



February 2014

## How to Structure Single Investor Funds in Cayman

### ▣ Single Investor Funds

Single investor funds can be an attractive for institutional investors including insurance companies, pension trustees and sovereign wealth funds. The structure can provide for bespoke provisions for investment strategies, risk management, leverage restrictions, transparency and liquidity terms whilst at the same time providing limited liability and delegated responsibility for management and administration.

### ▣ Investment Objectives

The laws of the Cayman Islands do not impose any requirements in relation to investment objectives, investment strategy, portfolio diversification, risk parameters or leverage ratios for single investor funds. As a result these elements of the single investor fund can be tightly negotiated to suit the investment and risk profile required by the institutional investor. The Cayman single investor fund can also retain the flexibility to amend its investment objectives as and when required by the institution investor.

### ▣ Liquidity

Depending on the investment strategy of the single investor fund and the asset classes making up its portfolio from time to time, the liquidity of the fund can be tailored to the specific needs of the institutional investor. The single investor fund will also be protected against the effect of co-investor redemptions which might negatively affect the institutional investor's holding in multi investor fund.

### ▣ Transparency

A Cayman single investor fund can offer its institutional investor a

For further information on any of the services provided by Dillon Eustace in the Cayman Islands please contact:



**Matt Mulry**

DD: +1 345 949 0022

[Matt.Mulry@dilloneustace.ie](mailto:Matt.Mulry@dilloneustace.ie)



**Derbhil O'Riordan**

DD: +1 345 949 0022

[derbhil.oriordan@dilloneustace.ie](mailto:derbhil.oriordan@dilloneustace.ie)

high degree of transparency to allow for effective monitoring of performance, risk and controls. Such enhanced reporting provisions might not be available or practical for a multi-investor fund. The operators of the fund will also work with the fund's manager and its other service providers to provide investor reports in line with the specific requirements of the institutional investor, whereas these functions might be left to the institutional investor in a managed account.

## Available Structures

Using a Cayman Islands vehicle to structure a single investor fund provides for limited liability for the investor and offers a range of single investor fund vehicles for the purpose. Cayman single investor funds can be structured as a company, unit trust or limited partnership.

### Companies

Using a single Cayman company to structure the single investor fund provides limited liability with no risk of cross class contamination and avoids any co-investor redemption risks. Cayman companies are extremely flexible structures for capital management and allow for flexible arrangements for return of capital to investors.

### Segregated Portfolio Companies

Using a Cayman segregated portfolio company can offer a platform for segregated portfolios which can each be set up with separate investment objectives, risk profiles, borrowing restrictions, reporting obligations and redemption terms. Each segregated portfolio within the structure will offer statutory segregation of assets and liabilities from the asset and liabilities of other segregated portfolios of the same fund. The statutory segregation between portfolios in this type of company avoids cross portfolio liability risk and co-investor redemption risk whilst offering the operational efficiencies of a single corporate structure. Using a multi-class structure in a normal Cayman company structure can, through careful use of limited recourse provisions, also achieve a similar segregation on a contractual basis.

### Unit Trusts

A Cayman unit trust offers a familiar vehicle to institutional investors preferring the trust structure. Cayman unit trusts can, through the use of limited recourse provisions, also achieve the same protections as a segregated portfolio company, albeit on a contractual basis rather than under statute. A unit trust can be established with separate and distinct sub-trusts into which different institutional investors might invest. Each sub-trust can offer distinct investment objectives, risk profiles, borrowing restrictions, reporting obligations and redemption terms tailored specifically to the needs of their institutional investors.

### Limited Partnerships

A limited partnership structure offers a familiar vehicle to private equity investors seeking a more customised investment platform. Cayman limited partnerships allow a certain degree of involvement by a limited partner in the business of the limited partnership without loss of limited liability which can be attractive to an institutional investor.

## ▣ Regulation of Single Investor Funds in Cayman

A single investor fund operating through a single corporate, unit trust or limited partnership structure (not being a multi class or segregated portfolio structure with more than one investor) will fall outside the provisions of the Mutual Funds Law (Revised) of the Cayman Islands and will not need to register with the Cayman Islands Monetary Authority (“CIMA”). It is also open to the single investor fund to choose to register with CIMA if this is preferred by the investor.

### ▣ Non-Registered Single Investor Funds

If the investor's preference is not to register their single investor fund with CIMA the fund will not be subject to supervision by and will not need to make any filings with CIMA. In addition an auditor which is approved and regulated by CIMA will not need to be appointed to the fund allowing for a wider choice of auditor. If an auditor is appointed they will not be required to file annual reports with CIMA in addition to the fund's audited accounts which may reduce the auditor's annual fee as compared with the costs of their services to a fund which has been registered with CIMA.

The time frame required for the launch of a single investor fund which is not registered with CIMA will be determined by the time it takes to settle the terms of the fund's offering and constitutional documents and the terms of its service provider agreements.

