

BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION



FIDUCIARY SERVICES SECTOR REPORT *(Maintenance of Transaction Records)*

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Foreword

The British Virgin Islands Financial Services Commission (“the Commission”) established the Onsite Compliance Inspection regime in 2002 for the specific purpose of conducting Inspections and reviews. The inspections and reviews are conducted with the aim of verifying the level of compliance as it relates to the AMLTF Code of Practice and other relevant legislation. This function is critical to ensuring that the British Virgin Islands continues to manage and mitigate risks appropriately and ultimately comply with international standards and maintain its standing as a leading international finance centre. Therefore, the Commission will continue ensure that onsite inspections are conducted at the level and frequency that allows it to meet its objectives and will proactively explore ways in which the process can be continuously improved.

The inspections conducted usually vary in scope based on the risks presented by a specific Licensee, a particular sector or the wider jurisdiction. However, whether themed, or full scope, each inspection conducted allows the Commission to identify deficiencies as it relates to an entity’s Compliance, and further understand and mitigate risks presented.

Additionally, the findings garnered at the end of each review allow each Licensee to identify deficiencies and apply appropriate remedial action to strengthen its Compliance.

For the benefit of the wider sector, and industry at large, the findings for the latest round of reviews within the Fiduciary sector have been collated and are presented throughout this 2021/2022 sector report. In 2020, the Commission issued a report on cumulative findings for inspections, which covered inspections conducted in 2019 and in 2021 issued a 2021/2021 report on the Investment Business Sector which focused on the AML areas, Risk Assessment, Enhanced Due Diligence and Updating of Customer Due Diligence. This report follows on from that and it is expected that reports covering compliance inspections undertaken will be published intermittently. Entities are encouraged to review the report, consider the key findings, and whether the recommendations outlined are applicable and require integration into their operations.

We are committed to ensuring that our Licensees comply with legislation, prudential standards and other best practice and that VI maintains its standing and reputation by complying with international standards. Further where licensees are found wanting, we are committed to taking proportionate and dissuasive sanctions.

Objective of Report

The objective of this report is to arrive at cumulative findings that allow the Commission to identify areas that present the highest level of risks. The identification of such areas would allow the Commission to assess the probability and potential impact of risks identified and apply appropriate and proportionate risk treatments. It would also allow the Commission to determine whether a wider, more in-depth look at the subject is required across the entire sector, other sectors or the entire financial services sector.

An assessment of the performance of Licensees within various sectors serve as a tool for identifying areas which would require heightened supervision techniques and monitoring. In addition, this assessment will establish a foundation through which future sector findings can be compared and contrasted. This would be done with a view to determining whether the sector is improving, worsening or remaining stagnant as it relates to compliance.

Furthermore, where there appear to be inherent gaps, it may point to the need for legislative changes, or issuance of appropriate guidance to the sector. The assessment would also serve to improve the Commission's general communication (FAQs, circulars, newsletters etc.) by focusing on the most pressing and complex issues.

Limitation of Work

The purpose of this report is to review and compile the findings of the 2021 and 2022 inspections conducted on Licensees licenced under the Banks and Trust Companies Act. And the Companies Management Act. Consequently, the Commission can draw conclusions on the level of compliance of these Licensees, and implications for the sector.

Scope and Methodology

The Compliance Inspection Unit (CIU), in accordance with its risk- based approach, selected ten (10) entities, nine (9) of which held Class I Trust Licences under the Banks and Trust Companies Act with the remaining entity holding a Company Management Licence¹ under the Company Management Act. Eight (8) of the ten (10) entities selected for review of this area were subject to thematic inspections while the remaining two (2) entities were subjected to full scope inspections. Table 1 provides a synopsis of the circumstances of each licensee that was inspected.

The Banks and Trust Companies Act allows for a licence to be obtained in the following categories:

- Class I trust licence, for the purpose of carrying on trust business and company management business²;

¹ Company Management License allows Virgin Islands companies to provide Registered Agent/Office Services for companies registered under the BVI Business Companies Act or International Business Companies Act.

² Class I and III licenses may also be restricted in terms of type of company management business it may undertake. However, this restriction would not apply to Class II trust licenses issued as Class III licenses. Also, the activities of Class I and Class III licenses can be limited to company management business within the Virgin Islands only.

