

Continuing obligations for private investment funds

As a recognised fund, your private investment fund (**PIF**) is regulated by the British Virgin Islands (**BVI**) Financial Services Commission (the **FSC**). This note provides a quick reference to your PIF’s ongoing BVI obligations.

PIFs are recognised under the Securities and Investment Business Act, Revised Edition and are subject to the Private Investment Fund Regulations, Revised Edition 2020.

The board and officers

A PIF must:

- At all times have at least two directors, at least one of whom must be an individual
- Appoint an appropriately qualified and independent individual as Money Laundering Reporting Officer (**MLRO**) for the fund who may, in practice, be a person provided by one of the functionaries to the fund (see below for more detail on anti-money laundering obligations), or otherwise outsourced
- Appoint a Foreign Account Tax Compliance Act (**FATCA**) Responsible Officer and a principal point of contact for the BVI International Tax Authority (**ITA**)(see below for more detail on obligations under FATCA and CRS)
- Have an “appointed person” designated as having responsibility for undertaking each of (i) the management of fund property; (ii) the valuation of fund property; and (iii) the safekeeping of fund property (including the segregation of fund property)

Appointed person	Requirement
Management	A PIF must at all times have a person appointed as responsible for the management of fund property. This may be an investment manager but does not have to be
Valuation	A PIF must at all times have a person appointed as responsible for the valuation of fund property. The valuation “appointed person” should be independent to the management “appointed person” or, where the appropriate person is not independent, the PIF must disclose this to investors, and maintain a suitable policy to manage potential conflicts of interest
Safekeeping	A PIF must at all times have a person appointed as responsible for the safekeeping of fund assets, including the segregation of fund assets

Service provider	Requirement	Is an exemption available?
Auditor	A PIF is not strictly required to be able to demonstrate that it has an auditor appointed at all times, however it is required to file audited financial statements within six months of each financial year end	Yes, in certain circumstances, an application to the FSC may be made prior to the date on which the audited financial statements are due to be filed (see below)
Authorised Representative	A PIF must have an FSC licenced authorised representative (Authorised Representative) to act as a point of contact between the fund and the FSC.	No exemption is available

Notice requirements

On the happening of certain events, a PIF is required to notify the FSC. The table below summarises these notification requirements and the timeframe for providing notice.

Event triggering an obligation to notify the FSC	Time frame
The appointment of an “appointed person” (whether in respect of management, valuation or safekeeping of fund property)	Not less than 7 days prior to the date of appointment
An appointed person ceasing to act (notice must include a statement of the reasons for such appointed person ceasing to act)	Within 7 days
The appointment of a director	Within 14 days
A director ceasing to hold office (for whatever reason)	Within 14 days
The appointment of an Authorised Representative	Within 14 days
An Authorised Representative ceasing to hold office (for whatever reason)	Within 14 days
The appointment of an auditor	Within 14 days
An auditor ceasing to hold office (for whatever reason)	Within 14 days
Any change in the address of the fund’s place of business, whether in or outside the BVI	Within 14 days
Any amendment to its constitutional documents	Within 14 days
The issuance of any offering document not previously provided to the FSC	Within 14 days
The amendment of any offering document previously provided to the FSC	Within 14 days

Annual regulatory and government requirements

There are various reporting and payment deadlines for a PIF throughout the year.

Due by date	Action
31 March	Pay recognition fee of US\$1,200 to the FSC. Failure to pay may attract administrative penalties and/or other enforcement action
30 April	For funds that are limited partnerships, pay the Registrar of Corporate Affairs (together with the Registrar of Limited Partnerships, the Registry) licence fee of US\$750
31 May	FATCA reporting deadline and Common Reporting Standard (CRS) reporting deadline
1 June	Pay annual enrolment fee of US\$185 to the ITA through the ITA's online portal
31 May	For funds that are companies incorporated from 1 January to 30 June, pay the Registry licence fee*
By the date six months after the end of its financial year (30 June assuming financial year end is 31 December)	Provide a copy of the fund's audited financial statements to the FSC. An extension of up to nine (9) months or 15 months in exceptional circumstances may be requested. Any application for an exemption from the requirement for the financial statements to be audited must be submitted in advance of the date on which the filing is due Submit (via the BVI registered agent) an economic substance return to the ITA (this will confirm that the fund does not carry on any "relevant activity" in the BVI)
30 September	CRS additional information form filing deadline
30 November	For funds that are companies incorporated from 1 July to 31 December, pay the Registry licence fee*

*US\$550 for companies authorised to issue up to 50,000 shares and US\$1,350 for companies authorised to issue more than 50,000 shares.

