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The cover features several large, dark green leaf-like shapes scattered across the background, creating a natural, organic feel. The leaves vary in size and orientation, with some pointing upwards and others downwards.

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Investment Funds

Cayman Islands
Maples Group

chambers.com

2019

Law and Practice

Contributed by Maples Group

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The Maples Group is a leading service provider offering clients a comprehensive range of legal services on the laws of the British Virgin Islands, the Cayman Islands, Ireland, Jersey and Luxembourg, and is an independent provider of fiduciary, fund services, regulatory and compliance, and entity formation and management services. The firm's global network of lawyers and industry professionals are strategically located in the Americas, Europe, Asia and the Middle East to ensure that clients gain immediate access to expert

advice and bespoke support, within convenient time zones. Maples Group's funds and investment management expertise includes: asset management; EU regulation; hedge funds; private equity funds; real estate funds; restructuring and workouts; global registration services; AIFMD; and UCITS.

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1. Fund Formation

1.1 Formation of Investment Funds

The Cayman Islands is a popular domicile for globally managed private equity, hedge and hybrid funds due to its tax neutral status, flexible structuring options, established and experienced financial services sector and professional service providers.

Entity options available for structuring investment funds include limited partnerships, corporates, limited liability companies and trusts. Private equity funds are typically structured as limited partnerships and hedge funds make use of both corporate and limited partnership vehicles in standalone and master feeder structures. Cayman Islands trusts and other vehicles are frequently used as investment vehicles for investors in Asia, including China and Japan. The limited liability company is becoming the vehicle of choice for general partner and/or management vehicles.

1.2 Raising Capital from Investors

Cayman Islands vehicles are popular with investors across the world for the raising of capital internationally due to their tax neutral status, an English-based legal system, established judiciary and absence of political or sovereign concerns.

1.3 Common Process for Setting Up Investment Funds

Formation and registration processes in the Cayman Islands are streamlined and efficient. Corporations are formed upon filing of a declaration and the memorandum and articles of association with the registrar. Limited partnerships and limited liability companies are formed upon the execution of the relevant operating agreement and the filing of a registration statement with the registrar.

To register a regulated fund, the requisite application form and offering memorandum must be submitted to the Cayman Islands Monetary Authority (CIMA) in advance of the fund launch and directors must be registered under the Director Registration and Licensing Law. Service providers such as administrators and auditors must submit consent letters confirming responsibility for these important roles.

1.4 Regulation of Fund Structures

There is no requirement that the investment manager or manager of a fund be domiciled in the Cayman Islands or that a non-Cayman manager or investment manager be regulated in the Cayman Islands. Most fund managers are not domiciled in the Cayman Islands.

1.5 Limited Liability

The Cayman Islands' legal system is based on well-recognised legal concepts founded in English law, including limited liability and separate corporate personality which underpin the corporate, partnership and trust vehicles used

as collective investment schemes. These have all been tried and tested and found to be robust during the global financial crisis.

As a general rule, in the absence of a contractual arrangement to the contrary, the liability of a shareholder of a Cayman Islands company which has been incorporated with limited liability and with a share capital is limited to the amount from time to time unpaid in respect of the shares he or she holds. A Cayman Islands company has a legal personality separate from that of its shareholders, and is separately liable for its own debts due to third parties.

A Cayman Islands exempted limited partnership does not have a legal personality separate from its partners. General partners have unlimited liability for all the debts and obligations of these partnerships by virtue of the Cayman Islands Exempted Limited Partnership Law (2018 Revision). Fund investors typically subscribe for limited partnership interests on which their liability is generally limited to their contributed capital and outstanding capital commitment (if any).

However, there are limited circumstances under Cayman Islands law whereby if an investor takes part in the conduct of the business of the partnership and hold themselves out as a general partner to third parties, they may assume unlimited liability for the debts and obligations of the partnership. Exempted limited partnerships are the most common type of Cayman Islands vehicle used in private equity fund-raising and investors in these funds commonly seek Cayman Islands legal opinions in respect of, among other things, the limited liability nature of their partnership interest.

