



## WHAT'S NEW IN SIBA?

Legislative changes to the Securities and Investment Business Act (SIBA) and the Collect Investment Funds Regime



The most recent amendments to the Securities and Investment Business Act ("SIBA") effect a series of reforms with an aim to further strengthen the regulatory regime for collective investment schemes and allow for appropriate investor protection and certainty.

The amendments were developed through consultation with the Securities, Investments Business and Mutual Funds Advisory Committee. The Committee's primary role is to provide advice and input on matters relevant to SIBA.

### THE AMENDMENTS:

1. Expand the scope of the Act to include the supervision of all types of collective investment funds by introducing a new supervisory regime for private investment funds, which are commonly referred to as closed ended funds and used as private equity vehicles.
2. Establish the requirement for private investment funds to be recognized by the Commission and the criteria to be satisfied in order for the Commission to grant recognition. It defines a private investment fund, which is similar to a mutual fund, except that a right to redemption is not available to its investors.

3. Require private investment funds to appoint authorized representatives to act as liaison between the Commission and each fund (a provision that currently exists with respect to all entities subject to the requirements of SIBA).

4. Provide for further requirements relating to private investment funds to be imposed via Private Investment Funds Regulations, which establish an administrative framework for the operation and supervision of private investment funds. The framework is similar to the framework currently in place for mutual funds.

## **AMENDMENTS TO EXISTING MUTUAL FUNDS REQUIREMENTS**

The regime for collective investment funds in the Territory has been revised to streamline the regulation and supervision of existing mutual funds. Specifically, new regulations were developed which:

1. Address the supervision of recognized foreign funds which solidify the existing framework and provides clarity on ongoing requirements for a foreign fund.

2. Require mutual funds to have an appropriate valuation policy in place.

3. Provides clarification on the required auditing standards that must be used when producing audited financial statements.

Incubator and Approved funds are now required to ensure that there are adequate and appropriate safe keeping arrangements in place for the fund's assets/property.

## **AMENDMENTS TO EXISTING REGIME FOR FUND MANAGERS**

Persons who are onboarding to undertake management funds for new fund entities are now required to provide notifications to the Commission at the time of their onboarding.

## **TRANSITIONAL PROVISIONS**

The Amendment Act and Regulations propose transitional periods, where relevant, until 1 July 2020 to allow private investment funds and existing foreign, private and professional, incubator and approved funds to prepare for and comply with the new requirements. Existing private investment funds must have filed a completed application or must be approved no later than 30 June 2020 or they will be in breach of the legislation. All mutual funds are required to implement the changes by 30 June 2020. There is no requirement to notify the Commission that changes are implemented but the Commission may employ compliance measures/ tools to ascertain/ confirm full compliance.

To view the full text of the [Amendment Act](#) and for all of our legislation, visit the legislation library on the FSC's website.



## **SIGNIFICANT AMENDMENTS TO THE REGULATORY CODE**

The Regulatory (Amendment) Code, 2019 (the “Amendment Code”) came into force in November 2019. The Amendment Code introduced changes to the Regulatory Code, which build upon existing requirements and practices.

All entities seeking a licence under any Regulatory Legislation will be assessed against the requirements contained within the Amendment Code. Existing licensees (i.e. entities holding a licence prior to 13 November 2019) have until 1 July, 2020, to comply with the new requirements.

Key features of the Amendment Code relate to:

- Staff Training and Development;
- Corporate Governance Framework;
- Terms of Business;
- Advertising and Communication Practices;
- Directors of BVI Licensees;
- Expansion of Responsibilities to a Licensee’s Board;
- Internal Audit;
- Register of Compliance Breaches and Compliance Officer Reports;
- Accounting and Audit Standards;
- Complaints Handling;
- Professional Indemnity Requirements; and
- Guidance Notes on the Fit and Proper Test

Special notes in relation to Compliance Reports:

- 2019 annual compliance reports for existing licensees must be submitted by 1st October, 2020. The Commission encourages existing licensees to submit 2019 reports in accordance with new requirements under s. 48.
- 2020 annual compliance reports for all licensees must be submitted by 31 March, 2021 and must contain new information required under section 48.

