



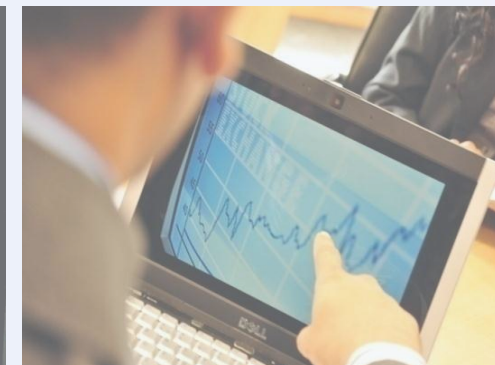
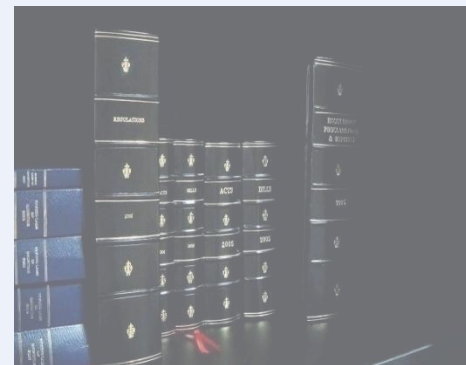
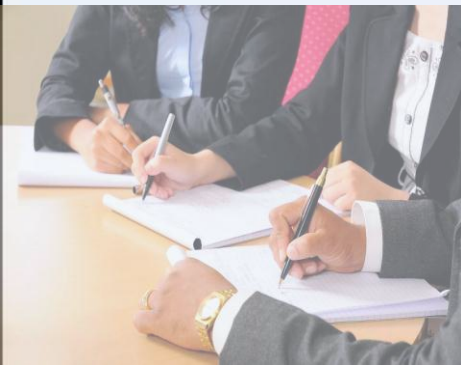
Financial Services Commission
Mauritius



Industry Update – Special Purpose Funds

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AGENDA

1. Regulatory Framework of Funds
2. Functionaries
3. Special Purpose Funds
4. The Rules
5. Implementation

REGULATORY FRAMEWORK FOR FUNDS - MAURITIUS

Legislations

Securities Act 2005

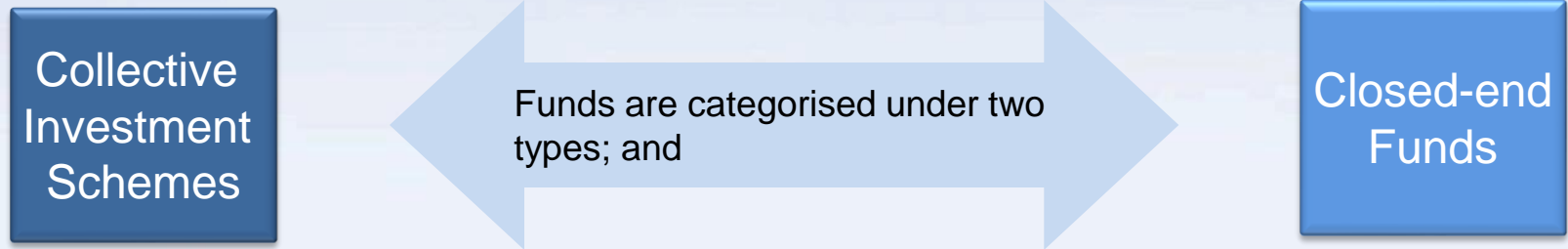
The Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008

Legislations

Securities Act and Securities (Collective Investment Schemes and Closed-end funds) Regulations

- Licensing and Supervisory Framework for Funds and Intermediaries
- Funds operating in Mauritius and in the Global Business sector
- Framework provides for varying and well balanced level of regulations
- Provide for the safeguard of the investing public's interest
- In line with international norms, standards and practices

