

DNFBP REGISTRATION IN THE BVI

Don't run out of time....

March 2022

LBC
LITTLE BAY CONSULTING



INTRODUCTION

On 13 August 2021, the Financial Investigation Agency (Amendment) Act, 2021 (the “**Amendment**”) came into force amending the Financial Investigation Agency Act 2003 (as amended) (the “**FIA Act**”). The Amendment introduced changes as to how the Financial Investigation Agency (the “**FIA**”) supervises Designated Non-Financial Businesses and Professions (“**DNFBPs**”) and Non-Profit Organisations (“**NPOs**”) which operate in the British Virgin Islands (the “**BVI**”). This guidance note focuses on the new obligations imposed on DNFBPs.

WHAT IS A DNFBP?

The following are classified as DNFBPs under the FIA Act:

- Legal practitioners, accountants and notaries public undertaking “relevant business” (as defined under Regulation 2 of the Anti-Money Laundering Regulations, 2008) which includes the following activities:
 - buying and selling of real estate;
 - managing of client money, securities or other assets;
 - management of bank, savings or securities accounts;
 - organisation of contributions for the creation, operation or management of companies; and
 - creation, operation or management of legal persons or arrangements, or buying and selling of business entities.
- Real estate agents undertaking relevant business i.e. engaging in a transaction with a client involving the buying and selling of real estate.
- Any person engaged with dealings in precious metals or stones when such transactions involves a payment made by cash, wire, cheque or other type of

KEY POINTS

DNFBPS

Lawyers, notaries public, accountants, real estate agents, jewellers and dealers in precious metal, precious stones, boats, vehicles and good valued over US\$15,000 are all classified as DNFBPs.

FILING DEADLINE

All DNFBPs must submit their application to the FIA by 31 May 2022. No extensions will be provided.

monetary instrument (“**Payments**”) of US\$15,000 or more (or equivalent amount in any other currency).

- Any person engaged in the business of buying and selling boats, vehicles, jewellery or other valued goods when such transactions involve accepting Payments of US\$15,000 or more (or equivalent amount in any other currency).

REGISTRATION OF DNFBS

Registration requirements for DNFBS came into force on 25 February 2022. The deadline for completing the registration process is 4.30pm on 31 May 2022. All DNFBS need to complete the registration process. The forms can be found on the FIA’s website (www.fiabvi.vg). The DNFBS must provide:

- Form A1: this form should be completed with details of the DNFBS.
- Form A1 supporting documents: as set out in the checklist on the Form A1; the DNFBS’s trade licence and certificate of incorporation (if applicable).
- Form(s) A1a: a form should be completed for each director, senior officer, persons holding a significant interest and persons holding a controlling interest (as defined in FIA guidance notes regarding the fit and proper test).
- Form A1a supporting documents: for each person who needs to complete the Form A1a they must provide a police certificate, proof of address, proof of ID and organisational chart; for directors and senior officers, resumes/CVs/bios, academic or other relevant qualifications; and for senior officers only, a job description.
- Completed checklists (as set out in the final pages of the Form A1 and Form A1a).

FIT AND PROPER TEST

Section 2 of the Form A1a sets out a fit and proper test which should be completed by each person submitting a Form A1a. The key words used in the fit and proper test are “honesty, integrity, reputation, competence and capacity”.

If the FIA determines that a person submitting a Form A1a is not fit and proper, it has the powers to require the DNFBS to remove such person within such period as the FIA determines (being not less than 14 days from date of notice). The FIA has the right to request a periodic report or declaration from the DNFBS regarding its compliance with any law relating to money laundering, terrorist financing or proliferation financing.

If a DNFBS is considered to be non-compliant with anti-money laundering, counter terrorist financing or proliferation financing legislation, the FIA may issue a directive confirming steps that need to be taken by the DNFBS to remedy matters and the timescale within which they must do so. If a person fails to comply with the directive then enforcement action may be taken by the FIA.

SUBMISSION OF APPLICATION

The forms and supporting documents should be submitted digitally by way of email to complianceunit@fiabvi.vg. The FIA will send an acknowledgement upon receipt of the documents and confirmation will be provided once the application is processed. If all documents are in order a registration certificate will be issued by the FIA.

KEY POINTS

REGISTRATION

All forms can be found on the FIA’s website (www.fiabvi.vg). Form A1 for the DNFBS and Form A1a for each director, senior officer, person holding a significant interest and person holding a controlling interest.

CHECKLISTS

The checklists at the end of each form provide a helpful summary of all the documents you need to submit with your application.

FIT AND PROPER TEST

This is a key part of the Form A1a. Each person completing a Form A1a must complete Section 2 which sets out the fit and proper test.

EMAIL SUBMISSION

All forms and supporting documents should be sent by email to the FIA, complianceunit@fiabvi.vg

Registration is only required once, however, if the DNFBP changes its name it is required to re-register with the FIA. A Form A2 should be completed if there is a change in address of the DNFBP. Any changes to the directors, senior officers and persons with significant or controlling interests in the DNFBP must be notified to the FIA via a Form A3.

FIA HELPLINE

The FIA has confirmed that if assistance is required completing the forms to contact them direct for assistance by email (complianceunit@fiabvi.vg) or by phone +1 284 852 3200.

Should you require any assistance with the DNFBP process, please do not hesitate to contact one of the Little Bay Consulting's Management Team.



Helen Janes
Managing Director

E: helen@littlebayconsulting.com

C: +1 284 340 0104



Sharon Mungall
Managing Director and General Counsel

E: sharon@littlebayconsulting.com

C: +1 284 340 6873