



BVI FINANCIAL SERVICES COMMISSION

NEWSLETTER

QUARTER 3
2024



**REGULATION
COMPLIANCE**



FEATURED:



**GERARD FARARA, KC ASSUMES
LEADERSHIP OF BVI FSC BOARD**



**VASP TRAVEL RULE GUIDANCE
ISSUED**



**A NEW HEAD OF LEGAL FOR
FSC**



**AML GUIDANCE PUBLISHED FOR
INVESTMENT BUSINESS SECTOR**



GERARD FARARA KC ASSUMES LEADERSHIP OF THE BVI FSC BOARD OF COMMISSIONERS



For the first time in 18 years, the BVI Financial Services Commission has welcomed new blood to head its governing body - the BVI Financial Services Commission Board of Commissioners.

The External Relations Unit of the Commission reported the 30 June 2024 retirement of former Chairman of the Board of Commissioners, Mr Robin Gaul FCCA, in a 27 June 2024 Press Release. Mr Gaul, who led the Board with what is described as quiet authoritativeness, left a stellar track record for being meticulous in all aspects of his chairmanship and, evidently, large boots to fill. Providentially, the newly appointed Board Chairman, Mr Gerard St. Clair Farara, KC, is a heavyweight in his own right, with a formidable, seasoned presence and track record on the local and regional legal, financial services, constitutional, and judicial scenes.

Mr Farara KC, is a native Virgin Islander with an extensive background in civil, insolvency, and commercial litigation, underpinning an illustrious career at the legal Bar and Bench, and as a scholar and public speaker. He was admitted to the BVI Bar in 1977 at which point he became the second native Virgin Islander to qualify as a lawyer and to practice law in the Virgin Islands courts; he was later appointed Queen's Counsel, now King's Counsel in 1996. Having worked at the public and private Bar in his early years as a Barrister-at Law, Mr Farara established his own practice in 1985 which, after various evolutionary changes, became Farara Kerins and ultimately merged with the offshore law firm – Collas Crill, where Mr Farara KC served as equity and managing partner, until he retired from the practice of law at the Bar at the end of 2019. At the time of his retirement, he was the most senior lawyer and leading King's Counsel at the BVI Bar.

Bolstering an already impressive legal career, Mr Farara KC has taken on a number of judicial appointments. He acted as a judge in the Commercial Division of the High Court (VI), where he dealt with a wide range of matters involving commercial, company, and insolvency law, and trust issues, also authoring several judgments involving financial services matters. He further acted as a judge of the Court of Appeal of the Eastern Caribbean Supreme Court (ECSC), and in the High Courts in St Lucia and Grenada. The culmination to date, of Mr Farara KC's distinguished judicial career includes an appointment in 2020, as acting Justice of Appeal with the Court of Appeal of the ECSC.

The Commission Board will not be the first to benefit from Mr Farara KC's leadership, since his accolades include service on numerous statutory boards and committees, including as member of the Chief Justice's Insolvency Committee, member of the Public Service Commission, BVI Electricity Corporation Board, steering committee to reform, modernise and streamline Government systems and departments, and Chairman of the Recreation Trust, and Head of the Social Security Appeals Tribunal.

Mr Farara KC expressed *“this appointment as Chairman of the FSC Board of Commissioners is yet another opportunity for me to give back to the BVI community. Financial services is a crucial sector for the BVI, and thus, we must be both strategic and intentional about how it is handled. Furthermore, BVI financial services is at a critical juncture, not just because of the potential implications of the recent Mutual Evaluation Report, but because the industry is steadily evolving in a highly competitive sphere which demands compliance with stringent international regulatory standards. I am humbled to be entrusted with the opportunity to have a hand in the direction of this important sector”*.

Managing Director and CEO of the Commission Mr Kenneth Baker echoed Honourable Lorna Smith OBE - Minister of Financial Services, Labour, and Trade sentiments in welcoming Mr Farara KC. Mr Baker further noted that *“Mr Farara comes with an impressive track record in law and financial services, and I look forward to working closely with him as he takes on the policy and governance leadership for the Commission, toward the continued protection of financial services consumers and our financial market”*.

Mr Farara’s appointment as Chairman of the BVI Financial Services Commission Board of Commissioners commenced on 1 August 2024, at which time he cemented himself as the first native Virgin Islander to serve in that role.

A NEW HEAD OF LEGAL FOR FSC

The BVI Financial Services Commission is pleased to announce Ms Dian Fahie's appointment as Director of the Legal Division at the Commission.



