

Expert Funds in Jersey

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This note provides an overview of the Jersey expert fund regime and how a typical Jersey expert fund is structured.

Overview

An Expert Fund is a fund aimed at sophisticated investors or, more specifically, investors who are 'Expert Investors' in accordance with the Expert Fund Guide (the "Guide") prepared by the Jersey Financial Services Commission (the "JFSC").

Since only Expert Investors may invest in these funds, the regulatory touch is light and approval by the JFSC can, subject to a number of provisos, be obtained within a short period of time.

There are no limits on the number of investors, any type of structure may be used (for example, a company) and it is popular for the majority of asset classes including real estate, private equity and hedge funds.

What is an Expert Investor?

The definition provided in the Guide includes the following:

- a person or institution whose ordinary business is buying and selling investments or giving investment advice;
- an individual who has a net worth greater than US\$1,000,000 (excluding principal residence);
- a company, partnership or trust which has assets available for investment of not less than USD \$1,000,000 (or currency equivalent);
- a government, local authority, public authority or supra-national body;
- an investor who makes a minimum initial investment or commitment of US\$100,000 (or currency equivalent).

The Structure of an Expert Fund

An Expert Fund may take any form recognised under the laws of Jersey such as a company, limited partnership or unit trust. Such funds may be open or closed-ended.

However, there are various important structural requirements, which will need to be considered and are listed below as follows:

■ Jersey Resident Directors

At least two Jersey Resident Directors, with appropriate experience, must be appointed to the board. Alternatively, if there are not two Jersey Resident Directors, there must be a Jersey entity acting as the General Partner (the "GP") or a Jersey based trustee.

■ Management and Control

The Board, the GP or the trustee (as applicable) must accept responsibility for the management and control of the Expert Fund.

■ **Investment Manager**

The Investment Manager of the Expert Fund should be of good standing and able to demonstrate relevant experience in relation to investment objectives and strategies.

■ **Monitoring**

The manager, administrator or trustee must accept responsibility for monitoring the actions of the Investment Manager to ensure that they are in line with the Guide, the offer document and all other constitutional documents.

■ **Custody**

An open-ended Expert Fund must have adequate arrangements in place for the safe custody of fund property.

■ **Auditor**

An auditor must be appointed for the Expert Fund.

The Offer Document of the Expert Fund

The offer document must comply with the Collective Investment Funds (Certified Funds - Prospectus) (Jersey) Order 2012. Broadly, it should include all the information that investors and their professional advisers would reasonably require to enable them to make an informed judgement about an investment in the Expert Fund, such as the structure of the Expert Fund, details for each fund service provider, the investment objective, any conflicts of interest and the fees, charges and expenses payable.

Importantly, it must also include a standard worded statement of reasonable care (by the directors, GP or trustee) and a prominently placed investment warning.

Investor Protection

Investor protection is enshrined through the requirement that full disclosure is made in the offer document, as highlighted above. All investors must acknowledge in writing that they have received and accepted the investment warning. Furthermore, any Jersey entity that provides services to the Expert Fund must be licensed to do so by the JFSC.

Authorisation of the Expert Fund

The application process for an Expert Fund is designed to be simple and quick. The administrator, manager or trustee (as applicable) must complete and sign an application form (available on the JSFC website) and forward it to the JFSC with any supporting documentation. The directors of the fund company, the manager, the GP or the trustee must countersign the application form.

The JFSC aims to authorise the Expert Fund within 72 hours, provided that a fully completed application form is received and all enquiries are satisfactorily answered.

Taxation of an Expert Fund

A Collective Investment Fund established in Jersey is taxed at a 0% rate for income tax purposes. Therefore, this 0% rate will apply to non-Jersey source income. The distributions paid out of a Jersey resident fund to either a Jersey resident or non-Jersey resident investor, are made on a gross basis without deductions in respect of Jersey tax.

As an Expert Fund is listed as an International Service Entity ("ISE"), with the payment of an annual fee, they are exempt from registration for the purposes of Goods and Services Tax (Jersey) Law 2007. Capital gains tax, value added tax or stamp duty do not apply to securities transactions.

In order to retain the ISE status, an annual fee of £225 is payable to the JFSC.

Annual And Application Fees

The application fee for the Expert Fund Certificate is £2,750. There will be an additional charge of £1,620 for each Jersey fund service provider.

About Hatstone

Hatstone is a multi-jurisdictional group providing legal, investment fund administration, fiduciary and corporate services with offices in the British Virgin Islands, Jersey, Ireland, London, Panama and South Africa. Our team is committed to providing responsive service and innovative solutions to our clients.

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