

# British Virgin Islands comparison of open-ended funds

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Date / [September 2024](#)

In this guide we compare the five types of open-ended funds in the British Virgin Islands (the “BVI”), being private funds, professional funds, public funds, incubator funds and approved funds (this guide does not cover closed-ended funds that are governed by the Private Investment Funds Regulations, 2019).

In short, open-ended funds give investors the right to redeem their fund interests on demand, subject to the terms of the fund documents and certain lock-up periods. These funds need to be regulated in the BVI by the BVI Financial Services Commission (the “FSC”).

Whilst professional funds are still the most popular, representing 70% of the BVI funds market, we are seeing a significant increase in both incubator and approved funds. This is because these relatively new funds are very cost effective and lightly regulated. The incubator fund is a start-up fund which offers managers a straightforward, economical solution for implementing an investment strategy with low up-front costs and limited on-going obligations, which is very popular in the fintech sector. The approved fund is usually aimed at the “friends and family” market, like a private fund but with less stringent regulation and lower on-going costs.

	Private	Professional	Public	Incubator	Approved
<b>Investors</b>					
<b>Fund users</b>	Popular with friends and family offerings.	Popular with high-net-worth Professional Investors.	Popular with managers looking to make retail offerings.	Popular with start-up managers (particularly in the fintech sector) who want to keep costs down whilst they build a track record and make the fund viable in the long term.	Popular with smaller, private offerings or friends using it as a family fund.

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	Private	Professional	Public	Incubator	Approved
<b>Investors</b>					
<b>Maximum number of investors</b>	50 investors (or the invitation to subscribe/purchase an interest can be made on a private basis only).	No maximum.	No maximum.	20 investors.	20 investors.
<b>Minimum investment</b>	No minimum.	US\$100,000, or its equivalent in any other currency (unless an Exempted Investor).	No minimum.	US\$20,000, or its equivalent in any other currency.	No minimum.
<b>Maximum NAV</b>	No maximum.	No maximum.	No maximum.	\$20 million, or its equivalent in any other currency.	\$100 million, or its equivalent in any other currency.
<b>Lifetime</b>	Unlimited.	Unlimited.	Unlimited.	<p>The fund can operate: (a) for two years, with an option to extend for one additional year (with the FSC's prior consent); (b) until it has more than 20 investors; or (c) until the NAV exceeds \$20 million.</p> <p>At the end of this initial period the fund must either: (a) terminate its business; or (b) apply to be converted into an approved fund, a private fund or a professional fund.</p>	<p>The fund can operate until: (a) it has more than 20 investors; or (b) until the NAV exceeds \$100 million.</p> <p>At the end of this initial period the fund must either: (a) terminate its business; or (b) apply to be converted into a private fund or a professional fund.</p>
<b>Investor criteria</b>	Private offers only (no public offers are permitted). However, there is no requirement for the investors to be Professional Investors or Sophisticated Private Investors.	Only Professional Investors.	Open to the public.	Only Sophisticated Private Investors.	Private offers only (no public offers are permitted). However, there is no requirement for the investors to be Professional Investors or Sophisticated Private Investors.

