

## Regulatory regime for closed-ended funds in the BVI

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As part of BVI's continued commitment to remain at the forefront of international legislation and EU compliance, the BVI enacted the Securities and Investment Business (Amendment) Act, 2019 (the **Act**) and the accompanying Private Investment Funds Regulations, 2019 (the **PIF Regulations**). These came into force on 31 December 2019.

### Who does this new regime apply to?

A fund will come within the new definition of a 'private investment fund' provided it:

- collects and pools investor funds for the purpose of collective investment and diversification of portfolio risk, and
- issues fund interests, which entitle the holder to receive an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets

### Application criteria

To classify as a private investment fund, the following criteria must be satisfied:

- it must be lawfully incorporated, registered, formed or organised under the laws of the BVI or under the laws of a country outside the BVI
- the constitutional documents must specify that:
  - the fund is not authorised to have more than 50 investors
  - an invitation to subscribe for, or purchase, fund interests issued by the fund shall be made on a private basis only, or
  - the fund interests of the fund shall be issued only to professional investors with an initial investment of each professional investor, other than exempted investors, of not less than US\$100,000
- it must meet the criteria specified in the PIF regulations

### What this means in practice

In practice, this means that close-ended funds will need to seek recognition and obtain a licence from the BVI Financial Services Commission (the **FSC**) prior to operating as a private investment fund and comply with the following ongoing obligations:

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- have at least two directors (at least one of whom shall be an individual)
- have an 'appointed person' at all times responsible for undertaking:
  - the management of fund property
  - the valuation of fund property
  - the safekeeping of fund property
- have an authorised representative
- have its offering document or term sheet meet certain criteria set out in the PIF Regulations
- maintain a clear and comprehensive policy for the valuation of fund property (to be carried out by the 'appointed person')
- maintain financial records
- prepare and file audited financial statements with the FSC within six months of the financial year
- notify the FSC of specific matters set out in the PIF Regulations

## **Timeframe**

Existing close-ended funds have until 1 July 2020 to comply with the new regulations.

## **What's next**

We will be publishing a separate note on additional new regulatory amendments applicable to BVI funds shortly.

## **Contact us**

Please get in touch with the BVI Collas Crill team should you have any questions or require any assistance.