Type of Funds under the Securities Act



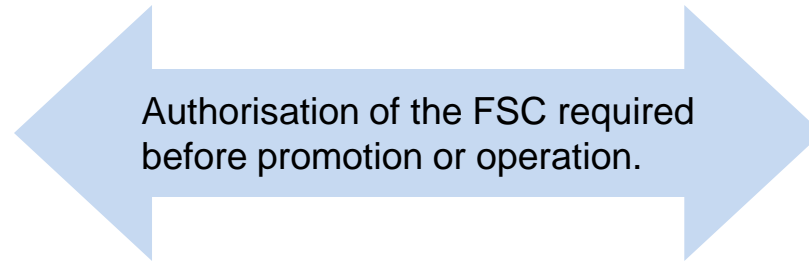
Type of Funds under the Securities Act



Collective Investment Schemes

- **Legal form** - company, a trust, or any other legal entity prescribed or approved by the FSC;
- **Purpose** - the collective investment of funds;
- **Investment type** - portfolio of securities, or other financial assets, property or non-financial assets approved by the FSC;
- **Operation** -based on the principle of diversification of risk;
- **Obligation** - redeem them at their net assets value at request of participant;
- **Management of the property** – participants do not have day to day control.

Type of Funds under the Securities Act



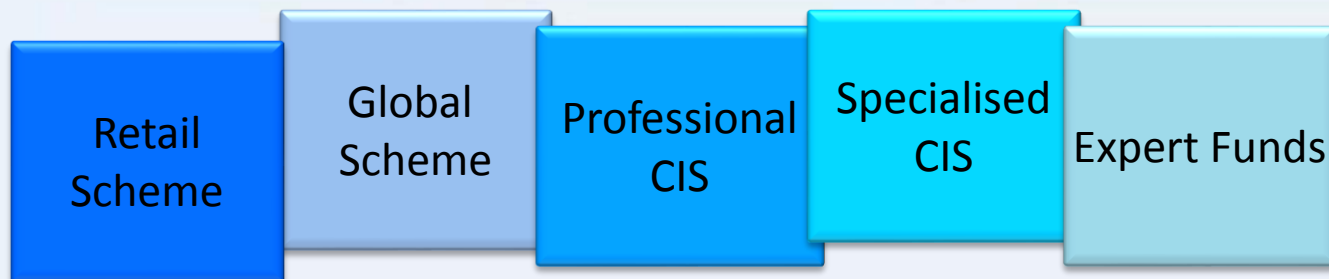
Closed-end
Funds

Closed-end Funds

- Arrangement or a scheme, other than a collective investment scheme;
- **Legal form** - approved by the FSC;
- **Object** - invest funds, collected from subscribers (public offering or from sophisticated investors);
- **Investment type** - portfolio of securities, or other financial assets, real property or non-financial assets approved by the FSC.

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

To address regulatory and supervisory requirements at different levels in terms of type of investors in a CIS and nature of investment



Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

Retail
Scheme

- Authorised under the Securities Act;
- Subject to whole of CIS Regulations

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

Global
Scheme

- Means a CIS authorised under the Securities Act and holding a Category 1 Global Business Licence;
- The regulatory framework is similar to a CIS, but streamlined in terms of its operation in the Global Business Sector (i.e. conducting business outside Mauritius)

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

Professional
CIS

CIS where shares are offered

- solely to sophisticated investors (incl. Governmental bodies, banks, investment manager, etc); or
- as private placements.

Subject to adherence to conditions set out in the Regulations, lighter regulatory requirements will apply.

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

Specialised CIS

- Caters for a category of Fund investing in high risk or illiquid asset types, such as Real estate and Derivatives
- The FSC has the discretion to determine the rules that should apply, impose conditions it deems appropriate
- The FSC may further issue specific rules to provide for requirements applicable to such investments.

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

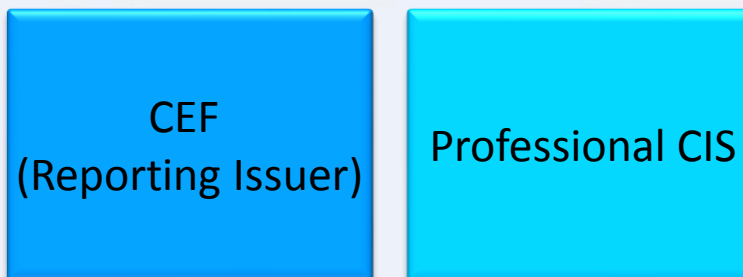
Expert Funds

- The FSC can authorise a CIS to operate as an Expert Fund;
- One that is available and restricted to Expert Investors, i.e.
 - an investor who makes an initial investment, or his own account, of no less than US \$ 100,000; or
 - a sophisticated investor (incl. Governmental bodies, banks, investment)

A lighter regulatory approach will apply.

