

Issue 2: Updates to the BVI fund and fund manager regime

February 2020

Regulatory updates to the BVI Fund and Fund Manager regime

In line with BVI's commitment to stay at the forefront of 'international legislation and EU compliance', the BVI enacted the Mutual Funds (Amendment) Regulations, 2019 (**MFR**) and Securities and Investment Business (Incubator and Approved Funds) (Amendment) Regulations, 2019. Both came into force on 31 December 2019.

Who does this new regime apply to?

The regulatory amendments apply to BVI funds and 'their advisors'.

Provisions come into force on 1 July 2020.

Key amendments and what these mean in practice

1. Valuation of fund property

All funds must:

- maintain a clear and comprehensive policy for the valuation of fund property with procedures that are sufficient to ensure that the valuation policy is effectively implemented
- ensure that its administrator or such other person having responsibility for the valuation of fund property, values fund property in accordance with the valuation policy
- ensure that the fund manager, or such person having responsibility for the fund's investment function is independent from the persons controlling the fund's valuation process or if this is not possible, identify, manage and monitor any potential conflicts of interest that may arise and disclose these to investors

The valuation policy and procedures must be:

- appropriate for the nature, size, complexity, structure and diversity of the fund and fund property
- be consistent with the provisions concerning valuation contained in its constitutional documents and offering document
- require valuation to be undertaken at least on an annual basis
- include procedures for preparing reports on the valuation of property properly

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- specify the mechanisms in place for disseminating valuation information and reports to investors

2. Safekeeping

Incubator and approved funds also require having arrangements in place for the safekeeping of fund property, which include provisions for the appropriate segregation of fund property.

3. Auditing requirements

MFR has also introduced auditing standards for fund's financial statements, namely required US GAAP, International Standards on Accounting (UK); International Standards on Auditing; Hong Kong Standards on Auditing; Canadian Auditing Standards; or such other recognised international auditing standard as may be approved by the FSC on a case by case basis.

Fund management Change

SIBA now requires a 'licensed fund manager' and a 'licensed private investment fund manager' to notify the BVI Commission within 21 days of commencing to act as an investment manager of a mutual fund or a private investment fund, or a fund with equivalent characteristics to a mutual fund or a private investment fund. Both came into force on 31 December 2019.

Timeframe

Existing entities have until 1 July 2020 to comply with the new regulations.

Applicable legislation

- Mutual Funds (Amendment) Regulations, 2019
- Securities and Investment Business (Incubator and Approved Funds) (Amendment) Regulations, 2019
- Fund Financial Guidelines
- Safekeeping Arrangements Guidelines
- Mutual Funds (Foreign Funds) Regulations, 2019
- Financial Services (Miscellaneous Exemptions) (Amendment) Regulations, 2019
- Securities and Investment Business (Incubator and Approved Funds) Regulations, 2015

Contact us

If you operate or manage an incubator or approved fund, please get in touch so that we can help you to ensure that you are complying with all the new requirements.