

PRUDENTIAL AND STATISTICAL RETURNS

TRUST AND CORPORATE SERVICES PROVIDERS & MUTUAL FUNDS (MFAR)

Meet the Regulator – 15th July, 2010

Simone E. Martin
Deputy Director,
Fiduciary Services

Shane Baptiste
Regulator I,
Investment Business



Overview

- ▣ Legislative Provisions
- ▣ Objectives of the Prudential Returns
- ▣ Who they apply to



Overview

- ▣ Method of Filing
- ▣ Special Considerations
- ▣ FAQs on the MFAR
- ▣ MFAR Electronic Application
- ▣ Conclusions



Legislative Provisions

Section 56A of the Financial Services Commission Act, 2001 confers the power to require returns.

- ▣ Financial Services (Prudential and Statistical Returns) Order, 2009.



Objectives

- ▣ To enable the Commission to access more timely information, which would:
 - assist in identifying issues / problems in a more timely manner;
 - assist in developing relevant statistical data for use by the Commission or for public dissemination; and
 - allow the Commission to respond more completely to requests and international obligations.



Who does it apply to?

EVERY REGULATED PERSON.

- ▣ Relevant Schedules of the Order for different types of licensees and when Returns are due.

- ▣ Schedule 1 – Mutual Funds
 - Recognised Private and Professional Funds.
 - Registered Public Funds.



Who does it apply to?

- Schedule 3 – Fiduciary Services Business
- Licensees under the BTCA.
 - Separate Returns for licensees holding a banking licence.
 - New TCSP Returns apply to all Classes of licences.
- Licensees under the CMA.
- Licensees under the FMSA to follow in 2011.



Method of Filing

- ▣ Due one month on or before the last day of the month following the periods ending June and December.
- ▣ Manual / Hard copies



Method of Filing

- ▣ Electronic filing to be conducted after testing, etc.
 - Circular of June, 2010 aimed to collect data for licensees (locally domiciled in the first instance).



Method of Filing - MFAR

- ▣ S. 8(1) of the FSPSRO allows for electronic filing of the MFAR.
- Electronic filing for MFAR introduced in third Qtr. 2009.
 - secure and efficient method of filing;
 - supports easier submissions for SPCs, umbrella and master/feeder structures;
 - historical data available for review and comparison.



Method of Filing - MFAR

- Funds were allowed to submit the MFAR via post and e-mail (fundreturns@bvifsc.vg).
- Electronic submission is the preferred method for filing. It is safe and efficient.
- Electronic filing may become **mandatory**.



Method of Filing - MFAR

- Prepared as at 31 December annually.
- Must be filed with the Commission on or before 30 June in respect of the year immediately preceding.



Method of Filing

A prudential return is not considered properly filed and accepted by the Commission if:

- it is not fully completed;
- it contains information that is materially inaccurate or misleading;



Method of Filing

- Within a period of 7 days after the date it has been filed, the Commission rejects it and notifies the regulated person concerned in writing, providing the reason for the rejection; or
- Section 8(2) applies (failure of electronic storage systems).



Special Considerations

- ▣ Responsibility of advising the Commission of erroneous data and omissions lies with the licensee/fund.
- ▣ Not conducting a regulated activity does not release a licensee from filing the return.



Special Considerations

▣ Extension for filing Returns(Section 6):

- request must be received seven (7) days prior to date of expiry.
- extension shall not exceed thirty (30) days.
- S. 6(2)b-e of the FSPSRO (grounds for refusal)
- S. 6(3)a-f, FSPSRO



Special Considerations

▣ Rectification and Notification:

- Five (5) day notification period for inaccurate submission.
- Schedule 4, Part I- FSPSRO (reporting format).
- Seven (7) day period for re-submission of corrected information.



Special Considerations

Administrative Penalties for failures set out in Schedule 5.

- Failure to file by the required time.
- Failure to ensure information is accurate and complete.
- Failure to notify the Commission of inaccurate or misleading information.
- Failure to correct inaccurate information within a prescribed timeframe.



FAQs on MFAR

- Is it mandatory for all BVI funds to file a return? A= Yes.
- Who should submit the return? A= Any authorised representative or officer i.e. director, administrator, auditor, etc.
- Are there any fees associated with filing the return? A= No. There are no attached fees to file the return.



FAQs (continued...)

- The fund does not have a calendar year end. Should the fund still submit the MFAR?

A= Yes. The MFAR should be completed as at 31 December.



FAQs (continued...)

- Is it a requirement to submit audited financial statements along with the MFAR?

A= No.

- The audited figures are not available. Should the fund apply for an extension?

A=No.



FAQs (continued...)

- The funds are BVI master/feeder structures. Are they required to submit separate returns?
A= Yes.
- The fund is a BVI SPC/umbrella structure with X amount of portfolios/subfunds. Can the fund submit a consolidated return? **A= Yes**, only if the FS are prepared on a consolidated basis.



FAQs (continued...)

- The fund does not trade in US currency. Is it a requirement to complete the MFAR in US currency?

A=Yes. All non-US amounts should be converted to the US dollar equivalent.



MFAR Electronic Application

- ▣ It is **SAFE, EASY** and **EFFICIENT**.
- ▣ **Submission history** available for review and comparison.
- ▣ **No need for manual submissions.**



Conclusions

Leads to better understanding and further development of the financial services industry!

Collection of useful data to assist the Commission in meeting international obligations.



THANK YOU!

QUESTIONS???



PRUDENTIAL AND STATISTICAL RETURNS

TRUST AND CORPORATE SERVICES PROVIDERS & MUTUAL FUNDS (MFAR)

Meet the Regulator – 15th July, 2010

Simone E. Martin
Deputy Director,
Fiduciary Services

Shane Baptiste
Regulator I,
Investment Business