1.6 Common Tax Regimes

The government of the Cayman Islands does not, under existing legislation, impose any form of direct tax on profits, income, gains or appreciations or by way of withholding in whole or in part on the payment of dividends or other distributions of income or capital by investment funds structured within the Cayman Islands.

1.7 Investment Sponsors

The Cayman Islands is a well-known and trusted centre of excellence for its established and experienced financial services sector and professional service providers with investment sponsors and investors from all over the world. In particular, the Cayman Islands are the jurisdiction of choice for US sponsors structuring funds for US tax exempt investors and non-US investors. Cayman Islands trusts and other vehicles are frequently used as investment vehicles for investors in Asia, including China and Japan.

1.8 Disclosure Requirements

Every mutual fund registered with CIMA (unless that fund is a 'master fund' as defined under the Mutual Funds Law) is required to issue an offering document which must describe

the equity interests in all material respects and contain this other information as is necessary to enable a prospective investor to make an informed decision as to whether or not to invest in the fund. CIMA does not dictate the substance or form of the offering document, although it occasionally issues policy statements with respect to the content of offering documents.

All fund offering documents are subject to the pre-existing statutory obligations with regard to misrepresentation and the general common law duties with regard to proper disclosure of all material matters.

1.9 Legal Forms

Private equity funds are typically structured as limited partnerships. Hedge (or open-ended) funds are typically structured as corporate entities, although we are increasingly seeing master funds structured as limited partnerships in master/feeder structures. Cayman Islands trusts are frequently used as investment vehicles for investors in Asia, including China and Japan.

A key difference between a limited partnership and a corporate entity is that, notwithstanding registration, a limited partnership is not a separate legal person distinct from its partners. A limited partnership must act through its general partner and all agreements and contracts must be entered into by or on behalf of the general partner (or any agent or delegate of the general partner) under general legal principles of agency on behalf of the limited partnership. Any right or property of the exempted limited partnership which is conveyed to or vested in or held either (i) on behalf of the general partner, or (ii) in the name of the limited partnership is an asset of the exempted limited partnership held upon trust in accordance with the terms of the relevant law.

1.10 Regulatory Status

There are four regulatory status(es) for 'mutual funds' (funds with more than one investor which have the right to redeem their interests at their option) under the Mutual Funds Law.

- The 'Licensed Mutual Fund' – a fund may obtain a licence from CIMA if CIMA considers that each promoter of the fund is of sound reputation, the administration of the fund will be undertaken by persons who have sufficient expertise and who are fit and proper to be directors (or, as the case may be, managers or officers in their respective positions), and that the business of the fund will be carried out in a proper way. Funds which have obtained a licence from CIMA are not subject to a minimum initial investment amount.
- The 'Administered Mutual Fund' – this type of fund is not subject to a minimum initial investment; however, instead of going through the licensing process, the fund is required to designate a 'principal office' in the Cayman

Islands at the office of a licensed mutual fund administrator.

- The 'Section 4(3) Mutual Fund' – this type of fund must have either a minimum initial investment amount of at least KYD80,000 (or its equivalent in another currency) and will therefore offer to sophisticated investors or its equity interests listed on a recognised stock exchange.
- The 'Section 4(4) or Exempt Fund' – this type of fund is exempt from registration with CIMA for so long as the fund has no more than 15 'investors' (as defined under the Mutual Funds Law) who have the right to appoint and remove the operator of the fund by a majority in number of these 'investors'.

Funds which do not fall within the scope of the Mutual Funds Law (ie, private equity funds or single investor funds) are not subject to regulation by CIMA except with respect to their anti-money laundering obligations.

1.11 Legal, Regulatory or Tax Legislative Changes

2018 was an active year for regulatory developments in the Cayman Islands, with a flurry of legislation introduced in late 2017, which continues to impact the fund formation and launch environment.

