

FIND THE RIGHT FUND FOR RETAIL INVESTORS

THE REGULATED FUND

The Isle of Man has a full suite of fund options including the Regulated Fund, which recognises the increasing appetite for regulation from fund promoters and investors alike. This fact sheet describes the key features of the Regulated Fund. Details within this document are for guidance only – the original legislation should be consulted for legal purposes.

FLEXIBILITY OF LEGAL FORM

Companies can be established under the more traditional Companies Act 1931 or the more flexible Companies Act 2006, which offers a stand-alone vehicle with minimal administrative requirements, flexible capital structure and limited disclosure requirements. Both types of company can be established as protected cell companies. Closed-ended investment companies which fall within the Isle of Man's fund regime may be established as Regulated Funds. This fact sheet focuses on open-ended funds, please see the fact sheet "Get a New Perspective on Closed Ended Investment Companies" for further information about closed-ended investment companies in the Isle of Man.

Isle of Man limited partnerships offer tax transparency and a flexible legal framework. A limited partnership may return capital prior to the winding up of the partnership. Furthermore, in order to provide comfort to investors, the statute sets out a "whitelist" of activities that will not result in limited partners being regarded as involved in the management of the partnership, thereby prejudicing their limited liability status.

Isle of Man trust law is similar to that of England and Wales. As a fund vehicle, the unit trust arrangement offers huge flexibility.

REGULATED FUND

- Regulated Isle of Man fund subject to Financial Services Authority pre approvals
- No restrictions on types of investor
- Isle of Man Manager
- Regulated Fiduciary Custodian/Trustee
- Flexibility on investment advisory/asset management requirements
- Normally sold through Independent Financial Advisers

SUITABLE FOR LISTING

The Irish Stock Exchange has confirmed to the Financial Services Authority ("FSA") that the Regulated Fund is suitable for listing on the Irish Stock Exchange without the imposition of a €100,000 investment threshold criteria.

ESTABLISHMENT OF FUND AND REQUIREMENT FOR REGULATED MANAGER

A Regulated Fund must appoint a fund manager that is licensed in the Isle of Man by the FSA. In order to establish a Regulated Fund, application must be made to the FSA by the proposed manager requesting permission to act. Permission is granted for the manager to act in relation to a specific Regulated Fund or Regulated Funds.

The manager, along with the governing body, is responsible for ensuring that the Regulated Fund is managed and operated in accordance with its constitutional and offering documents, and that it is compliant with the Collective Investment Schemes (Regulated Fund) Regulations 2017 ("Regulations").

The manager is also responsible for ensuring that adequate and appropriate procedures and controls are implemented for operation of the Regulated Fund including, for example, corporate governance arrangements, complaints procedures, issue of contract notes and monitoring the Regulated Fund's liquidity profile. The manager oversees promotion of the Regulated Fund by the promoter.

The manager must obtain the FSA's approval to any material alterations to the fund structure or its constitutional or offering document.

GOVERNANCE AND BOARD COMPOSITION

All members of the governing body of a Regulated Fund must complete and submit fitness and propriety assessment forms to the FSA. With the exception of funds constituted as unit trusts, the governing body must include at least 1 natural person who is resident in the Isle of Man.

The governing body of a Regulated Fund has responsibility for ensuring that the fund complies with its regulatory requirements and, amongst other things, for ensuring that the fund's offering documents are compliant with the Regulations and contain all material information.

Continued overleaf

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Along with the manager, the governing body is responsible for ensuring that the Regulated Fund is managed and operated in accordance with its constitutional documents and offering document, and that the obligations of the manager under the Regulations are discharged.

The governing body is required to sign and file a statement of responsibility in relation to the initial and any amended offering document.

FIDUCIARY CUSTODIAN / TRUSTEE

A Regulated Fund must appoint a fiduciary custodian or trustee whose responsibilities include the implementation of appropriate procedures and controls to satisfy itself that the Regulated Fund is being managed and operated in accordance with its constitutional and offering documents. The fiduciary custodian or trustee is also responsible for custody of the Regulated Fund's assets.

The fiduciary custodian / trustee of a Regulated Fund must be a different person from the manager and either be an Isle of Man licensee or authorised to act as trustee or fiduciary custodian (as the case may be) of a collective investment scheme under the law of any country or territory acceptable to the FSA.

Any sub-custodian appointed to the Regulated Fund must be an Isle of Man licensee or alternatively, licensed in another jurisdiction to provide custody services to this type of fund. The sub-custodian must not be the manager or a subsidiary of the manager.

PROMOTER

An open-ended Regulated Fund must appoint a promoter who is responsible for promotion of the Regulated Fund and the suitability and accuracy of promotional materials and advertisements. A promoter must either be the manager or a person who the governing body of the scheme has assessed as being suitable to act as promoter to the fund.

TARGET INVESTORS

The investors of a Regulated Fund are not required to satisfy any specific entry criteria, unless imposed by the fund itself.

NO MINIMUM SUBSCRIPTION

There is no prescribed regulatory minimum investment amount. However, the governing body is required to determine a minimum investment amount.

ASSET MANAGEMENT

A Regulated Fund must ensure it receives relevant advisory or discretionary management services that any proposed asset manager/ adviser is suitable to act as such. Where a regulated asset manager is not appointed, these responsibilities must be undertaken by the manager.

TAXATION

The Isle of Man offers a tax neutral environment for fund management operations. There are no capital taxes and the Island has a zero rate of corporate tax for most taxpayers. This means that a corporate fund vehicle will benefit from a zero rate of income tax, as will any fund management or administration business based in the Isle of Man.

The fees levied by fund managers based in the Isle of Man in respect of fund management services to Regulated Funds are exempt from value added tax in the Isle of Man.

OFFERING DOCUMENT

Every Regulated Fund must have an offering document. The governing body of the Regulated Fund must sign a statement in respect of the offering document in which it acknowledges that it is responsible for its contents. In addition, the manager is required to confirm that the offering document accurately sets out all material information to enable an informed investment decision to be made by investors.

The Regulations set out certain information which must be contained in the constitutional documents and offering document of a Regulated Fund, which is consistent with market practice.

INVESTMENT RESTRICTIONS

The governing body and asset manager are required to agree a policy for the spread of investment risk for the Regulated Fund, which takes into account the investment objectives of the fund. This policy must be implemented within six months from launch.

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The Regulations are designed for flexibility whilst following best practice, and although they do impose investment and borrowing restrictions, these may be derogated from provided the policy and any associated risks are clearly disclosed in the offering document.

ACCOUNTING AND AUDIT REQUIREMENTS

A Regulated Fund is required to prepare annual financial statements in accordance with generally accepted accounting principles or practice. The annual financial statements must be audited by an appropriate auditor.

In order for an auditor to be able to report on the financial statements of a Regulated Fund, the auditor must: be independent of the fund; be a

member of a relevant professional body of accountants; have a permanent place of business in the Isle of Man; and maintain appropriate professional indemnity insurance to a level of at least £20M.

The audited financial statements of a Regulated Fund must be distributed to its investors within 6 months of the end of its financial year.

CONTACT

For further details on Isle of Man administrators and other fund services providers, please refer to:

www.iomfunds.com

www.iomfsa.im



