

Garfield  Bennett



Jersey
Funds.

Jersey Funds

A Fund is a term used to describe a collective investment scheme where investors' monies are pooled together and managed as a single entity with a common investment aim.

The categorisation of the prospective investors at whom the investment is aimed will be an important consideration in determining the selection of the appropriate investment vehicle.

A Jersey fund can be established as a company, a unit trust or a limited partnership.

COMPANY

The Companies (Jersey) Law 1991 deals with the incorporation of companies in Jersey. There are a number of different types of company available, including protected cell companies and incorporated cell companies.

UNIT TRUST

In contrast to an investment company, a unit trust is not a separate legal entity. A unit trust is simply a trust arrangement whereby legal ownership of the Funds assets is vested in a Trustee who holds the assets of the Fund for the benefit of the unit holders. The unit Trust will be governed by the Trusts (Jersey) Law 1984.

For most practical purposes, a unit trust scheme will operate and be regulated in the same manner as a corporate investment fund.

LIMITED PARTNERSHIP

The Limited Partnerships (Jersey) Law 1994 provides a comprehensive statutory framework for the establishment and operation of a Limited Partnership in Jersey. However each Limited Partnership will be bound by its Limited Partnership Agreement.

A Jersey Limited Partnership is not a legal entity in its own right but is a partnership between one or more general partners and one or more limited partner. While general partners have unlimited liability in relation to the liabilities of the partnership, a limited partners liability is limited to the difference between the amount which it has actually contributed to the partnership and the

amount it has agreed to contribute to the partnership.

Types of fund

A wide range of funds are available under Jersey's regulatory fund regime, ranging from the recognised fund to very private funds.

VERY PRIVATE OR PRIVATE FUNDS

These are the simplest type of fund or joint venture vehicle established for up to a maximum of 15 investors.

These are usually closed ended vehicles utilised for a specific one off transaction or investment.

COBO ONLY FUNDS (OR A PRIVATE PLACEMENT FUND)

If a fund vehicle is offered to between 15 and 50 investors and is not listed, it can be treated as a COBO only fund.

COBO only funds are governed by policy rather than statute and the regulator will impose conditions through the COBO consent issued when the structure is established.

The regulator will require the promoter of the fund to satisfy the promoter test, which will demonstrate to the regulator the promoter's ability, experience and qualification to promote such a fund.

There is a minimum subscription level of £250,000 or the investor has to qualify as professional investors and have received and acknowledged an appropriate investment warning.

UNREGULATED FUNDS

The unregulated fund was introduced in Jersey in 2008 by the Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008, which exempts two types of structure from regulation as collective investment funds in Jersey, namely:

1. the unregulated exchange traded fund ("UETF"); and
2. the unregulated eligible investor fund ("UEIF").

The UETF is listed on an approved stock exchange or market such as the Channel Islands Stock Exchange. A UETF requires the filing of appropriate forms with the JFSC, and the prospectus or listing document must include clear statutory warnings.

UEIFs are required to have eligible investors who are classed as either professional or institutional investors or who make a minimum investment of \$1 million or its currency equivalent.

A UEIF requires certain forms to be filed with the JFSC and include clear statutory warnings in the prospectus or listing document. The investors must confirm they have received and understood the investment warnings.

LISTED FUNDS

A listed fund is a collective investment fund which will be listed on a recognised stock exchange approved by the JFSC.

There is a detailed Listed Fund Guide on the regulators website setting out the process to establish the structure.

In addition to being listed on a recognised stock exchange approved by the regulator, the structure must be closed ended with at least two Jersey resident directors and a Jersey based functionary. There is no minimum subscription amount.

EXPERT FUNDS

An Expert Fund is a collective investment fund that falls within Article 3 of the Collective Investment Funds (Jersey) Law as amended ("CIF"), is established in Jersey and in which only Expert Investors may invest.

Only Expert Investors who have acknowledged in writing the acceptance of the investment warning set out in the Offer Document may invest in an Expert Fund.

The regulator has published a detailed Expert Fund Guide, which sets out the process to establish a regulated fund.

Expert investors are defined in the Expert Fund Guide, and include institutional and sophisticated investors and any person who invests at least \$100,000 or the currency equivalent.

The expert fund may be open or closed ended and must have at least two resident Jersey Directors where established as a Company or Limited Partnership. If the Expert Fund is established as a unit trust, a Jersey entity with at least two Jersey resident directors with appropriate experience should act as the trustee.

All expert funds must have a Jersey based Manager or Administrator or Trustee which has at least two Jersey resident directors with appropriate experience together with staff and a physical presence in the Island.

Any delegation of the duties assumed by the administrator, manager or trustee (as applicable) must be subject to and in accordance with the regulators Outsourcing Policy.

UNCLASSIFIED FUNDS

Unclassified funds are governed by the CIF Law and can be offered to more than 50 investors or listed. Unclassified funds are suitable structures for public offerings.

One of the key principles is compliance with the regulators promoter policy. This will include reference to a promoter's track record, reputation, financial resources, spread of ultimate ownership and the type of investor to whom the fund/scheme will be offered.

Unclassified funds require a Jersey based manager and a Jersey based custodian (for open ended funds). The prospectus or offering document must comply with detailed regulations.

RECOGNISED FUNDS

The most highly regulated fund is the Recognised or Retail Fund.

A recognised fund is a collective investment fund that complies with the Collective Investment Funds (Recognised Funds) (General Provisions) (Jersey) Order 1988.

Investors have access to a statutory compensation scheme and all functionaries are regulated under the CIF Law.

A recognised fund can be marketed directly to the UK public under the Financial Services and Markets Act 2000 and to the nationals of a number of other countries with corresponding legislation.

This information is intended to provide a brief guide on the subject matter. It is not to be regarded as giving legal or financial advice that may be acted or relied upon. For further information in relation to the above or in relation to any specific circumstances please contact:

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