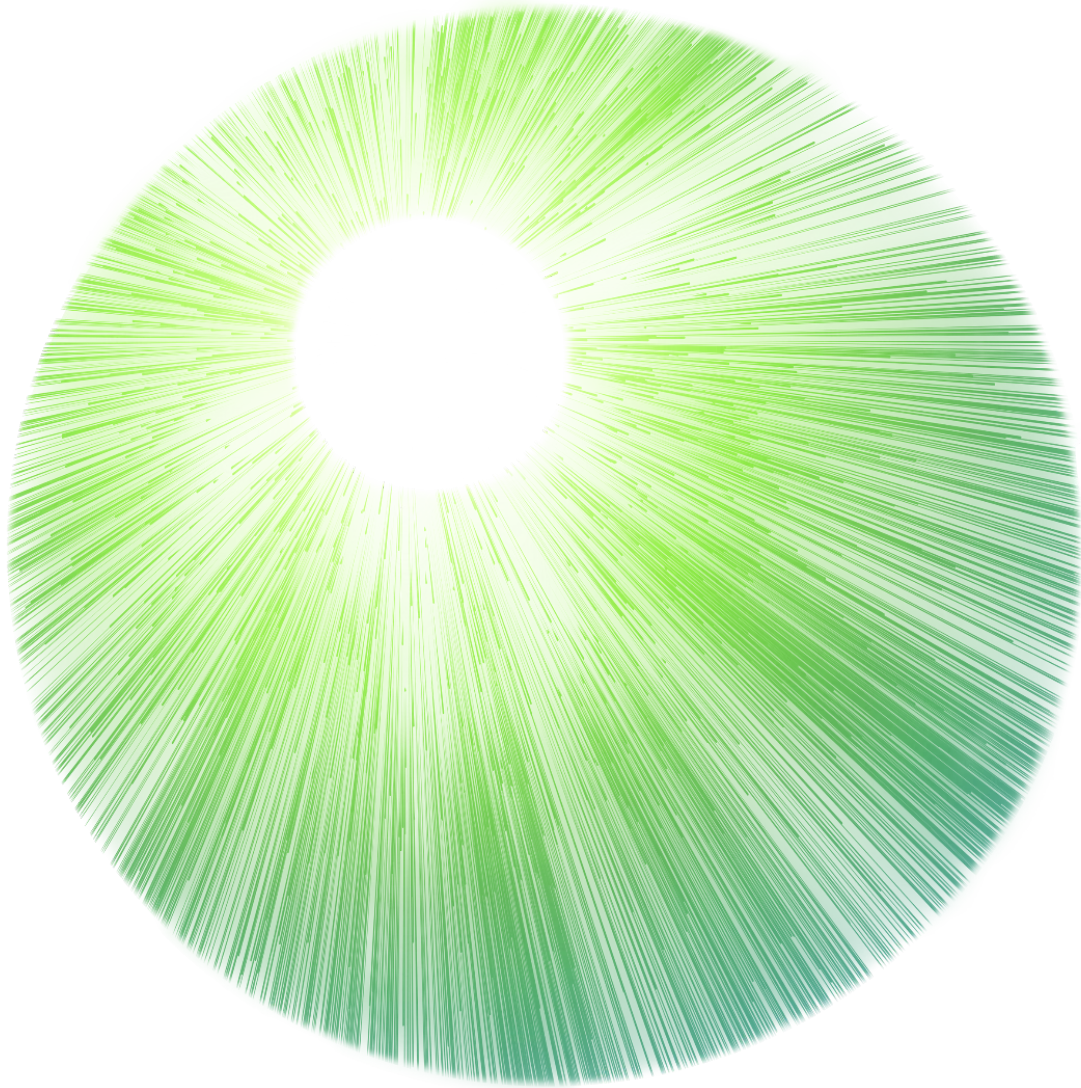




## Establishing Investment Funds in the Cayman Islands

### Key considerations

March 2025



# Foreword

In an evolving global financial landscape, the Cayman Islands continues to solidify its position as the leading jurisdiction for establishing investment funds. As of December 2024, the Cayman Islands Monetary Authority regulates approximately 12,858 mutual funds and 17,292 private funds, positioning the Cayman Islands as the preferred jurisdiction to facilitate global investment.

A key milestone was achieved on October 27, 2023 when the Financial Action Task Force (“FATF”) removed the Cayman Islands from its grey list, recognizing the jurisdiction’s effective anti-money laundering and counter-terrorist financing frameworks. Following this, on February 7, 2024, the European Union further reinforced the jurisdiction's reputation by removing the Cayman Islands from its list of high-risk third countries. These developments and continued growth year on year have further strengthened Cayman's international standing and attractiveness as a world class jurisdiction for establishing investment funds.

At Deloitte Cayman Islands, our Investment Management Practice is among the largest and most specialized in the region, comprising 39 partners and directors supported by nearly 260 dedicated professionals. Our highly skilled team provides comprehensive Audit, Tax, Consulting, and Advisory services to some of the world's most prominent investment managers. Leveraging extensive local insight combined with Deloitte’s global expertise, we have developed tailored solutions specifically designed to address the unique requirements of the investment management industry.

We remain committed to keeping our clients informed and well-positioned amidst ongoing regulatory and industry changes, driven by global transparency initiatives and evolving local legislation. We hope you find this publication a helpful resource, and we encourage you to reach out to our team or your local Deloitte contacts for any additional insights or assistance.

We look forward to supporting your continued growth and success.

Best,



**Odette Samson**  
Partner, Audit & Assurance  
Deloitte & Touche LLP  
Cayman Islands

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# Introduction

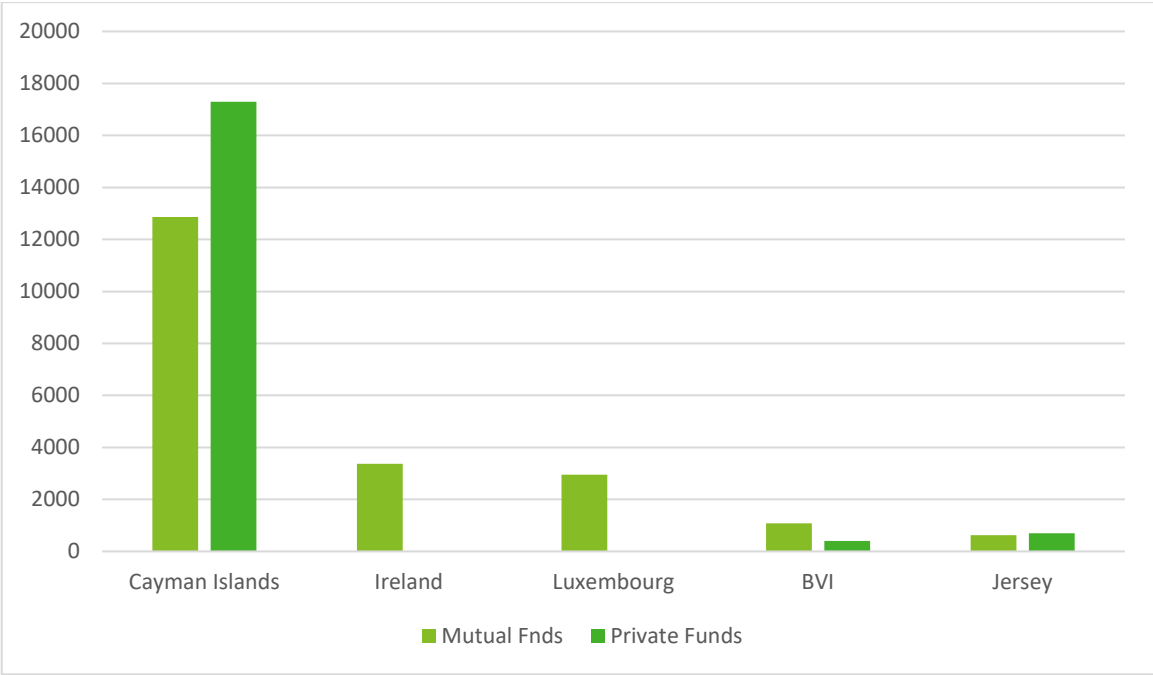
## Cayman Islands investment funds

The Cayman Islands is a British Overseas Territory and the leading jurisdiction for establishing offshore investment funds globally. As of December 31, 2024, the Cayman Islands Monetary Authority (CIMA), the primary regulator of the Cayman Islands’ financial services industry, reported that the total number of regulated mutual funds was 12,858, representing a net increase of 962 funds, or approximately 8.1%, since December 2020. In comparison, the number of reported comparable mutual funds of other jurisdictions were Luxembourg with 2,950<sup>1</sup> registered funds, Ireland with 3,372<sup>2</sup>, the British Virgin Islands with 1,705<sup>3</sup> and Jersey with 630<sup>4</sup> funds. CIMA reported 17,292 registered private

funds as of December 31, 2024, representing a net increase of 4,597, or approximately 36%, since December 2020. In comparison, the number of comparable private funds of other jurisdictions were the British Virgin Islands with 397<sup>5</sup> and Jersey with 699<sup>6</sup>. It is noted that the comparable information on private funds in Luxembourg and Ireland is not published.

