

Qualifying Fund

Offering flexible solutions
across all asset categories



Isle of Man – Qualifying Fund

The Isle of Man has a full suite of fund options, but the fund category of choice for distribution to non-retail investors, offering maximum flexibility on strategy and asset allocation, is the new Qualifying Fund, or “QF”. This fact sheet describes the key features of the QF. Details within this document are for guidance only – the original legislation should be consulted for legal purposes.

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 or ‘PCCs’. PCCs are ideal for use in both 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. 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.

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

Asset management

There are no regulatory restrictions on asset classes, trading strategies or leverage for a QF. As a result, the QF

is suitable for any type of investment fund, from traditional, long-only equity funds to hedge fund strategies and from private equity to property investment. A QF can obtain investment advice from any appropriate source acceptable to the board of directors and its Isle of Man licensed fund manager.

Regulated manager

A QF must appoint a fund manager that is licensed in the Isle of Man by the Financial Supervision Commission or “FSC”. In addition to performing its core administration requirements, including transfer agency work, valuations, pricing and fund accounting services, the Isle

of Man licence holder is responsible for ensuring that the QF continues to be managed in accordance with its constitutional documents and offering document.

The Isle of Man licensed manager for a QF also has a regulatory responsibility for ensuring that the target investor requirements for a QF (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 QF.

Governance and board composition

An independent non-executive director must be appointed to the board of a QF. In addition, there is a requirement for an Isle of Man resident director, although this may be the same person as the independent non-executive.

The board of directors of a QF have responsibility for ensuring that the QF 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. Along with the Isle of Man licenced manager, they are also responsible for ensuring that the fund is managed and operated in accordance with its constitutional documents and offering document.

Custodian

A QF must appoint a custodian who is entrusted with responsibility for custody of the assets of the fund. The custodian is not required to take regulatory responsibility for ensuring that the fund is properly run, but may do so if agreed between the parties.

The custodian of a QF can be an Isle of Man licensed bank or holder of an appropriate investment business approval, but this is not mandatory. The custodian may also be an entity that is established and licensed to undertake such activities in a jurisdiction that the FSC regards as providing an acceptable level of regulation and mutual assistance arrangements. The arrangements for the custody of the assets of the QF must be described in the offering document.

Target investors

The QF is not intended to be a vehicle for retail investment; it is aimed at institutional and non-retail investors. Prospective investors must certify that they are sufficiently experienced to understand the risks associated with an investment in the QF 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 persons whose expertise, experience and ability to appraise the merits of an investment in the fund is certified by an acceptable financial adviser.

No minimum subscription

There is no prescribed regulatory minimum initial investment requirement for a QF.

Promotional arrangements

It is of paramount importance that QFs are promoted in a manner consistent with the nature of the fund and the target investor requirements. Accordingly, a QF must appoint a promoter who is either an Isle of Man licence holder or is established and licensed to promote funds in a jurisdiction that the FSC regards as providing an acceptable level of regulation.

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 QF can be launched quickly and without any risk of regulatory delays. At present, there are no initial or ongoing fees in the Isle of Man relating to the establishment or operation of a QF, 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.

Taxation

The Isle of Man offers a tax neutral environment for fund management 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 managers based in the Isle of Man in respect of services to QFs are exempt from value added tax in the Isle of Man.

Offering document

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

There are only a limited number of prescribed statements to be included in the offering document of a QF. By and large, the content of a QF'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 QF is also required to have an investor application form that contains certain prescribed statements including a certification by the investor (and by its acceptable financial adviser in certain circumstances) that it meets the target investor requirements (see above).

Accounting and audit requirements

A QF 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 QF, 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 QF must be distributed to its investors 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



Isle of Man
Government

Reillys Ellan Vannin

Isle of Man Finance
2nd Floor
Illiam Dhone House
2 Circular Road
Douglas
Isle of Man IM1 1PG

Tel: +44 (0)1624 687597

E-mail: enquiries@isleofmanfinance.gov.im

Web: www.isleofmanfinance.gov.im

www.isleofmanfunds.com