



The Isle of Man Specialist Fund

The fund structure for Alternative Investment

Flexibility of legal form

The Isle of Man prides itself on creating the right business environment with pragmatic regulation, providing the capacity to grow and offering a financially compelling alternative to more expensive locations. More information can be found at: www.gov.im/iomfinance/funds. As part of this complete solution, the Island has a full suite of fund vehicles with the fund category of choice for institutional alternative investment being the Specialist Fund. This fact sheet describes the key features of the Specialist Fund and answers important questions on the vehicle and how it may be used.

Details within this document are for guidance only – the original legislation should be consulted for legal purposes.

How flexible are the fund vehicles you offer?

Pragmatic regulation is important to us, so we offer a full range of vehicles for use as fund structures. Corporate vehicles can be established either as traditional 1931 Act companies or under the Island's 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 or 'PCCs'. PCCs are ideal for use in both multi-class/single manager structures and in multimanager offerings. If corporate structures are not suitable, 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 "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. As a fund

vehicle, the unit trust arrangement offers huge flexibility. To aid familiarity, the Isle of Man follows England in its trust law.

Are there restrictions in asset categories?

Again, pragmatism reigns with no regulatory restrictions on asset classes, trading strategies or leverage for a Specialist Fund. This means that the Specialist Fund is suitable for, quite literally, any type of alternative investment fund. However, in the interests of investor protection it is a requirement that a Specialist Fund must receive (either directly or indirectly) investment advice or management services from an appropriate entity that is acceptable to the fund's governing body.

Capacity to grow and expand is vital to any business and 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 ('FSC') regularly reviews its licensing policy to ensure that it remains appropriate and flexible. The Island is keen to attract hedge fund management and related operations.

Do I need a regulated administrator?

Of course, investor protection is important and, as a result, a Specialist Fund will need to appoint a regulated fund administrator to perform its core administration requirements, valuations, pricing and fund accounting services. Whilst already a low cost jurisdiction we recognise the need for flexibility, therefore, whilst this role may be fulfilled by an Isle of Man based service provider, it is not a mandatory requirement. However, the appointed administrator must be based in a jurisdiction that the FSC regards as providing an acceptable level of regulation and mutual assistance arrangements.

The administrator has regulatory responsibilities for ensuring that the target investor requirements for a Specialist Fund (see below) are met, making certain periodic reports and declarations of compliance to the FSC and notifying the FSC of certain material events in relation to the fund. Governance and governing body composition are also relevant; an independent non-executive director must be appointed to the governing body of a Specialist Fund (with the exception of funds constituted of unit trusts).

What are the responsibilities of the governing body?

The governing body of a Specialist Fund has responsibility for ensuring the fund 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. It is also required to make certain that the fund is managed and operated in accordance with its constitutional documents and offering document.

It is important to note that where an overseas administrator has been appointed, 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 compliance by the overseas administrator with the Specialist Fund requirements. Where the fund is constituted as a unit trust and appoints an overseas administrator, the governing body must be licensed by the FSC.

Which investors is the Specialist Fund suitable for?

To be clear, the Specialist Fund is aimed at institutional and non-retail investors. To ensure this is the case, prospective investors must certify that they are sufficiently experienced to understand

the risks associated with an investment in the Specialist Fund 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.

Fund Registration

All Specialist Funds are required to register with the FSC. When registering the fund, the FSC does not review fund documentation but relies upon a statement of compliance provided by the fund's governing body. Following registration, details of registration will be available at www.fsc.gov.im.

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 Specialist Fund can be launched quickly and without any risk of regulatory delays.

Is there a minimum subscription?

Yes. There is a minimum initial investment requirement of at least US\$100,000 (or its foreign currency equivalent) for a Specialist Fund with pooling of assets being specifically prohibited. The administrator is required to ensure that compliance with the minimum investment threshold is met.

What is the taxation position?

To ensure our offering is financially compelling, the Isle of Man offers a tax neutral environment for fund operations. Simply put, there are no capital taxes and a zero rate of corporate tax for fund companies. 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. To further improve our offering, the fees levied by fund administrators and investment managers based in the Isle of Man in respect of services to Specialist Funds are exempt from value added tax in the Isle of Man. More of the investment returns stay with the investors.

Do you need an offer document?

Yes – every Specialist Fund is required to have an offer document. The governing body of the Specialist Fund must sign a statement in respect of the offering document in which it acknowledges that it is responsible for its contents. However, there are only a limited number of prescribed statements to be included and, by and large, the content of a Specialist Fund's offering document is a matter for its governing body, subject to an overriding requirement that the offering document should accurately set out all material information necessary to enable a prospective investor to make an informed investment decision. The Specialist Fund is also required to have an investor application form that contains certain prescribed statements, including a certification by the investor that it meets the target investor requirements.

How flexible are custody arrangements?

There are no prescriptive requirements for the appointment of a custodian in relation to a Specialist Fund. 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. However, the arrangements for the custody of the assets of the Specialist Fund must be described in the offer document.

What are the accounting and audit requirements?

In line with good practice, a Specialist Fund is required to prepare annual financial statements in accordance with either international financial reporting standards, UK GAAP or US GAAP. 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 Specialist Fund, the auditor must be a member of a relevant professional body of accountants, 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 Specialist Fund must be distributed to its investors within not more than 6 months of the end of its financial year.

Further details about the Specialist Fund and the regulatory environment can be found on the FSC website:

<http://www.fsc.gov.im/cishanbook.xml>

