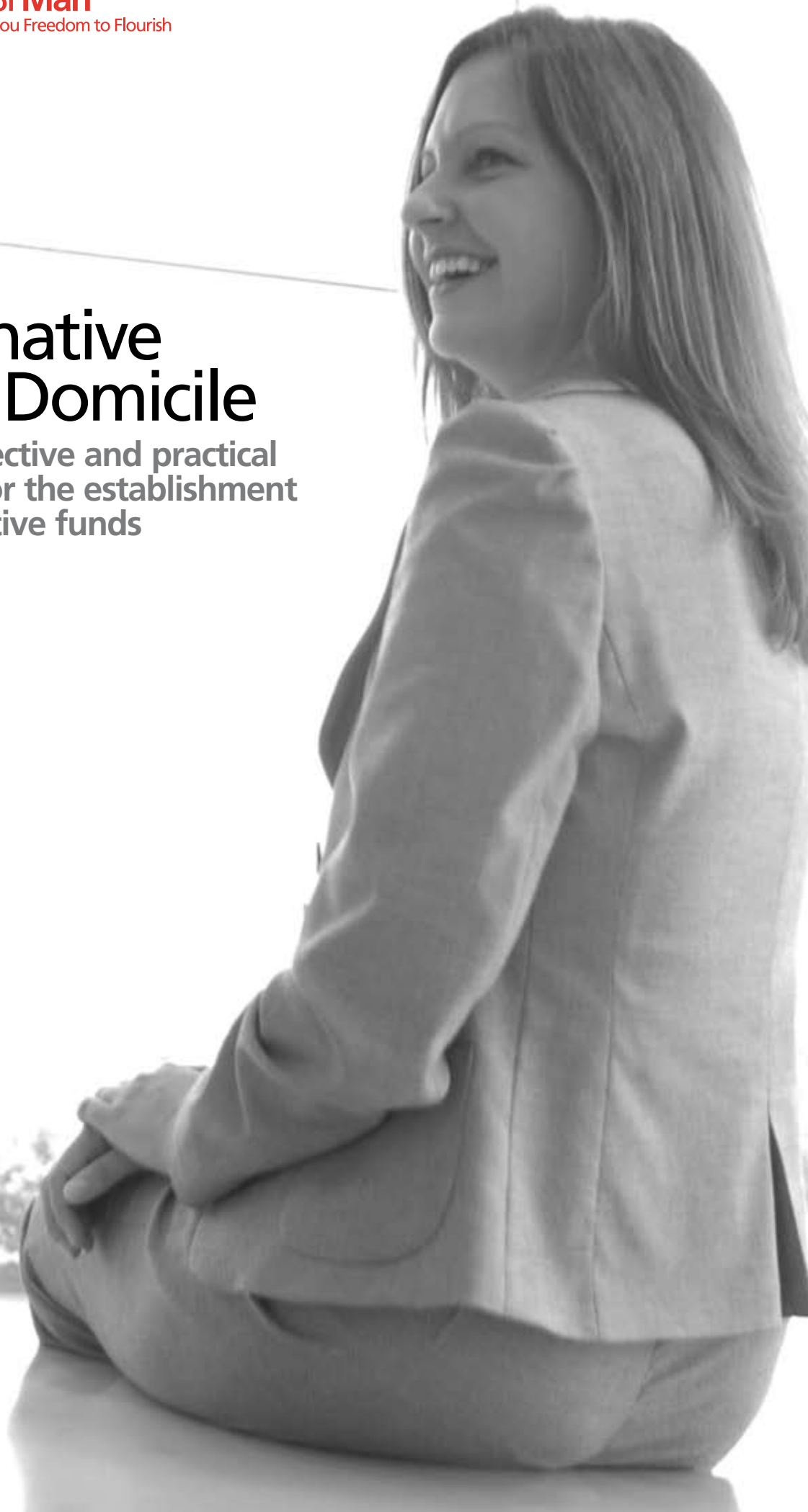


Alternative Fund Domicile

A cost-effective and practical
location for the establishment
of alternative funds