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

To address regulatory and supervisory requirements at different levels in terms of type of investors in a CEF and nature of investment



Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

CEF
(Reporting Issuer)

CEF which is a reporting issuer (i.e. listed on a securities exchange in Mauritius, has more than 100 participants or offer is made by way of prospectus to the public)

Classifications under the Securities (Collective Investment Schemes and Closed-end funds) Regulations

Professional CIS

Lighter regulatory requirements will apply.

A background image showing several people in business attire sitting at a table, writing on documents with pens. The image is semi-transparent, allowing the text to be clearly visible.

FUNCTIONARIES OF CIS

Functionaries of CIS

CIS Manager

- Licensed by the FSC
- Subject to regulatory and supervisory purview of the FSC;
- Prudential norms, Conduct of business and other operational requirements expected;
- Foreign Investment Manager

Custodian

- Licensed by the FSC;
- The Act and Regulations provide for norms for safekeeping of assets.
- Foreign Custodian

Administrator

- Where a person proposes to provide specified administrative services to a CIS, the FSC's approval as CIS Administrator must be sought;
- Administrative services include – accounting, valuation or reporting amongst others.

SPECIAL PURPOSE FUNDS

Special Purpose Funds

- Mauritius – Attracts Treaty based Funds
- Funds – Invest also in Non-Treaty countries
- Disadvantage treatment– Funds are using the tax neutral jurisdictions

Special Purpose Funds

- National Budget 2013
- Creation of a regime for non treaty based Funds

Amendments to Income Tax Act

- Finance (Miscellaneous Provisions) Act 2012

Amendment to Income Tax Act

Part I of 2nd Schedule

Part II of 2nd Schedule

Section 73 A

Section 7

- **Exempt body of persons and exempt income**
- (1) Any body of persons specified in Part I of the Second Schedule shall be exempt from income tax.
- (2) Any income specified in Part II of the Second Schedule shall be exempt from income tax.

Amendments to Part I of Second Schedule

- *Part I of the Second Schedule*
- *New Item 16 – Special Purpose Fund (SPF)*
- *No income tax for SPF*

Amendments to Part II of Second Schedule

- *Part II (Sub-Part C) of the 2nd Schedule (Exempt income)*
- *Item 6 – Amounts paid by a special purpose fund established to a non-resident*
- *Non resident investors will not pay income tax on income derived from SPF*

Section 73A

- Residence status



FINANCIAL SERVICES (SPECIAL PURPOSE FUND) RULES 2013

Financial Services (Special Purpose Fund) Rules 2013

- Made under Section 93 of the FSA
- Collaboration with MoFED and MRA
- Effective 01 June 2013

Special Purpose Fund

CIS/CEF

Meet
criteria in
Rule 3(1)

Approved
as SPF

Exempted
from
Income
Tax

Special Purpose Fund

Criteria to be qualified as a SPF



Invest solely in countries which do not have Tax treaty with Mauritius



Invest mainly in securities which are tax exempt



All investors are pension schemes or entitled to tax exemption

Special Purpose Fund

- SPF cannot hold a Global Business Licence
- FSC may impose terms and conditions

A photograph of a business meeting with several people sitting at a table, writing in notebooks. The image is semi-transparent, with the text 'IMPLEMENTATION PROCESS' overlaid in the center. The people are wearing business attire, including suits and a pink patterned scarf. The scene is brightly lit, suggesting an indoor office environment.

IMPLEMENTATION PROCESS

Compliance

- Local Fund - Comply with Securities Act 2005 and the Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008; and
- Other legislations

Implementation

- Application - submitted by CIS Manager or Proposed CIS Manager or Promoter
- Investment Manager outside Mauritius, scheme to appoint a CIS Administrator based in Mauritius

Implementation

- An existing Fund meeting any of criteria as set out in Rules 3 – can submit application to be approved as a SPF.
- Application accompanied by a Director's Certificate and Auditor's Certificate

Implementation

- AFS accompanied by a Director's Certificate and Auditor's Certificate evidencing that the SPF has met one of the criteria as per Rules.



THANK YOU FOR YOUR KIND ATTENTION

Vision

“To be an internationally recognised Financial Supervisor committed to the sustained development of Mauritius as a sound and competitive Financial Services Centre”