The breadth and depth of the Cayman Islands’ asset management industry lends itself to best-in-class expertise in guiding managers and investors with their structuring decisions across all asset classes.

Regulated mutual funds (open ended) by jurisdiction, 2024:



<sup>1</sup> Commission de Surveillance du Secteur Financier (CSSF) Monthly Statistic, January 2025; <https://www.cssf.lu/en/2025/02/number-of-ucis/> (FCP, SICAV, SIF)

<sup>2</sup> Central Bank of Ireland, December 2024; [www.irishfunds.ie/facts-figures](http://www.irishfunds.ie/facts-figures)

<sup>3</sup> 2024 BVI FSC Quarterly Statistical Bulletin, Quarter 4, 2024 (page 18); [www.bvifsc.vg](http://www.bvifsc.vg)

<sup>4</sup> Collective Investment Fund Statistics, September, 2024; [www.jerseyfsc.org](http://www.jerseyfsc.org)

<sup>5</sup> 2024 BVI FSC Quarterly Statistical Bulletin, Quarter 4, 2024 (page 18); [www.bvifsc.vg](http://www.bvifsc.vg)

<sup>6</sup> Jersey Funds overview; [Fund Finance Laws And Regulations 2025 – Jersey | Appleby](#)

In making structuring decisions, it may be useful to understand what is most commonly used by the global asset management community. CIMA obtains an information sheet, known as a “Fund Annual Return” from registered funds, and subsequently issues an annual statistical digest that presents the aggregate statistics on open-ended funds under its regulated regime.

**Certain relevant statistics are presented in the following table:**

| <b>CIMA—Investments Statistical Digest</b>                    | <b>2023<sup>7</sup></b> |            |
|---------------------------------------------------------------|-------------------------|------------|
| Form of regulated mutual funds by number of funds at year-end | <b>Registered Funds</b> | <b>68%</b> |
|                                                               | Master Funds            | 25%        |
|                                                               | Administered Funds      | 2%         |
|                                                               | Other                   | 5%         |
| Location of investment managers by ending net assets          | <b>United States</b>    | <b>57%</b> |
|                                                               | Asia                    | 10%        |
|                                                               | Europe                  | 6%         |
|                                                               | Other                   | 27%        |
| Primary location for NAV calculation services (by NAV)        | <b>United States</b>    | <b>27%</b> |
|                                                               | Cayman Islands          | 25%        |
|                                                               | Hong Kong               | 7%         |
|                                                               | Other                   | 41%        |
| Primary location for Registrar and Transfer Agent services    | <b>Cayman Islands</b>   | <b>32%</b> |
|                                                               | United States           | 18%        |
|                                                               | Ireland                 | 5%         |
|                                                               | Other                   | 45%        |
| Fund size (Registered Funds by total assets)                  | <b>Less than \$20M</b>  | <b>30%</b> |
|                                                               | \$20M-\$100M            | 26%        |
|                                                               | \$100M-\$500M           | 26%        |
|                                                               | \$500M-\$1B             | 8%         |
|                                                               | >\$1B                   | 10%        |

<sup>7</sup> 2023 Investments Statistical Digest; [www.cima.ky](http://www.cima.ky) covers open ended mutual funds. Certain closed end private funds only became subject to CIMA regulation effective February 7, 2020 and certain related statistics have not yet been made available.

### Key considerations

When establishing a new fund or a fund family, there are certain key characteristics of an investment fund that will drive the optimal structure, legal entity and operations of the fund. Some of these characteristics are:

#### Investment fund characteristics — Cayman Islands

|                                |                                                                                                       |
|--------------------------------|-------------------------------------------------------------------------------------------------------|
| Investor's domicile            | <b>Domestic, Global or both</b>                                                                       |
| Investment strategies          | <b>No Cayman Islands imposed restrictions</b>                                                         |
| Liquidity                      | <b>Daily/Monthly/Weekly/Quarterly, closed-ended or hybrid</b>                                         |
| Transparency                   | <b>No Cayman Islands imposed restrictions</b>                                                         |
| Leverage                       | <b>No Cayman Islands imposed restrictions</b>                                                         |
| Investment restrictions        | <b>No Cayman Islands imposed restrictions</b>                                                         |
| Investment management fees     | <b>Commonly 1-2% of net assets or committed capital</b>                                               |
| Performance fees or allocation | <b>Commonly 10-20% of profits, may have hurdles</b>                                                   |
| AUM at launch                  | <b>Minimum subscription for certain regulated mutual fund categories only</b>                         |
| Service providers              | <b>Residency restrictions for limited key service provider roles (see Other Requirements Section)</b> |

Fund management will determine the organizational structure and legal entity that most appropriately satisfies the nature of the investment strategy, fund terms and investor needs. Once the appropriate structure and vehicle is determined, the investment manager will, with the assistance of its legal counsel and advisers, complete a series of steps to set up the entity for trading. See Appendix A for an estimated timeline to launch. The steps to launch a Cayman Islands exempted company are as follows:



Incorporate and form the fund vehicle.



Appoint the board of directors, as applicable.



Prepare the fund's constitutional documents (such as the term sheet, Limited Partnership Agreement, memorandum and articles of association, offering memorandum, etc.)



Prepare service provider agreements (such as the investment management/advisory agreement(s), the administration agreement and brokerage agreements, among others).



If CIMA registration is required (see Section: Regulatory Regime), prepare application for registration under the Mutual Funds Act or Private Funds Act of the Cayman Islands.

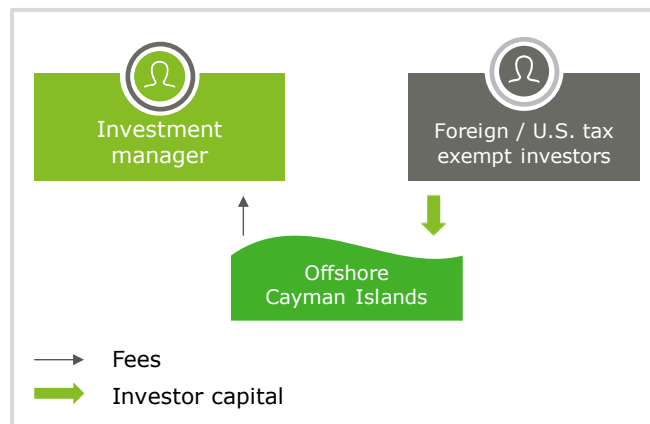
# Organizational structure

## A. 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 and that have an investor base with similar or the same tax requirements or sensitivities.

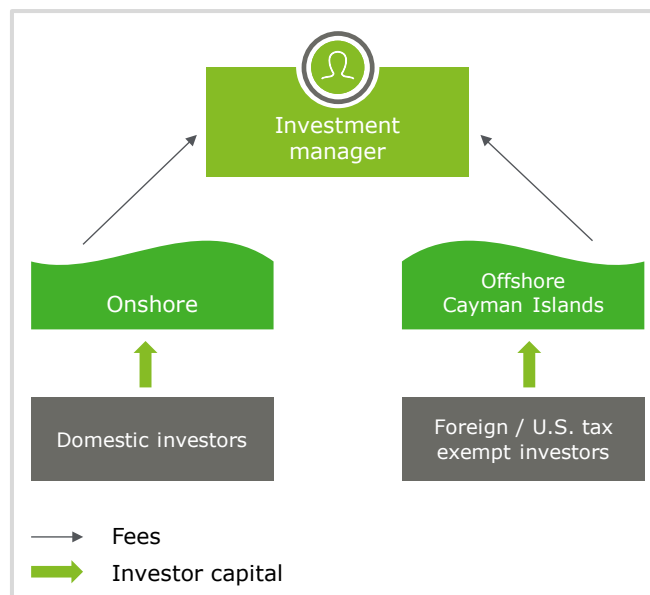
The offshore fund may be established using one of the Cayman Islands' legal entities discussed further within the "Legal Entities" section.



