



Business, Corporate and Investor Services
商務、企業、投資者服務

Tricor Services Limited
卓佳專業商務有限公司

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A large, stylized image of the British Virgin Islands flag, which is blue with a white and red diagonal stripe and a central shield featuring a white figure holding a staff and a banner with the motto "VIGILANTE".

TECH news

British Virgin Islands ("BVI") Companies - Technical Update

This TechNews highlights the effect of the new BVI Business Companies Act ("BCA"), which will replace the International Business Companies Act and the existing local Companies Act in BVI on 1 January 2007, on companies incorporated under the International Business Companies Act ("IBCs"). Every existing IBC may either apply for voluntary re-registration as a business company under the BCA before the new cut-off date of 30 November 2006 as recently announced by the BVI government, or wait for the automatic re-registration to take place on 1 January 2007. Different actions are needed for IBCs with different corporate structures in order to fulfil the requirements of the BCA. Under the BCA, an IBC that has bearer shares in issue should consider to convert the bearer shares into registered shares or to appoint a custodian for bearer shares. The BCA also allows the appointment of a reserve director while there is no such provision under the International Business Companies Act.

New BVI Business Companies Act

In December 2004, the BVI government introduced a new Companies Act known as the "BVI Business Companies Act, 2004" (the "BCA 2004"), which came into effect on 1 January 2005 and will eventually replace the International Business Companies Act and the existing local Companies Act on 1 January 2007. The BCA 2004 was further fine-tuned by the BVI Business Companies (Amendment) Act, 2005, and is hereinafter referred to as the "BCA".

Effect of the BCA on International Business Companies ("IBCs")

VOLUNTARY RE-REGISTRATION AS A BUSINESS COMPANY UNDER THE BCA

Pursuant to the BCA and the subsequent amendment, an existing IBC may at any time during the period from 1 January 2005 to 30 November 2006 apply to the Registrar of Corporate Affairs (the "Registrar") in BVI to re-register as a business company under the BCA.

Originally the cut-off date for an IBC to voluntarily re-register under the BCA was 31 December 2006. In order to ensure



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that there are no pending applications for voluntary re-registration, the deadline has been brought forward to the end of November 2006.

Upon completion of the re-registration formalities, a certificate of re-registration will be issued to the IBC, and a unique company number will be allocated to it. There will be no fee payable to the Registrar on the application for re-registration and the certificate of re-registration will be issued free of charge.

AUTOMATIC RE-REGISTRATION

If, on 30 November 2006, an IBC has not made an application for voluntary re-registration, it shall be deemed to be automatically re-registered under the BCA on 1 January 2007. When a company is automatically re-registered in this manner, no certificate of re-registration will be issued unless the company applies for it and pays an appropriate fee.

Upon automatic re-registration of an IBC as a business company on 1 January 2007, Part IV of Schedule 2 to the BCA will apply to the company. As no new Memorandum and Articles of Association ("M&A") have then been adopted, the old M&A must be used in conjunction with the BCA.

CONVERSION OF BEARER SHARES INTO REGISTERED SHARES OR APPOINTMENT OF A CUSTODIAN FOR BEARER SHARES

An IBC incorporated prior to 1 January 2005 that has retained the power to issue bearer shares in its M&A ("Bearer Company") will have to pay a higher licence fee during the period from 1 January 2008 to 31 December 2010.

For example, for a Bearer Company which is re-registered automatically ("Automatic Re-registered Bearer Company") with an authorised capital not exceeding US\$50,000, the licence fee will be increased from US\$350 per annum to US\$600 per annum whereas for an Automatic Re-registered Bearer Company with an authorised capital exceeding US\$50,000, the licence fee will be increased from US\$1,100

per annum to US\$1,350 per annum, during the period from 1 January 2008 to 31 December 2010. As from 1 January 2011, the licence fee for an Automatic Re-registered Bearer Company will be US\$1,100 per annum.

In order to avoid paying a higher licence fee, an IBC which has issued bearer shares should consider to convert the bearer shares into registered shares and amend its M&A to prohibit the issue of bearer shares.

An Automatic Re-registered Bearer Company that has bearer shares in issue by 31 December 2010 will have to deposit the bearer shares with an authorised or a recognised custodian, exchange the shares for registered shares, or otherwise cancel or redeem the shares.

