



Funds Disputes

OVERVIEW

Investment funds are a key feature of commercial activity in all of the offshore jurisdictions where Appleby operates, namely Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, the Isle of Man, Jersey, Mauritius and the Seychelles.

The availability of expert professional advice, coupled with well regulated financial centres with stable and business friendly governments, has contributed to the growth of the fund sectors in all of these jurisdictions. The Cayman Islands, in particular, has more than 9,500 active registered funds, under licence with globally recognised legal, audit, accounting and administration services.

Disputes are normally complex in nature, often involving multiple parties with opposing interests and significant cross-border issues, and typically arise from factors such as trading losses, illiquidity, misvaluation and mismanagement, fund-related disputes and winding-up processes.

Known for their
“sizeable litigation
group with a
strong track record
in contentious
investment fund
proceedings.”

Chambers Global 2017



OUR FUND DISPUTES PRACTICE

Appleby's Fund Disputes Team is an industry leader. Our experience covers all types of funds, including: corporate funds, limited partnerships, unit trusts, regulated mutual funds, close-ended funds and private equity funds. We have acted for a wide range of parties involved in fund related matters, including office holders, directors, auditors, investment managers, shareholders and creditors.

We have represented clients in disputes concerning many high profile funds. Examples include: Absolute Capital; Ascot Partners; Basis Yield Alpha Fund; Bear Stearns High-Grade Structured Credit Strategies Funds; Bernard L Madoff Investment Securities; Carlyle Capital; DD Growth Premium Fund; Camulos Partners; Fairfield Sentry; Herald Fund; Highland Capital; Lancelot Investors Fund; Palm Beach Offshore Fund; Ritchie Capital; Rye Select funds; Sigma Finance; Weavering Macro Fixed Income Fund.

Our global team of highly skilled lawyers has considerable experience acting in respect of fund disputes and distressed funds, including risk management, orderly wind-downs, counselling, negotiation, litigation, arbitration and, when necessary, insolvency or restructuring proceedings. The team regularly provides advice and assistance regarding matters such as:

- Redemption and valuation issues
- Shareholder rights
- Directors' duties and liabilities
- Enforceability of side letters
- Liabilities of service providers
- Fraud and mismanagement of fund assets
- Securitisations and other structured products
- Liquidity solutions for distressed funds
- Workouts and restructures
- Winding-up and dissolution of insolvent funds

Leading legal directories have long recognised our excellent reputation in the area of fund disputes. Chambers & Partners, The Legal 500 and PLC Which Lawyer? consistently rank us in the top and leading tiers in each of our jurisdictions for fund disputes work.

REPRESENTATIVE WORK

Administrators

Advising an Administrator in the Isle of Man of a Cayman traded life policy fund in a dispute with the manager over dealings with investors and termination of an administration agreement.

Arbitration

Representing a Cayman fund in successfully obtaining an ICC arbitration award in Sao Paulo against a Bermuda investment company.

Clawback Claims

Acting for major institutional investors in defending clawback claims brought in the BVI and US Bankruptcy courts by the liquidator of Fairfield Sentry Ltd, one of the largest Madoff feeder funds.

Directors

Defending director of the Arch Cru Funds against breach of fiduciary duty claims brought in Guernsey and England.

Investor Claims

Acting for investors in proceedings to remove the manager of BVI for mismanagement and to appoint liquidators on loss of substratum grounds.

Liquidation Claims

Advising the liquidators in actions to recover losses for investors who lost US\$1.5 billion in the collapse of the Bear Stearns subprime-invested structured credit funds, the largest and highest profile hedge fund collapse arising out of the subprime mortgage crisis.

Mismanagement

Representing Jersey funds group in claims against former manager and administrators for mismanagement and miscalculation of NAV.

Restructuring

Advising an Isle of Man fund on a scheme of arrangement to create a side pocket in resolution of liquidity issues.

Valuation Disputes

Acting for the plaintiff in the first Cayman Islands case on misvaluation to go to trial, raising unprecedented issues about construction of fund investment documentation, and the obligation of funds to disclose underlying hedging transaction costs to investors.

KEY CONTACTS - FUND DISPUTES TEAM LEADERS



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ABOUT APPLEBY

Appleby is one of the world's leading offshore law firms. The Group has offices in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Isle of Man, Jersey, Mauritius, and Seychelles, as well as a presence in the international financial centres of Hong Kong and Shanghai.

With over 470 people, including lawyers and professional specialists, across the Group, Appleby delivers sophisticated, specialised services, primarily in the areas of Corporate, Dispute Resolution, Private Client and Trusts, Regulatory and Property. The Group advises public and private companies, financial institutions, and high net worth individuals, working with these clients and their advisers to achieve practical solutions, whether in a single location or across multiple jurisdictions.

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