

Establishing Investment
Funds in the Cayman Islands
Key considerations



Foreword

We are pleased to present our guide to establishing investment funds in the Cayman Islands.

The Cayman Islands is without question the jurisdiction of choice for global investors and the Cayman Islands' Investment Management professionals are in constant collaboration to ensure the established framework continues to satisfy, if not exceed, expectations of all stakeholders.

There have been a number of developments over the past year that impact the Cayman Islands' Investment Management industry, including amendments to the regulatory requirements for liquidating funds, progress on Common Reporting Standard, and technical accounting and disclosure updates, that are outside of the scope of this document. We would be happy to discuss these industry developments with you further.

We hope that you find this publication helpful. As always, we encourage you to contact your local Deloitte firm or Deloitte in the Cayman Islands for additional information or assistance.

Best,

A handwritten signature in black ink, appearing to read 'Odette Samson', with a long horizontal flourish extending to the right.

Odette Samson
Partner, Assurance & Advisory Services
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Introduction

Cayman Islands mutual funds

The Cayman Islands is a British Overseas Territory and is the leading jurisdiction for establishing offshore mutual funds globally. As of June 30, 2015, the Cayman Islands Monetary Authority (CIMA), the primary regulator of the Cayman Islands' financial services industry, reported that the total number of regulated funds was 11,061, comprised of 7,795 registered funds, 2,773 master funds, 390 administered funds and 103 licensed funds. In comparison, the next largest offshore jurisdiction, by number of latest reported funds of each respective jurisdiction, was the British Virgin Islands with 2,037¹ funds as at October 31, 2015, and Jersey with 1,298² funds as at June 30, 2015.

CIMA issues an annual statistical digest that presents aggregate statistics on funds it regulates. In making structuring decisions, it may be useful to understand what is most commonly used by the global asset management community. Certain relevant statistics are presented in the following table:

| CIMA – Investments Statistical Digest | 2013 ³ | |
|--|-------------------------|------------|
| Location of Investment Managers by ending net assets | North America | 64% |
| | Europe | 24% |
| | Other | 12% |
| Primary location for NAV calculation services | United States | |
| Primary location for Registrar and Transfer Agent services | Cayman Islands | |
| Legal structure | Exempted Company | 67% |
| | Exempted Trust | 12% |
| | Exempted SPC | 11% |
| | Exempted Partnership | 9% |
| Operating structure of all regulated mutual funds | Master/Feeder | 62% |
| | Stand-Alone | 22% |
| | Fund of funds | 16% |
| Funds requiring minimum \$1 M initial investment (%) | 50% | |
| Accounting standards | US GAAP | 63% |
| | IFRS | 31% |
| | Other | 6% |
| Stock exchange | Not listed | 94% |
| | Cayman Islands | 3% |
| | Other | 3% |

¹ 2015 BVI FSC Quarterly Statistical Bulletin, Quarter 3 2015 (page 4)

² Summary of statistical survey of funds at June 30, 2015; www.jerseyfsc.org

³ The data represents 82% of Caymans Islands' regulated funds with a financial year end during 2013, and 77% of all funds regulated in the jurisdiction. It is the most recently published statistical digest available.

The 2013 CIMA statistics further highlights that there was an increase of 16% in investments managed by asset managers in Europe and an increase of 21% in investments managed by asset managers located in Latin America (Argentina, Brazil, Mexico) as compared to the 2012 statistics.

Switzerland, for example, showed an increase of US\$32 billion to US\$55 billion in 2013. This may suggest that Cayman Islands structures continue to satisfy the regulatory frameworks in place in the home jurisdictions of European and Latin American asset managers, who are raising capital primarily from these locations.

Key characteristics

Certain key characteristics of an investment fund will drive the choice of structure, legal entity and operations of the fund, as follows:

| Investment fund characteristics | |
|---------------------------------|---|
| Investor's domicile | Domestic/Global |
| Investment strategies | No Cayman Islands imposed restrictions |
| Liquidity | Daily/Monthly/Quarterly or closed-ended |
| Transparency | As determined by Fund Management |
| Leverage | As determined by Fund Management |
| Investment restrictions | As determined by Fund Management |
| Investment Management fees | Commonly 1-2% of net assets |
| Performance fees or allocation | Commonly 10-20% of profits |
| AUM at launch | Minimum subscription for certain regulated fund categories |

Fund Management will determine the most appropriate organizational structure and type of legal entity most appropriate in order to satisfy the nature of investments and anticipated fund terms noted above. Once the appropriate structure and vehicle is determined, the investment manager will, with the assistance of its legal counsel and advisers, complete the following process (see Appendix A for the related estimated timeline), in order to launch a Cayman Islands fund:

1. Incorporate and form the fund vehicle.
2. Appoint a minimum of two directors.
3. Prepare the fund's constitutional documents (such as the memorandum and articles of association, offering memorandum, share subscription agreement, board resolutions).
4. Prepare service provider agreements (such as the investment management/advisory agreement(s), the administration agreement, brokerage agreement(s)).
5. If CIMA registration is required (see Section: Regulatory Regime), prepare application for registration under the Mutual Funds Law of the Cayman Islands.

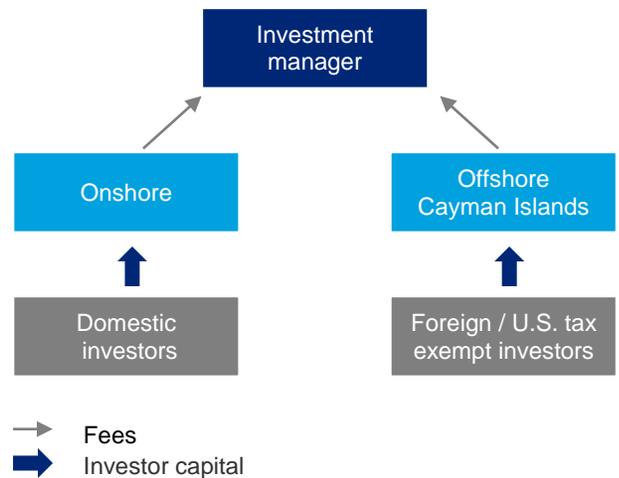
Organizational Structure

A. Side-by-Side structure

Organizational structure

The side-by-side structure contemplates an investment manager making trades for the onshore and offshore funds according to an identical investment strategy. While the positions held are the same, each fund has its distinct brokerage accounts and trades are executed for each separately. Accordingly, the investors would expect to receive a same or similar investment return.

Alternatives for the offshore fund structure include an exempted company (including an exempted segregated portfolio company), an exempted limited partnership, or unit trust. The more common legal entity alternatives are discussed in the following pages. The unit trust is most commonly favoured by Asian investors for domestic tax purposes (e.g. Japan).