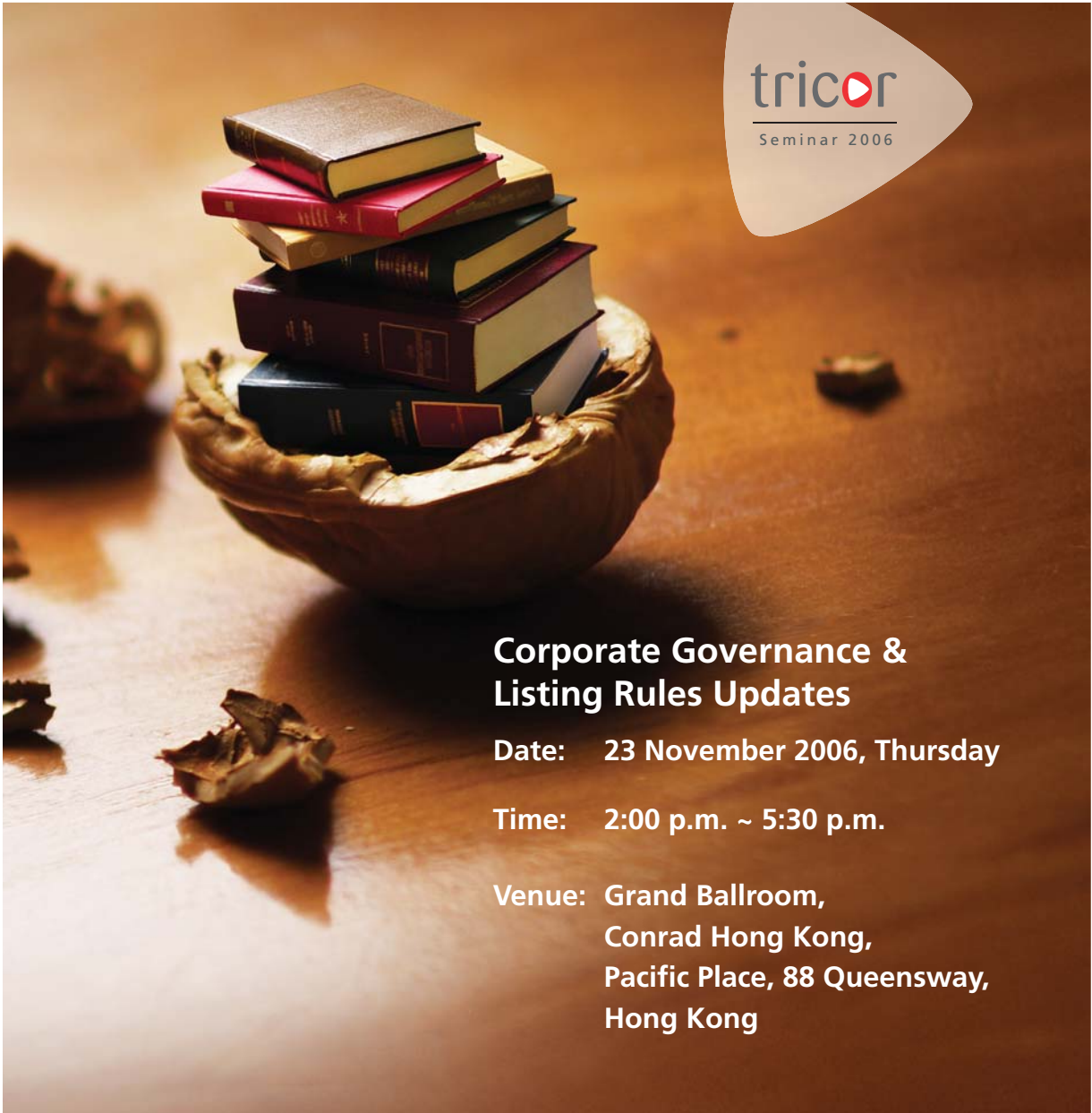
When depositing the bearer shares with the custodian, the full name(s) of the beneficial owner(s) of the shares will be disclosed to the custodian and to the registered agent.

APPOINTMENT OF A RESERVE DIRECTOR

Under s113(7) of the BCA, where a company has only one member who is an individual and that member is also the sole director of the company, that sole member/director may, by instrument in writing, nominate a person as a reserve director of the company to act in the place of the sole director in the event of his death.

While it is not mandatory for the sole member/director to nominate a reserve director, the advantage of doing so is that in the event of sudden decease of the sole member/director, the reserve director will immediately become the sole director of the company. This will prevent the company from facing a situation where it is left with no director, and no person having the power to appoint a new director for the company.

Should you need further information or clarification regarding the content of this TechNews, please do not hesitate to approach any of your Tricor contacts.



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Seminar 2006

Corporate Governance & Listing Rules Updates

Date: 23 November 2006, Thursday

Time: 2:00 p.m. ~ 5:30 p.m.

Venue: Grand Ballroom,
Conrad Hong Kong,
Pacific Place, 88 Queensway,
Hong Kong

After the seminar, please visit our seminar website at <http://www.tricolor.com.hk/2006seminar> for a full coverage of the seminar presentations. Thank you for your support and we look forward to seeing you at the next Tricolor event.

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Tricor, a member of the Bank of East Asia Group, is the leading professional provider of integrated business, corporate and investor services in Asia. Our services include Accounting, Company Formation, Corporate Governance & Company Secretarial, China & Offshore Consulting, Executive Search & Selection, Initial Public Offerings & Share Registration, Payroll, Fund and Trust Administration.

Tricor has built its reputation and professional expertise through the acquisition of certain practices from major international accounting firms in Hong Kong, Mainland China, Singapore, Thailand and the BVI.

Our mission is to be The Business Enabler of choice.

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