Most importantly, the Cayman Islands revised its regime for anti-money laundering and combatting terrorist financing with the aim of aligning the regime more closely to FATF recommendations and global practice. The regime now extends to a wider range of investment entities including closed-ended funds and those open-ended funds which are not required to register with CIMA. All investment entities are now required to appoint experienced risk and compliance professionals with specific knowledge of the Cayman Islands AML regime to the roles of anti-money laundering compliance officer (AMLCO), money laundering reporting officer (MLRO) and deputy MLRO. The AMLCO, in particular, will assist the investment entity in ensuring compliance with the relevant requirements and, where the investment entity looks to rely upon a third party for carrying out AML/KYC checks on investors, the AMLCO will likely take a lead role in assessing the suitability of that third party. It is clear that CIMA will expect the operators of investment entities, together with their AMLCO, to carry out a risk-based due diligence exercise when assessing the suitability of a service provider and that this exercise should be tailored to the risk profile of each investment entity (taking into account its investor base and its anticipated investment activities). This continues to be a rapidly evolving area and the importance of retaining specialist risk and compliance professionals continues to rise.

The AML procedures required of investment entities have also been clarified with the result that investment entities will likely need to continue a process of remediation throughout 2019, particularly where customer verification was not

carried out in circumstances where funds were originally received from accounts at regulated banks in approved jurisdictions. The general position is that no such funds should now be distributed until appropriate customer verification information has been obtained and this will likely impact the availability of distributions and/or redemption payments for non-compliant investors.

CIMA has also been granted the ability to levy fines both on investment entities and their operators for breaches of AML/CFT obligations under a new administrative fines regime. This regime currently relates only to AML/CFT breaches, but is expected, in short order, to extend to the significant majority of CIMA's policies, procedures and legislation. The stated aim of this regime is to drive an increase in compliance, and entities regulated by CIMA will need to become increasingly familiar with granular requirements such as filing and notification deadlines with respect to matters such as changes in directors and AML officers, updates to offering documents, audited financial statements and the like. While the underlying requirements are not expected to change substantively, a shift in the appetite for enforcement is anticipated throughout 2019, highlighting the importance of an efficient and well-informed compliance function.

The regulatory landscape continues to evolve in the light of ongoing initiatives by the Organisation for Economic Co-operation and Development (OECD) and the EU. In December 2018, the Cayman Islands introduced legislation relating to economic substance in line with global standards adopted by 124 member countries committed to the OECD's BEPS Inclusive Framework. This legislation was prepared with input from both the OECD and the EU and came into force on 1 January 2019. Those who establish Cayman Islands structures do not generally do so to engage in BEPs activity; they do so because the Cayman Islands is an efficient, stable, trusted neutral hub with key expertise in handling complex transactions.

The Economic Substance Law introduces certain reporting and economic substance requirements for 'relevant' entities conducting 'relevant activities'. These entities will be required to report certain information on their activities on an annual basis to the Cayman Tax Information Authority, the first annual report being due no later than twelve months after the last day of the relevant entity's financial year commencing on or after 1 January 2019.

For a relevant entity that will conduct 'relevant activities' formed on or after 1 January 2019, the economic substance requirements will apply from the date that the relevant entity commences the relevant activity. For relevant entities conducting relevant activities that were in existence before 1 January 2019, the economic substance requirements will apply from 1 July 2019.

Further regulations may be issued from time to time that prescribe and amend certain matters in the Economic Substance Law (Regulations). Certain important practice aspects of the economic substance requirements are left to be clarified by guidance (Guidance). Any Guidance is subject, among other things, to private sector consultation. This consultation is currently under way, with initial Guidance expected to be issued during H1 2019.

At this early stage, there remains limited information upon which to make an assessment of the extent to which an entity might be affected by the economic substance requirements in the law.

Once initial Guidance has been finalised and any further Regulations issued, entities will be better placed to be able to carry out a thorough review and analysis of their structures and operations, to ensure compliance with the Economic Substance Law.

The increasing compliance burden, not just in the Cayman Islands, but globally, has seen a sharp increase in outsourced administration among closed-ended investment entities. Outsourced service providers are increasingly acting as a 'one-stop-shop' for compliance solutions where expertise and scalable data can result in marked increases in compliance efficiency.

While significant portions of the investment funds industry have traditionally considered themselves 'unregulated', this classification now seems increasingly anachronistic in light of recent developments and all managers operating in the alternative investment space will be aware that there is now a global compliance and regulatory framework which applies regardless of the nature of the investment fund itself. The Cayman Islands will continue to adapt and looks set to retain its place at the heart of the global investment funds industry.

