

## The Isle of Man Specialist Investment Fund



The Isle of Man has a full suite of fund options, but the fund category of choice for institutional alternative investment is the new Specialist Investment Fund, or “SF”. This briefing note describes the key features of the SF.

### Flexibility of Legal Form

The Isle of Man offers a full range of vehicles for use as fund structures. **Corporate vehicles** can be established either as traditional companies or under the Island’s new 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**. PCCs are ideal for use both in multi-class/single manager structures and in multi-manager offerings.

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 and, in order to provide comfort to investors, the statute sets out a “white-list” 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.

The Isle of Man follows England in its trust law. As a fund vehicle, the **unit trust** arrangement offers huge flexibility and the security of knowing that the arrangements are not a matter of public record.

### Asset Management

There are no regulatory restrictions on asset classes, trading strategies or leverage for a SF. As a result, the SF is suitable for any type of alternative investment fund. It is a requirement that a SF must receive (either directly or indirectly) investment advice or management services from an entity that is regulated in a jurisdiction that is acceptable to the fund’s board of directors.

The Isle of Man is unique among international finance centres in continuing to have the capacity to attract and accommodate real business operations. The Isle of Man Financial Supervision Commission or “FSC” has announced certain new investment business licence categories and refinements to its licensing policy designed to attract hedge fund management and related operations to the Island.

### Regulated Administrator

A SF must appoint a regulated fund administrator to perform its core administration requirements, including transfer agency work, valuations, pricing and fund accounting services. This role may be fulfilled by an Isle of Man-based service provider, but this is not a mandatory requirement. The administrator of a SF may be an appropriately regulated fund administrator based in a jurisdiction that the FSC regards as providing an acceptable level of regulation and mutual assistance arrangements. The FSC has already announced that the United Kingdom, Jersey, Guernsey and Gibraltar are acceptable jurisdictions for these purposes, but the class of acceptable jurisdictions is not closed and the FSC will entertain requests to add further suitable

territories to the list.

The administrator of a SF has a regulatory responsibility for ensuring that the target investor requirements for a SF (see below) are met, for making certain periodic reports and declarations of compliance to the FSC and for notifying the FSC of certain material events in relation to the SF.

### **Governance and Board Composition**

An independent non-executive director must be appointed to the board of a SF. In addition, where an overseas administrator has been appointed (see above), there is a requirement for an Isle of Man resident director who is either licensed as a fiduciary or working for a licensed fiduciary services provider. The Isle of Man resident director is required to monitor the compliance by the overseas administrator with the SF requirements.

The board of directors of a SF have responsibility for ensuring that the SF complies with its regulatory requirements and, amongst other things, for ensuring that the fund's offering document (see below) is compliant and contains all material information and that the fund is managed and operated in accordance with its constitutional documents and offering document.

### **No regulatory Pre-approvals**

There is no requirement for any pre-approval to be sought from the FSC or any other body. This means that a SF can be launched quickly and without any risk of regulatory delays.

### **Fees**

No application fee is payable for the establishment of a Specialist Fund. However, an annual fee of £500 is payable to the FSC. In addition, a modest annual corporate charge is payable in relation to the use of an Isle of Man corporate vehicle.

### **Target investors**

The SF is not intended to be a vehicle for retail investment; it is aimed at institutional and super-high net worth investors. Prospective investors must certify that they are sufficiently experienced to understand the risks associated with an investment in

the SF in question and must fall into one of the categories of permitted investor. Broadly speaking, these cover institutional investors, affiliates of the fund's promoters and managers and individuals with a net worth in excess of US\$1M.

### **Minimum subscription**

There is a minimum initial investment requirement of at least US\$100,000 for a SF. The administrator is required to police compliance with the minimum investment thresholds.

### **Taxation**

The Isle of Man offers a tax neutral environment for hedge fund 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 administrators and investment managers based in the Isle of Man in respect of services to SFs are exempt from value added tax in the Isle of Man.

### **Offering document**

Every SF is required to have an offering document. The board of directors of the SF must all sign a statement in respect of the offering document in which they acknowledge that they are responsible for the contents of the offering document.

There are only a limited number of prescribed statements to be included in the offering document of a SF. By and large, the content of a SF's offering document is a matter for its board of directors, subject to an overriding requirement that the offering document should accurately set out all material information to enable a prospective investor to make an informed investment decision.

The SF is also required to have an investor application form that contains certain prescribed statements including a certification by the investor that he meets the target investor requirements (see above).

## **Flexible custody arrangements**

There are no prescriptive requirements for the appointment of a custodian in relation to a SF. The fund is free to appoint various custodians or prime brokers as it sees fit and may appoint different parties to act in relation to different types or groups of assets. The arrangements for the custody of the assets of the SF must be described in the offering document.

## **Accounting and audit requirements**

A SF is required to prepare annual financial statements in accordance with either international accounting standards, UK GAAP or US GAAP. The annual financial statements must be audited by a qualifying auditor.

In order for an auditor to be qualified to report on the financial statements of a SF, the auditor must be a member of a relevant professional body of accounts, such as the Institute of Chartered Accountants in England & Wales, must have a permanent place of business in the Isle of Man and must maintain appropriate professional indemnity insurance to a level of at least £20M.

The audited financial statements of a SF must be distributed to its investor within not more than 6 months of the end of its financial year.

Should you have any questions or requests for further information please contact:

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