- Class II trust licence, for the purpose of carrying on trust business only;
- Class III trust licence, for the purpose of carrying on company management business only;
- Class IV trust licence, for the purpose of carrying on trust business and company management business by family offices and other closely held groups. This licence type which is restricted to administering no more than 500 Virgin Islands companies and 50 trust, is required to have a physical presence in the Virgin Islands and shall not engage in introduced or third- party business;
- Class V trust licence, for the purposes of carrying on company management business only by family and other closely held groups. This licence type which is restricted to administering no more than 300 Virgin Islands companies, is required to have a physical presence in the Virgin Islands and shall not engage in any trust business; and
- Restricted Class II trust licence. Limited to undertaking trust business with trusts not exceeding 50, listed in a sworn undertaking. Also, a restricted Class II trust licence may be issued as a Class III licence in which case the scope of company management business to be undertaken would be limited to the provision of directors and officer, and nominee shareholder services, for Virgin Islands companies.

Table: 1 (Number of Clients and Approximate Value)

Licensees	Active Companies	Inactive Companies	Total Companies	Location of Business (Distribution)			Line of Business
				North America	EUC	IC	
Licensee #1	542	125	667	North America	9%	0%	Company Management
				South America	90%	0%	
Licensee #2	4,436	2,803	7,239	North America	32%	0%	Trustee Services
				Western Europe	30%	45%	Post Incorporation
				Hong Kong	8%	21%	BC Incorporations
				Asia	7%	19%	Shareholder/ Director Services
				Other	23%	16%	
Licensee #3	630	481	1,111	Eastern Europe	0%	99%	Trustee Services, Director/ Shareholder Services

							BC Incorporations
Licensee #4	2,552	860	3,412	Western Europe	5%	3%	Trustee Services
				Hong Kong	0%	80%	BC Incorporations
				Asia	0%	5%	Post Incorporation
				Other	95%	11%	
Licensee #5	10,432	7,910	18,342	North America	20%	15%	Trustee Services
				South America	5%	0%	Post Incorporation
				Western Europe	10%	21%	Director Services
				Eastern Europe	15%	0%	BC Incorporations
				Hong Kong	15%	9%	
				Asia	15%	15%	
				Other	20%	39%	
Licensee #6	4,722	3,708	8,430	North America	10%	0%	Trustee Services
				South America	10%	10%	Post Incorporation
				Western Europe	65%	0%	Director Services
				Easter Europe	10%	2%	BC Incorporation
Licensee #7	420	2,962	3,382	North America	20%	0%	Trustee Services
				Western Europe	50%	97%	Shareholder Services
				Other	19%	3%	BC & Post Incorporations
Licensee #8	2735	52	2787	South America	25%	7%	Trustee Services
				Western Europe	15%	11%	Director Shareholder Services
				Asia	11%	4%	Post Incorporation BC Incorporations
				Other	37%	74%	

Licensee # 9	11,515	82,472	93,987	Western Europe	30%	65%	Post Incorporation
				Hong Kong	20%	10%	Director Services
				North America	10%	0%	BC Incorporations
				South America	10%	0%	Shareholder Services
Licensee # 10	5,337	10,079	15,416	Central America & Carib.	21%	15%	Trustee Services
				South America	22%	7%	Post Incorporation
				Western Europe	21%	37%	BC Incorporation
				Asia	16%	29%	

To conduct the assessment, a pre-inspection questionnaire was disseminated to each Licensee requesting specific information and the provision of relevant policies and procedures. Subsequently, company files³ were requested and reviewed to determine the level of implementation of policies and procedures and ultimately the effectiveness of the Licensees as it relates to compliance with the requirements of Section 98 of the BVI Business Companies Act.

Only BVI Business Companies were selected for review and those samples included both End-User and Introduced Clients. The total client files sampled was three hundred and thirty-two (332). Two hundred and twelve (212) were End User Company Files and one hundred and twenty (120) were Introduced Company Files. The average number of companies reviewed per inspection was thirty-three (33).

³ All files sampled spanned the period 2017 to point of request.

Report Overview

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Ratings Applied

As a result of the thematic inspection conducted, a rating was applied to the section reviewed. The possible ratings were as follows:

Compliant- reflecting compliance with all legislative requirements without any significant deficiencies.

Largely Compliant- reflecting minor shortcoming with a majority of legislative requirements.

