



PRIVATE INVESTMENT UNDERTAKINGS MODULE



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| MODULE | PIU: | Private Investment Undertakings |
| CHAPTER | PIU-A: | Introduction |

PIU-A.1 Purpose

Executive Summary

PIU-A.1.1 This Module sets out the Central Bank of Bahrain's (CBB) requirements for Private Investment Undertakings.

Legal Basis

PIU-A.1.2 This Module contains the CBB's Directive (as amended from time to time) regarding private investment undertakings and is issued under the powers available to the CBB under Article 38 of the Central Bank of Bahrain and Financial Institutions Law 2006 ('CBB Law').

PIU-A.1.3 For an explanation of the CBB's rule-making powers and different regulatory instruments, see Section UG-1.1.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-A: Introduction |

PIU-A.2 Module History

Evolution of Module

PIU-A.2.1 This Module was first issued in April 2007, as part of the initial release of the contents of Volume 6 (Capital Markets); it was given an effective date of 1 June 2007, with a one-year transition for existing CIUs.

PIU-A.2.2 The Module was subsequently revised in April 2012, by the addition of several sections catering for the role and responsibilities of relevant persons, the registration and authorisation requirements, corporate governance, and other relevant Chapters and has been reissued as Volume 7.

PIU-A.2.3 A list of recent changes made to this Module subsequent to the April 2012 revision is provided below:

| Module Ref. | Change Date | Description of Changes |
|----------------|----------------|----------------------------------------------------------------|
| PIU-2.5 | 07/2013 | Amended due date and collection process for annual fee. |
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PIU-A.2.4 Further guidance on the implementation and transition to Volume 7 (Collective Investment Undertakings) is given in Module ES (Executive Summary).



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-B: Definitions |

PIU-B.1 Private Investment Undertakings

PIU-B.1.1

Private investment undertakings (PIUs) are defined as investment undertakings/funds that are registered with the CBB and may be initiated by or offered to high net worth individuals or institutional investors, and impose a minimum initial investment/participatory interest of USD 3 million (or equivalent in any other currency).

PIU-B.1.2

PIUs are structures that have been created to facilitate private investments with a capacity to fit the criteria of such schemes. The role of the CBB is limited to processing the registration of PIUs in line with this Module, and to subsequently gather statistical information related to PIUs, for the purpose of monitoring developments in the financial services sector only. PIUs are not subject to the CBB's on-going supervisory requirements and are not subject to any of the provisions in the Volume 7, other than this Module.



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| CHAPTER | PIU-B: Definitions |

PIU-B.2 High Net Worth Investor

PIU-B.2.1 PIUs are only regulated to the extent that they are only subject to the reporting requirements under rule PIU-7.1.1 of this Module, for the purpose of monitoring the growth in the financial sector. They are not subject to any restrictions on their investment policies, as a result of which they may exhibit high risk characteristics, such as high levels of leverage and the taking of large speculative positions. Accordingly, PIUs may only be offered to a highly restricted investor base (i.e. those defined as high net worth investors).

PIU-B.2.2

High net worth investors are:

- (a) Individuals holding financial assets (either singly or jointly with their spouse) of USD 25 million or more;
- (b) Companies, partnerships, trusts or other commercial undertakings, which have financial assets available for investment of not less than USD 25 million; or
- (c) Governments, supranational organisations, central banks or other national monetary authorities, and state organisations whose main activity is to invest in financial instruments (such as state pension funds).

PIU-B.2.3

A PIU must be able to demonstrate that each of its PIU participants falls within the definition of a high net worth investor. It should also be able to demonstrate that the risk exposure potentially represented by a PIU has been clearly communicated and understood by the PIU participants.

PIU-B.2.4 To help demonstrate compliance with Rule PIU-B.2.3, a PIU should be able to provide a written confirmation from each PIU participant, stating that they satisfy the definition of a high net worth investor and confirming that they understand the types of risks involved in a PIU.

PIU-B.2.5 The minimum initial investment requirement specified in Rule PIU-B.1.1 means that the first investment made by an investor into the PIU must be at least USD 3 million (or its equivalent in any other currency). Subsequent investments may be for smaller amounts. Subscriptions on commitment basis must be for at least USD 3 million (or its equivalent in any other currency).



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-1: Relevant Persons |

PIU-1.1 General Requirements

PIU-1.1.1

The appointment of relevant persons to the PIU, must observe the following:

- Operator, which must be a licensed entity;
- Custodian, which must be a CBB licensee;
- Trustee (if applicable), which must be a CBB licensee;
- Fund Manager (if applicable), which must be a licensed entity;
- Fund Administrator, which must be a CBB licensee;
- Investment Advisor (optional); and
- External Auditor, based in the Kingdom of Bahrain.

Combination of Relevant Persons

PIU-1.1.2

The combination of relevant persons to the PIU, must observe the following:

- The operator of a PIU, may either be combined with the custodian or with the fund manager, but not both;
- If the PIU is structured as a trust, the trustee, who will be assuming the role of the operator, must not be combined with the fund manager;
- The trustee may be combined with the custodian/fund administrator;
- The appointment of a fund manager is optional, however, if a fund manager is appointed, it must not be combined with the custodian/fund administrator;
- The custodian may be combined with the operator and/or fund administrator; and
- The fund administrator may be combined with the custodian.