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	Private	Professional	Public	Incubator	Approved
<b>Launch</b>					
<b>Timeframe</b>	Cannot commence business until the FSC issues the relevant licence. Usually completed within 14 business days of the application being made.	Can commence business 21 days before receiving its license from FSC, provided that the application for recognition is submitted with FSC within 14 days of its launch.	Cannot commence business until the FSC issues the relevant license. Usually completed in six weeks of the application being made.	Can commence business two days after the application is submitted to the FSC.	Can commence business two days after the application is submitted to the FSC.
<b>Offering documents</b>	Offering memorandum.	Offering memorandum.	Prospectus complying with the terms of the Public Funds Code.	There is no formal requirement for a formal offering memorandum, but if one is not prepared, the investors need to be given a written investment warning. Usually this is in a short form term sheet.	There is no formal requirement for a formal offering memorandum, but if one is not prepared, the investors need to be given a written investment warning. Usually this is in a short form term sheet.
<b>Application documents</b>	Application form, business plan, offering memorandum, compliance manual and constitutional documents.	Application form, business plan, offering memorandum, compliance manual and constitutional documents.	Application form, business plan, prospectus, compliance manual, a director application form and constitutional documents.	Application form, offering memorandum (or term sheet with investment warning), compliance manual and constitutional documents.	Application form, offering memorandum (or term sheet with investment warning), compliance manual and constitutional documents.
<b>Functionaries</b>					
<b>Directors</b>	At least two directors (one must be an individual). There is no BVI residency requirement for directors.	At least two directors (one must be an individual). There is no BVI residency requirement for directors.	At least two directors (one must be an individual). There is no BVI residency requirement for directors.	At least two directors (one must be an individual). There is no BVI residency requirement for directors.	At least two directors (one must be an individual). There is no BVI residency requirement for directors.
<b>Fund manager</b>	Required.	Required.	Required.	Not required.	Not required.

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	Private	Professional	Public	Incubator	Approved
<b>Functionaries</b>					
<b>Administrator</b>	Required.	Required.	Required.	Not required. However, many incubator funds still elect to appoint an administrator to help with their AML Policies and FATCA/CRS obligations. The administrator can also independently calculate the NAV, to make it easier to market the fund's track record to future investors.	Required.
<b>Custodian</b>	Required, but it is possible to apply for an exemption.	Required, but it is possible to apply for an exemption.	Required.	Not required.	Not required.
<b>Auditor</b>	Required, but does not have to be in the BVI.	Required, but does not have to be in the BVI.	Required, but does not have to be in the BVI.	Not required.	Not required.
<b>FATCA and CRS officer</b>	Most funds are likely to qualify as a FFI, so will need to submit FATCA and CRS declarations. Usually this is done by the administrator.	Most funds are likely to qualify as a FFI, so will need to submit FATCA and CRS declarations. Usually this is done by the administrator.	Most funds are likely to qualify as a FFI, so will need to submit FATCA and CRS declarations. Usually this is done by the administrator.	Most funds are likely to qualify as a FFI, so will need to submit FATCA and CRS declarations. Usually this is done by a director if there is no administrator.	Most funds are likely to qualify as a FFI, so will need to submit FATCA and CRS declarations. Usually this is done by the administrator.
<b>Authorised representative</b>	The fund must have an authorised representative in the BVI, to liaise with the FSC and pay its annual FSC fees. We can provide this service, if required.	The fund must have an authorised representative in the BVI, to liaise with the FSC and pay its annual FSC fees. We can provide this service, if required.	The fund must have an authorised representative in the BVI, to liaise with the FSC and pay its annual FSC fees. We can provide this service, if required.	The fund must have an authorised representative in the BVI, to liaise with the FSC and pay its annual FSC fees. We can provide this service, if required.	The fund must have an authorised representative in the BVI, to liaise with the FSC and pay its annual FSC fees. We can provide this service, if required.
<b>Registered agent</b>	The fund must have a registered agent in the BVI, to liaise with the BVI Registry and pay its annual BVI Registry fees. We can provide this service, if required.	The fund must have a registered agent in the BVI, to liaise with the BVI Registry and pay its annual BVI Registry fees. We can provide this service, if required.	The fund must have a registered agent in the BVI, to liaise with the BVI Registry and pay its annual BVI Registry fees. We can provide this service, if required.	The fund must have a registered agent in the BVI, to liaise with the BVI Registry and pay its annual BVI Registry fees. We can provide this service, if required.	The fund must have a registered agent in the BVI, to liaise with the BVI Registry and pay its annual BVI Registry fees. We can provide this service, if required.