Partially Compliant- reflecting shortcomings with a majority of the legislation.

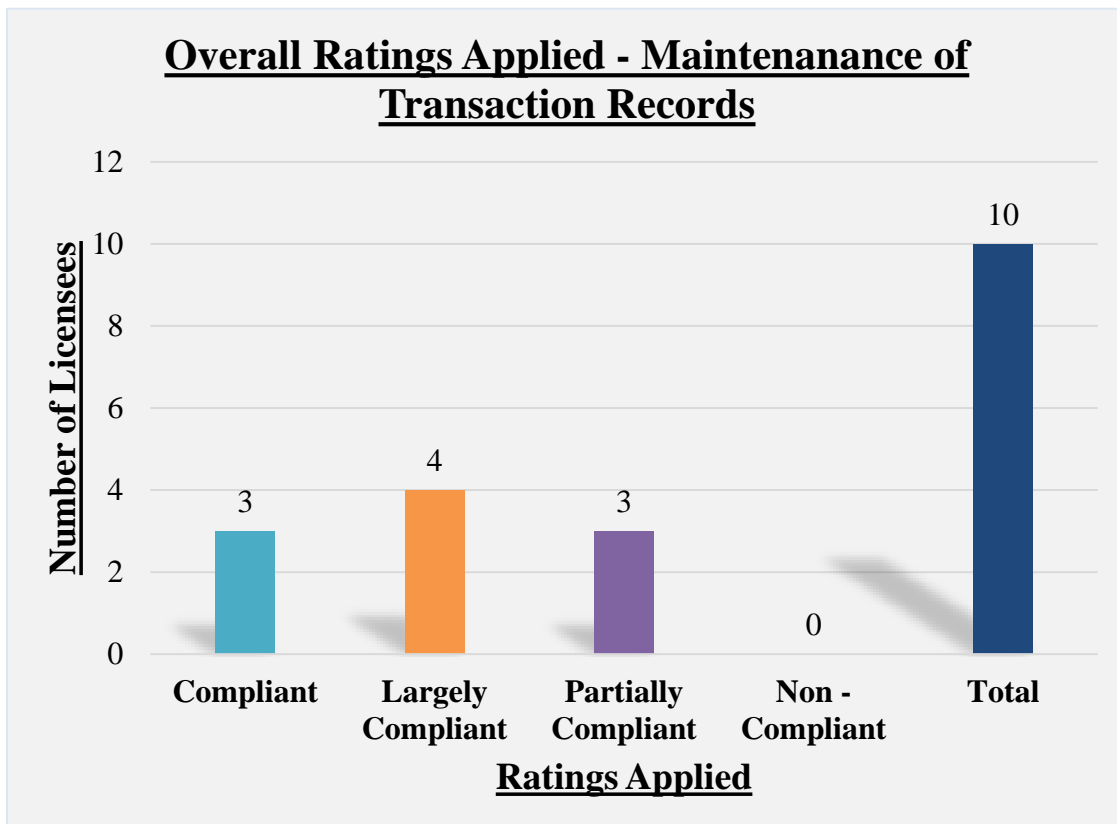
Non-compliant- reflecting severe shortcomings with a significant majority of the legislation.

⁴ All files sampled spanned the period 2017 to point of request.

1. Risk Appetite

- 1.1. The Commission as a matter of policy views ratings of Largely Compliant and above as within its risk appetite whilst ratings of Partially Compliant and Non- Compliant are viewed as outside of its risk appetite. Therefore, areas which fall outside of the Commission’s risk appetite would be subject to more stringent and intrusive action inclusive of potential enforcement action.
- 1.2. Of the Licensee reviewed in relation to transactions records, seven (7) were within the Commission’s risk appetite as they were able to attain a rating of Largely Compliant or above. Overall ratings are contained in Table 2 below.

Table 2: Area Reviewed and Ratings Applied



2. Cumulative findings of Compliance Inspections

- 2.1. There was a high level of compliance as it relates to section 98(5) of the BVI Business Companies Act. In this regard, 70% of the Licensees achieved a rating of Largely Compliant or Compliant, reflecting minor shortcomings with compliance with BVI Business Companies Act.

2.2. Section 98(2) and 98(3) of the BVI Business Companies Act were also reviewed to ascertain levels of compliance. However, ratings were not applied to these subsections as those functions are to be carried out by the company and not the Registered Agent.

