

## MEMORANDUM ON THE JERSEY UNREGULATED FUND REGIME

### R&H Fund Services (Jersey) Limited

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R&H Fund Services (Jersey) Limited was incorporated in Jersey in 1988 and has a staff of more than 60, many of whom are qualified accountants and have been with the firm for many years. It is owned by the Partners of Rawlinson & Hunter Jersey. Further details can be found on the R&H Fund Services website: [www.fundadministrators.com](http://www.fundadministrators.com) or on the Rawlinson & Hunter website: [www.rawlinson-hunter.com](http://www.rawlinson-hunter.com).

### Government and Legal Structure

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The Bailiwick of Jersey is a dependent territory of the English Crown; it has its own elected assembly, The States, and therefore has no direct link with the United Kingdom parliament. Accordingly the Island enjoys complete autonomy in domestic and fiscal matters. The Island is not part of the European Union. The legal system is based on Norman Law and is practised by qualified advocates before the Royal Court.

### Unregulated Funds in Jersey

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The Jersey Financial Services Commission ("JFSC") have introduced legislation to allow two new classes of investment fund to be established and domiciled in Jersey on a 'registration only' basis. These are an Unregulated Eligible Investor Fund and an Unregulated Exchange Traded Fund.

These Funds will not be evaluated or approved by the JFSC and are not subject to ongoing regulation by the JFSC.

### Advantages of Unregulated Funds

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The introduction of these new funds is intended to make Jersey a more attractive domicile for alternative investment funds including hedge funds, as often the speed in bringing the product to market is essential.

A key feature is that, providing certain conditions are satisfied, there will be no need to seek regulatory approval when establishing the fund. Therefore, the Unregulated Funds provide fund promoters with simplicity, certainty and speed when establishing new funds for high net worth individuals, sophisticated investors and institutions.

The Unregulated Funds also provide fund promoters with greater flexibility as various functions may be carried out in different jurisdictions to suit both commercial and tax requirements.

### Unregulated Eligible Investor Funds

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The key features of the Unregulated Eligible Investor Fund are:

- the fund may be an open or a closed ended fund.
- the fund can be structured as a Jersey company, Jersey limited partnerships or a unit trust established in Jersey.
- there is no requirement to produce audited accounts.
- open ended vehicles are permitted to list but only on certain exchanges that allow transfer restrictions.

An 'eligible investor' for a Unregulated Eligible Investor Fund includes:

- an investor who makes an initial minimum investment equivalent to US\$1 million.
- a person whose ordinary business or professional activities includes dealing in, managing, underwriting or giving advice on investments (or an employee, director or shareholder of such a person).
- an investor whose property has a total market value not less than US\$10 million (or currency equivalent).
- a functionary (or associate of) in relation to the fund.

# Unregulated Fund Regime

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Regulated by the Jersey Financial Services Commission under the Financial Services (Jersey) Law 1998.

## **Unregulated Eligible Investor Funds (continued)**

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- an employee, director or shareholder of, or consultant to, such a functionary or associate who is acquiring the interest in the fund as remuneration or reward or any trust established by them.
- a person which is, or acts for a public sector body.

Eligible investors are deemed able to evaluate the financial risks and to bear the economic consequences of any loss.

## **Unregulated Exchange Traded Fund**

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The key features of the Unregulated Exchange Traded Fund are:

- There are no restrictions on the number or types of investors.
- Applies to closed funds only.
- The fund can be structured as a Jersey company, Jersey limited partnerships or a unit trust established in Jersey.
- There is no requirement for an audit.
- The fund must have a listing on a stock exchange or market or have applied for its shares to be granted such a listing upon issue. There are a wide variety of stock exchanges and markets on which a listing may be made.

## **Jersey Service Providers**

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There is no requirement to appoint any Jersey functionary to an unregulated fund, except that: a Jersey company and Jersey limited partnership must have a Jersey registered office; a Jersey limited partnership must have at least one Jersey corporate general partner; or a unit trust must have at least one Jersey corporate trustee or manager. If a Jersey functionary is appointed, it must be regulated under the Jersey Financial Services (Jersey) Law 1998 to carry on fund services business.

## **Offer Documents**

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The offer and/or listing document must contain a prominent statement that the proposed fund complies with all the requirements of an Unregulated Fund for Eligible Investors or an Unregulated Exchange Traded Fund as applicable. A prominent prescribed investor warning also needs to be included. In the case of an Unregulated Fund for Eligible Investors, each investor must acknowledge in writing that they have received and accepted this investment warning.

For unregulated exchanged traded funds structured as companies, the offer document must also comply with the requirements set out in the Companies (General Provisions) (Jersey) Order 2002.

## **Authorisation Process**

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In order to establish an Unregulated Fund, a completed Form of Notice may be filed by the 'fund company' with the Registrar of Companies, following which a receipt will be issued. An unregulated fund may be offered to investors immediately following the filing of the prescribed notice, if all other conditions of Unregulated Fund status are satisfied.

Existing regulated Listed Funds or existing Expert Funds are not eligible for registration.

## **Ongoing Requirements**

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Procedures must be put in place to ensure the requirements of an Unregulated Fund for Eligible Investors or an Unregulated Exchange Traded Fund as applicable continue to be satisfied in relation to the fund.

## **Further Information**

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The above is a simplified summary of the regime applicable to Unregulated Funds, and is intended for information purposes only.

Further details in relation to Unregulated Funds can be found in the Unregulated Funds Guide published by the Commission, and only the Guide itself should be relied upon for definitive guidance in relation to Unregulated Funds.