

Funds

“ The development of the fund industry in Gibraltar in recent years has witnessed a rapid and impressive growth and is continuing to expand at a phenomenal rate resulting in Gibraltar becoming a serious alternative for basing an off-shore fund. Hassans law firm has been in the forefront of this development and advised both the government of Gibraltar as well as most of the funds domiciled in Gibraltar.”

Types of Funds in Gibraltar

Private Funds

A Private Fund is a fund that is promoted to a restricted class of persons whose number is less than 50. Generally this fund is meant for promotion to investors who are friends, family or close clients of the promoters or possibly employees of a firm. Private Funds are exempt from any licensing requirements. A Private Fund must remain private for a year from the date of offer.

Experienced Investor Funds

One of the most exciting and competitive innovations in the Gibraltar Fund industry is the Experienced Investor Fund (“EIF”). An EIF is a fund which is highly versatile and lightly regulated. Investors in these funds must be one of the following: investment professionals, have a net worth in excess of €1,000,000, OR invest a minimum of €100,000 in the fund.

An EIF can be set up in a matter of days without any need for prior regulatory approval. Authorisation is done by notification to the Financial Services Commission (“FSC”) of the fund’s launch within 14 days. The notification must be accompanied by the fund’s prospectus, memorandum and articles of association, a legal opinion from Gibraltar counsel confirming that the fund has been set up in accordance with the law, a form completed by the administrator and the prescribed fee.

Two of the directors of an EIF must be authorised by the FSC and reside in Gibraltar. An EIF must also have a Gibraltar administrator and auditor. There are no restrictions on the location of the custodian or prime broker, and no investment or borrowing restrictions. An EIF may take the form of a company, a protected cell company, a unit trust, a limited partnership or any other vehicle that is acceptable to the FSC.

Non-UCITS Retail Funds

Non-UCITS retail funds are licensed by the FSC. The licensing procedure generally takes between three to six months and involves the submission of the formation documents of the fund and its prospectus to the FSC along with application forms on the fund, its directors and investment manager.

UCITS Funds

If the purpose of a fund is primarily to invest in transferable securities such as stocks and bonds listed on a recognised European Community or familiar stock exchange, a fund may be licensed in compliance with the European directives on Undertakings in Collective Investment in Transferable Securities (“UCITS”). Since Gibraltar is within the European Union it has the right to passport its financial services throughout Europe. Gibraltar UCITS funds may therefore passport their services within the European Union on the basis of their Gibraltar licence.

Protected Cell Companies

A Protected Cell Company (“PCC”) serves as a helpful and exceptionally beneficial device to structure a fund. The use of a PCC allows a fund to be set up so there is segregation of assets and liabilities between the different cells, so that each can serve as a sub-fund. Sub-funds or cells can then be used by separate clients or by one client wishing to promote several investment strategies. PCCs may be licensed as EIFs, Non UCITS Retail Funds or UCITS Funds. There is no limit to the number of cells a PCC may create.

Contacts

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