3. Maintenance of Transaction Records

3.1. Mechanism utilised by Licensees

3.1.1. The Commission observed that the primary mechanism utilised by the majority of licensee’s for collecting information pertaining to Transaction Records was their Company Onboarding Application Form. If the records were to be maintained with the Registered Agent/Office, companies would indicate such on the Application Form.

3.1.2. If records were maintained at another location, the physical address of where the records were maintained and the name of the person maintaining the records would be provided. Secondary mechanisms utilized included: Transfer-In Forms, KYC Forms, Information Spreadsheets, Resolution of First Directors, Post Incorporation Forms, and Company Instruction Forms.

3.1.3. The Commission noted from a review of the ten (10) licensees that they all established and implemented a mechanism(s) to capture data pertaining to the maintenance of transactional records. Based on a review of the Company Files submitted (See Table 3), three hundred and nineteen (319) or (96%) of client files had on file at least one mechanism indicating where the transaction records were being held and maintained. Eleven (11) or (3%) of the company files did not contain any mechanism on file when reviewed by the Inspection Team.

Table 3 – Mechanism utilised by Licensee

Client File Review (332) Company Files	YES	NO	N/A	TOTAL
Mechanisms ⁵ utilized by licensee’s for identifying whether clients wish to maintain transaction records at the registered agent/office or at another location on file (Form	319 [96%]	11[3%]	2 [1%] ⁶	332 [100%]

3.2. Transactional Records held and maintained by the Registered Agent (RA)⁷

⁵ Company Application Form, Transfer-In Forms, Resolution of First Directors & Company Instruction Form.

⁶ Two (2) of the client files that did not hold a CIF were clients of the head office before being continued in the BVI. As the companies were already existing clients of Total Serve, they were not required to provide a new CIF.

⁷ Section 98(2) of the BVI Business Companies Act provide that records and underlying documentation of the company shall be in such form as (a) are sufficient to show and explain the company’s transactions; and (b) will, at any time, enable the financial position of the company to be determined with reasonable accuracy.

- 3.2.1. The Commission acknowledged that two (2) out of the ten (10) Licensees reviewed confirmed that they do not as matter of policy retain responsibility for the maintenance of transaction records. With regards to the remaining eight (8) Licensees that did retain responsibility for maintenance of transaction records, this was done a limited basis. Specifically, in only 10.5% (33 out of 332) of the files reviewed were the Licensees found to retain responsibility for the maintenance of transaction records.
- 3.2.2. The findings of the report showed that overall, Licensees that maintained transaction records for their companies were Partially Compliant with the requirements of Section 98(2) of the BC Act. Table 4 below includes details of rates of compliance:

Table 4 – Requirements of Section 98(2) of BC Act

Client File Review (33) Company Files	YES	NO	N/A	TOTAL
Mechanisms used to Collect information:	31[100%]	2 [0%]	0 [0%]	33[100%]
Do Transactional Records sufficiently show and explain the company’s transactions	23 [70%]	8 [24%]	2 ⁸ [6%]	33 [100%]
Do Transactional Records enable the financial position of the company to be determined with reasonable accuracy	23 [70%]	8 [24%]	2 [6%]	33[100%]

- 3.2.3. The reviews revealed that there were two (2) Licensees in which discrepancies in confirming the location where the transactional records were held and maintained were discovered. In both instances, the Licensees initially indicated on their Company Application Form that the companies were responsible for maintaining the transaction records. However, when the company files were reviewed by the Inspection Team, it was observed that the Licensees held responsibility for maintaining the transaction records. Due to this error transaction records were not held and maintained on file for four (4) company files.
- 3.2.4. The Commission further noted that several Licensees that indicated that they held Transactional Records on behalf of the companies at their Registered Office were initially uncertain as to what type of documents constituted Transaction Records, and hence

⁸ Given the nature of business activity for the two (2) companies which is to provide Nominee Shareholder Services, the companies were not assessed against the requirements of section 98(2) of the BC Act as files contained no information speaking to company’s transactions and financial position.

collected inadequate records based on the requirements of Section 98(7) (b)⁹. For example, Registered Agent/Office held Invoices for Company Incorporation Fees and other services provided by the Registered Agent. These documents do not speak to the Nature of Activities and transactions conducted by the company. Also, Licensees failed to collect all of the documents required to satisfy both the requirements of Section 98(2) (a) and (b).