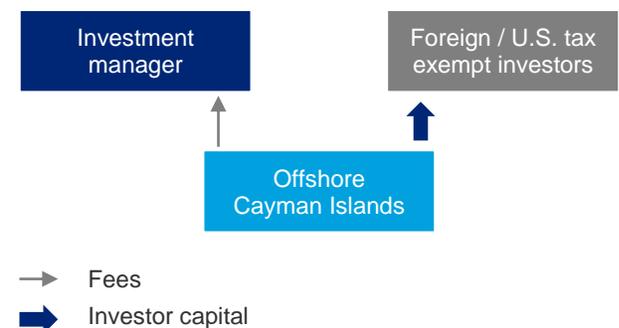


B. Stand-Alone fund

Organizational structure

A stand-alone fund operates as a single vehicle and is typically used by managers that seek to operate a single strategy. Structurally, each vehicle in a side-by-side arrangement is a stand-alone fund.

The offshore fund entity may be established using one of the Cayman Islands' legal entities discussed further within the section 'Legal Entities'.

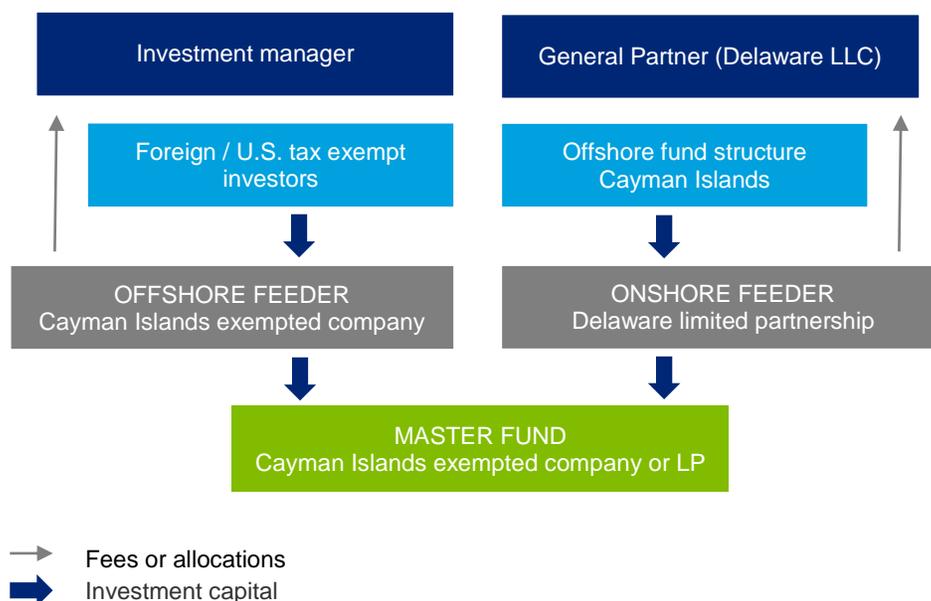


C. Master - Feeder structure

A Master - Feeder structure is typically utilized in order to allow investors with different tax requirements to participate in the same fund (the Master trading fund). This structure is commonly used by managers in the United States. These managers seek to raise capital from global investors by establishing an offshore feeder vehicle that will invest primarily into the offshore Master

trading vehicle, while separately establishing an onshore feeder vehicle to cater to U.S. taxable investors, without having to operate a duplicate trading vehicle, as is required for side-by-side funds. It is therefore both a cost and administratively efficient means of marketing and operating an investment manager's products to both domestic and global investors.

Organizational structure



Operations

The domestic feeder accepts contributions from U.S. taxable investors, and the offshore feeder accepts subscriptions from U.S. tax exempt and foreign investors. The feeders in turn generally invest solely into the Master trading vehicle. Typically the Master trading fund does not pay management and performance fees as these are calculated and recorded at the Feeder fund level. The domestic feeder will pay a management fee and a performance allocation to its general partner, while the offshore feeder will pay a management fee and a performance fee to its investment manager. Given that the character of the fees may influence the investment manager or general partner's U.S. tax treatment, some variances are seen in practice, and therefore consultation with tax advisors is recommended when structuring and drafting the offering memorandum.

Ownership

A Master Fund typically issues voting, non-participating management shares to the Investment Manager. Non-voting, participating shares are issued to the Feeders with each Feeder investing in a different participating share class. A Feeder Fund typically issues voting, non-participating management shares to the Investment Manager. Non-voting, participating shares are issued to the shareholders permitted to invest in the feeder, as specified in the respective feeder's offering memorandum.

Other tax considerations

If the Master Fund is established as a Cayman Islands corporation, it is critical that the Master Fund make a "check the box" election to be taxed as a Partnership for US tax purposes.

In 2013, CIMA has reported that 62% of funds structures that it regulates in the Cayman Islands were Master - Feeder Funds. It is the most common structure used by U.S. investment managers.

Legal Entities

A. The Cayman Islands Exempted Company

Organizational structure

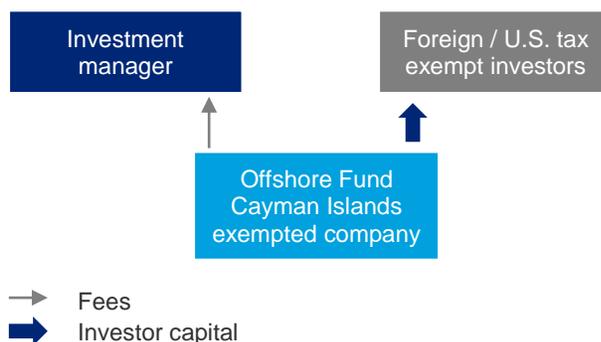
Exempted companies are formed in accordance with the Companies Law of the Cayman Islands. An exempted company's business activities occur primarily outside of the Cayman Islands. A primary advantage is that it limits the shareholders' liability over the debts of the company, however the directors, appointed to manage the company, may be personally liable in the event of breach of duty. The Cayman Islands exempted company is most frequently used by offshore funds as discussed further under the section "Regulatory Regime".

Ownership

The Investment Manager typically owns the voting, non-participating management shares of the Cayman Islands exempted company. Other alternatives such as establishing a charitable trust to own the management shares, or solely issuing voting participating shares may be most appropriate, as determined in consultation with your legal counsel. Non-voting, participating shares are owned by the foreign or U.S tax exempt investors. Multiple share classes can be issued to adapt the fund to varying fee structures or other investor needs.

An exempted company may not raise capital from the public from within the Cayman Islands unless it is listed on the Cayman Islands Stock Exchange.

There is no maximum number of shareholders.