### ▣ Registered Single Investor Funds

If a registration of the single investor fund is preferred, or if a multi class or segregated portfolio structure with more than one investor is used, then the fund will either (i) need to impose a minimum initial investment requirement of US\$100,000 or its equivalent in any other currency or (ii) list its equity interests on a specified stock exchange<sup>1</sup>. As a registered fund the single investor fund will be required to file its offering document and certain prescribed particulars with CIMA and to pay a fee on registration and an annual regulatory fee. A registered fund will be subject to the supervision of CIMA and will be required to appoint CIMA approved and Cayman based auditors. The appointed auditors will be required to monitor the fund, perform an annual audit on the fund's accounts and file an annual report with CIMA.

<sup>1</sup> As at 30.3.11 - Amman Stock Exchange, Athens Exchange, Australian Securities Exchange, BATS Exchange, Bayerische Borse AG, Berlin Stock Exchange, Bermuda Stock Exchange, BM&F Bovespa, BME Spanish Exchanges, BOAG Borsen AG, Bolsa de Comercio de Buenos Aires, Bolsa de Comercio de Santiago, Bolsa de Valores de Caracas\*, Bolsa de Valores de Colombia, Bolsa de Valores de Lima, Bombay Stock Exchange, Borsa Italiana SPA, Bratislava Stock Exchange, Bucharest Stock Exchange, Budapest Stock Exchange, Bulgarian Stock Exchange, Cayman Islands Stock Exchange, Channel Islands Stock Exchange\*, Chicago Board Options Exchange, Chicago Stock Exchange, CME Group, Colombo Stock Exchange, Copenhagen Stock Exchange, Cyprus Stock Exchange, Czech Stock Exchange, Deutsche Borse, Dusseldorf Stock Exchange, EDX London, Eurex, Euronext, Fukuoka Stock Exchange\*, Hong Kong Exchange and Clearing, Indonesia Stock Exchange, Intercontinental Exchange, International Securities Exchange, Irish Stock Exchange, Istanbul Stock Exchange, JASDAQ, Johannesburg Stock Exchange, Korea Stock Exchange, London Stock Exchange, Ljubljana Stock Exchange, Luxembourg Stock Exchange, Madrid Stock Exchange, Malaysia Stock Exchange, Malta Stock Exchange, Mexican Stock Exchange, Montreal Exchange, Moscow Interbank Currency Exchange, Nagoya Stock Exchange\*, NASDAQ OMX, NASDAQ OMX BX, NASDAQ OMX PHLX, NASDAQ Stock Market, National Stock Exchange (U.S.), National Stock Exchange of India, New York Stock Exchange, New Zealand Exchange, NYSE Amex, NYSE Arca, NYSE Euronext, OMX Nordic Exchanges, Osaka Securities Exchange, Oslo Axess, Oslo Stock Exchange, Philippine Stock Exchange, PLUS Markets, Prague Stock Exchange, RMX Hannover, Saudi Stock Exchange (Tadawul), Shanghai Stock Exchange, Shenzhen Stock Exchange, Singapore Exchange, Stuttgart Stock Exchange, SIX Swiss Exchange, Stock Exchange of Mauritius, Taiwan Stock Exchange, Tel Aviv Stock Exchange, The Egyptian Exchange, The Stock Exchange of Thailand, TLX s.p.a., Tokyo Stock Exchange, Toronto Stock Exchange, Valencia Stock Exchange, Vienna Stock Exchange, Vilnius Stock Exchange and Warsaw Stock Exchange. [\* indicates discretionary approval]

For registered funds there is no requirement for pre-approval from CIMA. As soon as the fund's offering documents, prescribed particulars and annual fee have been filed with CIMA, together with letters from the funds auditors and administrator confirming their consent to act, the fund is ready to take in subscriptions and commence trading.

## Cayman Taxation

There is no income or capital gains tax imposed by the Cayman Islands government which will apply to distributions or redemptions of interests held by an institutional investor in a Cayman single investor fund. Each of the legal structures which may be used for a Cayman single investor fund may register as an exempted entity and apply to the Cayman Islands Governor in Cabinet for an undertaking that no law enacted in Cayman imposing any tax on profits, gains or appreciation or which is in the nature of estate duty or inheritance tax shall apply to the structure for a period of 20 years in the case of a company and 50 years in the case of a limited partnership or trust.

## Dillon Eustace

Dillon Eustace advises asset managers, banks, insurers, pension funds, supranational organisations, prime brokers, administrators, custodians, securities lending agents and others in relation to all aspects of the asset management and funds industries.

## DILLON EUSTACE

### **Dublin**

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

### **Cayman Islands**

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

### **Hong Kong**

604 6F Printing House, 6 Duddell Street, Central, Hong Kong. Tel: +852 352 10352.

### **New York**

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

### **Tokyo**

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

### **DISCLAIMER:**

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

### **Copyright Notice:**

© 2014 Dillon Eustace. All rights reserved.