject to the Commission’s fit and proper test. The relevant application form can be found on the Commission’s website [Approved Person’s Regime Guidelines](#).*

Q5. What documents should be included in the business plan?

A5. All business plans should, at a minimum, be in compliance with Section 6(4)(g) of the VASP Act:

i. The knowledge, expertise and experience of the person applying for registration.

ii. Detailed information on the nature, size, scope, and complexity of the VASP, the underlying technology intended to be used, method of delivery of the virtual asset service and the virtual asset to be utilised.

iii. Information on how the VASP will be marketed and the expected source of business.

iv. Information on the anticipated human resource capacity of the VASP at commencement of business and in the long term.

- v. *Any planned outsourcing arrangements and the systems to be put in place to govern such outsourcing arrangements.*
- vi. *An indication of the initial capital and financial projections of the VASP covering the first three years of operation, including projected set-up cost.*

Q6. What documentation should be submitted to evidence the structure of a VASP?

- A6. Section 4(4.3.1) of the [BVI FSC Guidance on Application for Registration of Virtual Assets Service Provider](#) states that the ownership structure of the Applicant must be supported by a Register of Members together with an Ownership Structure Chart which evidences the breakdown of percentages held in the legal structure. In addition, the structure chart must evidence the full legal names of all natural and legal persons. It must also clearly set out the beneficial ownership of the Applicant. Additionally, where an applicant is part of a group, the applicant should provide a group structure chart.

REGISTRATION

Q7. As a part of the VASP registration process, is the “intended paid-up capital at time business commences” to remain untouched during the lifespan of the applicant, or can the applicant use the intended paid-up capital in the running of their business?

- A7. The Code requires unencumbered capital which means capital that has no debts or liens and is liquid. The point of this capital is to provide some financial cushioning in the event of some immediate financial distress.

Q8. Where a VASP has a change in its activities and services post-licensing, what are the requirements?

- A8. Where a VASP intends to offer additional regulated post-licensing, it is required to submit an application for consideration in accordance with relevant legislation (i.e. the VASP Act, the Securities and Investment Business Act, the Insurance Act and any other relevant legislation).

POST-REGISTRATION MATTERS

Q9. Can VASPs participate in the Regulatory Sandbox?

A9. Yes, once they have met the requirements that are set out in Section 34 of the VASP Act.

Q10. What is the Travel Rule and how is it applicable?

A10. Pursuant to Recommendation 16 of the Financial Action Task Force (**FATF**)

recommendations, originating VASPs must obtain, and hold required and accurate originator information and required beneficiary information on virtual asset transfers. These requirements apply to VASPs whenever their transactions (in fiat currency or virtual assets) involve:

- i. a traditional wire transfer
- ii. a virtual asset transfer between a VASP and another obliged entity, or
- iii. a virtual asset transfer between a VASP and a non-obliged entity

Section 4(4.3.2)(L)(xii) of the [BVI FSC Guidance on Application for Registration of a Virtual Assets Service Provider](#) states that the Applicant must be able to demonstrate that it is able to fully comply with the virtual assets transfer rules in the Anti-Money Laundering and Terrorist Financing Code of Practice (AMLTFOP). VASPs may include this under their AML/CFT Framework.

For more information on the topic of VASPs, readers should visit the Commission's website at www.bvifsc.vg or email specialisedsupervision@bvifsc.vg.

AUTHORISATION AND SUPERVISION DIVISION CALENDAR OF UPCOMING FILINGS AND REQUIREMENTS DEADLINES

The Financial Services Commission wishes to remind all regulated persons of upcoming filings and submission requirements, as indicated below.

Regulated entities must note that the attached schedule is a courtesy and are therefore not absolved from submissions due to any errors or omissions herein.

