

Jersey unregulated funds

Jersey unregulated funds are available with effect from February 2008.

Unregulated funds are exempted from regulation by virtue of an enabling order made under the Collective Investment Funds (Jersey) Law 1988 which specifies schemes or arrangements which have been established as one of the following:

- unregulated exchange-traded funds; or
- unregulated eligible investor funds.

This means that, subject to a structure complying with the order, there will be no regulatory review or oversight of the terms or conduct of such unregulated funds and, therefore, processes for their establishment depend only on being carried out in accordance with the exemption order. Unregulated funds have been made available in response to market demands for a fully flexible framework aimed at sophisticated and institutional investors.

Jersey unregulated exchange-traded funds are schemes or arrangements which are closed-ended funds and which are listed on stock exchanges or markets or which have applied for their shares or units to be granted such a listing. An unregulated exchange-traded fund may take any form recognised under the laws of Jersey being a “Jersey arrangement” which includes a Jersey company (including a cell structure), a limited partnership established in Jersey having at least one Jersey corporate general partner or a unit trust established in Jersey having a Jersey corporate trustee or manager.

Jersey unregulated eligible investor funds are schemes or arrangements which are established in Jersey and in which only eligible investors may invest.

An eligible investor is defined as an investor who makes a minimum initial investment of U\$1 million or the currency equivalent whether through the initial offering or by subsequent acquisition, or is an institutional investor or professional investor, as defined.¹

An unregulated eligible investor fund may take any form recognised under the laws of Jersey being a Jersey company (including a cell structure), a Jersey limited partnership having at least one Jersey corporate general partner or a unit trust established in Jersey having a Jersey corporate trustee or manager.

An unregulated eligible investor fund may be open or closed and transfers of interests in an unregulated eligible investor fund will only be possible to other eligible investors with restrictions to ensure that any non-eligible investor does not become a registered holder of an interest.

Stock exchange listings for unregulated eligible investor funds are possible subject to these transfer restrictions still applying.

Process

In order to claim exemption as an unregulated eligible investor fund or an unregulated exchange-traded fund, a completed notice must be filed with the Jersey Registrar of Companies.

The offer and/or listing document of an unregulated exchange-traded fund or an unregulated eligible investor fund needs to contain a prominent statement that the fund is unregulated, together with a form of prescribed investment warning.

An unregulated fund may be offered to investors immediately following the filing of the prescribed notice.

Service Providers

Where Jersey service providers are appointed to an unregulated structure then they may rely upon existing licensing under the Jersey Financial Services Law. Where not already licensed, they will be able to take advantage of an expedited licensing process which will be brought into effect through amendments to the Jersey Financial Services Law which are being implemented following the introduction of the order.

Other than the Jersey corporate trustee or manager of a unit trust or general partner of a limited partnership, there is no requirement for Jersey service providers to be appointed as key functionaries and these may be selected on a global basis to provide the best service to fund structures.

Unregulated funds are subject to Jersey anti-money laundering rules, although certain requirements will be capable of satisfaction by service providers in other jurisdictions.

Application

Unregulated funds will significantly further enhance Jersey's attraction as a location for the domicile of institutional and sophisticated investment funds.

Footnotes

- ¹ An Eligible Investor is (1) an investor who makes a minimum initial investment or commitment of US \$1,000,000 (or currency equivalent) in the Unregulated Fund, whether through the initial offering or by subsequent acquisition;
- or (2) a person whose ordinary business or professional activity includes, or could be reasonably expected to include, acquiring, underwriting, managing, holding or disposing of investments whether as principal or agent, or the giving of advice on investments;

- or (3) an individual who has a net worth, or joint net worth with that person's spouse, greater than US \$10,000,000 (or currency equivalent) excluding that person's principal place of residence;
- or (4) a company, partnership, LLP, trust or other association of persons which has (or which is a wholly owned subsidiary of a body corporate which has) assets available for investment of not less than US \$10,000,000 (or currency equivalent) or every member, partner or beneficiary of which falls within the definition of Eligible Investor;
- or (5) a Functionary to the Unregulated Eligible Investor Fund or an Associate of a Functionary to the Unregulated Eligible Investor Fund;
- or (6) a person who is an employee, director, consultant or shareholder of or to a Functionary of the Unregulated Eligible Investor Fund or an Associate of a Functionary to the Unregulated Eligible Investor Fund, who is acquiring an investment in the Unregulated Eligible Investor Fund as part of his remuneration or an incentive arrangement or by way of co-investment;
- or (7) any employee, director, partner or consultant to or of any person referred to in (2);
- or (8) a trustee of a trust settled by or for the benefit of one or more persons referred to in (6) or (7);
- or (9) a trustee of an employment benefit or executive incentive trust established for the benefit of persons referred to in (6) or (7);
- or (10) a government, local authority, public authority or supra-national body.