

VIRGIN ISLANDS
MUTUAL FUNDS (AMENDMENT) REGULATIONS, 2019
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VIRGIN ISLANDS

STATUTORY INSTRUMENT 2019 NO. 82

**SECURITIES AND INVESTMENT BUSINESS ACT, 2010
(No. 2 of 2010)**

Mutual Funds (Amendment) Regulations, 2019

[Gazetted 20th December, 2019]

The Cabinet, acting on the advice of the Financial Services Commission and in exercise of the powers conferred by section 62 of the Securities and Investment Business Act (No. 2 of 2010), makes these Regulations:

Citation and commencement.

1. (1) These Regulations may be cited as the Mutual Funds (Amendment) Regulations, 2019.

(2) These Regulations shall come into force on the date that the Securities and Investment Business (Amendment) Act, 2019 is brought into force.

Regulation 2 amended.

2. Regulation 2 of the Mutual Funds Regulations (hereinafter referred to as “the principal Regulations”) is amended by inserting after the definition of “Commission”, the following new definition:

“fund property”, in relation to a private or professional fund, means

- (a) where the fund is a BVI business company or a partnership, the assets of the fund; and
- (b) where the fund is a unit trust, the assets subject to the trust deed that constitutes the fund;”.

Regulation 4 amended.

3. Regulation 4 of the principal Regulations is amended in sub-regulation (2),

- (a) by deleting the “and” at the end of paragraph (e);
- (b) by deleting the full-stop at the end of paragraph (f) and replacing with the word “; and”; and
- (c) by inserting the following new paragraph after paragraph (f):

“(g) a copy of the fund’s valuation policy.”.

Regulation 9A inserted.

4. The principal Regulations are amended by inserting immediately after regulation 9, the following new regulation:

“Valuation of fund property.

9A. (1) A private or professional fund shall 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.

(2) A private or professional fund shall 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.

(3) The valuation policy and procedures of a private or professional fund shall

- (a) be appropriate for the nature, size, complexity, structure and diversity of the fund and fund property;
- (b) be consistent with the provisions concerning valuation contained in its constitutional documents and offering document;
- (c) require valuations to be undertaken at least on an annual basis;
- (d) include procedures for preparing reports on the valuation of fund property; and
- (e) specify the mechanisms in place for disseminating valuation information and reports to investors.

(4) Subject to sub-regulation (5), a private or professional fund shall ensure that the fund’s manager, or such other person having responsibility for the investment function, is independent from the fund’s administrator, or such other person having responsibility for the valuation process.

(5) Where a private or professional fund determines that the fund’s manager, or such other person having responsibility for the investment function, must be the same as the administrator or such other person having responsibility for the valuation of fund property, the private or professional fund shall

- (a) identify, manage and monitor any potential conflicts of interest that may arise; and
- (b) disclose to investors in the fund
 - (i) that the fund’s manager or such other person having responsibility for the investment function is the same as the fund’s administrator or such other person having responsibility for the valuation function; and
 - (ii) details of how any potential conflicts of interest will be managed.”.

Regulation 10 amended.

5. Regulation 10 is amended in sub-regulation (3) by revoking paragraph (a) and substituting the following new paragraph:

- “(a) audit the fund’s financial statements and prepare his or her report in accordance with
- (i) US Generally Accepted Auditing Standards;
 - (ii) International Standards on Auditing (UK);
 - (iii) International Standards on Auditing;
 - (iv) Hong Kong Standards on Auditing;
 - (v) Canadian Auditing Standards; or
 - (vi) such other recognised international auditing standards as may be approved by the Commission on a case by case basis;”.

Regulation 11 inserted.

6. Regulation 11 of the principal Regulations is amended

- (a) in sub-regulation (1)
 - (i) by deleting the “and” at the end of paragraph (f);
 - (ii) by deleting the full-stop at the end of paragraph (g) and replacing with the word “; and”; and
 - (iii) by inserting the following new paragraph after paragraph (g):

“(h) any amendment to the fund’s valuation policy.”; and

(b) in sub-regulation (2), by revoking paragraph (c) and substituting the following new paragraph:

“(c) in the case of a notice provided in accordance with sub-regulation (1) (e), (f), (g) or (h), no more than 14 days after the occurrence of the matter in respect of which notice is given.”.

Regulation 17 amended.

7. Regulation 17 of the principal Regulations is amended in sub-regulation (2) by revoking paragraph (a) and substituting the following new paragraph:

“(a) audit the fund’s financial statements and prepare his or her report in accordance with

(i) US Generally Accepted Auditing Standards;

(ii) International Standards on Auditing (UK);

(iii) International Standards on Auditing;

(iv) Hong Kong Standards on Auditing;

(v) Canadian Auditing Standards; or

(vi) such other recognised international auditing standards as may be approved by the Commission on a case by case basis;”.

Schedule amended.

8. The Schedule to the principal Regulations is amended

(a) in paragraph 1

(i) by deleting the word “and” at the end of the definition of “former Act”;

(ii) by deleting the full-stop at the end of the definition of “second transition date” and replacing with the word, “; and”; and

(iii) by inserting, after the definition of “second transition date”, the following new definition:

““transitioning mutual fund” means a person who, immediately prior to the coming into force of these Regulations (“the Mutual Funds (Amendment) Regulations, 2019”), was recognised as a private or professional fund or registered as a public fund under the Act.”; and

(b) by adding after paragraph 7, the following new paragraph:

“Mutual Funds (Amendment) Regulations, 2019

8. The provisions of the Mutual Funds (Amendment) Regulations, 2019 shall take effect in relation to a transitioning mutual fund on 1st July 2020.”.

Made by Cabinet this 20th day of December, 2019.

(Sgd.) Vicki Samuel- Lettosome,
Acting Cabinet Secretary.