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| CHAPTER | PIU-1: Relevant Persons |

PIU-1.2 Appointment of Relevant Persons

Operator/Custodian

PIU-1.2.1 The initial appointment of the operator/custodian of a PIU will be approved by the CBB as part of the process of registration.

Other Relevant Persons

PIU-1.2.2 All relevant persons to a PIU must be appointed by the operator/custodian of a PIU, after it conducts an assessment and is satisfied as to the suitability of the relevant person to undertake that role, prior to entering into an agreement with the PIU.

Market Conduct

PIU-1.2.3 Relevant persons must maintain proper standards of market conduct, in relation to their role with respect to a PIU, in addition to any applicable legal and regulatory requirements (such as those imposed on them by virtue of their license, in the case of CBB licensees).

Roles and Responsibilities

PIU-1.2.4 For further guidance on the expected responsibilities and roles of relevant persons, reference may be made to Module RP.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-2: Registration |

PIU-2.1 General Requirements

PIU-2.1.1 PIUs must be registered with the CBB prior to being offered to high net worth investors.

PIU-2.1.2 An application for registration may only be made by the operator/custodian of the PIU.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-2: Registration |

PIU-2.2 Registration Process

PIU-2.2.1

A request for registration under Rule PIU-2.2.1 must be made by submitting a formal letter containing the structure of the PIU and the relevant persons to the PIU, and signed by an authorised signatory of the applicant, together with all supporting documentation, as follows:

- (a) Draft Private Offering Document;
- (b) Draft Memorandum and Articles of Association or Trust Instrument (or trust deed, where appropriate);
- (c) Certified and valid passport copies and CVs of the directors; and
- (d) A board resolution of the operator, approving the application to seek registration of the PIU.

PIU-2.2.2

The documents requested in Paragraph PIU-2.2.1 are required for filing purposes only and will not be reviewed by the CBB as to the contents or accuracy of the information contained within. As such, the CBB will bear no responsibility for the correctness of such documents.

PIU-2.2.3

The request for registration must identify a representative in their capacity as the person responsible for submitting the application for the PIU. This person must be:

- (a) An officer of the operator/custodian of the PIU; and
- (b) An individual capable of being contacted by the CBB by post, telephone, fax and/or e-mail.

PIU-2.2.4

The operator/custodian of a PIU together with the directors of the PIU concerned, or trustees, as appropriate, must ensure that the documents constituting the PIU:

- (a) Do not contain information that is false or misleading;
- (b) Do not contain any provisions that conflict with either CBB requirements or other laws and regulations, that may apply to the PIU operator/custodian, fund manager and other relevant persons to the PIU; and
- (c) Are not unfairly prejudicial to the interests of the PIU participants, either generally or to a particular class of PIU participants.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-2: Registration |

PIU-2.2 Registration Process (continued)

PIU-2.2.5 An applicant may appoint a representative – such as a law firm to prepare and submit the application. An applicant may also appoint on his behalf a professional consultant to prepare and submit the application, in which case the application has to be reviewed by a professional law firm or internal legal counsel prior to submission to the CBB. In all cases, the applicant retains full responsibility for the accuracy and completeness of the application, and is required to certify the application form accordingly. The CBB also expects to be able to liaise directly with the applicant during the registration process, when seeking clarification of any issues.

PIU-2.2.6 The applicant must be satisfied that the lawyer appointed to make the request for registration of the PIU on his behalf, has reviewed the proposed structure or operations in detail.

PIU-2.2.7 The CBB's review of a request for registration is mainly limited to satisfying itself that the conditions specified in this Module are likely to be complied with.

PIU-2.2.8 The CBB will acknowledge requests for registration of PIUs within 2 business days of receipt and provide formal feedback (if any) on the request within 5 business days of receipt. This feedback will confirm whether the request is complete, or whether further information/documents are required.

PIU-2.2.9 Should further information/documents be required, then the applicant has 90 calendar days from the date of the CBB's feedback in which to complete the application, failing which the CBB reserves the right to cancel the request and require the submission of a new one.



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| CHAPTER | PIU-2: Registration |

PIU-2.3 Granting of Registration

PIU-2.3.1

To be registered, an applicant must demonstrate compliance with the conditions specified in this Module. Should the request for registration be accepted, the CBB will notify the applicant in writing of the fact. The registration may be subject to additional conditions being met.



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| CHAPTER | PIU-2: Registration |

PIU-2.4 Refusal of Registration

- PIU-2.4.1 The CBB may refuse to register a PIU, if in its opinion:
- (a) The requirements in this Module are unlikely to be met; or
 - (b) False or misleading information has been provided to the CBB, or information which should have been provided to the CBB has not been so provided.
- PIU-2.4.2 Where the CBB proposes to refuse a request for registration, it must give the applicant written notice to that effect. Applicants have 30 calendar days from the date of the written notice to appeal the decision.