3.3. Transactional Records held and maintained by the Company (Responsibility of the Company)¹⁰

3.3.1. The findings of the report revealed an overall average rating of Largely Compliant with the requirements of Section 98(3) of the BC Act.

3.3.2. Two hundred and forty- four (244) or (82%) out of two hundred and ninety-five (295) companies provided the Name of the Person who maintains and controls the records and underlying documentation.

3.3.3. Two hundred and seventy- four (274) or (93%) out of two hundred and ninety- five (295) companies provided the physical address of the place at which the records and underling documentation are being held. (See further details on statistics in Table 5 below).

3.3.4. For ten (10) Client files, no mechanism was found on file for collection of information on 1) the Name of the Person who maintains and controls the records and underlying documentation 2) the Physical Address of the Place at which the records and underlying documentation is maintained. Therefore, the deficiency here appears to be failure to complete and store records required as per established policies and procedures. Also, there was a failure to accurately or fully complete forms as per established policies and procedures.

Table 5 – Requirements of Section 98(3) of BC Act

Client File Review (297 Companies)	YES	NO	N/A	TOTAL
MECHANISM ON FILE	284[96%]	11 [3%]	2 ¹¹ [1%]	297 [100%]

⁹ “records and underlying documentation” includes accounts and records (such as invoices, contracts and similar documents) in relation to (i) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditures take place; (ii) all sales and purchases of goods by the company; and (iii) the assets and liabilities of the company.

¹⁰ Section 98(3) of the BVI Business Companies Act provides that where the records and underlying documentation of a company are kept at a place or places other than the office of the company’s registered agent, the company shall provide the registered agent with a written- (a) record of the physical address of the place at which the records and underlying documentation are kept; and (b) record of the name of the person who maintains and controls the company’s records and underlying documentation.

¹¹ 1 Struck-Off, 1 listed as a private investment company and has not been issuing purchase orders.

NAME OF PERSON (Section 98(3) of the BVI BC Act, 2004).	244 [82%]	51 [18%]	0 [0%]	295 [100%]
PHYSICAL ADDRESS OF THE PLACE (section 98(3) of the BVI BC Act, 2004).	274 [93%]	21 [7%]	0 [0%]	295 [100%]

3.4. Transactional Records held and maintained by the Client (Responsibility of Registered Agent)¹²

- 3.4.1. The Findings of the report reflected an overall rating of Partially Compliant with Section 98(5) specifically because of deficiencies identified with Section 98(5)(b).
- 3.4.2. Licensees were Largely Compliant with the requirements of Section 98(5)(a) of the BC Act as two hundred and sixty- three (263) or (98%) of two hundred and seventy (270) or (97%) Client Files provided the name of the company.
- 3.4.3. Licensees were Partially Compliant with the requirements of Section 98(5)(b) as one hundred and ninety (190) or (70%) out of two hundred and seventy (270) of client files provided the Address of the person who maintains and controls the records and underlying documentation. (See further details on statistics in Table 6below). This was found to be the area with the lowest rate of compliance among all areas assessed.
- 3.4.4. There were seven (7) client files where there was no application form on the company’s file to ascertain the name of company and the Address of the Person who currently holds the records as per 98(5)(a)(b) of the BVI BC Act 2004.
- 3.4.5. For twenty three (23) companies, the Licensees had indicated that their Eligible Introducer is the person that is holding the records.

Table 6 – Requirements of Section 98(5) of the BC Act

Client File Review (297 Companies)	YES	NO	TOTAL
NAME OF THE COMPANY (Section 98(5)(a) of the BVI BC Act, 2004)	304 [98%]	7 [2%]	297 [100%]

¹² Section 98(5) of the BVI Business Companies Act provides that the registered agent shall keep and maintain a record of the place or places outside the Virgin Islands at which the company keeps its records and underlying documentation and such record shall include- (a) name of the company and (b) the address of the person who maintains and controls the company’s records and underlying documentation.