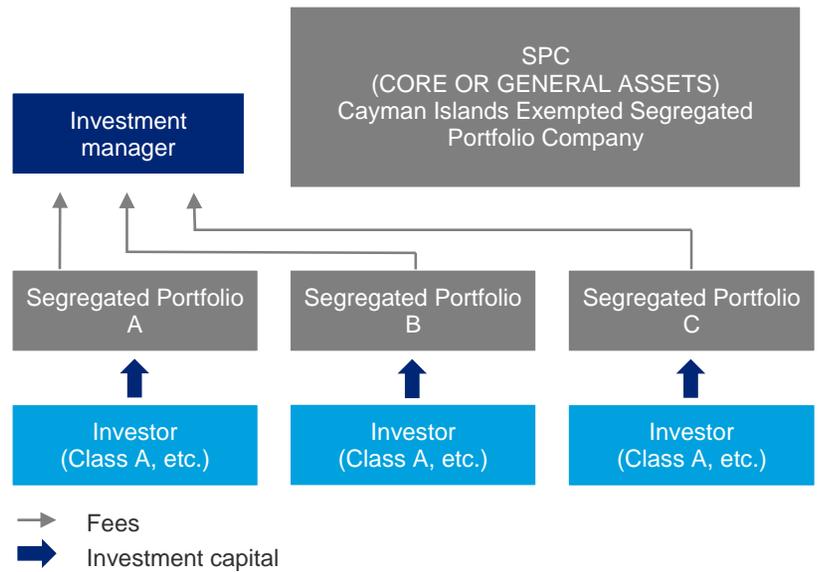
Tax considerations

Given there is no taxation on income, profits or capital gains in the Cayman Islands, the corporate structure can accumulate earnings without taxation at the corporate level, while limiting liabilities to the corporation.

A company may apply for a Tax Exemption Certificate to obtain an undertaking from the Governor in Cabinet that no income, profit or capital gains taxes will be imposed on the company for a period up to 20 years from the date of such undertaking (a further 10 year extension is then available). The certificate is to protect the fund in the unlikely event that a direct tax is imposed in the future.

B. The Segregated Portfolio Company

An SPC is an exempted company, organized under the Companies Law of the Cayman Islands, which seeks to segregate separate pools of assets and liabilities to specified shareholders or creditors. Such segregation protects investors and creditors from assuming losses incurred by a separate share class or investor group. An investor may otherwise be exposed to the liabilities of other classes when, for example, a fund enters into side arrangements on behalf of another investor, or when individual cells have different levels of risk.



An SPC is designed so that a creditor or investor will only have recourse to the assets attributable to the specific segregated portfolio, or "cell" with which it is a creditor or investor. To the extent that such assets are insufficient to satisfy the obligation, and unless prohibited by its articles of association, the creditor or investor may seek settlement from the balance of the SPC's general assets less any minimum capital amount lawfully required. The creditor or investor may not look to the assets of any other segregated portfolio to satisfy its obligations, as is the case in a multi-class fund, or an umbrella trust.

Ownership

Segregated Portfolio Companies follow the same share structure as an exempted company under the Companies Law. Management shares, typically owned by the Investment Manager, and participating shares are both authorized and issued at the SPC level. The SPC will then re-designate portions of its authorized participating share capital to the segregated portfolios.

Benefits and Shortcomings of the SPC

The primary benefit is that there is no cross-liability between segregated portfolios as is the case for a multi-class fund or umbrella trust structure. The SPC would therefore appeal to investors seeking to protect themselves from other share classes having different risk parameters (such as leveraged share classes).

An SPC is a single legal entity, as specified under the Law. Therefore in order for a segregated portfolio to achieve the advantage of maintaining its separate legal status in liquidation, it is crucial that the assets and liabilities are legally segregated between segregated portfolios. This may be achieved through the SPC entering into contracts for and on behalf of a specific identified portfolio and not in the name of the SPC, which includes establishing separate bank, custody and brokerage accounts, derivative contracts, loan agreements, service provider agreements, etc. If not separately identifiable, the assets and liabilities may be considered general assets of the SPC and may not be available to settle obligations of creditors of the intended portfolio when called upon to do so.

In 2013, CIMA reported that only 11% of funds it regulated were structured as Exempted SPCs.

A summary of benefits and shortcomings of the SPC is detailed below:

Benefits of the SPC

- There is no cross-liability between segregated portfolios as is the case for a multi-class fund or umbrella trust structure.
- Ability to create customized products with minimal cost and in a timely manner.
 - New segregated portfolios are established by a Board resolution that re-designates its share capital and authorizes a new portfolio.
- An SPC may have an unlimited number of segregated portfolios.
- If CIMA registered, only the SPC is registered with CIMA; segregated portfolios are not individually registered⁴.

Shortcomings of the SPC

- Complexities and operational requirements not always well understood by service providers and errors can be commonplace.
- The SPC Law has not been tested in court. Accordingly, some question both the strength of the product's features in the event of litigation, and the validity of isolating litigation to one cell without tainting the SPC as a whole.
- The structure may fail to provide the protection it was created to provide if a creditor, shareholder or third-party enters into a contract with the SPC rather than a specific portfolio.
- The SPC Law explicitly holds a director responsible for proper application of the structure therefore there is increased risk to a director given the increased complexity to operate the structure.

⁴ The Fund must furnish to the Registrar of Companies an annual notice containing the names of each segregated portfolio created. The Fund must furnish a separate FAR for each segregated portfolio.

C. The Exempted Limited Partnership (ELP)

Organizational structure

Partnerships are not entities with separate legal personality and as such all contracts are entered into by the General Partner (GP) on behalf of the partnership. In the event that the partnership becomes insolvent, the GP is liable for all the debts of the partnership. US investors prefer the partnership structure as it acts as a pass through entity for tax purposes, whereby the character of income is passed to the end investor.

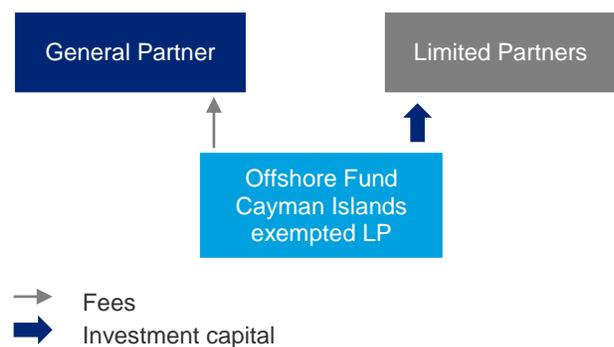
The Cayman Islands limited partnership is most commonly used by private equity funds while onshore feeder funds within a master-feeder vehicle commonly use a Delaware partnership structure.

Ownership

A partnership is formed by one or more GPs and one or more LPs entering into an exempted limited partnership agreement (“LPA”). The general partner may hold an allocation of capital in addition to the limited partners. Any performance fees are treated as equity allocations to the general partner rather than recorded as expenses on the statement of income.

A Cayman Islands partnership may not accept contributions from the public within the Cayman Islands.

There is no maximum number of limited partners.



Tax considerations

Partnerships are treated as a conduit and are, therefore, not subject to taxation. The character of income earned by the partnership is preserved when flowed-through to the partners and are reported on their personal income tax returns. The tax benefit associated with the partnership being a pass through entity is a key benefit to this vehicle.

A Cayman Islands partnership may apply for a Tax Exemption Certificate to obtain an undertaking from the Governor in Cabinet that no income, profit or capital gains taxes will be imposed on the partnership for a period up to a maximum of 50 years from the date of such undertaking. The certificate is to protect the fund in the unlikely event that a direct tax is imposed in the future.

