

## **VIRGIN ISLANDS**

### **SECURITIES AND INVESTMENT BUSINESS (INCUBATOR AND APPROVED FUNDS) (AMENDMENT) REGULATIONS, 2019**

#### **ARRANGEMENT OF REGULATIONS**

##### *Regulation*

- 1.** Citation and commencement
- 2.** Regulation 2 amended
- 3.** Regulation 4A inserted
- 4.** Regulation 7 amended
- 5.** Regulation 9 amended
- 6.** Regulation 20 inserted
- 7.** Schedule inserted

**VIRGIN ISLANDS**

**STATUTORY INSTRUMENT 2019 NO. 83**

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

**Securities and Investment Business (Incubator and Approved Funds) (Amendment)  
Regulations, 2019**

[Gazetted 20<sup>th</sup> December, 2019]

The Cabinet, acting on the advice of the Financial Services Commission and in exercise of the powers conferred by sections 40C and 62 of the Financial Services Commission Act (No. 12 of 2001) and section 62A 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 Securities and Investment Business (Incubator and Approved Funds) (Amendment) Regulations, 2019.

(2) Subject to sub-regulation (3), these Regulations shall come into force on the date that the Securities and Investment Business (Amendment) Act, 2019 is brought into force.

(3) Regulation 4 (which amends regulation 7) shall come into force on 1<sup>st</sup> day of April, 2020.

Regulation 2 amended.

**2.** Regulation 2 (1) of the Securities and Investment Business (Incubator and Approved Funds) Regulations, 2015 (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 an incubator fund or approved fund, means the assets of the fund;”.

Regulation 4A inserted.

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

“Valuation of fund property.

**4A.** (1) An incubator fund and approved 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) An approved fund and incubator fund shall ensure that fund property is valued in accordance with the valuation policy.

(3) The valuation policy and procedures of an incubator fund and approved 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 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), an incubator fund and approved fund shall ensure that the persons controlling the fund's investment function, are independent from the persons controlling the fund's the valuation process.

(5) Where an incubator fund or approved fund determines that the person responsible for the fund's investment function must have an involvement in the valuation of fund property, the incubator fund or approved 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 person responsible for the fund's investment function has an involvement in the valuation of fund property; and
  - (ii) details of how any potential conflicts of interest will be managed.”.

Regulation 7 amended.

**4.** Regulation 7 of the principal Regulations is amended in subsection (3) by inserting after the word “unpaid”, the words “, up to a maximum of \$2,000”.

Regulation 9 amended.

**5.** Regulation 9 of the principal Regulations is amended in sub-regulation (1)

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

“(c) have arrangements in place for the safekeeping of fund property, which include provisions for the appropriate segregation of fund property.”.

Regulation 20 inserted.

**6.** The principal Regulations are amended, by inserting after regulation 19, the following new regulation:

“Transitional provisions.

**20.** The transitional provisions specified in the Schedule shall have effect.”

Schedule inserted.

**7.** The principal Regulations are amended by inserting after the inserted regulation 20, the following Schedule:

**“SCHEDULE**

[Regulation 20]

**Interpretation**

**1.** In this Schedule “existing incubator fund or approved fund” means a mutual fund that, immediately prior to the coming into force of these Regulations (“Securities and Investment Business (Incubator and Approved Funds) (Amendment) Regulations, 2019), was an incubator fund or approved fund.

**Effective Date**

**2.** Subject to paragraph 3, the provisions of the Mutual Funds (Amendment) Regulations, 2019 shall take effect in relation to an existing incubator fund or approved fund on 1<sup>st</sup> July 2020.

**Penalty Fees**

**3.** The maximum penalty amount prescribed in regulation 4 of these Regulations shall in relation to an existing incubator fund or approved fund, apply with effect from 1<sup>st</sup> April 2020.”

Made by Cabinet this 20<sup>th</sup> day of December , 2019.

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