## B. Side-by-Side structure

### Organizational structure

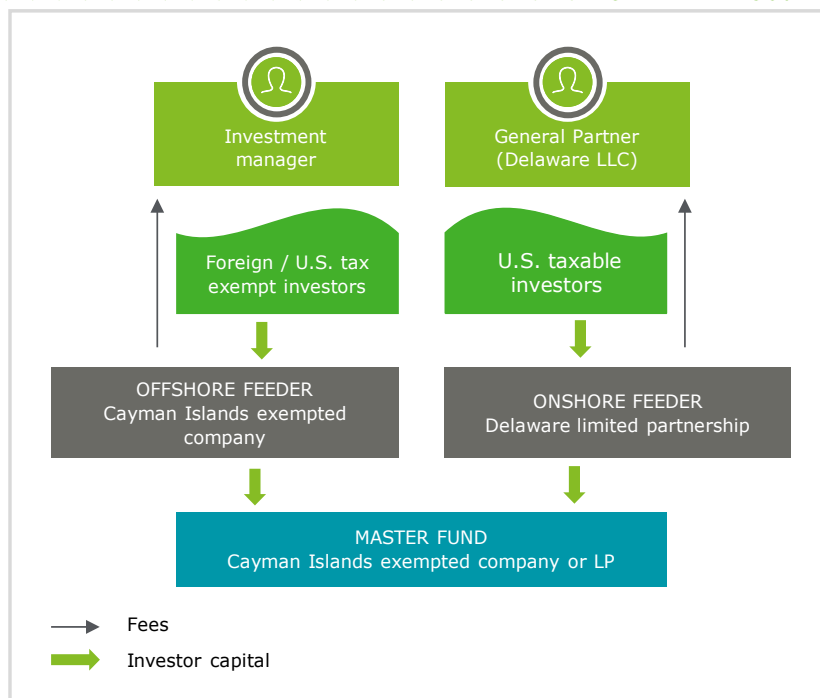
The side-by-side structure involves an investment manager trading for an onshore and an offshore fund according to an identical investment strategy. While the positions held are the same, each fund has its distinct brokerage accounts and trades are executed separately for each. Accordingly, the investors would expect to receive the same or similar investment returns from either vehicle. Having both an onshore vehicle and an offshore vehicle enables the manager to attract investors with different tax requirements or sensitivities. Structurally, each vehicle in a side-by-side arrangement is a stand-alone fund.



### C. Master-Feeder structure

#### Organizational structure

A Master-Feeder enables investment managers to pool capital from investors with different tax requirements or sensitivities into a single trading vehicle (the “Master Fund”). These structures are commonly used by managers in the United States, whereby non-U.S. investors and U.S. tax-exempt investors invest indirectly into the Master Fund through an offshore vehicle (the “Offshore Feeder”) and U.S. taxable investors invest indirectly into the Master Fund through a U.S. partnership (the “Onshore Feeder”). This structure eliminates the need to operate duplicate trading vehicles as in the case of a side-by-side structure and is therefore both a cost effective and administratively efficient means of operating and marketing an investment manager’s products to both domestic and global investors.



#### Operations

The Onshore Feeder accepts contributions from U.S. taxable investors, and the Offshore Feeder accepts subscriptions from U.S. tax-exempt and foreign (non-U.S.) investors. The feeder funds in turn generally invest their capital solely into the Master Fund. The Onshore 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 advisers is recommended when structuring and drafting the offering memorandum.

#### Ownership

An incorporated Master Fund typically issues voting, non-participating management shares to the investment manager and non-voting, participating shares to each of the Feeders. In turn, the Offshore Feeder offers participating shares to its investors and the Onshore Feeder issues partnership interests to its investors.

#### Other tax considerations

If the Master Fund is established as a Cayman Islands exempted company, or any other entity that is treated as a corporation by default for U.S. tax purposes, it is critical that the Master Fund make a “check-the-box” election to be taxed as a Partnership for U.S. tax purposes. It is, however, increasingly common to structure the Master Fund as a Cayman Islands limited partnership rather than a corporate entity, and all alternatives should be discussed with your tax advisers.

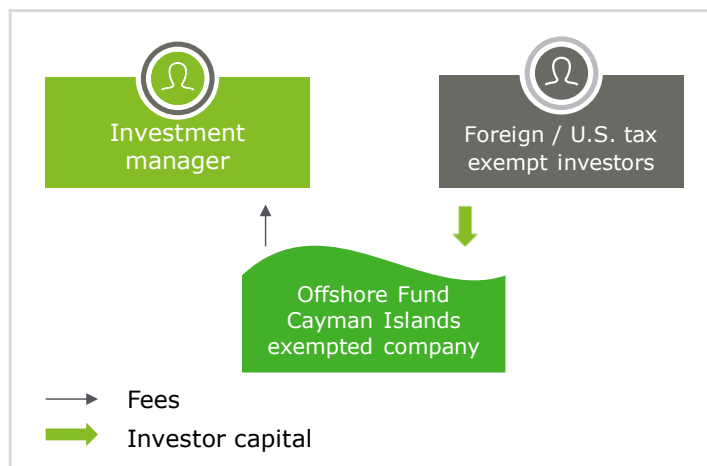
As of December 31, 2023, CIMA reported that 11% of regulated fund structures were Master Funds. The Master-Feeder Fund structure is the most common structure used by U.S. investment managers.

# Legal entities

## A. The Cayman Islands Exempted Company

### Organizational structure

Exempted companies are formed in accordance with the Companies Act of the Cayman Islands. An exempted company's business activities occur primarily outside of the Cayman Islands. The primary advantage to a company structure 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. US taxable investors will require information reporting in order to comply with their federal and state tax return filing requirements. The tax team at Deloitte Cayman Islands provides U.S. tax compliance and consulting services to Investment Funds and their Managers.

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.

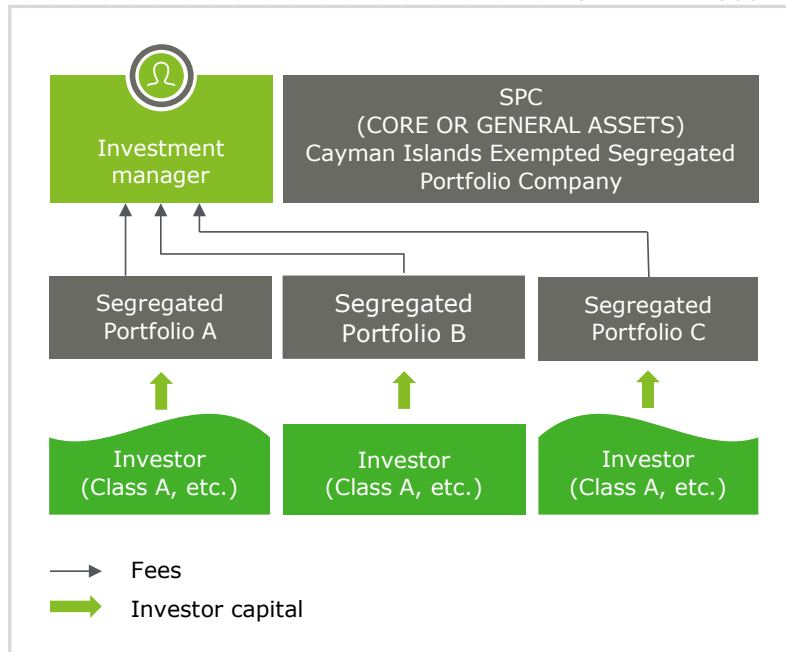
US taxable investors will require information reporting to comply with their federal and state tax return filing requirements. The tax team at Deloitte Cayman Islands provides U.S. tax compliance and consulting services to Investment Funds and their Managers.

## B. The Segregated Portfolio Company (SPC)

### Organizational structure

An SPC is an exempted company, organized under the Companies Act of the Cayman Islands (the Companies Act), 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 portfolios 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

SPCs follow the same share structure as an exempted company under the Companies Act. 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.