	Private	Professional	Public	Incubator	Approved
<b>Ongoing requirements</b>					
<b>Financial statements</b>	Must submit annual audited financial statements to the FSC each year (within six months of its financial year end).	Must submit annual audited financial statements to the FSC each year (within six months of its financial year end).	Must submit annual audited financial statements (together with a director's certificate and report to investors) to the FSC each year, within six months of its financial year end.	Must submit financial statements to the FSC every six months (on 31 January and 31 July each year).  The financial statements do not need to be audited, but they do need to comply with IFRS, GAAP (UK, US or Canadian) or such other recognised standards as may be approved by the FSC.	Must submit annual financial statements to the FSC (within six months of its financial year end).  The financial statements do not need to be audited, but they do need to comply with IFRS, GAAP (UK, US or Canadian) or such other recognised standards as may be approved by the FSC.
<b>Annual return</b>	Must submit an annual return to the FSC by 30 June each year.	Must submit an annual return to the FSC by 30 June each year.	Must submit an annual return to the FSC by 30 June each year.	Must submit an annual return to the FSC by 31 January each year.	Must submit an annual return to the FSC by 31 January each year.
<b>Economic substance</b>	Must submit an economic substance declaration each year.	Must submit an economic substance declaration each year.	Must submit an economic substance declaration each year.	Must submit an economic substance declaration each year.	Must submit an economic substance declaration each year.
<b>Compliance manual</b>	Must have a compliance manual that sets out its AML/CTF Policies.	Must have a compliance manual that sets out its AML/CTF Policies.	Must have a compliance manual that sets out its AML/CTF Policies.	Must have a compliance manual that sets out its AML/CTF Policies.	Must have a compliance manual that sets out its AML/CTF Policies.
<b>MLRO</b>	Must appoint a MLRO. Usually, this function is carried out by the administrator.	Must appoint a MLRO. Usually, this function is carried out by the administrator.	Must appoint a MLRO. Usually, this function is carried out by the administrator.	Must appoint a MLRO.	Must appoint a MLRO. Usually, this function is carried out by the administrator.
<b>Costs</b>					
<b>Application fee</b>	US\$850	US\$850	US\$1,800 – Additional prospectus fee: US\$300	US\$1,800	US\$1,800
<b>Annual renewal fee</b>	US\$1,200	US\$1,200	US\$1,800	US\$1,200	US\$1,200

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## Defined terms

The following defined terms are used in the table:

<b>AML/CTF Policies</b>	means anti-money laundering and counter terrorist financing policies and procedures, which are designed to prevent money laundering, terrorist financing, proliferation financing and to ensure compliance with all sanctions.
<b>BVI</b>	means the British Virgin Islands.
<b>BVI Registry</b>	means the BVI Registry of Corporate Affairs.
<b>CRS</b>	means Common Reporting Standards.
<b>Exempted Investor(s)</b>	means: (a) the manager, administrator, promoter or underwriter of the fund; or (b) any employee of the manager or promoter of a fund.
<b>FATCA</b>	means the United States' Foreign Account Tax Compliance Act.
<b>FFI</b>	means a foreign financial institution.
<b>FSC</b>	means the BVI Financial Services Commission.
<b>MLRO</b>	means money laundering reporting officer.
<b>NAV</b>	means net asset value.
<b>Professional Investor(s)</b>	means a person: (a) whose ordinary business involves, whether for that person's own account or the account of others, the acquisition or disposal of property of the same kind as the property, or a substantial part of the property, of the fund; or (b) who has signed a declaration that he or she, whether individually or jointly with his or her spouse, has a net worth in excess of US\$ 1 million and that he or she consents to be treated as a professional investor.
<b>Public Funds Code</b>	means the Public Funds Code 2010.
<b>Sophisticated Private Investor(s)</b>	means a person who has been invited to invest in an incubator fund and the amount of his or her initial investment is not less than US\$20,000.

## How do I get more information?

If you have any questions about any of the funds described above, or want to know more about the registered agent services and authorised representative services that we provide through our affiliate companies CO Services and CO Authorised Representatives, please reach out to your usual contact at Carey Olsen or [bvi@careyolsen.com](mailto:bvi@careyolsen.com).



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### PLEASE NOTE

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