THE ADDRESS OF THE PERSON (Section 98(5) (b) of the BVI BC Act, 2004).	242 [70%]	71 [26%]	297 [100%]
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3.5. (Testing) Transaction records maintained by clients outside of the BVI

3.5.1. The scope of the Testing included:

- Assessing the Licensee’s ability to obtain information from the named person who maintains and controls the company’s records and underlying documentation. The review in this regard would firstly examine the rate of response to requests made by the relevant Licensee.
- Verifying whether the individuals and the physical addresses listed on the Licensees’ mechanisms for collection of information (Client Questionnaire, Resolution of Directors, and Customer Due Diligence Form etc.) were consistent with the actual requests and responses provided as part of the testing.
- Determining whether the records provided were to be sufficient to meet the requirements of section 98(2) of the BC Act and provided within the prescribed deadline of 48 hours after request.

3.5.2. A total of Seventy-Seven (77) Client Files were requested by the Commission for testing from ten (10) Fiduciary Licensees. This sample was comprised of Thirty-nine (39) Introduced Clients and Thirty-eight (38) End-User Client Files.

3.5.3. The Inspection Team received transactional records for twenty one (21) or (54%) Introduced Companies and twenty-eight (28) or (74%) End-User Companies for a total of Forty-nine (49) Company Files. This reflects a response rate of 64%.

Table 7 – Testing of Transaction Records

Testing (77 Companies)	YES	NO	N/A	TOTAL
RECEIPT OF TRANSACTIONAL RECORDS	49 [64%]	28 [36%]	0 [0%]	77 [100%]
RESPONSE FROM PERSON AND ADDRESS ON RECORDS	63 [82%]	14 [18%]	0 [0%]	77 [100%]

RECORDS SHOW AND EXPLAIN COMPANY'S TRANSACTIONS	24 [49%]	25[51%]	0 [0%]	49 [100%]
RECORDS SHOW FINANCIAL POSITION OF THE COMPANY	26 [53%]	23[47%]	0 [0%]	49[100%]

3.6. Verification of person holding records and the Physical Address of transaction records

3.6.1. The Inspection Team was able to verify that for twenty-nine (29) out of the thirty-eight (38) or (76%) of End-User Company files tested, the person responsible for the maintenance of transaction records as well as the physical address of the records indicated on the Licensee's mechanism for initial collection of information was consistent with the individual and address detailed in response correspondence provided as part of testing.

3.6.2. Also, the Inspection Team was able to verify for thirty-four (34) out of the thirty-nine (39) or (87%) of Introduced Client files tested, that the person responsible for the maintenance of transaction records as well as the physical address of the records indicated on the Licensee's mechanism for initial collection of information was consistent with the individual and address detailed in response correspondence provided as part of testing.

3.7. Quality of Transaction Records received

3.7.1. It should be noted that for all ten (10) Licensees reviewed, responses to the Testing information requested was uploaded to the FTP Portal within a reasonable time frame of 48 hours. Examples of transaction records found on company files included but were not limited to Income Statements, Balance Sheets, Loan Agreements, and Loan Purchase Agreements. NAV Projects, Investment Proposals, Invoices Contracts, Business Plans etc.

3.7.2. The findings of the reports reflected that twenty-four (24) out of forty-nine (49) or (49%) of company files reviewed held information sufficient to show and explain the company's transactions and that twenty-six (26) out of forty-nine (49) or (53%) of company files reviewed enabled the financial position of the company to be determined with reasonable accuracy.

3.7.3. Below is a breakdown of circumstances surrounding instances where there was a failure to appropriately respond to the requests:

- No Transactional Records were submitted for seventeen (17) Client files as no business activities were currently being undertaken and therefore were considered dormant. Therefore, those files were N/A.

- No Transaction Records submitted for (5) companies when requested. No explanation or rationale was provided with respect to these companies.
- The transaction records for four (4) client files were inadequate to meet and satisfy the requirements of Section 98(2) BVI BC Act. These records focused on the Corporate Fees maintained by the companies such as (Invoices, Economic Subsistence Fees, Compliance Fees,) and not records relating to the nature of business activities and transactions.
- One (1) company did not submit any transaction records because there was an outbreak of covid-19 which made it difficult to get in contact with the client within the requested timeframe.
- Details of the nature of business was not provided for one (1) company. Hence, assessors were unable to determine if transaction records were adequate and was not assessed.
- Two (2) Licensees each had one (1) company where there were changes in respect to the address of records and the name of the person maintaining the records. Both Licensees established written policies in their respective Compliance Manuals which state that if there was a change to the address or person responsible for the controlling and maintaining of transaction records that the Registered Agent should be notified within a period of fourteen (14) days of the change. The Inspection Team noted that for these companies, no evidence was found on file that the Registered Agent was notified within fourteen (14) days of the changes as per the requirements of Section 98(4) of the BC Act.