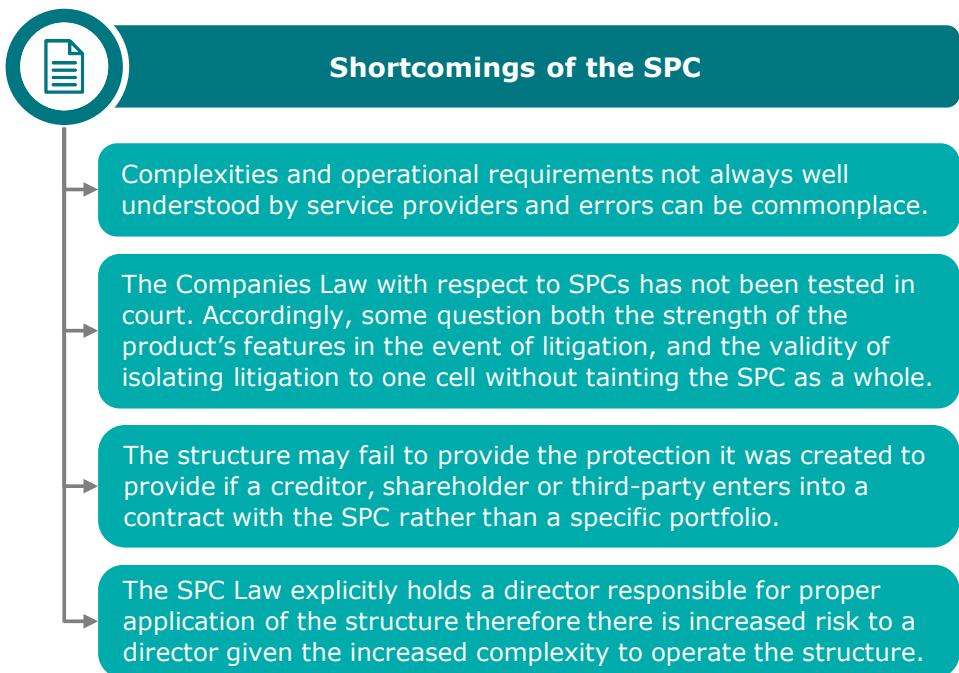
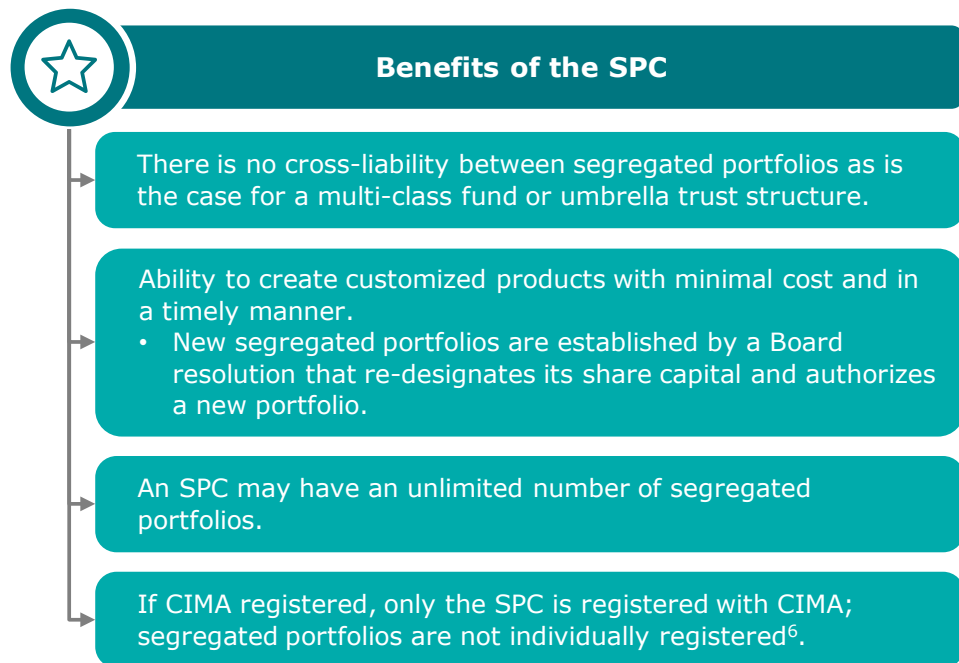
### Benefits and shortcomings of the SPC

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.

An SPC is a single legal entity, as specified under the Companies Act. 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.

The SPC appeals to investors seeking to protect themselves from other share classes that have different risk parameters (such as leveraged share classes).

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



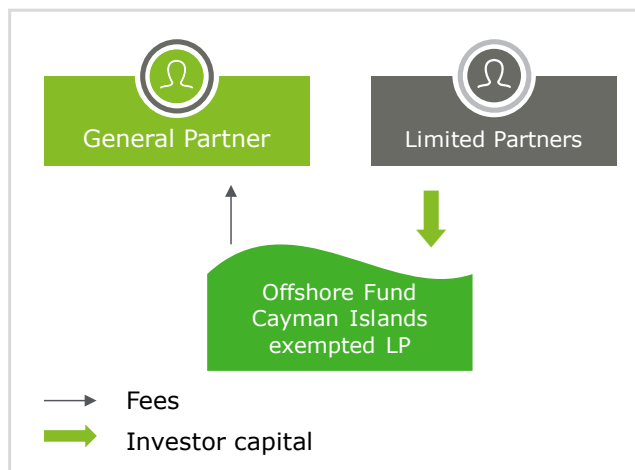
<sup>6</sup> The Fund must furnish to the Registrar of Companies an annual notice containing the names of each segregated portfolio (SP) created. The Fund must furnish a separate Fund Annual Return (FAR) for each SP where registered under the Mutual Funds Act and a consolidated FAR for each SPC where registered under the Private Funds Act.

### C. The Exempted Limited Partnership (ELP)

#### Organizational structure

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

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



#### Ownership

A partnership is formed by one or more GPs and one or more limited partners (LPs) entering into a limited partnership agreement (“LPA”). The general partner may hold a capital allocation with the limited partners. Any performance fees are treated as equity allocations (also referred to as an incentive re-allocation or performance re-allocation) 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 LPs.

#### Tax considerations

Partnerships are treated as a conduit and, therefore, are not subject to taxation at the entity level. The character of income earned by the partnership is preserved when passed through to the partners and is 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 Cayman Islands 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 “Other General Requirements, Residency Restrictions” for additional requirements.

## D. The Exempted Trust

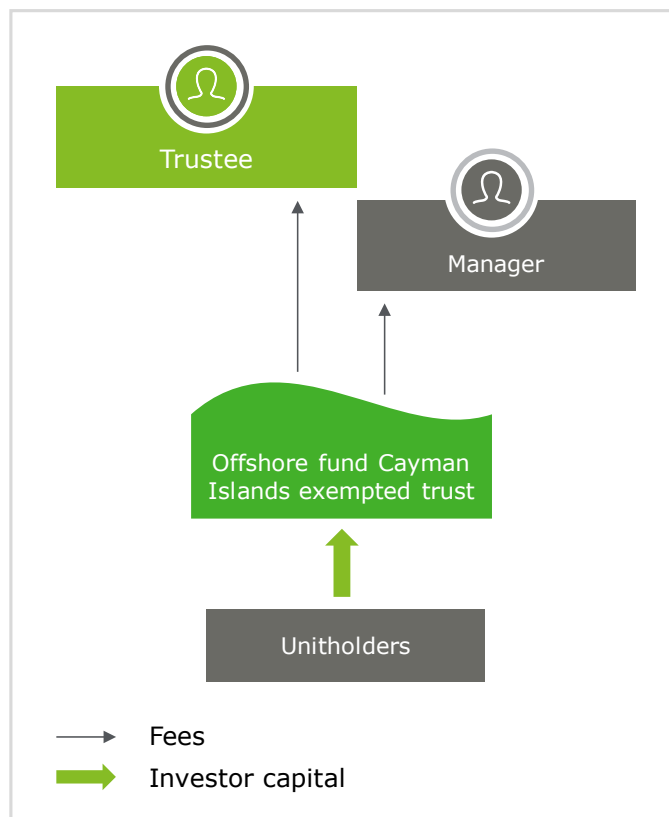
### Organizational structure

The exempted trust is established under a trust deed and management agreement between the Trustee and the investment manager. A unit trust has no separate legal personality and therefore the Trustee typically holds legal title to the unit trust structure and its assets and acts on behalf of the trust in all contracts unless otherwise delegated to the manager. Legal liability therefore largely rests with the Trustee.

A unit trust may be stand-alone or establish various sub-trusts or classes as an umbrella trust. Umbrella trusts are used to offer differing investment strategies and objectives to tailor to an investor's needs. Sub-trusts are established by issuing supplemental trust deeds.

Unlike a segregated portfolio, however, a unit sub-trust may be exposed to the liabilities of another insolvent sub-trust. The unit trust is most favored by Asian investors for domestic tax purposes (e.g. Japan).

A CIMA regulated trust must appoint a Cayman Islands Trustee licensed under the Banks and Trusts Act. Minimum capital requirements are set for Restricted (US\$24k) and Unrestricted (US\$480k) Trust licenses.



### Ownership

The trust issues participating, non-voting units to investors, redeemable at net asset value per unit.

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

There is no maximum number of unitholders.

### Tax considerations

Trusts are not separate legal entities and therefore treated as a conduit, similar to partnerships. Compliance reporting is driven by unitholder needs and should be discussed with onshore and offshore tax advisers.

A Cayman Islands trust 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 trust for a period up to a maximum of 50 years from the date of such undertaking. The certificate is to protect the trust in the unlikely event that a direct tax is imposed in the future.

A Tax Exemption Certificate, when obtained, guarantee up to 50 years of exemption from income, profit and capital gains taxes.

## E. The Exempted Limited Liability Company (LLC)

### Organizational structure

The exempted limited liability company came into law in June 2016. It is formed by one or more members in accordance with the terms of the LLC agreement. A managing member may be appointed to manage the affairs of the LLC, or the entity may be managed by the members themselves or another contracted party. The LLC was introduced in order to offer a product familiar to those most comfortable with the Delaware LLC, and it provides for flexibility of terms when drafting the LLC agreement. This could include for example, flexibility to limit the manager's fiduciary duties other than a duty of good faith, and therefore limits its liability. Given the LLC's infancy, the latter has not been tested in Cayman Islands courts to date, however such allowances within the LLC agreement may lend themselves most appropriately to family offices, private equity and venture capital structures.