Isle of Man – Alternative Fund Domicile

The Isle of Man's low tax status, political and economic stability and proximity to the key markets of Europe make it a compelling and cost-effective location for the domicile of alternative funds. With a wide range of fund service providers and financial services infrastructure, the Island offers a solution for all promoters of institutional-focused hedge and other funds. The Island prides itself on its "can-do" business environment, and the close co-operation between public and private sectors has resulted in a flexible, well-regulated funds sector that meets the expectations of promoters and the concerns of key investors. This fact sheet sets out the Island's proposition for fund domicile, with a particular emphasis on the new Specialist Fund category. Details within this document are for guidance only – the original legislation should be consulted for legal purposes.

Flexibility of legal form

As you would expect of a common law jurisdiction, the Isle of Man offers a full range of vehicles for use as fund structures, including open-ended investment companies, protected cell companies, limited partnerships and unit trusts. These are considered in more detail below.

Companies – traditional and modern

Corporate vehicles remain the most popular legal form for collective investment. The Island's Companies Act 2006 created a new stand-alone corporate vehicle, which represents the gold standard for international special purpose vehicles. Minimal administrative requirements, flexible capital structure and limited disclosure requirements are counter-balanced by the Island's well-respected regime for the regulation and supervision of registered agents.

There is also the Island's long-established conventional companies which draw heavily on English legislative traditions, but without the more prescriptive requirements associated with companies incorporated in metropolitan jurisdictions.

All Isle of Man corporate vehicles can be structured as open-ended investment companies, which are regarded as funds for the purposes of Isle of Man law. Closed-ended investment companies, which do not provide this flexibility, are outside the scope of Isle of Man funds regulation. For more information on these vehicles see: **Isle of Man Closed-Ended Investment Companies**.

Protected cell companies

Both conventional and new 2006 Act companies can be established in the Isle of Man in the form of protected cell companies or "PCCs", which are ideal for use both in multi-class/single manager structures and in multi-manager offerings.

Limited partnerships

Private equity specialists have always appreciated the flexibility offered by limited partnerships, but these vehicles have recently gained favour with managers of other asset classes, particularly

property. Being tax transparent under Isle of Man law, these vehicles offer considerable opportunity for efficient cross-border tax planning whilst continuing to allow investors the benefit of limited liability.

Isle of Man limited partnerships also benefit from a flexible legal framework. There is minimal statutory overlay in relation to the operation of an Isle of Man limited partnership. The legislation offers the flexibility to return capital prior to the winding up of the partnership. What's more, in order to provide comfort to investors, it sets out a "white-list" of activities that will not result in limited partners being regarded as involved in the management of the partnership and thereby prejudicing their limited liability status, which includes advising the general partner.

Unit trusts

The Isle of Man follows England and Wales in its trust law. As a fund vehicle, the unit trust arrangement offers huge flexibility.

Regulatory environment

The Isle of Man has a well-founded reputation as a premier jurisdiction in terms of regulation, achieving a balance between, on the one hand, providing a business friendly environment and, on the other, meeting international standards of financial supervision. A number of independent endorsements of the Island's regulatory framework have been conducted, which verify the Island's status. The most recent and comprehensive of these was published by the IMF in November 2003. The endorsements also included the positive assessment by the Financial Stability Forum of May 2000 identifying the Island as a 'category 1' jurisdiction, and confirmation as a co-operative jurisdiction from the FATF in 2000.

Regulation of fund managers and administrators, and of collective investment schemes, is undertaken in the Isle of Man by the Financial Supervision Commission or "FSC".

Categories of fund

The Isle of Man has a full suite of fund options ranging from fully regulated, retail-focused "authorised schemes" to private fund arrangements such as "exempt schemes" that fall wholly outside the scope of regulation.