Other

The terms of an exempted limited partnership are set out in the LPA and are registered with the Registrar of Exempted Limited Partnerships. See section Fund Structures, Residency Restrictions for additional general requirements.

Regulatory regime - The Cayman Islands Monetary Authority

Mutual Fund categories

The Cayman Islands Monetary Authority (CIMA) regulates mutual funds in accordance with the Mutual Funds Law of the Cayman Islands (“MFL”). If a Cayman Islands fund meets the definition of a mutual fund and the established criteria for registration within the MFL, it will be regulated by CIMA under one of the regulated mutual fund categories outlined below:

| Category | MFL | Description |
|-------------------|-----------------------|--|
| Registered Fund | Section 4(3) | A fund that meets criteria under Section 4(3) of the MFL, and does not qualify for exemption under Section 4(4) of the MFL. |
| Licensed Fund | Section 4(1) a | A fund that has a Mutual Fund License. The provisions benefit large, well known and reputable institutions. |
| Administered Fund | Section 4(1) b | A fund that has a CIMA-licensed administrator providing its principal office. The regulatory responsibility for the administered fund, which has more than 15 investors, is placed largely in the hands of a licensed Mutual Fund Administrator. |
| Master Fund | MFL (Amendment), 2011 | A fund that has one or more Regulated Feeder Funds. A Regulated Feeder Fund is registered with CIMA and conducts 51% or more of its investing activities through another mutual fund. |

Figure 1

The Registered Fund category is most commonly used to structure funds in the Cayman Islands. In 2014, CIMA reported 7,835 Registered Funds, representing 71% of the total 11,010 funds under its regulatory regime, while Master Funds totaled 2,685 (24%) (see Figure 2).

Registered Mutual Funds - Section 4(3) of the Mutual Funds Law

Open ended mutual funds established in the Cayman Islands may require registration with CIMA unless they qualify for an exemption under section 4(4) of the Mutual Funds Law.

Section 4(4) states that a Cayman Islands mutual fund, other than a Master Fund, is exempt from registration if the number of investors in the Fund is fifteen (15) or less, the majority of whom are capable of appointing or removing the directors of the Fund.

In the case of a Master Fund, it must register with CIMA if it acts as a Master Fund to one or more Regulated Feeder Funds, as discussed in Figure 1.

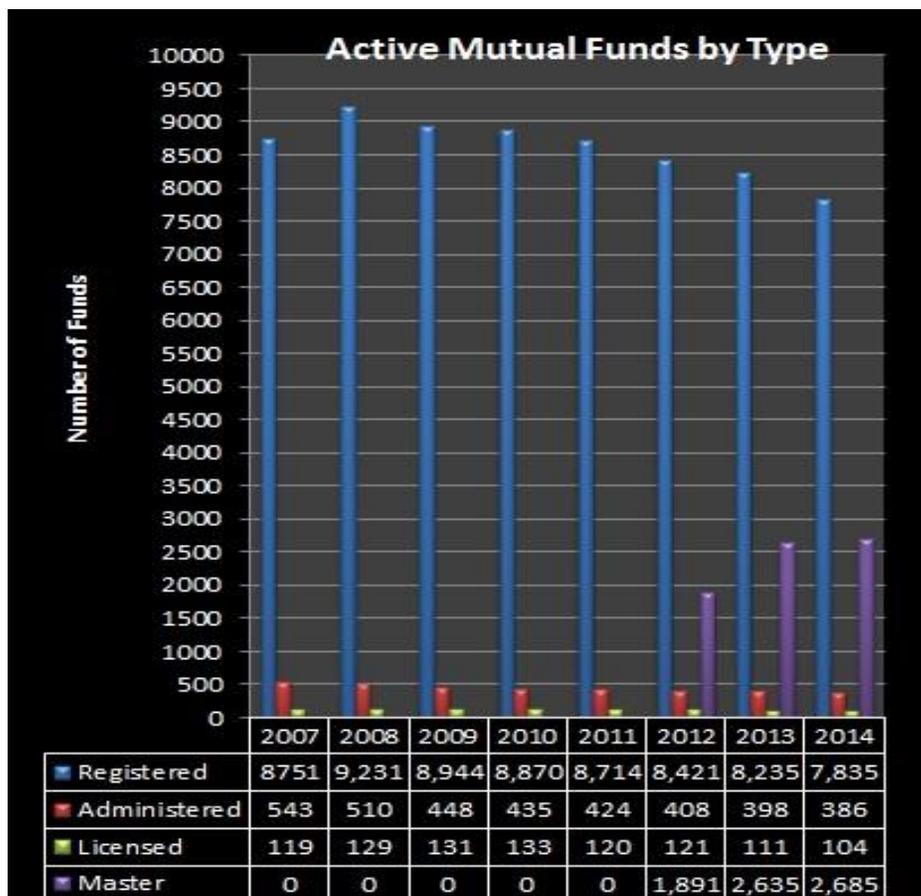


Figure 2 source: www.cimoney.com.ky

Some of the primary statutory obligations for a Registered Fund, including a Registered Master Fund, are as follow:

- a. **Minimum capital requirements:** A Registered Fund or Registered Master Fund requires a minimum of US\$100,000 initial investment by each investor unless the fund is listed on a recognized stock exchange. **The Cayman Islands Stock Exchange (CSX)** is a CIMA recognized stock exchange and therefore would not require any minimum capital. See Stock Exchange section below for a discussion on listing with the CSX.
- b. **Annual Audit requirement:** A Registered Fund must submit audited financial statements annually. The appointed auditor must be CIMA approved and have a local presence.
 - Deadline: Audited financial statements must be filed with CIMA within six months of the fund's financial year end.
- c. **Fund Operator and annual return:** The Fund must appoint an Operator who is charged with validating the Fund Annual Return (FAR), which is filed electronically together with the annual audited financial statements.
 - The Fund Operator is typically a Director of the fund (or Trustee or General Partner).
 - The Fund Annual Return may be compiled by another party such as the Fund Administrator but must be (a) signed by the Operator (b) filed electronically by the Fund's auditors of record.
- d. **CIMA registration:** The Fund's Operator will submit a completed form MF1 for a Registered Fund, MF3 for a Licensed Fund, or MF4 for a Registered Master Fund, together with the following documents: Certificate of Incorporation, Fund Offering Memorandum, Fund Administrators' Consent letter, Fund Auditors' Consent Letter and Registration fee. The Fund's offshore legal counsel typically coordinates, reviews and submits the registration application to CIMA.