The LLC is said to be a hybrid between an exempted company and exempted limited partnership. While it acts as a separate legal entity, it does not issue share capital and therefore is accounted for similar to a partnership whereby income and expenses are allocated to member interests in the manner agreed and documented in the LLC agreement.

One significant difference when compared to a Delaware LLC, is that the Cayman LLC does not initially provide for separate series with segregated assets and liabilities (a popularly used feature of Delaware LLCs). Fund managers needing this level of separation will still need to utilize the SPC structure or establish separate legal entities.

### Ownership

An LLC is divided into member interests similar to a partnership's capital accounts, however each member's liability is limited to its capital account as stipulated in the LLC agreement. Voting interests are allocated in accordance with the LLC agreement and may be weighted to certain members. Typically, a managing member's performance remuneration is treated as an equity allocation to the managing member rather than recorded as an expense on the statement of income.

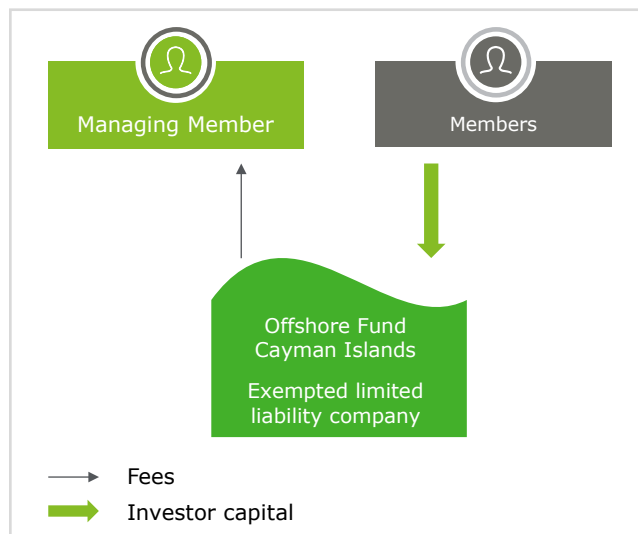
A Cayman Islands LLC may not accept contributions from the public within the Cayman Islands.

There is no maximum number of members.

### Tax considerations

A Cayman LLC is permitted to elect its classification for U.S. tax purposes. It is therefore expected to be treated as a partnership unless it otherwise elected to be taxed as a corporation. If no election is made, we expect it would default to partnership treatment for U.S. tax purposes, however for the avoidance of doubt it is recommended that an election be filed to ensure such treatment.

An LLC 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 LLC 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.



# Regulatory Regime

CIMA regulates open end mutual funds and closed end private funds in accordance with the Mutual Funds Act (MFA) and the Private Funds Act (PFA). If a Cayman Islands fund meets the established criteria within the Acts, registration is required.

The regulated mutual fund and private fund categories are outlined below:

| Category                             | MFA/PFA                           | Description                                                                                                                                                                                                                              |
|--------------------------------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Registered Fund                      | MFA Section 4(3)                  | A fund that meets the definition of a mutual fund and has 15 or more investors, the majority of whom are capable of appointing or removing the directors of the fund.                                                                    |
| Limited Investor Fund                | MFA Section 4(4)                  | A fund that meets the definition of a mutual fund and has more than one investor, described below.                                                                                                                                       |
| Licensed Fund                        | MFA Section 4(1) a                | A fund that has a Mutual Fund License. The provisions benefit large, well-known and reputable institutions and are similar to retail funds.                                                                                              |
| Administered Fund                    | MFA 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 in the hands of a licensed Mutual Fund Administrator. |
| Master Fund                          | MFA Section 2                     | 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.                                                    |
| EU Connected Fund                    | MF [Regulations], 2016            | A registered fund or a fund that has elected to be registered, and that is offering the fund to investors domiciled in a European Union (EU) member state.                                                                               |
| Private Fund                         | PFA Section 2, PF (Amendment) Act | An entity with non-redeemable interests that pools investor funds (more than one investor), excluding certain non-fund arrangements.                                                                                                     |
| Alternative Investment Vehicle (AIV) | PF Regulations Section 2          | A fund formed in accordance with the constitutional documents of a private fund and all of its investors are investors in the private fund.                                                                                              |

The Registered Fund category is most commonly used to structure funds in the Cayman Islands. In December 2023, CIMA reported 8,681 Registered Funds, representing 68% of the total 12,858 mutual funds under its regulatory regime, while Master Funds totaled 3,175 (25%).

Limited Investor Funds (LIF), cater to mutual funds that pool investor interests (more than 1 investor) where there will be fewer than 15 investors. The primary advantage to the LIF category is that investors are not subject to a minimum initial investment. As of December 31, 2023, CIMA reported 627 LIF (5%).

If an investment manager opts to re-register under Section 4(3) of the MFA as a Registered Fund, each investor's capital must meet the minimum capital requirements, as described on the following page, prior to making the application.

The EU Connected Fund was introduced in 2017 in response to the EU's Alternative Investment Fund Manager Directive (AIFMD) requirements that are triggered when a non-EU fund is marketed to EU investors. This category enables a fund that is otherwise exempt from CIMA registration to register voluntarily and allow the EU member states to rely on Cayman's regulatory regime in satisfaction of the AIFMD. The EU Connected Fund is obliged to reconfirm annually, within six months of its year end, that there have been no changes to the information in its original notification and submit an annual declaration that the fund is being marketed in each EU member state in accordance with the applicable laws.

### Registered Fund regulatory requirements

Some of the primary statutory obligations are as follow:



**Minimum capital requirements:** A Registered Fund and Registered Master Fund require 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.



**Annual audit requirement:** CIMA registered funds must submit audited financial statements annually within six months of the fund's year end. The appointed auditor must be CIMA approved and have a local presence.



**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/Trustee/General Partner of the Fund.
- For Funds registered under the Mutual Funds Act, the FAR 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.
- For Funds registered under the Private Funds Act, the FAR may be compiled by another party such as the Fund Administrator and must be signed by the Operator, however, the submission of the FAR may be delegated to a local Cayman Islands service provider.

### Additional private fund operating requirements:

- **Valuation** - a private fund shall have appropriate procedures to fair value its assets. If such valuations are not performed by a third party that is independent of the manager or operator, potential conflicts of interest must be identified, managed and disclosed to investors.
- **Safekeeping of fund assets** - a private fund must appoint a custodian to hold custodial assets in segregated accounts in the name or for the account of the private fund and perform title verification procedures. If title verification function is not performed by a third party that is independent of the manager or operator, potential conflicts of interest must be identified, managed and disclosed to investors. If no custodian is appointed due to the nature of the fund and type of assets it holds, CIMA must be notified.
- **Cash monitoring** - a private fund must monitor the cash flows of the fund, ensure cash has been booked in accounts in the name or for the account of the private fund and verify receipt of payments made by investors. If cash monitoring duties are not performed by a third party that is independent of the manager or operator, potential conflicts of interest must be identified, managed and disclosed to investors.
- **Identification of securities** - a private fund must maintain a record of identification codes of any such securities it trades and holds.

# 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 may allow a maximum 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 (IFRS) 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 Public Company Accounting Oversight Board (PCAOB). Deloitte Cayman Islands is both registered and inspected by the PCAOB.

# Corporate Governance

## General

In accordance with the Companies Act, a Cayman Islands exempted company must appoint at least one director. CIMA issued guidance that sets out their expectations that boards of directors hold at least one meeting a year. There is no requirement to appoint an independent, non-executive director and there are no restrictions on residency of the directors. In practice, boards will normally hold a minimum of two meetings for simple structures with actively traded securities, and quarterly board meetings when less liquid positions held, in addition to other ad hoc meetings depending on the entity's activities during the year. Full, accurate and clear written record must be kept of these meetings.

Investor 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 Act

The Directors Registration and Licensing Act (DRLA) applies to directors of companies that are registered under the Mutual Funds Act of the Cayman Islands as a regulated mutual fund or under the Securities Investment Business Act (SIBA) Registered Person as an investment manager (each a "Covered Entity"). The DRLA does not apply to trustees that are regulated under the Banks and Trust Companies Act or partners of partnerships.

| Category                      | Application                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Registered Director*</b>   | 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.                                                                                                                                                                                            |
| <b>Professional Director*</b> | A Professional Director is a natural person acting as director on 20 or more covered entities, as defined. Some exemptions apply.<br>A Professional director must, among other requirements: <ul style="list-style-type: none"> <li>• apply for a professional director's license.</li> <li>• maintain D&amp;O insurance from a reputable insurer.</li> </ul> |
| <b>Corporate Director*</b>    | Corporate Directors are permitted and must, among other requirements: <ul style="list-style-type: none"> <li>• Apply for a license as a Corporate Director.</li> </ul> Companies holding a company's 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 assist operators of regulated mutual funds and private funds in adhering to key corporate governance principles, enabling them to effectively fulfill their responsibilities. In April 2023, CIMA introduced an updated Statement of Guidance on Corporate Governance for Mutual Funds and Private Funds. This revised SOG, effective from 14 October 2023, replaces the previous version from 2014 and sets out essential governance principles for operators of regulated funds, ensuring they align with international standards for sound and effective management.