	Entity/Licence Type	Filing/Requirement	Submission Channel
30 th June 2024	Public Funds and Recognised Foreign Funds	Mutual Fund Annual Return	https://returns.bvifsc.vg/
10 th July 2024	<ul style="list-style-type: none"> • Banks • Class I and Class II trust licensees* • Category A and Category D insurers • Category 5 investment business licence 	A list of internal audit reports prepared during Q2 2024, with a summary of areas covered by each report	Banks and other entities under specialised supervision: specialisedsupervision@bvifsc.vg All other entities: prudential supervision@bvifsc.vg
14 th July 2024	<ul style="list-style-type: none"> • Authorised Representatives (SIBA) • Authorised Representatives (VASPA) 	The names of all funds and licensed entities for which it provides AR services.	prudential supervision@bvifsc.vg
15 th July 2024	Banks	Prudential Returns for Q2 2024	specialisedsupervision@bvifsc.vg
15 th July 2024	Money Services Business licensees - Class A	<ul style="list-style-type: none"> • 3.5% transaction levy • transaction levy report for Q2, 2024 	Check, wire transfer, etc. specialisedsupervision@bvifsc.vg
31 st July 2024	Incubator Funds	Semi-annual report for the period ending 30 th June 2024	prudential supervision@bvifsc.vg
Within six months of the financial year-end	All licensees and funds except where exempted.	Audited Financial Statements (must be accompanied by all relevant prescribed documents)	Hard copy and/or electronic copy via financialstatements@bvifsc.vg
Within six months of the financial year-end	<ul style="list-style-type: none"> • Approved Funds • Incubator Funds • Approved Managers 	Financial Statements (not required to be audited)	Hard copy and/or electronic copy via financialstatements@bvifsc.vg

**A Class I or Class II trust licensee that does not hold customer monies or has determined that due to its nature, size, and complexity, it does not require an internal audit function, is not required to file a list of internal audit reports.*

Notes:

1. This schedule is provided as a courtesy; regulated entities are not absolved from submissions due to any errors or omissions herein.
2. If a due date falls on a holiday or weekend, the Commission will accept filings/reports due for submission on the next business day without enforcing any penalties.

REGISTRY CORNER

Industry practitioners are reminded of the following:

1. **NON-ACCEPTANCE OF PHYSICAL DOCUMENTS FOR FILINGS**

Documents submitted to the Registry of Corporate Affairs for filing of transactions must be submitted using the VIRRGIN online system. Registered Agents and Legal Practitioners (non-agents) with authority to file transactions in accordance with the BVI Business Companies Act in the Virgin Islands can apply for access to VIRRGIN [here](#) under the respective category.

2. **REQUESTS TO HAVE SUBMITTED TRANSACTIONS REJECTED**

When requesting that submitted transactions be rejected via email support@bvifsc.vg, please note that you may also copy your request to cregistrars@bvifsc.vg.

Disclaimer

The Registry of Corporate Affairs is not responsible for transactions approved before or after submission for filing. For questions concerning this message, please send your correspondence to the Registry of Corporate Affairs at support@bvifsc.vg.

PUBLIC STATEMENTS

The BVI Financial Services Commission considered it necessary to issue the following Public Statements during the second quarter of 2024 to protect customers, creditors, or persons who may have been solicited to conduct business with purported financial services entities or individuals.

The public is advised to exercise caution when conducting business with the following:

Subject of Public Statement	Date Issued
TOMASZ FURMAN	25 April 2024
ANDREW MILLER	2 May 2024
MARTIN VITEK	2 May 2024
CRYPTOAEGIS INVEST	2 May 2024
STASIK JAKUB SZYMON	8 May 2024
MESIROWFX.COM	29 May 2024
PETER KACOV	28 June 2024
LUCAS SVOBODA	28 June 2024
ALES BORMAN	28 June 2024

All Commission-issued Public Statements can be accessed via the Commission [website](#).

BVI AND HONG KONG HOLIDAYS AFFECTING OPERATIONS

The public is asked to note the following upcoming BVI public holidays, during which time Commission offices will be closed for business:

Virgin Islands

1 July 2024 (Virgin Islands Day)

5-7 August 2024 (Emancipation Monday, Tuesday, and Wednesday)

Hong Kong

1 July 2024 (Hong Kong Special Administrative Region Establishment Day)

A complete list of 2024 holidays and closures can be found [here](#).