SEC Registered Investment Adviser

Implications to the financial reporting process

Offshore funds managed by an investment adviser that is registered with the Securities and Exchange Commission's (SEC) must comply with the SEC's Custody Rule. A fund may elect to distribute the audited financial statements to investors in order to satisfy certain provisions of the Custody Rule. Reliance on the audited financial statements for this purpose will trigger the following:

- The audited financial statements must be distributed within 120 days of its financial year end (180 days for fund of funds).
- First year stub period audits are mandatory for the SEC (in comparison, CIMA will allow up to an 18 month period for first year financial statements from the date of registration to the fund's financial year end).
- Financial statements must be prepared using Generally Accepted Accounting Principles in the United States (US GAAP), or International Financial Reporting Standards that include US GAAP required disclosures in the notes to the financial statements.

Investment Advisers that are registered with the SEC must appoint an auditor that is registered with and subject to inspection by the PCAOB. Deloitte Cayman Islands is both registered and inspected by the PCAOB.

Corporate Governance Overview

General

In accordance with the Companies Law, a Cayman Islands exempted company must appoint at least two directors and CIMA issued guidance that sets out expectations that boards of directors hold at least two meetings a year. There is no requirement to appoint an independent, non-executive director and there are no restrictions on residency of the directors.

Demand for independent directors has been increasing, however whether funds choose to include independent directors remains a decision of the fund.

The Directors Registration and Licensing Law

The Directors Registration and Licensing Law, 2014 (DRLL) applies to directors of companies that are registered under the Mutual Funds Law of the Cayman Islands as a regulated mutual fund or under the Securities Investment Business Law (SIBL) Excluded Person as an investment managers (each a “Covered Entity”). The DRLL does not apply to trustees (that are regulated under the Banks and Trust Companies Law) or partners of partnerships.

| Category | Application |
|------------------------------|---|
| Registered Director | A Registered Director is a natural person acting as director on 19 or fewer covered entities, as defined. Registered directors do not need to apply for a license. |
| Professional Director | A Professional Director is a natural persons acting as director on 20 or more covered entities, as defined. Some exemptions apply. A Professional director must, among other requirements: <ul style="list-style-type: none">· apply for a professional director’s license· maintain D&O insurance from a reputable insurer |
| Corporate Director | Corporate Directors are permitted and must, among other requirements: <ul style="list-style-type: none">· apply for a license as a Corporate Director. Companies holding a companies management license or a fund administration license are exempted. |

See Appendix A for processing times to register and/or license a director of a Covered Entity. Directors pay annual registration and/or licensing fees by January 15 of each year and at that time reconfirm information provided the previous year.

CIMA issued Statements of Guidance (SOG) to provide Operators of regulated mutual funds guidance on key corporate governance principles in order for the Board and the funds Operators may effectively carry out their duties.

CIMA will respond to inquiries on Directors’ fees at directorsfees@cimoney.com.ky and all other questions at DirectorsRegistration@cimoney.com.ky

Alternative Investment Fund Manager Directive (AIFMD)

Background

The Alternative Investment Fund Managers Directive (AIFMD or the “Directive”) provides an EU framework for the regulation and oversight of alternative investment fund managers (AIFMs). The Directive and the detailed “Level 2” Regulations were effective July 22, 2013 and the one-year transitional period ended on July 22, 2014. EU AIFMs were required to take all necessary measures to comply timely and submit an application for authorization as an EU AIFM by July 22, 2014. Since July 2013, non-EU AIFMs have been required to take the necessary measures to comply with the rules of the various national placement regimes (NPR), including notifying EU regulators in the member states where they intend to market their funds.

Third country provisions

Currently, the NPR is the only marketing and distribution channel available to non-EU AIFMs. Similarly, EU AIFMs intending to market non-EU AIFs in the EU may only do so at the discretion of the regulator of the EU country of distribution, having first submitted the appropriate filings and received the requisite approval. An EU country reserves the right to refuse access under private placement.

The Directive stipulates an overriding requirement for supervisory cooperation arrangements to be in place between the home state regulator of the EU country of distribution and the supervisory authority of the third country where the non-EU AIFM and/or non-EU AIF are established. To this end, the CIMA has signed Memoranda of Understanding (MOUs) with virtually all of the EU member states and the respective cooperation agreements have been or are in the process of being executed.

Under the NPR, the Directive permits each member state to introduce rules beyond the AIFMD minimum requirements. Therefore, each member state regulator is able to define its own “gold plating rules” to permit marketing by non-EU AIFMs, or marketing of non-EU AIFs by EU AIFMs, in their jurisdiction. As part of these requirements, many jurisdictions may require a declaration or confirmation that the non-EU AIF is subject to regulation in its home country. Furthermore, the overriding requirement for cooperation agreements to be in place implicitly suggests that the non-EU AIF would need to be subject to regulation in its home jurisdiction; under the regulatory regime of the Cayman Islands, only those funds registered as mutual funds are subject to regulation by CIMA pursuant to the Mutual Funds Law.

NPR minimum requirements (allowed until 2018):

| | |
|---|---|
| Reporting/disclosure rules | Verify requirements with each EU country where AIF is being marketed. |
| EU cooperation arrangements with US/Cayman Islands | ✓ Cayman is compliant |
| US/Cayman Islands not listed as “non-cooperative” by Financial Action Task Force (FATF) | ✓ Cayman is compliant |

Under the NPR, an AIFM must register with each member state in which it is marketing its funds. The definition of marketing adopted by each member state varies, and therefore an AIFM must evaluate the requirements of each EU country. Registration under the NPR requires the AIFM to comply with transparency rules, comprised of regulatory reporting and investor disclosures.

ESMA is evaluating non-EU jurisdictions and may recommend extending the passport to Cayman Islands AIFs, however the passport may then become mandatory from 2018.

EU Passport requirements (may become mandatory from 2018)

| | |
|---|---------------------------------|
| Full compliance with AIFMD, including remuneration provisions | Upon authorization |
| Authorization by a member state of reference | Upon authorization |
| Legal representative in the reference member state as contact for investors, authorities and performs the compliance function | Upon authorization |
| EU cooperation arrangements with US/Cayman Islands | ✓ Cayman is compliant |
| US/Cayman not listed as “non-cooperative” by the Financial Action Task Force (FATF) | ✓ Cayman is compliant |
| US/Cayman compliance with OECD Model Tax Convention | ✓ Cayman is compliant |

U.S. AIFM and Cayman Islands AIF:

Registration under the Mutual Funds Law to achieve compliance

In the event that the regulator of the EU member state(s) in which the Cayman fund is marketed explicitly requires the AIF to be regulated in its local jurisdiction, the fund would comply with this rule by virtue of its CIMA registration. Non-regulated open-ended and closed-ended AIFs may opt-in to CIMA’s regulatory regime as a ‘regulated EU connected fund’.

Compliance with remuneration provisions

Structure Alternative upon full compliance (AIFMD Passport)

AIFMD’s remuneration principles involves the AIFM adopting a detailed remuneration policy and governance structure. For example, there must be an appropriate balance between fixed and variable remuneration, at least 50% of variable remuneration should consist of shares of the AIF or equivalent, at least 40% to 60% of variable remuneration should be deferred over a minimum period of 3 to 5 years and vest no faster than on a pro-rata basis, and other requirements.

