

Jersey Expert Funds

Introduction

An expert category of funds which was introduced in early 2004 has significantly enhanced Jersey's attractiveness as a jurisdiction for the establishment of funds aimed at institutional and high net worth investors. In particular, Expert Funds can be established within a matter of days on the basis of a self certification approach without the requirement for any formal regulatory review of the fund or its promoter. As at December 2006 over 274 expert funds had been authorised and the regime was enhanced in November 2006 by extending some of the principal criteria and allowing secondary market activity in certain circumstances.

What constitutes an Expert Fund?

An investment fund constitutes an Expert Fund if each investor signs an investment warning and falls within one of the following categories:-

- a person who makes a minimum initial investment of \$100,000 (or currency equivalent); or
- a person whose ordinary business includes buying or selling investments or giving investment advice; or
- a person with a net worth (individually or jointly with their spouse) of more than \$1 million (or currency equivalent) excluding their place of residence; or an entity with assets available for investment of not less than \$1 million (or currency equivalent) or every member or partner of which is an expert investor; or
- a person connected with a functionary of the fund (including 'carried interest' investors).

Regulatory Requirements

An Expert Fund is subject to a very light degree of regulation. In particular:-

- the promoter of an Expert Fund is not subject to any regulatory review or approval;
- an Expert Fund is not required to adopt any prescribed investment restrictions or risk diversification strategy.

The regulatory requirements applicable to an Expert Fund are as follows:-

- The Investment Manager/Adviser must satisfy the following requirements:-
 - have had no convictions or disciplinary sanctions imposed on it;
 - be solvent;
 - be regulated in an OECD member state or any other state or jurisdiction with which the Financial Services Commission has entered into a Memorandum of Understanding (or equivalent), on investment business and collective investment funds or be approved by the Financial Services Commission;
 - have relevant experience in managing or advising on investors' funds using similar investment strategies to those to be adopted by the Expert Fund; and
 - have an adequate span of control over its business.
- If the Distributor of the fund is independent of the Investment Manager/Adviser and is a driving force behind the fund, it must satisfy the same requirements as the Investment Manager/Adviser (other than in relation to investment management experience).
- An Expert Fund must appoint an administrator, manager or (in the case of a closed-ended unit trust) trustee (the '**Administrator**') which is regulated and has staff and a physical presence in Jersey. The Administrator will be required to monitor the compliance of the Investment Manager/Adviser with any investment or borrowing restrictions set out in the Offer Document and must have access to appropriate records of the Investment Manager/Adviser to enable it to carry out such monitoring function.
- All Jersey functionaries of an Expert Fund (including the Administrator) must be regulated in Jersey, and will be required to comply with applicable Codes of Practice.
- An open-ended Expert Fund must appoint a Jersey custodian or, in the case of a hedge fund, a prime broker with a credit rating of A1/P1 (in which case a Jersey custodian is not required).
- An Expert fund which is established as a limited partnership or unit trust must have a Jersey general partner/trustee.
- The Fund company, general partner or trustee (as the case may be) must have at least two Jersey resident directors.
- An Expert Fund must appoint an auditor.
- The Offer Document must contain certain specified information, including all information that investors would reasonably require to

enable them to make an informed judgement about an investment in the Expert Fund.

If an Expert Fund does not comply in all respects with the above requirements, it is possible to obtain derogations from the Financial Services Commission in relation to such non-compliance. There are no other structural or documentary requirements applicable to an Expert Fund.

Stock Exchange Listings and Transfers of Interests

An Expert Fund may be listed on a stock exchange which permits restrictions on transfers of interests. This is to ensure that no one other than an Expert Investor can participate in the fund.

Where no listing is intended, reasonable steps must be taken to ensure that non-Expert Investors do not become the registered holders of interests in the fund.

Authorisation Process

The application process for an Expert Fund is simple and quick. An application form setting out the key features of an Expert Fund, including a confirmation from the Investment Manager/Adviser that it complies with the above regulatory requirements, must be countersigned by the Administrator and submitted along with documentary evidence as to the Investment Manager/Adviser's regulation to the Financial Services Commission, together with an application fee, structure chart and the draft Offer Document.

The Financial Services Commission check that the application form has been appropriately completed, but do not carry out any regulatory review of an Expert Fund. The requisite consents to the establishment of the fund will be issued within days.