

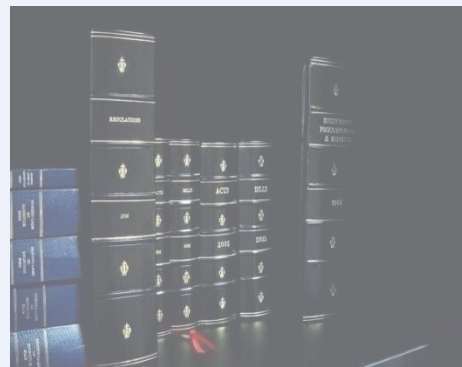
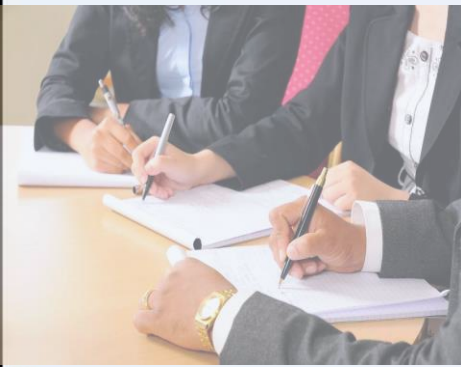


**Financial Services Commission**  
Mauritius



# Industry Update – Special Purpose Funds

Presented by Vishwadeo Seebaluck &  
Ajmal Burthun  
20 June 2013



# 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

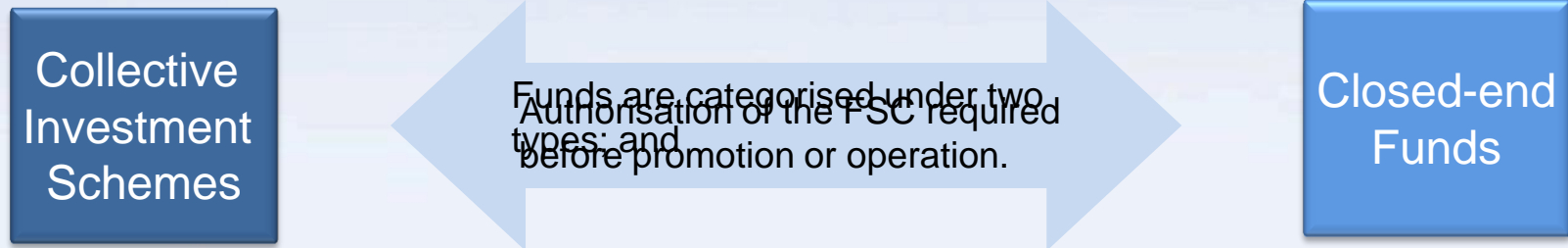
The Securities (Collective Investment Schemes and Closed-end Funds) Regulations 2008

# 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



## 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.

ity prescribed or

ancial assets,

;

f risk;

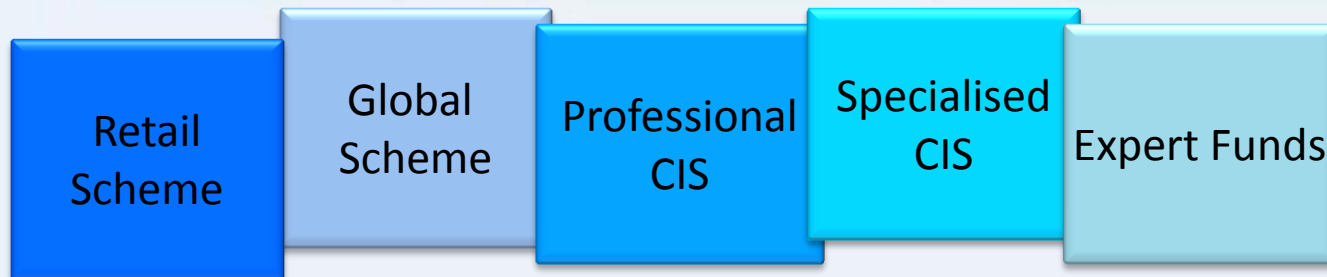
t request of

management of the property – participants do not have day to day control.