In addition to the above requirements, the AIFM must disclose the split between variable and fixed remuneration and, on an aggregated basis, amounts broken down by senior management and members of staff of the AIFM whose actions have a material impact on the risk profile of the AIF. As a result of this disclosure requirement, one structuring alternative to limit the disclosure to remuneration earned solely from EU investors, is to establish an EU offshore feeder to accept subscriptions from EU investors. The EU offshore feeder would invest solely into the Cayman master fund, however would pay any management fees directly to an intermediate Non-EU AIFM, which would act as the investment adviser to the EU offshore feeder.

Foreign Account Tax Compliance Act (FATCA)

Compliance for Cayman Islands Financial Institutions (FIs)

The United States (“US”) legislation related to the Foreign Account Tax Compliance Act (“FATCA”) and similar United Kingdom (“UK”) legislation are aimed at improving international tax compliance and preventing perceived tax abuse by US and UK persons through the use of offshore accounts. Together these regulations are referred to as FATCA throughout this report. Mutual funds established in the Cayman Islands are expected to fall within the scope of FATCA reporting requirements as Foreign Financial Institutions (“FFIs”).

Under the provisions of respective FATCA legislations and Intergovernmental Agreements (“IGAs”), FFIs are required to identify accounts of certain US and UK persons and report prescribed information to the local authorities (for Model 1 jurisdictions). The requirements for US FATCA impose due diligence requirements related to account holder documentation, information reporting and withholding obligations for FFIs which are further clarified in the final regulations in addition to subsequent notices released by the IRS.

Appendix C summarizes key dates for Cayman FIs to track in order to comply with FATCA.

Compliance requirements - US FATCA

- Establish a Compliance Program
 - Includes policies, procedures, and processes sufficient for the participating FI to satisfy regulatory requirements.
- Registration with the IRS
 - FI will receive its Global Intermediary Identification Number (GIIN).
- Appointment of a principal point of contact
 - Financial Institution (FI) will provide contact details of principal point of contact at time of notification to the Cayman Islands Department of International Tax Cooperation which was due on April 30, 2015.
- Reporting requirements commenced May 31, 2015 for US FATCA and will commence May 31, 2016 for UK FATCA. As part of new client on-boarding, FIs will need to collect self-certification forms from investors, in addition to relevant US tax documentation.
- Methods to Ease the Registration Burden
 - Sponsored FI –Sponsoring FI registers on behalf of the FIs within its affiliated group
 - Notification and reporting via the Cayman Automated Exchange of Information (“AEOI”) Portal.
 - Under the Regulations, notifications are due by April 30th and reporting is due by May 31st of the relevant calendar year.

Compliance requirements - US and UK FATCA

- Documentation of US and UK Reportable Accounts
- If the self-certification establishes that the Account Holder is resident in the US or UK for tax purposes, the fund should:
 - Treat the account as a US or UK Reportable Account; and
 - Obtain a self-certification that includes the Account Holder's US TIN (which may be an IRS Form W-9 or other similar agreed form) or UK NIN and date of birth.

Stock Exchange Listing

Cayman Islands Stock Exchange (CSX)

Overview of CSX – The CSX was created as a private limited company and has been granted the sole and exclusive right to operate securities markets in the Cayman Islands by The Cayman Islands Stock Exchange Company Law (1996). The CSX has self-regulatory powers, subject to supervision of the Stock Exchange Authority. The Stock Exchange Authority maintains statutory authority for policy, regulation, and supervision of the exchange. The CSX is an affiliate member of both the International Organization of Securities Commissions (IOSCO) and the World Federation of Exchanges (WFE).

Perceived Benefits of Listing – Listing investment funds on the CSX can bring a number of benefits at a relatively low cost:

- The listing is often used as a marketing tool for product differentiation amongst other investment funds domiciled in the Cayman Islands.
- The listing enhances availability to a broader investor base that may be precluded from investing in unlisted securities.
- Net asset values and other relevant information can be disseminated publicly through the CSX and dedicated Bloomberg facilities.

Restrictions – The CSX follows a disclosure-based regime. This entails submitting annual audited financial statements, NAVs immediately upon issuance, and informing the CSX of any price sensitive information including announcements, material developments or operational changes, which will be disseminated by the CSX. All constitutional documents, key service provider agreements and audited financial statements are publicly available at the CSX for inspection.

The CSX requires directors who are independent from the investment manager and the fund's service providers if the fund is open to retail investors only. There is no requirement for any directors to reside in the Cayman Islands. The CSX has no additional restrictions or requirements that would otherwise be required to satisfy local laws or generally accepted accounting principles. There are no restrictions on investment policy, no minimum subscription level for funds, and no restrictions on redemptions.

Associated Fees – There is a one-time listing fee based on the number of classes offered. Upon listing, an annual fee is then subsequently due, which is also based on the number of classes offered. Further fee information can be found on the CSX website: www.csx.com.ky

Listing Requirements – There are no requirements for a local listing agent to be appointed in conjunction with a listing application. The applicant's lead manager or legal counsel may deal directly with the CSX, thus reducing costs and improving efficiency. An application for admission, listing document and associated fee are required, among other documentation, to be submitted by any issuer seeking a listing. The CSX rules require specific disclosures to be included in the prospectus as a condition for listing therefore consideration should be taken when drafting the initial prospectus. The overall listing process takes three to six weeks.

CSX XETRA Trading Platform ("XCAY") – XETRA is Deutsche Borse's international cash market platform for trading instruments. XCAY is a platform that operates within the overall XETRA platform allowing the CSX broker-members or international XETRA participants a mechanism for trading CSX listed equities.

No offshore funds are currently traded on XCAY and none are currently anticipated given fund transactions are easily executed by the Transfer Agent.

Other General Requirements

Registered office

Funds must have a registered office situated in the Cayman Islands to which all notices and communications may be addressed. The registered office may coordinate the annual fee payable to the Registrar of Companies or the ELP Registrar, as applicable, and file the annual return by January 31 of each year.

Material changes to corporate documents

The Registrar of Companies must be notified of certain material changes to the fund's constitutional documents. Failure to do so will incur penalties to the fund. These include:

- Amendments to the Memorandum and Articles of Association or name change within 15 days.
- Changes to the directors and officers of the fund within 30 days.
- CIMA must also be notified of material changes to the fund's constitutional documents including any change of registered or principal office.
- This includes: changes to the fund's offering memorandum by filing the revised document within 21 days.

Residency restrictions⁵

No Cayman Islands residency restrictions on:

Cayman Islands residency restrictions on:

| ☐ | ☐ |
|---|---|
| <input type="checkbox"/> Fund management <input type="checkbox"/> Fund administration <input type="checkbox"/> Official books & records <input type="checkbox"/> Appointed directors <input type="checkbox"/> Transfer agent services <input type="checkbox"/> Bank and custodial accounts | <input type="checkbox"/> Registered office <input type="checkbox"/> Auditors of record (CIMA) <input type="checkbox"/> ELP General Partner ⁵ |

⁵ A GP of an exempted limited partnership must have at least one GP that is either:

- a) an individual resident in the Cayman Islands
- b) a company incorporated or registered as a foreign company in the Cayman Islands, or
- c) be a partnership itself

Cost considerations

Cayman Islands fund fee structure

An offshore fund's most significant operating expenses include the Investment Adviser fees (management and performance fees), fund administration, tax and audit fees, and transactional type costs such as brokerage trading commissions and interest.

