

提示简报

British Virgin Islands – Regulatory Update

英属维尔京群岛 – 法规更新

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On 11 February 2021, the British Virgin Islands Financial Services Commission (the “Commission”) published the Financial Services (Prudential and Statistical Returns) (Amendment) Order 2021 (the “Order”). The Order came into effect on 15 February 2021. Pursuant to the provisions of the Order, the obligations of regulated persons under the Financial Services (Prudential and Statistical Returns) Order 2009 (the “Principal Order”) to file statistical or prudential returns with the Commission have been amended significantly, creating additional reporting obligations for British Virgin Islands (“BVI”) entities that are authorised, licensed, registered or recognised under relevant BVI financial services legislation. The Order has also introduced a new obligation on regulated persons to file an annual anti-money laundering/countering the financing of terrorism return (the “AML Return”) with the Commission.

Who is Caught?

The amended reporting obligations under the Order in respect of annual or quarterly prudential and statistical returns (the “PS Returns”) apply to the following regulated persons:

- persons recognised or registered as Private Funds, Professional Funds, Public Funds and Recognised Foreign Funds pursuant to the Securities and Investment Business Act 2010 (“SIBA”)(collectively, “Mutual Fund Licensees”)
- holders of:
 - Category A, Category B, Category C, Category D, Category E or Category F insurance licence issued pursuant to section 8(2) of the Insurance Act 2008

2021 年 2 月 11 日，英属维尔京群岛金融服务委员会（下称“委员会”）发布了《2021 年金融服务（审慎和统计申报表）（修订）令》（下称“命令”）。命令于 2021 年 2 月 15 日生效。根据命令的规定，受《2009 年金融服务（审慎和统计申报表）令》（下称“主令”）规管的人员向委员会提交统计或审慎申报表的义务已做了重大修改，针对根据相关的英属维尔京群岛（下称“BVI”）金融服务立法获得授权、许可、注册或认可的 BVI 实体增加了额外的申报义务。命令还对受规管人员规定了一项新的义务，即必须向委员会提交年度反洗钱/反恐怖主义融资申报表（下称“反洗钱申报表”）。

谁赶上了？

就年度或季度审慎和统计申报表（下称“审慎和统计申报表”）而言，根据命令而修订的申报义务适用于以下受规管人员：

- 根据《2010 年证券与投资业务法》（下称“《证券与投资业务法》”）被认作或注册为私募基金、专业基金、公共基金及认可的外国基金的人员（统称为“共同基金持牌人”）
- 以下许可证的持有人：
 - 根据《2008 年保险法》（下称“保险法”）第 8(2) 条签发的 A 类、B 类、C 类、D 类、E 类或 F 类保险许可证；或者
 - 根据《保险法》第 40(2) 条签发的保险中介许

(the "Insurance Act"); or

- an insurance intermediary's licence or insurance manager's licence pursuant to section 40(2) of the Insurance Act(collectively, "Insurance Licensees")
- a holder of an investment business licence issued pursuant to section 6(2) of SIBA (collectively, "Investment Business Licensees")

In relation to the new AML Return, the requirement to file such return applies to the following:

- insurance licensees
- investment business licensees
- persons approved as approved investment managers pursuant to regulation 7(1) of the Investment Business (Approved Managers) Regulations 2012

What are the Implications of the New Requirements?

Based on the type of licence held by the relevant regulated person, there is now a requirement to submit the relevant PS Return within prescribed timeframes as set out below:

Type of Licence	Applicable Deadline for Submission of PS Return
Mutual Fund Licensees	On or before 30 June in respect of the year immediately preceding.
Insurance Licensees	On or before 31 March with respect to the previous calendar year, save that the return in respect of the 2020 calendar year the deadline is 15 May 2021.
Investment Business Licensees	On or before 31 March with respect to the previous calendar year, save that the return in respect of the 2020 calendar year the deadline is 15 May 2021.

Pursuant to section 8 of the Order, PS Returns (including any rectification of a previously filed return) are required to be filed in electronic format, which includes by publication on the Commission's website. The PS Returns are available in the relevant schedule of the Order.