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

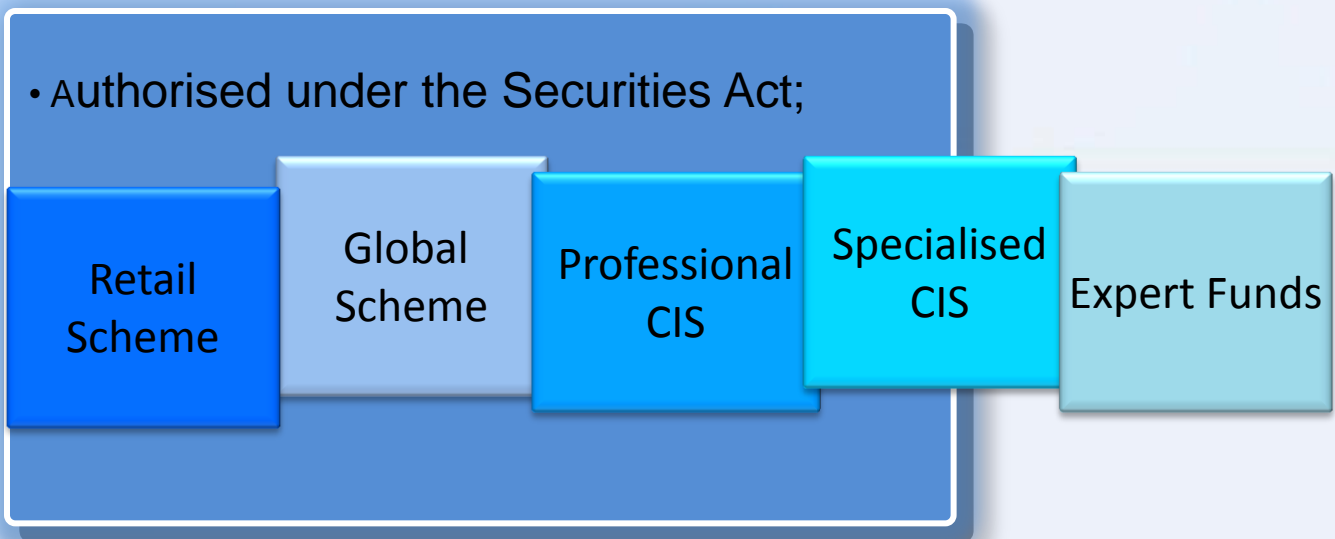
To address regulatory and supervisory requirements at different levels in terms of type of investors in a CIS and nature of investment





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

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

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

Means a (

Retail Scheme

Global Scheme

Professional CIS

Specialised CIS

Means a

Expert Funds

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

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

CIS where shares are offered

- solely to sophisticated investors (incl.

Governmental bodies, banks, investment manager. etc): o

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

Retail Scheme

Global Scheme

Professional CIS

Specialised CIS

Expert Funds

# 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

- Caters for a category of Fund investing in high risk or illiquid asset types, such as Real estate and Derivatives



- 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

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

- The FSC can authorise a CIS to operate as an Expert Fund;
- One that is available and restricted to Expert

A lighter regulatory approach will apply.

Inv  
inv  
US \$ 100,000; or  
- a sophisticated investor (incl.  
Governmental bodies, banks, investment)

Retail Scheme

Global Scheme

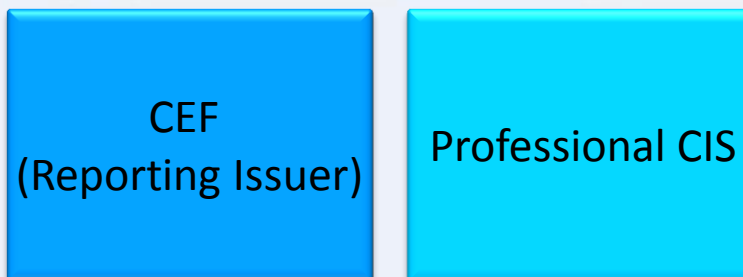
Professional CIS

Specialised CIS

Expert Funds

# 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

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

CEF which is a reporting issuer (i.e. listed on a securities exchange in Mauritius, has more than 100 participants and is offered by way of prospectus to

CEF  
(Reporting Issuer)

Exempt from many provisions of Regulations

Professional CIS



# 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

CEF which is not a reporting issuer (i.e. not listed on a securities exchange in Mauritius, has less than 100 participants, and is not made by way of prospectus)

CEF  
(Reporting Issuer)

Lighter regulatory requirements will apply.

Professional CIS

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 2<sup>nd</sup> Schedule

Part II of 2<sup>nd</sup> 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 2<sup>nd</sup> 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 background image showing several people in business attire sitting around a table, writing on documents. The image is semi-transparent, allowing the text to be clearly visible. The people are focused on their work, with their hands and pens visible as they write on white papers.

# **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”*