Fund Management will need to estimate a number of fixed and variable cost drivers when establishing and operating the new fund structure.

Appendix B lists the primary expenses for consideration for a typical stand-alone Cayman Islands exempted company, and highlights which expenses are fixed, partially variable and mainly variable with the level of assets and transactions (volume and nature) undertaken by the fund.

Fund expense policy

Allocating costs between the Investment Adviser and the Fund

An important consideration in setting up a fund is determining which expenses should be borne by the fund versus the investment adviser. There are no formal standards for what may or may not be passed on to investors as a fund expense and therefore policies vary in practice. CIMA nor the SEC have issued any related guidance. Generally, smaller and less established fund managers will outsource a number of middle office and other support functions and seek to allocate such costs to the funds. Given the expected limitations of the

Fund expense requirements

There are no regulations in the Cayman Islands on the amount or nature of operating fees.

All fees charged or contemplated to be charged by the fund must be disclosed in the fund's offering memorandum. The amount and basis of charging operating expenses are typically disclosed in the notes to the fund's financial statements.

operations and resources available to smaller fund managers, this may be considered reasonable and appropriate by their investors. Generally, larger fund managers tend to absorb many of these expenses as part of their investment management services.

Costs incurred the investment advisor span activities related to investment management, investment support and operations and technology as summarized in the figure below.

| Investment Management | Investment Support | Operations & Technology |
|--|--|---|
| <ul style="list-style-type: none">· Portfolio management· Related travel· Research & analytics· D&O insurance | <ul style="list-style-type: none">· Marketing· Investor relations· Risk & compliance outsourcing | <ul style="list-style-type: none">· Middle office support· Technology support· Indemnifications |

Industry practice

An investment manager can generally expect to cover expenses incurred in connection with its overhead and operational expenditures such as personnel, rent, professional services fees, travel, marketing and presentation expenses, fixtures, equipment, among others. While less common, there are instances where investors agree to reimburse the manager for all such costs as an expense to the fund.

Some funds may cover portfolio support fees including middle office accounting and reconciliation services, operational support such as investment research or similar information and data services used by the investment manager to manage the funds.

Increasingly common as a fund expense

- Research costs
- Directors' and officer's (D&O) insurance
- Indemnifications – including directors extraordinary fees (legal) and out of pocket expenses.

In order to keep the expenses at a reasonable level, it is not uncommon for managers to provide for a fee cap in relation to such expenses and reimburse amounts above a set threshold.

It is advisable that the fund's policy with respect to reimbursement of such costs be disclosed clearly and in sufficient detail within the offering memorandum or

partnership agreements to avoid any future conflicts. Additionally, to the extent any such operating expenses are incurred for the benefit of several of funds within a complex, or for both the funds and the investment manager, the funds' allocation policy to allocate such expenses (e.g. pro rata based on assets of the funds) should be described in the offering memorandum.

Given the potential for conflicts of interest, regulators are focusing on these expense allocations more closely during reviews. The primary concern is that investors be treated fairly irrespective of materiality levels, and that the expense policy be applied in a manner that is consistent with representations made to investors in the offering memorandum.

Redemption charges

Many funds charge early-redemption fees for redemptions prior to a minimum holding period. Generally speaking, such charges are in the 1% range and must be disclosed in the fund's offering memorandum or in subscription documentation.

As most funds domiciled in the Cayman Islands have relatively large minimum subscription amounts, such charges are typically insignificant relative to the capital contribution and often waived by management of the fund.

US GAAP and IFRS require that all organizational and set up costs be expensed as incurred. It is however industry practice to disclose to investors within the offering memorandum that the fund's policy is to amortize such costs over 5 years so that initial investors do not carry the burden of the fund's set up costs. Auditors will in turn evaluate the materiality of such non-compliance with accounting standards and the impact to the audit opinion, if any.

Appendix A - Timeline

Time horizon for a Cayman Islands fund launch

On average it will take 6 to 8 weeks to launch a Cayman Islands fund.

The following table summarizes the maximum anticipated processing times and deadlines in order to launch and operate a Cayman Islands fund structured as an exempted company:

| Activities | Two days | Less than two weeks | Two to four weeks | Greater than one month |
|--|--------------------------|---------------------|-------------------|------------------------|
| Prepare formation documents ⁶ | | | | ✓ (6 to 8 wks) |
| Issuance of Certificate of Incorporation and Memo. & Articles of Association by the Registrar of Companies | ✓ (expedited service) | ✓ (3-5 days) | | |
| Application for Tax Exemption Certificate | | | ✓ (2-3 wks) | |
| Request Administrator's and Auditor's Consent letters | ✓ | | | |
| CIMA application submission (Registered fund) | ✓ (generally) | ✓ (max 1 wk) | | |
| CIMA application submission (Licensed fund) | | | ✓ (4 weeks) | |
| Directors registration – CIMA (Registered directors) | ✓ (48 hours) | | | |
| Directors registration – CIMA ⁷ (Professional and Corporate directors) | | | ✓ (4 weeks) | |
| Audited f/s submission: 1. CIMA (together with FAR)- 180 days post year end 2. SEC – 120 days post year end 3. 180 days for fund of funds | | | | ✓ |
| CSX Listing 4. Initial comments < 5 days 5. Document turnaround < 3 days | | | | ✓ (3 to 6 wks) |

⁶ Formation documents include the memorandum & articles of association, offering memorandum, shareholder subscription document, management contract, and board resolutions.

⁷ It is the responsibility of the director to arrange for registration or licensing with CIMA.