Ms Dian D Fahie
Director, Legal Division

Ms Fahie, who served as Deputy Director of the Legal Division for the past seven years, has been elevated to Director of the Commission's Legal Division. Ms Fahie takes on oversight responsibility as chief legal advisor to the Commission and is also responsible for leading the Commission's in-house team of lawyers. She has a legal career spanning 15 years plus and has been employed with the Commission for over 20 years.

Ms Fahie brings a wealth of experience in financial services regulatory law and corporate law to the position. Ms Fahie, who takes over from recently retired Director – Mr Stephen Grayson, has also built up a good name and reputation for herself with the courts as a thorough and well-respected legal advocate. Her appointment as Director took effect from 1 July 2024.

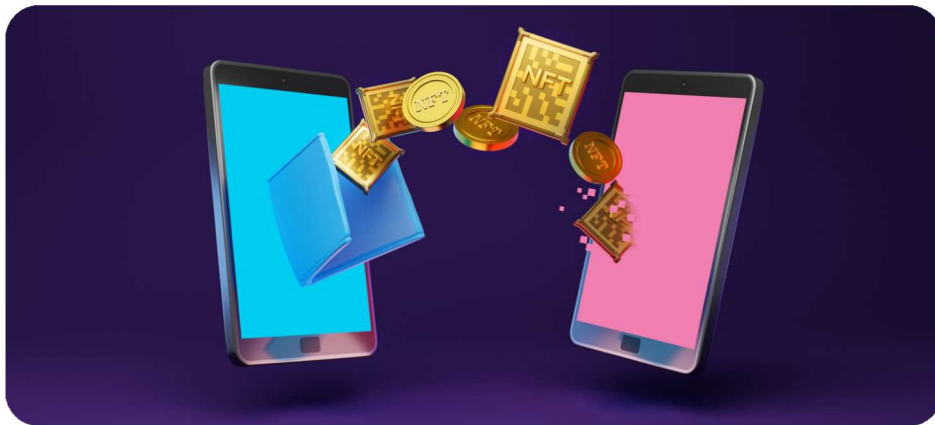
For more details about Ms Fahie, readers should visit the Commission's [website](#).

FSC PUBLISHES VASP TRAVEL RULE GUIDANCE

The Financial Services Commission has published [Guidance for Virtual Asset Service Providers \(VASPs\) on the FATF's Travel Rule](#).

The VASP Travel Rule Guidance (the **Guidance**) provides clarification on the requirements for VASPs to comply with the Travel Rule. The Guidance outlines how Virgin Islands (VI) VASPs should apply the FATF Travel Rule when sending and receiving Virtual Assets (VAs) and highlights the requirement to ensure full originator and beneficiary information is sent and received as applicable. It also highlights the importance of ensuring compliance with the Anti-Money Laundering and Terrorist Financing Code of Practice (**AMLTFCoP**), the Anti-Money Laundering Regulations (**AMLR**) and other applicable laws related to AML/CFT/CPF.

Importantly, the Guidance also speaks to how VASPs should ensure they are able to identify beneficial ownership generally, and when dealing with transfers to and from un-hosted wallets and the need to adopt a risk-based approach when dealing with un-hosted wallet transfers.



All VASPs operating in and from within the VI are required to comply with and operationalise the Travel Rule, which has been integrated into BVI law through the 2023 amendments to the AMLTFCoP and AMLR.

This Guidance is designed to assist with overall compliance and VASPs should ensure that it is taken into account and implemented within their operations.

The Commission, as part of its desk-based supervisory processes and onsite inspections, will test the implementation of the requirements outlined in the Guidance, which may be taken into consideration when considering whether a breach has occurred and whether any enforcement action would be warranted for such breach.

This and other guidance documents can be found on the [AML/CFT page](#) of the Commission's website.

UPCOMING BVI FSC CONSUMER AWARENESS ENGAGEMENTS

SPEAKERS

Kishelle Blaize-Cameron
Deputy Director, Specialised Supervision

Tashel Martin-Jackson
Deputy Director, Compliance Inspection

**Virtual Assets /
Cryptocurrency Trends**

**Institutional Risk
Assessments**

**Collaboration
& Commitment**
Advancing Financial Services in the Virgin Islands

9:00 AM - NOON

13 Thurs
03 OCT
2024

**Eileene L. Parsons
AUDITORIUM**

ASOCUPA

**International
Conference on
Combatting
Money Laundering
2024**

**IX CONGRESO
INTERNACIONAL DE
CUMPLIMIENTO**

**17-18
OCTOBER**

PANEL DISCUSSION
Best Practices in the Registration of
Beneficial Owners: Lessons Learned

GLENFORD MALONE
DEPUTY MANAGING DIRECTOR, REGULATION

**BRITISH VIRGIN ISLANDS
FSC
FINANCIAL SERVICES COMMISSION**

FSC PUBLISHES AML/CFT GUIDANCE FOR THE INVESTMENT BUSINESS SECTOR

The BVI Financial Services Commission (the **Commission**) has published its [Investment Business Guide to the Prevention of Money Laundering, Terrorist Financing and Proliferation Financing](#) (the **Guidelines**).