\*CIMA will respond to inquiries on Directors' fees at [directorsfees@cima.ky](mailto:directorsfees@cima.ky) and all other Director related inquiries at [DirectorsRegistration@cima.ky](mailto:DirectorsRegistration@cima.ky)

# Alternative Investment Fund Manager Directive (AIFMD)



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 require EU AIFMs to comply with its provisions and submit an application for authorization as an EU AIFM. The AIFMD makes provision for a passport, enabling the AIFM to market its fund across the EU while registering with only one EU member state. This passport is currently only available to EU AIFMs and certain non-EU Alternative Investment Funds (AIFs). While the passport is not available to Cayman funds to date, any investment manager that intends to market its Cayman Islands fund in the EU must consider the AIFMD provisions.

## Third country provisions

Currently, the national placement regimes (NPRs) of each EU Member State are the only marketing and distribution channels 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 authorization. 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 date, CIMA has signed Memoranda of Understanding (MOUs) and the respective cooperation agreements with over 30 EU member states in satisfaction of this requirement.

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 Cayman AIF is subject to regulation in its home country. 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 Act.

#### **NPR minimum requirements:**

| <b>Reporting/disclosure rules</b>                                                                | <b>Additional rules may exist by EU country.</b> |                     |
|--------------------------------------------------------------------------------------------------|--------------------------------------------------|---------------------|
| <b>EU cooperation arrangements with U.S./Cayman Islands</b>                                      | ✓                                                | Cayman is compliant |
| <b>U.S./Cayman Islands not listed as “non-cooperative” by Financial Action Task Force (FATF)</b> | ✓                                                | 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.

#### **AIFMD passport extension to the Cayman Islands**

In principle, the phasing out of NPR is due for consideration by ESMA and the European Commission however evaluations have been delayed since 2018. Assuming the NPR is eventually phased out, all investment managers will have to comply in full with the AIFMD requirements in order to access the EU market.

ESMA advised in 2016 that there are no significant obstacles impeding the application of the AIFMD passport to the Cayman Islands, however deferred its recommendation pending completion of the following:

1. Introduction of AIFMD-like regime—the current framework applicable in Cayman Islands is significantly different from the AIFMD, especially regarding the depositary and the remuneration provisions. A number of Cayman Islands service providers now offer full depositary and/or depositary lite solutions in satisfaction of this requirement.
2. Development and implementation of a macro-prudential policy framework which is expected to enhance CIMA’s current systemic risk monitoring. Amendments to the Mutual Funds Act provide for an EU Connected Fund Regime, which now allows Cayman funds and fund managers to opt-in to CIMA’s regulatory framework.
3. Implementation of legislative amendment which will give CIMA power to impose administrative fines for breaches of regulatory laws, regulations and rules. This legislation was enacted within the Cayman Islands Anti-Money Laundering Regulations.

#### **Registration under the Mutual Funds Act 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’, as discussed within the Regulatory Regime section of this document.

#### **Compliance with AIFMD provisions**

Where full AIFMD compliance is necessary, its provisions include a long list of operational, reporting and transparency requirements. The remuneration provisions in particular are subject to a great deal of discussion and therefore highlighted briefly in this document.

### Structure Alternative upon full compliance (AIFMD Passport)

AIFMD's remuneration principles involve 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.

### Overall considerations

Given that a reported 3% of EU AIFs are registered for sale in 3 or more EU countries, the additional costs and administrative burden of an EU passport may not be necessary unless the Cayman AIF needed to access the pan-European marketplace. Until such time as the NPR is no longer available to non-EU AIFs, using the NPR to access investors located in specific EU countries remain the most common solution used by non-EU fund managers.



# Foreign Account Tax Compliance Act (FATCA)

## Background

The United States (“US”) legislation related to the Foreign Account Tax Compliance Act (“FATCA”) is aimed at improving international tax compliance and preventing perceived tax abuse by US persons through the use of offshore accounts. Investment funds established in the Cayman Islands are expected to fall within the scope of FATCA reporting requirements as Reporting Financial Institutions (“RFIs”).

Under the provisions of FATCA legislation and the Intergovernmental Agreement (“IGA”) between the Cayman Islands and the US, RFIs are required to identify accounts of certain US persons and report prescribed information to the local authorities. FATCA imposes requirements related to registration, due diligence and account holder documentation, information reporting, and withholding, which are further clarified in the final regulations, in addition to subsequent notices released by the IRS and guidance notes released by the Cayman Islands Government.

## FATCA Compliance Requirements

Under the provisions of FATCA, Cayman Islands resident entities that are RFIs must comply with the following requirements:

1. **Registration with the IRS:** All RFIs must register and obtain a Global Intermediary Identification Number (“GIIN”) from the IRS. As part of the registration with the IRS, the Reporting Financial Institution will need to appoint a Responsible Officer (“RO”).
- **Local Notification:** All RFIs that have FATCA reporting obligations must submit a notification via the Cayman Islands Department of International Tax Cooperation (“DITC”) Portal. The RFI will need to provide contact details of a Principal Point of Contact (“PPOC”) and Authorizing Person (“AP”) at the time of notification to the DITC. The local notification is a one-off process, and must be submitted prior to April 30th in the first calendar year in which the entity is required to comply with FATCA reporting obligations.
- **New Investor Onboarding:** RFIs need to collect a self-certification (which may be an IRS Form W-9, W-8, W-8BEN-e, or other similar agreed form) to document the investor’s FATCA status, for any accounts opened after June 30, 2014 (“New Accounts”). These self-certification forms must be checked for reasonableness against other account holder documentation (e.g. documentation collected pursuant to KYC or AML requirements), and updated forms must be collected if there is any change of circumstance.
2. **Existing Account Due Diligence:** RFIs may rely on the data they have on file for any accounts opened prior to June 30, 2014 (“Preexisting Accounts”). If the existing information on file establishes that the Account Holder is a Specified US Person, the fund should:
  - a. Treat the account as a US Reportable Account (unless the account holder can evidence otherwise through a self-certification).
  - b. Obtain a self-certification (which may be an IRS Form W-9 or other similar agreed form) that includes the Account Holder’s US TIN and date of birth.
3. **Annual Reporting:** RFIs must report information regarding any US Reportable Accounts to the DITC annually. The annual reporting deadline is July 31st, subject to any extensions announced by the DITC.

# Common Reporting Standard



## Background

The Common Reporting Standard (“CRS”) was developed by the Organization for Economic Co-operation and Development (“OECD”) on the mandate of the G20 to develop a global standard for automatic exchange of financial account information for tax purposes. The CRS builds on the intergovernmental approach adopted by many jurisdictions for the implementation of FATCA and is designed to maximize efficiency and minimize costs.

Similar to FATCA, CRS requires financial institutions resident in Participating Jurisdictions to implement due diligence procedures, to document and identify reportable accounts under CRS, as well as establish a wide-ranging reporting process. There are, however, some distinct differences between FATCA and the CRS, in particular:

- **CRS is based on tax residency:** FATCA reporting applies based on US residency and/or citizenship, and the scope includes US Individual Accounts, US Entity Accounts, and Passive Non-Financial Entities (“NFE”) accounts held by substantial US owners, while CRS is based on tax residency and includes accounts held by tax residents of (or Passive NFFEs with Controlling persons that are resident in) any of the 100+ CRS participating jurisdictions. RFI must establish a way to record and track tax residency information, the definition of which may differ from jurisdiction to jurisdiction.
- **CRS does not impose withholding tax:** FATCA imposes 30% withholding tax on US-source income and other US-related payments made to or by a non-participating foreign financial institution in the event of non-compliance. CRS does not impose withholding, however the domestic legislation for both FATCA and CRS include potential penalties for non-compliance.
- **CRS cannot rely on US tax forms:** For FATCA purposes, RFIs can use the standard Forms W-8BEN, W-8BEN-e, or W-9, while specific CRS self-certifications must be used for CRS, as US tax forms are not acceptable to capture all CRS data (e.g., multiple tax residences, legal entity classification under CRS, etc.)

## CRS Compliance Requirements

Under the CRS, jurisdictions obtain specified financial account information from their financial institutions and automatically exchange that information with the partner jurisdictions on an annual basis. Similar to FATCA, the CRS requires Cayman Islands resident entities that are RFIs, which includes most Cayman Islands domiciled investment funds, to comply with the following requirements.