3.8. Training and Internal Audit

- 3.8.1.** The Commission also conducted limited reviews in the areas of Training and Internal Audit, specifically as it relates to Transactions Records. Accordingly, ratings were not applied as relates to findings in these areas. Rather, they were reviewed with a view to understanding the level of importance placed of maintenance of transactions.
- 3.8.2.** It was evidenced through a review of the training registers for the ten (10) licensees, that maintenance of transaction records is not an area of significant priority with regards to their training programmes. Specifically, the Inspection Team noted that for six (6) of the ten (10) Licensees there was no evidence of training conducted for the area. Two (2) licensees generally outlined the requirements of section 98 in terms of the maintenance of records in its training and it covered the fact that the Registered Agent/Office is required to maintain a copy of the accounting records or location of accounting records. However, based on the training material submitted, the training did not go into detail about the Licensees' policies and procedures for maintaining transaction records and requirements under section 98 of the BC Act. For the other (2) licensees this area was not assessed.
- 3.8.3.** Seven (7) out of eight (8) licensees¹³ did not cover the maintenance of transaction records as an area of review in its Internal Audit.

¹³ This area was not assessed for two (2) Licensees.

3.8.4. One (1) licensee did however review the requirement and conducted sample testing of a few company files to verify where the transaction records are to be held. Specifically, a sample of ten (10) Client Files were selected for review. All ten Clients files reviewed included copies of Company Applications Forms or written resolutions of Directors at its office or maintained accounting records at the same location.

4. Remedial Action

4.1 Based on the findings, relevant Licensees were issued corrective actions requiring that they review of customer files to ascertain level of compliance, collect relevant records where reviews revealed deficiencies and provide periodic reporting on progress in correction of deficiencies up to an established date.

5. Enforcement Action

5.1 None of the Licensees that were reviewed as part of this exercise were subjected to enforcement action. However, three (3) Licensees that were rated as Partially Compliant received strongly worded letters.

6. Recommendations

6.1 Based on the findings presented from the Inspection reviews, it was noted that there were common deficiencies and trends amongst the Licensees within the sample. To ensure that the appropriate controls and mechanisms are utilised by Fiduciary Business Licensees, and other applicable sectors, the following general recommendations have been made¹⁴.

- **Recommendation 1** – All Licensees should review the requirements of Section 98 of the BC Act for further guidance on what type of documentation would satisfy the record keeping requirements for transaction records.
- **Recommendation 2** - Ensure that written controls, policies and procedures specifically addressing the Requirements of Section 98 of the BC Act are included in the Licensees' Compliance Procedures. These procedures should have regard to what documents would be sufficient to represent full transaction records. Licensees therefore can be guided by the Explanatory Notes to the AML Code relating to monitoring clients and transaction records.
- **Recommendation 3** – Annual training required under AML legislation and any other regulatory legislation, conducted by the Licensee should cover and include the Licensee's responsibilities for ensuring Compliance with the Requirements of Section 98 of the BC Act.

¹⁴ These are general recommendations and should be taken into consideration with the AMLTF Code of Practice and other relevant financial services legislation.

- **Recommendation 4** – Licensees should assess the effectiveness of their controls, policies and procedures. Therefore, maintenance of transaction records could be a target area in Internal Audits. Further, sample testing of client files should be a part of these Internal Audits in order to ensure that the requirements of relevant legislation are being met.
- **Recommendation 5** – Licensees should conduct a review of all its Client Files confirming that the physical address and person that controls and maintains the records for each company is accurate and up to date.
- **Recommendation 6** – Establish a File Review Checklist covering the requirements of Section 98 that would be completed by Compliance personnel after the Incorporation Form has been completed.

6.2. The areas covered in this report will continue to remain topics of focus and will be assessed in future inspections. Recommendations will also be taken into consideration as it relates to any guidance conducted by the Commission.

6.3. The Commission will be reviewing implementation of the recommendations on an ongoing basis using both desk-based and onsite mechanisms. Specifically, for the Fiduciary Business Sector, the Commission will write to each holder of a licence informing them of the need to comply and implement the above recommendations as the Commission will be taking steps to verify compliance.

