



TRUSTNET GROUP

for all your offshore needs

NEWS LETTER

MARCH 2004

TRUSTNET IS VOTED BEST OFFSHORE SERVICE PROVIDER IN SINGAPORE

We are delighted to be able start the New Year with great news. Euromoney magazine recently conducted a survey of private banks and TrustNet was voted the best provider of offshore services in Singapore. Participants were surveyed on a range of service areas and asked to nominate those service providers they regard as the best their field, and TrustNet came out on top. We would like to take this opportunity to thank all those that regard us so highly and continue to trust us with their business. We will do all we can to ensure the level of service you have come to expect is continued and improved upon where possible, and wish you all a highly successful and prosperous 2004.

In this newsletter we summarise recent legislative developments in some of the jurisdictions where TrustNet is located and feature the increasingly popular Samoan international company.

LEGISLATIVE DEVELOPMENTS

Recent months have seen a number of legislative enactments and amendments in jurisdictions where TrustNet is located. The following summary highlights those changes we believe are of importance to our clients. We have not provided exhaustive coverage of the contents of the legislation.

The British Virgin Islands

The Virgin Islands Special Trusts Act, 2003.

The Act became law in October 2003 but its provisions have yet to come into force. Trusts established under the Act will be known as VISTA trusts. The aim of the Act is to enable shareholders of BVI companies to establish trusts to hold the shares in those companies and disengage the trustee from management responsibilities. Those responsibilities will rest with the directors. The Act is designed to overcome a rule of English trust law which requires trustees to monitor the conduct of directors of underlying companies and intervene in the management of those companies where necessary. The VISTA trust will allow greater certainty for beneficial owners, directors and trustees alike and better cater for succession to corporate businesses.

The Trustee Amendment Act, 2003.

Several amendments to the BVI Trustee Act have been made and will shortly come into force. Some of the more significant amendments include:

- Provisions relating to the liabilities of trustees in their dealings with third parties. These provisions seek to overcome difficulties faced by trustees undertaking commercial dealings;

- A new set of conflict of laws rules applicable to trusts that in particular provide for a robust anti forced heir ship regime;
- A clear and comprehensive regime for purpose trusts;
- Provisions relating to charities flee clauses, the payment of trust duty and the amendment of trust instruments.

These amendments to BVI trust law are designed to make the BVI a more attractive trust jurisdiction and reflect its desire to address and meet the needs of its international clientele.

Hong Kong

In February 2004 the Hong Kong Companies (Amendment) Ordinance 2003 came into force. The amendments introduced affect a broad range of corporate matters from incorporation to winding up and aim to make Hong Kong companies easier to establish and administer and therefore more attractive to domestic and international users. Features of the Amendment include:

- A Hong Kong company can be formed with just one member;
- A director can be removed by ordinary resolution;
- A private company can have only one director;
- Where a company has only one member who is also the sole director, a reserve director can be nominated to act in place of the sole director in the event of death;
- A sole director can not also be the company secretary;
- “Shadow directors” are defined as being persons upon whose directions the directors, or a majority thereof, are accustomed to act.

Cook Islands

The Financial Transactions Reporting (Customer Identification) Regulations 2004 were promulgated in February. These regulations establish the customer identification and verification required by financial institutions when establishing business relationships and accounts or conducting transactions. The Regulations are another step in keeping the Cook Islands up to date with the latest anti money laundering good practice and having the Cook Islands removed from the FATF list of Non Cooperative Countries and Territories.

SAMOA INTERNATIONAL COMPANIES

Samoan international companies offer all of the features and convenience that you would expect of a modern corporate entity and more. The use of and confidence in Samoan international companies has increased over the past decade as practitioners and their clients alike have come to appreciate the advantages that a Samoan international company provides over some of the more traditional offshore corporate jurisdictions. The following highlights why Samoa is becoming the offshore corporate jurisdiction of choice.

THE JURISDICTION

The Samoan offshore jurisdiction is nearly 20 years old and is now regarded as a mature offshore financial centre. Samoa has a Common Law background, a Westminster style parliament and a Court of Appeal made up of New Zealand judges. It has been an independent nation since 1962 with a sovereign and independent legislature that is able to make its own laws. Political stability has existed throughout the years of independence. Samoa is not on any of the lists published by the FATF and OECD meaning it is accepted by the international banking community and bank and investment accounts can be readily opened throughout the world by Samoan international companies.

ADMINISTRATION

- Greater choice of company names;
- Comprehensive confidentiality provisions;
- Government registration charge of USD300 irrespective of the amount of authorised capital;

- Annual Renewal is due 30 November each year commencing in the year following registration. It is therefore possible to get nearly two years registration for the price of one.
- Names in Chinese characters may form part of the company's name and appear on the Certificate of Incorporation. Chinese character Memorandum and Articles of Association can also be filed with the Registrar;
- The presence of a Peoples Republic of China ("PRC") embassy in Samoa means corporate documents can be promptly legalised making Samoa international companies a very convenient vehicle for investments into the PRC;
- Samoa has an overlap of two working hours each day with Hong Kong and Singapore and is two hours behind Pacific time;
- Bearer warrants may be issued. These are similar in some respect to bearer shares but the holder of a bearer warrant is deemed not to be a member of the company.
- TrustNet's company kits include a copy of the memorandum and articles of association in Chinese characters.

STATUTORY FEATURES

In addition to the above; Samoan international companies can be incorporated within 24 hours, may have one director and one shareholder (neither of whom needs be resident), may have corporate directors and shareholders and are not required to file accounts, appoint an auditor or hold an AGM. The issued capital does not need to be paid up immediately. It can be issued either unpaid or paid up in full or to such amounts as the directors determine. Convenient reduction of capital procedures, straightforward liquidation and striking off procedures and provisions enabling efficient redomiciliation of companies to Samoa are all available.

If you require any further information on any matter raised in this Newsletter please do not hesitate to contact a TrustNet office.

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