- 1. Local Notification:** All RFIs that have CRS reporting obligations must submit a notification via the DITC Portal. The RFI will need to provide contact details of a Principal Point of Contact (“PPOC”) and Authorizing Person (“AP”) at the time of notification to the DITC. The local notification must be submitted prior to April 30th in the first calendar year in which the entity is required to comply with CRS reporting obligations.
- 2. New Investor Onboarding:** RFIs need to collect a CRS self-certification to document the investor’s CRS status, for any accounts opened after December 31, 2015 (“New Accounts”). These self-certification forms must be checked for reasonableness against other account holder documentation (e.g. documentation collected pursuant to KYC or AML requirements), and updated forms must be collected if there is any change of circumstance.
- 3. Existing Account Due Diligence:** RFIs may rely on the data they have on file for any accounts opened prior to December 31, 2015 (“Preexisting Accounts”). If the existing information on file establishes that the Account Holder is tax resident in a CRS reportable jurisdiction, the fund should treat the account as a CRS Reportable Account, unless the account holder supplies a CRS self-certification form confirming otherwise.
- 4. Annual Reporting:** RFIs must report information regarding any CRS Reportable Accounts to the DITC annually. The annual reporting deadline is July 31st, subject to any extensions announced by the DITC.
- 5. CRS Compliance Form:** All Cayman Islands RFIs must provide additional information annually to the DITC, to ensure the effective implementation of, and compliance with, the reporting and due diligence procedures in accordance with the CRS. The CRS Compliance Form is the mechanism by which the DITC collects this information, which must be submitted via the DITC Portal by September 15<sup>th</sup> each year.

Deloitte’s [Global Information Reporting](#) page provides additional information and regular updates on CRS and other information reporting requirements around the world.

# Economic Substance

## Background

On 17 December 2018, the Cayman Islands Legislative Assembly passed the International Tax Co-operation (Economic Substance) Act, 2018 (“ES Act”) that introduces increased substance requirements for certain Cayman Islands entities (“relevant entities”). The ES Act was subsequently amended to extend the scope of relevant entities to include partnerships. The Cayman Islands government also released additional guidance notes (“ES Guidance”).

A relevant entity will include the following types of entities, unless the entity is an investment fund or is tax resident outside of the Cayman Islands:

- a. a company, other than a domestic company, that is (i) incorporated under the Companies Law (2018 Revision); or (ii) a limited liability company registered under the Limited Liability Companies Law (2018 Revision);
- b. a partnership under the Partnership Act (2013 Revision) and both an exempted limited partnership under section 2 of the Exempted Limited Partnership Act (2021 Revision) and a foreign limited partnership under section 42 of the Exempted Limited Partnership Act (2021 Revision), except where the partnership meets the definition of “local partnership”;
- c. a company that is incorporated outside of the Islands and registered under the Companies Law (2018 Revision).

All Cayman entities are required to make an annual notification as to whether they have conducted any relevant activities during the preceding financial period. Relevant activities are further defined in the ES Law, and include the following:

- Banking business
- Distribution and service center business
- Financing and leasing business
- Fund management business
- Headquarters business
- Holding company business
- Insurance business
- Intellectual property business
- Shipping business

## Investment Funds and Intermediary Holding Companies

An investment fund is not a relevant entity for the purpose of the ES Act and is not required to satisfy the Economic Substance (“ES”) Test. The ES Act defines an ‘investment fund’ as “an entity whose principal business is the issuing of investment interests to raise funds or pool investor funds with the aim of enabling a holder of such an investment interest to benefit from the profits or gains from the entity's acquisition, holding, management or disposal of investments and includes any entity through which an investment fund directly or indirectly invests or operates (but not an entity that is itself the ultimate investment held).”

The words “through which an investment fund directly or indirectly invests or operates” refer to any entity which functions solely as part of the investment fund structure which is not carrying on an operating business (i.e. its purpose is passive in nature).

Most Cayman Islands’ entities within an investment fund structure (including the investment fund itself and intermediary holding companies) will be excluded from the requirements by virtue of meeting the definition of an ‘investment fund’. However, it is also possible to identify entities within the broader structure that may be carrying on the relevant activities of ‘holding company business’ or ‘financing and leasing business’, among others. An entity-by-entity classification assessment should be undertaken to confirm the correct relevant activity classification for each Cayman entity in the structure.

### Fund Managers

Fund management business is one of the defined relevant activities that is in scope of the economic substance requirements, which is defined as “the business of managing securities as set out in Paragraph 3 of Schedule 2 to the Securities Investment Business Act (“SIBA”) carried on by a relevant entity licensed or otherwise authorized to conduct business under that Act for an investment fund. “Managing Securities” means managing securities belonging to another person in circumstances involving the exercise of discretion as outlined within the SIBA.

The ES Act outlines the economic substance requirements that will apply for any entity carrying on one or more relevant activity, which differs based on the relevant activity classification. A relevant entity, other than a pure equity holding company, satisfies the ES Test in relation to a relevant activity if the relevant entity:

- a. Conducts core income generating activities (“CIGA”) in relation to that relevant activity in the Cayman Islands.
- b. Is directed and managed in an appropriate manner in the Cayman Islands in relation to that relevant activity.
- c. Having regard to the level of relevant income derived from the relevant activity carried out in the Cayman Islands, the relevant entity:
  - i. Has an adequate amount of operating expenditure incurred in the Islands;
  - ii. Has an adequate physical presence (including maintaining a place of business or plant, property and equipment) in the Islands; and
  - iii. Has an adequate number of full-time employees or other personnel with appropriate qualifications in the Islands.

### Annual Economic Substance Reporting

For companies, the requirements under the ES Act are effective for financial years commencing on or after 1 January 2019 (where ‘financial year’ is aligned to the company’s fiscal year). A Cayman Islands company is subject to the ES Act from the date on which it commences the relevant activity, unless the company was in existence prior to 1 January 2019, in which case it was required to comply with the ES Act by 1 July 2019. A partnership, exempted limited partnership, or foreign limited partnership that is a relevant entity is subject to the ES Act as from the date on which it commences the relevant activity, unless it was in existence prior to 30 June 2021, in which case it was required to comply with the ES Act by 1 January 2022.

The reporting requirements under the Cayman ES Act involve two separate steps – the ES Notification the ES Return.

- **ES Notification:** the ES Act imposes an ES Notification obligation on every “entity” which includes all legal persons that are registered with the General Registry. As part of the notification, each entity must confirm whether it meets any of the exemptions available (including the investment funds exemption) and if not, whether it carried on a relevant activity during the preceding financial period. The notification is required as a prerequisite to filing the Annual Return, due by January 31 annually.

- **ES Return:** a relevant entity that is carrying on a relevant activity and is required to satisfy the ES Test must then prepare and submit an ES Return for the purpose of the Authority's review and determination of whether the ES Test has been satisfied. The report must be submitted no later than twelve months after the last day of the end of each financial. An entity that is either not a relevant entity or is a relevant entity but did not carry on a relevant activity during the relevant financial year (as specified within the ES Notification) is not required to submit an ES Return.

# Other 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. Material changes 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.
- Changes to the fund’s offering memorandum by filing the revised document within 21 days.

## Residency restrictions

| No Cayman Islands residency restrictions on:                                   | Cayman Islands residency restrictions on:                                                   |
|--------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• Fund management</li></ul>              | <ul style="list-style-type: none"><li>• Registered office</li></ul>                         |
| <ul style="list-style-type: none"><li>• Fund administration</li></ul>          | <ul style="list-style-type: none"><li>• Auditors of record (regulated funds only)</li></ul> |
| <ul style="list-style-type: none"><li>• Official books &amp; records</li></ul> | <ul style="list-style-type: none"><li>• ELP General Partner</li></ul>                       |
| <ul style="list-style-type: none"><li>• Appointed directors</li></ul>          |                                                                                             |
| <ul style="list-style-type: none"><li>• Transfer agent services</li></ul>      |                                                                                             |
| <ul style="list-style-type: none"><li>• Bank and custodial accounts</li></ul>  |                                                                                             |

# Cost Considerations

## Cayman Islands fund fee structure

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 incurred within 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. An offshore fund’s most significant operating expenses include the investment adviser’s management and performance fees, fund administration, tax and audit, and transactional type costs such as brokerage trading commissions and interest.

## Fund expense requirements

There are no regulations in the Cayman Islands on the amount or nature of operating fees. All fees 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 to ensure investors have been provided full transparency over the fund’s expense policy.

## 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. Both CIMA and the SEC have provided guidance and regulations regarding the allocation of costs between the Investment Adviser and the Fund, although frameworks differ due to jurisdictional and regulatory differences. 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 operations and resources available to smaller fund managers, this may be considered reasonable and appropriate by their investors. Generally, larger fund managers absorb many of these expenses as part of their investment management services.

Costs incurred by the investment adviser 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"><li>• Portfolio management</li><li>• Related travel</li><li>• Research &amp; analytics</li><li>• D&amp;O, E&amp;O insurance</li></ul> | <ul style="list-style-type: none"><li>• Marketing</li><li>• Investor relations</li><li>• Risk &amp; compliance outsourcing</li></ul> | <ul style="list-style-type: none"><li>• Middle office support</li><li>• Technology support</li><li>• Compliance consultants</li><li>• Outsourced CFO</li></ul> |

**Increasingly common as a Fund expense:**

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

### 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.

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.

