

UPDATE

Scope of the Cayman Islands Private Funds Law expanded

The scope of the Private Funds Law, 2020, which introduced fundamental changes to the regulation of Cayman Islands closed-ended funds earlier this year, has been expanded by the Private Funds (Amendment) Law, 2020.

Introduction

The Private Funds Law, 2020 (the **Law**) came into force in the Cayman Islands in February 2020, introducing regulation for Cayman Islands private funds. On 7 July 2020, the Cayman Islands Government enacted the Private Funds (Amendment) Law, 2020 (the **Amendment Law**), which widens the definition of 'private fund' and is now likely to scope in AIVs, single investment structures and certain master fund arrangements. The Amendment Law also introduces other minor changes to enhance the Law.

By way of background, the Private Funds Law, 2020 requires closed-ended Cayman Islands fund vehicles to apply for registration with the Cayman Islands Monetary Authority (**CIMA**) within 21 days of accepting capital commitments from investors. Such fund vehicles must be registered prior to accepting capital contributions from investors for the purposes of investments.

Changes to the definition of 'private fund'

The definition of '**private fund**' has been amended to cover any vehicle that offers or issues or has issued investment interests¹, the purpose or effect of which is the pooling of investor funds with the aim of enabling investors to receive profits or gains from the vehicle's investments, where (a) the investors do not have day-to-day control over those investments and (b) the investments are managed by or on behalf of the fund's operator. For details of the previous definition, please see our February update [here](#).

The definition of 'private fund' excludes certain '**non-fund arrangements**'. Those non-fund arrangements include pension funds, securitisation SPVs, joint ventures, proprietary vehicles, holding vehicles, individual investment management arrangements, debt issues and debt issuing vehicles, structured finance vehicles, sovereign wealth funds and single family offices.

Other changes introduced

Other minor changes introduced by the Amendment Law include:

- the requirement for conflicts of interest arising in relation to asset valuations, safekeeping of fund assets and cash monitoring to be managed and monitored; and
- the removal of the power of the Cabinet to exempt persons or businesses from the application of the Law.

¹ **Investment interest** means a share, LLC interest, trust unit or partnership interest that:

- (a) carries an entitlement to participate in the profits or gains of the vehicle; and
 - (b) is not redeemable or repurchasable at the option of the investor,
- but does not include debt or certain alternative financial instruments. The definition of **investor** also excludes promoters, operators and proprietary investors.

Timing

All new and existing private funds will need to comply with the Law by **7 August 2020**, or such further period as may be specified by CIMA. Please reach out to your usual Mourant contact or one of the contacts listed below as soon as possible for guidance on how we can assist with compliance within the tight deadline.

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