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Regulation of Closed Ended Cayman Funds – Extended Scope

The Cayman Islands Private Funds Law, 2020 (the “**Law**”) was enacted on 7 February 2020 and requires that certain closed ended funds should be registered with the Cayman Islands Monetary Authority (“**CIMA**”) by 7 August 2020. On 7 July 2020 the Law was amended by the Private Funds (Amendment) Law, 2020 (the “**Amendment**”) to:

- extend the scope of the definition of a “Private Fund”;
- to require that conflicts of interest arising in relation to valuation, safekeeping of fund assets and cash monitoring are managed and monitored; and
- to remove the power of the Cayman Government to exempt persons or businesses from the application of the law.

Who is affected by the Amendment?

The Amendment extends the definition of “Private Fund” so that the Law now applies to any company, unit trust or partnership established in any jurisdiction:

- that offers or issues or has issued investment interests that carry an entitlement to participate in its profits or gains;
- the purpose or effect of which is the pooling of investor funds with the aim of enabling investors to receive profits or gains from its investments;
- whose investors do not have day-to-day control over the management of its investments;

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- whose interests are not redeemable or repurchasable by the holder; and
- whose investments are managed as a whole by or on behalf its operator directly or indirectly

The Law as amended specifically exempts the following from its provisions:

- licensed, administered or registered mutual funds under the Mutual Funds Law (Revised);
- regulated EU connected funds under the Mutual Funds Law (Revised);
- issuers of debt or alternative financial instruments;
- specified non-fund arrangements;
- licensees under the Banks and Trust Companies Law (Revised) or the Insurance Law 2010; or
- registered persons under the Building Societies Law (Revised) or the Friendly Societies Law (Revised).

The Amendment brings a number of closed ended funds within the scope of the Law that would previously have been excluded from its provisions including those which:

- have a principal business other than the offering and issuing of investment interests;
- have not offered their investment interests including master funds with more than one feeder;
- have only a single investment and do not therefore have an aim of risk spreading; and
- are managed for reward which is not based on the assets, profits or gains of the fund.

Single investor funds and funds that only issue investment interests to their operators, manager, affiliates of their manager and/or certain employees of their manager or its affiliates will remain out of scope for the purposes of the Law.

For more detail on the Law and its requirements see our briefing at <https://www.dilloneustace.com/legal-updates/regulation-of-closed-ended-cayman-funds>.

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