Save in respect of the 2020 calendar year reporting period, all Relevant AML Return Licensees are require to file completed AML Returns on or before 31 March with respect of the previous calendar year. In the case of the 2020 calendar year, regulated persons are required to

可或保险经理人执照（统称为“保险持牌人”）

- 根据《证券与投资业务法》第 6(2)条签发的投资业务许可证的持有人（统称“投资业务持牌人”）

关于新的反洗钱申报表，提交此种申报表的规定适用于以下人员：

- 保险持牌人
- 投资业务持牌人
- 根据《2012 年投资业务（适格管理人）条例》第 7(1)条被批准为适格管理人员的人员

新要求意味着什么？

根据相关受规管人员的持牌类型，现在必须在以下规定的时限内提交相关的审慎和统计申报表：

牌照类型	提交审慎和统计申报表的适用截止日期
共同基金持牌人	如果是上一个年份，则是 6 月 30 日或之前
保险持牌人	如果是上一个日历年，则是 3 月 31 日或之前，但是 2020 日历年除外（其截止日期为 2021 年 5 月 15 日）。
投资业务持牌人	如果是上一个日历年，则是 3 月 31 日或之前，但是 2020 日历年除外（其截止日期为 2021 年 5 月 15 日）。

根据命令第 8 条，审慎和统计申报表（包括对先前提交的申报表的任何更正）必须以电子格式提交，这包括在委员会的网站上进行发布。审慎和统计申报表可在命令的相关附表中找到。

除 2020 日历年申报期外，所有需要提交反洗钱申报表的相关持牌人都必须在 3 月 31 日或之前提交上一个日历年的完整的反洗钱申报表。对于 2020 日历年，受规管人员必须在 2021 年 5 月 15 日或之前提交反洗钱申报表。

file the AML Return on or before 15 May 2021.

Sanctions for Non-Compliance

The Order sets out financial penalties for failure to file a PS Return as required by the Order or for failure to provide accurate information in the PS Return. In the case of a failure to file any PS Return, the financial penalties range from a maximum penalty of US\$400 to US\$600 for the first 30 days, in each case increasing by US\$100 for each additional month (or part thereof) during which any PS Return remains outstanding. Where the provisions of the Order have been breached due to a failure to provide accurate and complete information in any PS Return, the applicable financial penalties range from US\$300 to US\$700. Note that the financial penalties specified in the Order do not apply in relation to prudential or statistical returns due before 30 June 2021 provided any such returns are filed before that date.

We are here to help

Please feel free to reach out to your usual Conyers contacts should you require any guidance with completing or filing the relevant PS Returns. We are always available to provide continuing support and would be pleased to help.

For further information, please contact your usual Conyers contact or one of the contacts listed below.

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information. The Chinese translation of this article has been adapted from the English original, please refer to the original in case of ambiguity.

违规制裁

命令规定了在未按命令要求提交审慎和统计申报表或未在审慎和统计申报表中提供准确信息的情况下所面临的经济处罚。如果未提交任何审慎和统计申报表，则前 30 天的最高罚款为 400 美元到 600 美元不等，在每种情况下，逾期未提交审慎和统计申报表的每月（或其一部分）增加 100 美元。如果因为未在审慎和统计申报表中提供准确、完整的信息从而违反了命令的规定，则适用的罚款为 300 美元至 700 美元不等。请注意，命令中列举的罚款不适用于 2021 年 6 月 30 日之前到期的审慎和统计申报表，但前提是在该日期之前提交了此种申报表。

我们在此竭诚为您服务

如果您在填写或提交相关的审慎和统计申报表时需要任何指导，请随时与康德明律师事务所中您惯常联络的律师或下列律师联系。我们一如既往随时提供支持，非常乐意帮忙。

欲了解更多信息，请与本所您惯常联络的律师或下列律师联系。

本文的内容并非详尽无遗，旨在提供简要概述和一般资料，而不应用于替代法律建议或法律意见。中文译本仅供参考，如有歧义，请以英文原文为准。

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