Fund policies and arrangements

A PIF is required to maintain a valuation policy setting out the applicable procedures for the valuation of fund property, the preparation of reports on the valuation and setting out the mechanisms for sharing valuation information with investors (**Valuation Policy**). A PIF must ensure that the person appointed as its valuation "appointed person" values fund property in accordance with the valuation policy.

A PIF should also have a safekeeping policy and adequate arrangements in place for the safekeeping of fund property (**Safekeeping Policy**).

On an annual basis, a PIF should review its Valuation Policy and Safekeeping Policy to ensure compliance with BVI legislation.

Maintenance of records and financial statements

A PIF must maintain records that are sufficient to show and explain its transactions, to enable its financial position to be determined with reasonable accuracy at any time, to enable it to prepare financial statements and make returns and, if applicable, to enable its financial statements to be audited.

A PIF must prepare financial statements for each financial year that comply with:

- The International Financial Reporting Standards, promulgated by the International Accounting Standards Board
- UK generally accepted accounting principles (**GAAP**)
- US GAAP
- Canadian GAAP; or

- Internationally recognised and generally accepted accounting standards equivalent to the accounting standards referred to above

Anti-money laundering obligations

The BVI anti-money laundering (**AML**) regime applies to all funds as they are classified as “relevant persons” under the Anti-Money Laundering Regulations, Revised Edition 2020. In addition to appointing an appropriately qualified and independent individual as MLRO (as mentioned above), a fund will be required to:

- Put in place investor on-boarding procedures which address typical “know your client” requirements.
- Put in place and maintain a written and effective system of internal controls which provides appropriate policies, processes and procedures for forestalling and preventing money laundering and countering the financing of terrorism (the **Manual**). The Manual should be reviewed annually to ensure compliance with AML regime in the BVI.
- Report suspicious transactions to the Financial Investigation Agency (**FIA**) in the BVI.
- Report the identity of its appointed MLRO to the FIA.

The BVI rules do provide for funds to outsource all and any of these obligations to functionaries based outside of the BVI, such as an administrator or investment manager. Any outsourcing must, however, be documented in writing.

Obligations under FATCA and CRS?

PIFs are required to register for a Global Intermediary Identification Number (**GIIN**) with the US Internal Revenue Service. Funds are also required to enrol with the ITA. Enrolment for FATCA and CRS reporting is made through the ITA’s online portal, called the BVI “Financial Account Reporting System”. Funds must also pay an annual enrolment fee of US\$185 to the ITA through the ITA’s online portal.

PIFs will need to identify reportable accounts and start to report the necessary information to the ITA. The reporting deadline for FATCA and CRS is 31 May.

The information that must be reported under FATCA and CRS is broadly similar and includes: the name, date of birth, tax identification number (for Specified US Persons where available); National Insurance Number (for Specified UK Persons, where available); jurisdiction of residence (for reportable persons under CRS only); the account number; name and GIIN of the reporting financial institution; and the account balance (some minimums apply under FATCA).

A CRS additional information form must also be filed via the ITA’s online portal by 30 September.

Beneficial ownership regime

The BVI Business Companies (Amendment) Act 2024 and the BVI Business Companies and Limited Partnerships (Beneficial Ownership) Regulations 2024 introduced a requirement for BVI business companies and limited partnerships to file beneficial ownership information with the Registry via the Registry’s online filing system “VIRRGIN”.

PIFs are exempt from the requirement to file beneficial ownership information with the Registry, provided that the fund’s beneficial ownership information can be provided to the Registrar within 24 hours of request by the fund’s Authorised Representative (or another person licensed by the FSC that has a physical presence in the BVI).

Where a PIF qualifies for the exemption, its BVI registered agent must still submit an exemption filing on behalf of the fund via the Registry’s online filing system “VIRRGIN”.



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