These Guidelines provide useful information to entities within the Investment Business sector on how to meet their relevant AML/CFT obligations. They outline the ML, TF and PF risks associated with Investment Business Service Providers (**IBSPs**) and detail the risk factors that could impact IBSPs compliance framework.

The Guidelines speak to the need for IBSPs to conduct institutional risk assessments and the importance of doing so, in order to holistically understand the ML/TF/PF risks to which they are exposed and identify the areas that should be prioritised to combat ML/TF/PF. The Guidelines delve into a number of matters that IBSPs should take into consideration when conducting business, including:

- Understanding Beneficial Ownership and Control;
- Applying CDD measures;
- Determining when to apply simplified or enhanced CDD measures;
- the need for:
 - o ongoing CDD once a business relationship is established;
 - o transaction monitoring;
 - o record keeping; and
- The impact of an IBSP's reliance on Third Parties or intermediaries.

The Guidelines also speak specifically to the Terrorist Financing (**TF**) and Proliferation Financing (**PF**) risks within the investment business sector and the need for IBSPs to take appropriate measures to detect and prevent TF and PF by ensuring their systems and controls are properly developed to allow for the identification of the TF and PF risks and vulnerabilities to which they are exposed.

Information is provided on targeted financial sanctions and the need for IBSPs to ensure sanctions screening is carried out at onboarding and during the course of business with existing clients, and that the result of such screening is obtained in order to properly determine whether to take on or continue business with a client. The Guidelines also outline the freezing and reporting obligations of IBSPs when a sanctioned individual is detected.

The Guidelines also speak to IBSPs obligations to report suspicious activities and conduct employee screening at the time of recruitment, and intermittently thereafter. It also touches on the powers of the Commission to inspect IBSPs and take enforcement action for non-compliance as well as IBSPs obligation to cooperate and to respond to requests for information from regulatory and law enforcement authorities.

These Guidelines are designed to assist with overall compliance and IBSPs should ensure that they are taken account of and implemented within their operations.

The Commission, as part of its desk-based supervisory processes and onsite inspections, will test the implementation of these Guidelines, which may be taken into consideration when considering whether a breach has occurred and whether any enforcement action would be warranted for such breach.

This and other guidance documents can be found on the [AML/CFT page](#) of the Commission's website.

REGISTRY CORNER

The Registrar continues to encourage Registered Agents and Legal Practitioners (non-agents) with authority to file transactions in accordance with the BVI Business Companies Act to apply for access to VIRRGIN.

The application portal can be accessed [here](#) under the category VIRRGIN.



AUTHORISATION AND SUPERVISION DIVISION CALENDAR OF UPCOMING FILINGS AND REQUIREMENTS DEADLINES

DUE DATE	ENTITY/LICENCE TYPE	FILING/REQUIREMENT	SUBMISSION CHANNEL
10 October 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 Q3 2024, with a summary of areas covered by each report	Banks and other entities under Specialised Supervision: specialisedsupervision@bvifsc.vg All other entities: prudentialsupervision@bvifsc.vg
14 October 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.	prudentialsupervision@bvifsc.vg
15 October 2024	Banks	Prudential Returns for Q3 2024	specialisedsupervision@bvifsc.vg
15 October 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
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)	Banks and other entities under Specialised Supervision: specialisedsupervision@bvifsc.vg All other entities: 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 and 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.

PUBLIC STATEMENTS

The BVI Financial Services Commission considered it necessary to issue the following Public Statements during the third 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
ASSURITYFUNDS.COM	3 September 2024
MARIUSZ MICKIEWICZ	10 September 2024

All Public Statements can be accessed on the Commission [website](#).

BVI AND HONG KONG FOURTH-QUARTER, 2024 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

- 21 October (Heroes and Foreparents Day)
- 25 November (The Commemoration of the Great March of 1949 and the Restoration of the Legislative Council)
- 25 December (Christmas Day)
- 26 December (Boxing Day)

Hong Kong

- 1 October (National Day of the People's Republic of China)
- 11 October (Double Ninth Festival)
- 25 December (Christmas Day)
- 26 December (Boxing Day)

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



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