

Mutual Funds Regulation in the Kingdom of Bahrain



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Collective Investment Undertakings (CIUs)

CIUs are undertakings where:

- The sole object of which is the collective investment of capital raised from the public or through private placement, including investments seeded by the operator, in financial instruments and other assets and which operates on the basis of risk-spreading as appropriate; and
- The holdings of which may be re-purchased or redeemed out of those undertakings' assets, as appropriate.

Bahrain domiciled CIUs are undertakings where:

- The legal form of the CIU is established under the laws of the Kingdom of Bahrain; and
- The CIU documents and contractual agreements are governed by the Laws of the Kingdom of Bahrain, unless otherwise agreed with the CBB.

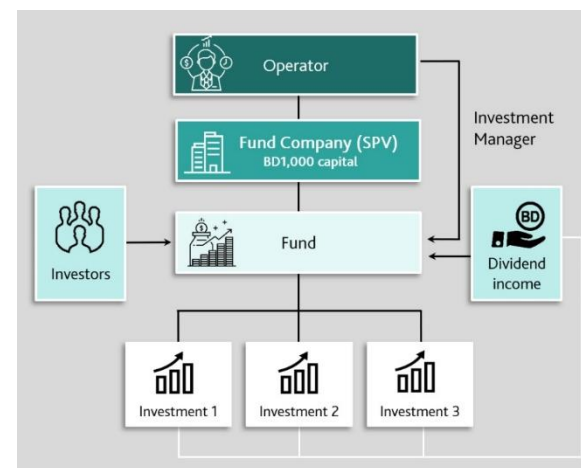
Constitution of CIU

Bahrain domiciled CIUs may be constituted either as:

- Common CIUs, established under the law of contract;
- Trusts, established under the Financial Trusts Law; or
- Corporate established under the Bahrain Commercial Companies Law.

Types of CIU

Bahrain domiciled CIUs are classified as Retail CIUs, Expert CIUs or Exempt CIUs. The below structure diagram explains the fund set-up structure in Bahrain:





Relevant Persons

The Relevant Persons required for the set up of a Fund are as follows:

- Operator
- Trustee (if applicable)
- Fund Manager
- Custodian
- Fund Administrator
- Registrar/Transfer Agent
- Placement Agent
- Investment Advisor
- External Auditor
- CBB Licensee acting as a Placement Agent offering overseas domiciled CIU holdings to investors resident in the Kingdom of Bahrain

The Relevant Person responsible for the establishment of a Fund in the Kingdom of Bahrain is defined as the Operator of the Fund. Listed below are the main roles and responsibilities of the Operator.

An Operator of a CIU is the person undertaking the functions of establishing, operating, including full oversight of the corporate governance on the CIU, or winding up of a CIU.

Requirements of an Operator

Operators must be domiciled in a reputable jurisdiction acceptable to the CBB.

Operators must hold an appropriate license from the CBB or from a regulatory authority, acceptable to the CBB and permitting the entity to establish and operate CIUs.

The minimum duties of operators of CIUs authorised or registered under Module ARR, which must be executed through the appointed Board of the CIU, as appropriate, include but are not limited to the following:

- Take all steps as may reasonably be required for the purposes of registering/authorising, establishing, operating and winding up the CIU;

- Maintain all the documents pertaining to the CIU, consistent, current and updated, in line with applicable laws and regulations, and as approved by or notified to the CBB, as appropriate;
- Make available to the CIU participants, on a prompt basis, copies of the following documents, including but not limited to:
 - The instrument
 - The prospectus or equivalent document
 - All contractual agreements related to the CIU
 - All annual & semi-annual financial reports issued by the CIU
- Ensure compliance of the relevant persons with the terms and conditions of the contractual agreements signed with the CIU;
- Ensure that all applicable anti-money laundering laws are complied with;
- Liaise with the CBB as necessary from time to time for the purposes of its general oversight of the CIU;
- Be diligent in appointing directors who are fit and proper and approved by the CBB;
- Ensure that proper corporate governance is in place for the CIU in line with Module CG;
- Avoid any conflict of interest in all aspects and address any conflict of interest among the other relevant persons to the CIU;
- Consider whether CIU participants should be given voting and/or other participatory rights; and
- Ensure that all reports submitted to the CBB and CIU participants, by relevant persons are accurate and submitted on a timely basis. Such reports include but are not limited to:
 - The semi-annual and annual financial statements of the CIU(s) for each financial year;
 - In case of CIUs structured as corporate/contractual, the annual financial statements of the fund company(ies) for each financial year; and
 - Form CIU (QS), Quarterly Statistical Return.

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The activity of offering CIU holdings to investors resident in Bahrain is a regulated activity (that of dealing in financial instruments).

As such, it requires the appropriate CBB license to be held (see CBB Rulebook Volumes 1, 2 and 4). It is therefore not possible to offer CIU holdings to investors resident in Bahrain, on a 'cross-border' basis from outside Bahrain.

Where an overseas operator of a CIU wishes to offer an overseas domiciled CIU to investor's resident in Bahrain, they must themselves hold the appropriate CBB license or appoint an appropriate CBB licensee as their distributor.

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