Due diligence professionals have a certain target expense ratio in mind therefore understanding your prospective investor's maximum threshold may assist in early expense allocation decisions. 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.

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 and partnership agreement.

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 should be described in the offering memorandum and partnership agreement (e.g. pro rata based on assets of the funds).

### Redemption charges

Many funds allow 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 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 formed as an exempted company.

| Activities                                                                                                                              | Two days                 | Less than two weeks | Two to four weeks | Greater than one month |
|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------|-------------------|------------------------|
| Prepare formation documents <sup>9</sup>                                                                                                |                          |                     |                   | ✓<br>(6 to 8 weeks)    |
| Issuance of Certificate of Incorporation and Memo. & Articles of Association by the Registrar of Companies                              | ✓<br>(expedited service) | ✓<br>(3-5 days)     |                   |                        |
| Application for Tax Exemption Certificate                                                                                               |                          |                     | ✓<br>(2-3 weeks)  |                        |
| Request Administrator's and Auditor's Consent letters                                                                                   | ✓                        |                     |                   |                        |
| CIMA application submission (Registered fund)                                                                                           | ✓<br>(generally)         | ✓<br>(max 1 week)   |                   |                        |
| CIMA application submission (Licensed fund)                                                                                             |                          |                     | ✓<br>(4 weeks)    |                        |
| Directors registration – CIMA (Registered directors)                                                                                    | ✓<br>(48 hours)          |                     |                   |                        |
| Directors registration – CIMA <sup>10</sup> (Professional and Corporate directors)                                                      |                          |                     | ✓<br>(4 weeks)    |                        |
| Audited f/s submission:<br>CIMA (together with FAR)—180 days post year end<br>SEC—120 days post year end;<br>180 days for fund of funds |                          |                     |                   | ✓                      |
| CSX Listing<br>Initial comments < 5 days<br>Document turnaround < 3 days                                                                |                          |                     |                   | ✓<br>(3 to 6 weeks)    |

<sup>9</sup> Formation of documents include the memorandum & articles of association, offering memorandum, shareholder subscription document, management contract, and board resolutions.

<sup>10</sup> It is the responsibility of the director to arrange for registration or licensing with CIMA.

# Appendix B—Expense Analysis

| Exempted Company                                                      |                 |                 |                      |   |   |
|-----------------------------------------------------------------------|-----------------|-----------------|----------------------|---|---|
| TYPICAL OPERATING COSTS                                               | Cost borne by:  | Set up per fund | Annual fees per fund |   |   |
| <b>Operating costs:</b>                                               |                 | US\$            | US\$                 |   |   |
| <b>A</b> Incorporation                                                | Fund            | 854             | 1,128                | a |   |
| <b>A</b> Disbursements (stamp duty, seal, filing fees, notarial fees) | Fund            | 579             |                      |   |   |
| <b>A</b> Registered office                                            | Fund            | 2,500           | 2,500                | b |   |
| <b>A</b> Tax exemption certificate application                        | Fund            | 1,829           |                      | c |   |
| <b>A</b> CIMA registration fee-Registered Mutual Fund                 | Fund            | 4,482           | 4,482                | d | f |
| <b>A</b> CIMA administrative filing fee                               | Fund            | 366             | 366                  | d | f |
| <b>A</b> CIMA annual FAR filing                                       | Fund            |                 | 366                  | d |   |
| <b>A</b> Beneficial Ownership filing                                  | Fund            |                 |                      | e |   |
| <b>C</b> Fund Administration                                          | Fund            |                 |                      | g |   |
| <b>B</b> Financial statement preparation                              | Fund            |                 |                      | h |   |
| <b>B</b> Legal                                                        | Fund            |                 |                      | i |   |
| <b>B</b> Audit                                                        | Fund            |                 |                      | j |   |
| <b>B</b> Tax compliance                                               | Fund            |                 |                      | j |   |
| <b>A</b> Directors                                                    | Fund            |                 |                      | k |   |
| <b>A</b> MLRO, DMLRO, AMLCO                                           | Fund            |                 |                      | l |   |
|                                                                       |                 |                 |                      |   |   |
| <b>Trading costs:</b>                                                 |                 |                 |                      |   |   |
| <b>C</b> Brokerage commissions                                        | Fund            |                 |                      | m |   |
| <b>C</b> Custodian                                                    | Fund            |                 |                      | m |   |
| <b>C</b> Withholding taxes on dividends                               | Fund            |                 |                      | n |   |
| <b>C</b> Bank charges                                                 | Fund            |                 |                      | m |   |
| <b>B</b> Research fees                                                | Fund or Manager |                 |                      | m |   |
| <b>B</b> D&O insurance                                                | Fund or Manager |                 |                      | m |   |
| <b>C</b> Management fee                                               | Fund            |                 |                      | o |   |
| <b>C</b> Incentive Fee                                                | Fund            |                 |                      | o |   |

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

|          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>a</b> | Fees for a company with authorized capital less than US\$42,000 (Initial and annual registration fees for the exempted company vary depending on the level of authorized capital). Fee schedule Jan 2025.                                                                                                                                                                                                                                                                                                                                        |
| <b>b</b> | For exempted companies, this must be provided by a local CIMA licensed company management, act or accountancy practice or trust company. Fees range on average between US\$2,000-US\$3,000.                                                                                                                                                                                                                                                                                                                                                      |
| <b>c</b> | While not required, common application for tax exemption certificate which guarantees tax exemption by the Governor in Cabinet for a period of 20 years for companies.                                                                                                                                                                                                                                                                                                                                                                           |
| <b>d</b> | CIMA fee schedule; 2025. Master Fund annual fees US\$3,201.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>e</b> | Corporate service providers must establish and maintain the beneficial ownership register which will provide access to beneficial ownership information in a secure search platform that enables only authorized users to access information on beneficial ownership.                                                                                                                                                                                                                                                                            |
| <b>f</b> | Annual fee due on or before January 15th.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>g</b> | 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.                                                                                                                                                                 |
| <b>h</b> | Financial statement preparation services generally range from US\$5,000 to US\$15,000 per fund.                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>i</b> | 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. |
| <b>k</b> | 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 U.S. taxable investors in a domestic feeder forming part of a master feeder fund.                                                                                                                       |
| <b>k</b> | One director must be appointed; however, the appointment of independent directors is not required. Directors' own registration and/or licensing fees are operating costs of the directors and not typically reimbursed by the fund.                                                                                                                                                                                                                                                                                                              |
| <b>l</b> | Cayman Islands entities, both regulated and unregulated, must appoint a natural person to act as their Money Laundering Reporting Officer, Deputy Money Laundering Reporting Officer, and Anti-Money Laundering Compliance Officer. If delegated to a third party, the fund will incur fees that will range depending on the size of the fund complex.                                                                                                                                                                                           |
| <b>m</b> | Broker commissions and other charges based on trading and investment activities; Custodian fees negotiated based on net asset value of the portfolio.                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>n</b> | Generally, withholding taxes on equities range from 0% to 30% of any dividends declared.                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>o</b> | 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. The exempted limited partnership set up is higher at US\$1,220 and annual fees of US\$1,585.

The exempted company typically issues US\$50,000 in share capital, comprised of management share capital (voting, non-participating) with a par value of US\$1 to US\$1,000 per share and participating share capital (non-voting, participating) with a par value ranging from US\$0.001 per share to US\$0.01 per share. Management share capital is more commonly owned by the Investment Manager. Other capital formation alternatives should be discussed with counsel to best tailor to the fund and manager's preferences.

# Appendix C—Reference Guide

**Acts, regulations and guidance**

Cayman Islands acts, regulations and guidance available within [www.cima.ky](http://www.cima.ky)

**Deloitte resources**

|                                                                 |                                           |
|-----------------------------------------------------------------|-------------------------------------------|
| Deloitte’s Cayman Islands Investment Management Practice        | <a href="#">Explore our services here</a> |
| Deloitte Tech Brief for Investment Funds January 2025           | <a href="#">View Tech Brief online</a>    |
| Deloitte Private - Family Office Services in the Cayman Islands | <a href="#">View services here</a>        |
| Deloitte Private Funds and Mutual Funds (Amendment) Acts        | <a href="#">View online here</a>          |

# Contact Us

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We currently serve some of the world's largest investment funds and have strong relationships with all key industry service providers globally, including fund administrators, law firms and independent directors.

Our team of 17 partners and almost 200 professionals works closely with local regulators, including the Cayman Islands Monetary Authority and the Cayman Islands Institute of Professional Accountants. We are a recognized leader in providing professional services to the investment fund industry.

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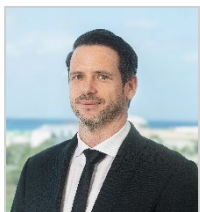
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