Between these extremes is a range of funds that are subject to varying degrees of structural regulation. These categories of fund are not subject to prescriptive regulation, but all involve the appointment of an Isle of Man functionary and provide certain safeguards for investors. The fund category of choice for institutional alternative investment is the new Specialist Fund, or "SF".

This fact sheet focuses on the new SF opportunity. The Qualifying Investor Fund, or "QF", is a differently regulated vehicle which has no mandatory minimum subscription but is required, amongst other things, to appoint a regulated custodian and promoter. More information on the QF can be found in fact sheet:

Isle of Man Qualifying Investor Funds.

The wholly unregulated exempt scheme has particular advantages and cost-savings, particularly for small, initially privately-held funds, and more information can be found on this product in fact sheet: **Isle of Man Exempt Schemes**.

Specialist Investment Fund or "SF"

The SF has been specifically created to meet the demands of the alternative investment community and their institutional investors. The Isle of Man understands that the promoters of, and advisers to, hedge funds need a jurisdiction and a product that provides maximum flexibility and future-proofing in a fast-moving international investment environment.

Asset management

There are no regulatory restrictions on the types of investments that a SF can make and no restrictions on the trading strategies that can be employed by its manager or adviser. As a result, the SF is suitable for any type of alternative

investment fund. There are no regulatory limits on the borrowings or leverage that a SF may undertake. If full latitude on investment is not regarded as appropriate, there is the flexibility to embed restrictions in the constitutional documents of the fund.

In order to maintain the quality of the fund business domiciled in the Isle of Man and minimise the jurisdictional risk for investors, it is a requirement that a SF must receive (either directly or indirectly) investment advice or management services from an entity that is suitably qualified in the opinion of 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 FSC has announced that it is undertaking a review of its licensing policy with a view to introducing clarifications designed to attract hedge fund management and related operations to the Island. Further information on this initiative can be found in fact sheet: **Isle of Man - Hedge Fund Operations**.

Regulated administrator

A SF must appoint a regulated fund administrator to perform its core administration requirements, including, valuations, pricing and fund accounting services. The Isle of Man hosts a range of experienced fund administrators, from the global names to boutique providers.

In the alternative, 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 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

In order to maintain standards of corporate governance for the benefit of investors, a SF must have an independent non-executive director on the board.

In addition, where a SF has availed itself of the right to appoint an overseas administrator regulated in an acceptable jurisdiction, there is a requirement that the board of directors must include an Isle of Man resident individual 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 SF requirements.

The board of directors of a SF have responsibility for ensuring that the SF complies with its regulatory requirements. At the same time, they must make certain 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, nor are Isle of Man licensed administrators required to obtain any specific approval or consent to act in relation to any particular SF. This means that a SF can be launched quickly and without any risk of regulatory delays.

At present there are no initial or ongoing regulatory fees in the Isle of Man relating to the establishment or operation of a SF, although a modest annual corporate charge is payable in relation to the use of an Isle of Man corporate vehicle. Modest fees are likely to be introduced in the near future by the FSC.

Target investors

The SF is not intended to be a vehicle for retail investment. 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

A SF must have a minimum initial investment requirement of at least US\$100,000 (or its foreign currency equivalent), although it is expected that many of the funds in this category will actually have minimum investment levels that are set much higher. The administrator is required to police compliance with the minimum investment thresholds.

Taxation

The Isle of Man offers a tax neutral environment for fund operations. There are no capital or inheritance taxes in the Isle of Man and stamp duty does not apply. In 2006 the Isle of Man introduced 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 Island no longer has a "tax exemption" regime and therefore fund vehicles need not go through the process for applying for exemption on an annual basis; nor are such vehicles subject to the risks

associated with inadvertently ceasing to qualify for exempt status and the adverse taxation consequences that follow.

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 and for ensuring that it is updated as appropriate.

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 it 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 which 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 or UK 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.



The Isle of Man is a land of possibility where people and business will find the right environment in which to reach their full potential



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