Appendix B – Expense analysis

| TYPICAL OPERATING COSTS | | Cost borne by: | Set up per fund | Annual fees per fund | |
|-------------------------|--|-----------------|-----------------|----------------------|-----|
| | | | US\$ | US\$ | |
| Operating costs: | | | | | |
| A | Incorporation | Fund | 732 | 854 | a |
| A | Disbursements (stamp duty, seal, filing fees, notarial fees) | Fund | 579 | | |
| A | Registered office | Fund | 2,500 | 2,500 | b |
| A | Tax exemption certificate application | Fund | 1,829 | - | c |
| A | CIMA registration fee- Registered Mutual Fund | Fund | 4,268 | 4,268 | d e |
| A | CIMA administrative filing fee | Fund | 366 | 366 | d e |
| A | CIMA annual FAR filing | Fund | - | 366 | d |
| C | Fund Administration | Fund | | | f |
| B | Financial statement preparation | Fund | | | g |
| B | Legal | Fund | 40,000 - 60,000 | 350 | h |
| B | Audit | Fund | - | | i |
| B | Tax compliance | Fund | | | i |
| A | Directors | Fund | - | 5,000 - 30,000 | j |
| Trading costs: | | | | | |
| C | Brokerage commissions | Fund | | | k |
| C | Custodian | Fund | | | k |
| C | Withholding taxes on dividends | Fund | | | l |
| C | Bank charges | Fund | | | k |
| B | Research fees | Fund or Manager | | | k |
| B | D&O insurance | Fund or Manager | | | k |
| C | Management fee | Fund | | | m |
| C | Incentive Fee | Fund | | | m |

- A** Fixed, or primarily independent of size
- B** Partially variable based on size/activity
- C** Mainly variable based on size/activity

- a** Fees for a company with authorized capital not exceeding US\$50,000; fee schedule July 2014.
- b** For exempted companies, this must be provided by a local CIMA licensed company management, law or accountancy practice or trust company.
- c** While not required, common application for tax exemption certificate which guarantees tax exemption by the Governor in Cabinet for a period of 20 years.
- d** CIMA fee schedule; updated July 31, 2013
- e** Annual fee due on or before January 15th
- f** No local fund administrator or transfer agent requirement. Indicative pricing can be requested of various administrators in the Cayman Islands or globally for Fund Accounting and Transfer Agency services. Fees can generally range from 8 - 15 bps of the fund's net asset value and may carry a minimum per fund. May be able to negotiate a lower minimum for multiple funds.
- g** Financial statement preparation services generally range from \$5,000 to \$10,000 per fund.
- h** Legal fees include incorporating the company, drafting the offering memorandum and subscription documents, memorandum and articles of association, board resolutions, management agreement, etc. May be able to negotiate lower fee with each additional fund set up following drafting of initial constitutional documents. Annual fees contemplate a legal confirmation letter for auditors. Other legal fees will vary depending on the activity of the fund such as new share class offerings, restructuring, regulatory consultations, etc.
- i** Auditors fees are fixed fees that are determined primarily based on the complexity of the structure and of the investments held in the investment portfolio. CIMA registered funds must have a local approved auditor audit or issue and file the annual financial statements. Tax compliance fees are incurred to the extent there are US taxable investors in a domestic feeder forming part of a master feeder fund.
- j** Two directors must be appointed, however the appointment of independent directors is not required. Corporate directors permitted. Independent directors typically range from US\$5,000-US\$30,000 per fund, plus disbursements such as travel costs for meetings. Directors' registration and/or licensing fees are operating costs of the directors and not typically reimbursed by the Fund.
- k** Broker commissions and other charges based on trading and investment activities; Custodian fees negotiated based on net asset value of the portfolio.
- l** Generally, withholding taxes on equities range from 0% to 30% of any dividends declared.
- m** Investment manager's fee is calculated as a percentage of net assets. Commonly between 1%-2% per annum. The performance or incentive fee is commonly between 10%-20% per annum of operating income, including net realized and unrealized gains.

Share capital

Initial and annual registration fees for the exempted company vary depending on the level of authorized capital as detailed in the fee schedule below.

The exempted company typically issues US\$50,000 in share capital, comprised of management share capital (voting, non-participating) with a par value of \$1 to \$1,000 per share and participating share capital (non-voting, participating) with a par value ranging from \$0.001 per share to \$0.01 per share.

Management share capital is more commonly owned by the Investment Manager.

| Exempt company | | | |
|--------------------|--------------|----------------|------------|
| Authorized capital | | Registered fee | Annual fee |
| US\$ | US\$ | US\$ | US\$ |
| \$ - | \$ 50,000 | \$ 732 | \$ 854 |
| \$ 50,001 | \$ 1,000,000 | \$ 1,098 | \$ 1,120 |
| \$ 1,000,001 | \$ 2,000,000 | \$ 2,298 | \$ 2,420 |
| \$ 2,000,001 | above | \$ 3,010 | \$ 3,132 |

Note: Minimum authorized capital and fee most common

July 2014

Appendix C - FATCA timeline for Cayman Islands FIs

| FATCA Compliance Action Items | | 2014 | | | 2015 | | | 2016 | | | 2017 | | | 2018 | | |
|-------------------------------|--|----------|--|----------|----------|-----------------------------------|---------|--------------------------------|-------------------------------|----------|------|--|----------|------|--|--|
| | | | | | | | | | | | | | | | | |
| General Compliance | GIIN registration deadline (Model I FFIs) | | | ◆ Dec 23 | | | | | | | | | | | | |
| | Grandfathered obligation cutoff | ◆ Dec 31 | | | | | | | | | | | | | | |
| | Deadline for notification to TIA | | | ◆ Apr 30 | | | | | | | | | | | | |
| | Transition period for affiliated group rule | | | | | | ◆ Jan 1 | | | | | | | | | |
| New / Preexisting Accounts | FFI begin new account onboarding | | | | | | | | | | | | | | | |
| | FFI complete preexisting accounts | | | | | ◆ Jun 30 - High Value Individuals | | | ◆ Jun 30 - All other accounts | | | | | | | |
| Reporting | FFI begin US Account information and balance reporting* | | | | ◆ May 31 | | | ◆ May 31 (UK reporting begins) | | | | | | | | |
| | FFI begin US Account income reporting* | | | | | | | ◆ May 31 | | | | | | | | |
| | FFI begin US Account gross proceeds reporting* | | | | | | | | | ◆ May 31 | | | | | | |
| | FFI aggregate reporting on NPFFI payments (only for 2015 and 2016)** | | | | | | | ◆ Mar 15 | | ◆ Mar 15 | | | | | | |
| | Begin reporting on gross proceeds** | | | | | | | | | | | | ◆ Mar 15 | | | |

◆ Cayman IGAs and regulations

* Form 8966

** Form 1042-s

Appendix D – Reference Guide

Laws, regulations and guidance

Laws, regulations and guidance available within www.cimoney.com.ky

Cayman Islands Investment Statistical Digest 2013

Companies Law, 2013 Revision

Mutual Funds Law, 2013 Revision

Mutual Funds (Amendment) Law, 2011

Mutual Funds (Annual Returns) Regulations, 2006

Guidance Notes and Directions to Completing the Fund Annual Return

Mutual Funds (Fees) Regulations, 2013

Directors Registration and Licensing Law, 2014

Directors Registration and Licensing Regulations (Registration & Licensing), 2014

Frequently Asked Questions, Directors Registration and Licensing Law, 2014

Statement of Guidance for Regulated Mutual Funds- Corporate Governance

Money Laundering Regulations, 2013 Revision

Proceeds of Crime Law, 2008

Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands

Cayman Islands Stock Exchange listing fees www.csx.com.ky

Deloitte resources

Deloitte Tech Brief for Investment Funds vol. 7 - www.deloitte.com.ky

FATCA - Deloitte Thought Leadership - www2.deloitte.com

AIFMD - Deloitte Insights - www2.deloitte.com/lu

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