Click to view the [Regulatory \(Amendment\) Code, 2019](#)

## **BVI PARTICIPATES IN 2019 GIFCS ASSESSMENT**



As a long standing member of the Group of International Financial Centre Supervisors (GIFCS), the Commission recently participated in a peer review based on standards adopted and developed by GIFCS for the regulation and supervision of Trust and Company Service Providers (TCSPs).

The peer review/ evaluation was conducted in the BVI from 11 – 15 November, 2019, by four assessors from within the GIFCS member jurisdictions. As part of the evaluation, the assessor conducted interviews, with TCSPs, industry associations and other Competent Authorities.

The evaluation provided for the review of laws, policies and systems. The Commission was pleased with the support and cooperation of the TCSPs which were interviewed by the assessors.

The next step in the evaluation process will be receipt of the draft assessment report which is expected in Quarter 1 of 2020. The BVI will be invited to review and comment on the draft report prior to its finalization and official issue.

To learn more, please visit the [GIFCS](#) website.



## SENIOR MANAGEMENT APPOINTMENTS



Mr. Brodrick Penn rejoined the Commission effective 19 August 2019 in the role of Director, Enforcement after a secondment with the Government of the Virgin Islands (U.K.) as Permanent Secretary in the Office of the Premier. Mr. Penn also previously served as the Commission's Director, Investment Business. In his new role, Mr. Penn is responsible for determining the strategic direction of the Commission's Enforcement Division. He is also tasked with coordinating the monitoring and surveillance of financial services activity in and from within the Territory. Additionally Mr. Penn's role includes the development and maintenance of mechanisms for the effective policing of the perimeter of regulated financial services activity. Mr. Penn holds a Bachelor of Science Degree in Finance and an LLM/Master of Law Degree with concentrations in AML, Compliance and Tax Planning.



Mr. Shane Baptiste was appointed as Deputy Director, Enforcement effective April 2019. Mr. Baptiste offers more than 14 years of Financial Services experience; has acquired a Bachelor of Arts in Accounting; and is a Member of the Anti-Money Laundering and Financial Crimes Institute, USA and BVI Association of Insolvency Practitioners. Mr. Baptiste also attained professional certifications in Anti-Money Laundering & Financial Crimes Prevention Professional (CAMLFC); and is a Caribbean Financial Action Task Force (CFATF) Trained Assessor.

In his role as Deputy Director, Mr. Baptiste is responsible for the organization and execution of investigations into referrals and complaints against regulated and non-regulated entities and other enquiries.

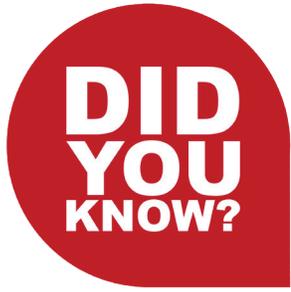


With over 11 years of financial services experience, Ms. M. Alva McCall's focus in her role as Deputy Director, AML/CFT is on developing and implementing the Commission's anti-money laundering and counter terrorist financing supervisory strategy. Ms. McCall is also tasked with the coordination of the Commission's action plan from the National Risk Assessment exercise. Ms. McCall resumed her employment with the Commission effective 23 September 2019, following a three-year secondment to the Government of the Virgin Islands (U.K.), in her role as Deputy Financial Secretary, Ministry of Finance. Ms. McCall holds a Master's degree in Business Administration with a concentration in Finance from Wright State University. She also attained a Bachelor of Science degree, with distinction, from Virginia State University.



Ms. Trecia Dawson was appointed as the Commission's Deputy Director, Training and Development with effect from 2 September, 2019. Ms. Dawson's responsibilities include the expansion and implementation of professional development programs for all employees of the Commission.

Ms. Dawson holds a Bachelor of Arts degree in Business Administration with Computer Applications, A Master of Business Administration and a graduate certificate in the Foundation of Human Resource Management.



All company names reserved during the period 16 December, 2019 to 31 January, 2020 will remain reserved until 15 February, 2020 .

Please direct any enquiries regarding this change to the Registry of Corporate Affairs via email to [support@bvifsc.vg](mailto:support@bvifsc.vg)

## FOR YOUR CALENDAR



- TCSPs deadline for filing Prudential and Statistical Returns
- Payment of annual licence fees for TCSPs, Money Services and Company Managers