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| CHAPTER | PIU-2: Registration |

PIU-2.5 Fees Payable to the CBB

Application Fees

PIU-2.5.1 Each request for registration of a PIU must be accompanied by a non-refundable BD100 processing fee at the time of submitting the formal application to the CBB.

Annual Fees

PIU-2.5.2 Each PIU registered by the CBB is subject to an annual fee of BD2,000. The fee is payable on the 15th January of the annual year for which the fee is due.

PIU-2.5.3 For newly registered PIUs, the first annual registration fee is payable when the registration letter is issued by the CBB. The amount payable is the annual fee of BD2,000 on a monthly prorata basis as determined by the CBB.

PIU-2.5.4 All annual fees are collected by direct debit and all operators/trustees of PIUs must ensure that they submit to the CBB the completed Direct Debit Authorisation Form (available under Part B of Volume 7) by 15th October prior to the year for which the fees are due.

PIU-2.5.5 Where the PIU is de-registered, (whether at the initiative of the operator/custodian or the CBB), no refund is paid for any months remaining in the calendar year in question.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-3: Private Offering Document |

PIU-3.1 General Requirements

PIU-3.1.1 Every PIU registered under Chapter PIU-2 must have in place a private offering document.

PIU-3.1.2 The board of the PIU, as appropriate, must ensure that the information contained in the private offering document:

- (a) Is complete and transparent;
- (b) Is not false, misleading, or is unfairly prejudicial to the interests of the PIU participants generally or to the participants of other classes of instruments issued by the PIU;
- (c) Does not contain any provision that conflicts with any Rule in this Volume, or other legal or regulatory requirements that apply to the PIU or other relevant persons connected to the PIU; and
- (d) Does not conflict with any other Laws or Regulations in any jurisdiction.

PIU-3.1.3 The private offering document of a PIU must clearly display a statement to the fact that the PIU:

- (a) Is subject only to registration by the CBB and that the CBB does not assume any obligations or liabilities as a result of its registration; and
- (b) Will not violate the Laws of the Kingdom of Bahrain or any other jurisdiction.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-4: Holdings |

PIU-4.1 General Requirements

PIU-4.1.1

Holdings may only be created, issued or sold, and redeemed, repurchased, reimbursed or repaid (as may be appropriate):

- (a) In accordance with the private offering document constituting the PIU; and
- (b) Only to or by investors qualifying as high net worth investors.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-5: Books and Records |

PIU-5.1 General Requirements

PIU-5.1.1

PIUs must prepare, retain for 10 years and make available to the CBB upon request, such records that enable:

- (a) The PIU and its relevant persons, as appropriate, to comply with the Rules in this Module; and
- (b) The PIU to demonstrate at any time that such compliance has been achieved.

PIU-5.1.2

The records referred to under Rule PIU-5.1.1 include but are not limited to, the minutes of the board of Director's meetings, the private offering document, contractual agreements, documents constituting the PIU, transaction records, annual audited statements and KYC documents for each CIU participant, in original form or in the form of a certified copy.

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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-6: Financial Statements |

PIU-6.1 General Requirements

PIU-6.1.1 PIUs must prepare annual audited financial statements for each financial year, by a qualified independent external auditor located in Bahrain.

PIU-6.1.2 The annual audited financial statements of the fund company (if applicable) must be submitted to the CBB, within 3 months of the financial year-end of the fund company.

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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-7: Reporting to the CBB |

PIU-7.1 Reporting Requirements

PIU-7.1.1 The operator/custodian of a PIU must report to the CBB, 21 calendar days of each quarter end, the total net asset value of the PIU with a breakdown of the figure as follows:

- (a) Resident institutions;
- (b) Resident individuals;
- (c) Non-resident institutions; and
- (d) Non-resident individuals.

PIU-7.1.2 For the purpose of reporting requirements under this Section, the quarter end of a PIU must be a 3-month period ending on 31st March, 30th June, 30th September or 31st December.



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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-8: Liquidation |

PIU-8.1 General Requirements

PIU-8.1.1 A PIU intending to liquidate must notify the CBB of such intent and must seek legal advice on how to complete the process in a satisfactory manner.

PIU-8.1.2 Upon completion of the liquidation process, the operator/custodian of the PIU must notify the CBB of such fact.

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| MODULE | PIU: Private Investment Undertakings |
| CHAPTER | PIU-9: Revocation of Registration |

PIU-9.1 CBB Revocation of Registration Powers

- PIU-9.1.1 The CBB may revoke registration of a PIU in the following cases:
- (a) If any of the applicable requirements contained in this Module are not met; or
 - (b) If false or misleading information has been provided to the CBB, or significant information which should have been provided to the CBB has not been so provided.
- PIU-9.1.2 A registration may be revoked by the CBB, subsequent to the ruling of a competent authority, such as a court that has issued an order to liquidate the PIU.
- PIU-9.1.3 Where the CBB proposes to cancel a PIU's registration, it shall give the PIU concerned a written notice of its intention to do so and the reasons for such action. The PIU has 30 calendar days from the date of the written notice to appeal the decision.