Changes to the Securities Investment Business Law and with respect to data protection are likely to be hot topics in 2019.

2. Fund Investment

2.1 Types of Investors

The Cayman Islands are a popular domicile for globally managed private equity, hedge and hybrid funds due to their tax neutral status, flexible structuring options, established and experienced financial services sector and professional service providers. In particular, the Cayman Islands are the jurisdiction of choice for US sponsors structuring funds for US tax-exempt investors and non-US investors. Cayman Islands trusts and other vehicles are frequently used as investment vehicles for investors in Asia, including China and Japan.

2.2 Legal, Regulatory and Investment Structures

Private equity investors tend to invest in unregulated private funds structured as limited partnerships. Hedge or regulated fund investors typically invest through corporate and/or limited partnership structures. Cayman Islands trusts and other vehicles are frequently used as investment vehicles for investors in Asia, including China and Japan.

2.3 Legal, Regulatory or Tax Themes/Issues

The investment fund management industry is global in terms of the location of investors, the fund management team and the portfolio investments. Funds structured using Cayman Islands vehicles are able to accommodate, in a cost-efficient way, investors from all over the world within the complex parameters of existing tax and securities laws that apply to those investors, the management team and the business or investment activities, in their multiple home jurisdictions. Cayman Islands vehicles are popular with investors because they provide alternative funds aimed at sophisticated investors' greater flexibility in terms of investment strategy than many onshore centres such as the UK and the US, through a tax neutral vehicle.

2.4 Restrictions on Investors

Unless a mutual fund is 'licensed' or 'administered' or was registered with CIMA prior to 14 November 2006, all investors investing into a CIMA regulated fund are subject to an initial minimum investment amount of KYD80,000 (or its equivalent in another currency).

2.5 Marketing Restrictions

Investment funds are typically established as either Cayman Islands exempted companies, exempted limited partnerships, limited liability companies or exempted trusts. An exempted company that is not listed on the Cayman Islands Stock Exchange is prohibited from making any invitation to the public in the Cayman Islands to subscribe for any of its securities. Exempted limited partnerships and limited liability companies are prohibited from undertaking business with the public in the Cayman Islands other than so far as may be necessary for the carrying on of their business exterior to the Cayman Islands. If a trust is registered as an 'exempted trust', investors must not, and must not be likely to, include any person resident or domiciled in the Cayman Islands (other than exempted and ordinary non-resident Cayman Islands companies or the object of a charitable trust or power).

The 'public in the Cayman Islands' does not include:

- any exempted or ordinary non-resident company registered under the Companies Law;
- a foreign company registered pursuant to Part IX of the Companies Law;
- a foreign limited partnership registered under Section 42 of the Exempted Limited Partnership Law;

- any company acting as general partner of a partnership registered under the Exempted Limited Partnership Law; or
- any director or officer of the same acting in this capacity or the trustee of any trust registered or capable of registration as an exempted trust under the Trusts Law acting in this capacity.

3. Regulatory Environment

3.1 Regulatory Regime

Only investment funds which fall within the definition of a 'mutual fund' under the Mutual Funds Law are regulated by CIMA. A mutual fund is any company, unit trust or partnership (wherever established) which issues equity interests redeemable at the option of the investor, the purpose or effect of which is the pooling of investor funds with the aim of spreading investment risks and enabling investors to receive profits or gains from investments. Thus, funds that provide no redemption or repurchase rights to investors, ie, closed-ended funds, are excluded from the definition and regulation. Funds that issue debt, even if the bonds or notes are convertible or have warrants attached, are also excluded from regulation.

There are three types of regulated mutual funds:

The 'Licensed Mutual Fund'

If CIMA considers that each promoter is of sound reputation, the administration of the fund will be undertaken by persons who have sufficient expertise and who are fit and proper to be directors (or, as the case may be, managers or officers in their respective positions), and that the business of the fund will be carried out in a proper way, then a licence will be granted to the fund. The licensing process can take a few months and a fund must not commence operations until the licence has been granted. No regulatory minimum initial investment amount applies to this type of fund.

The 'Administered Mutual Fund'

The fund is required to designate its principal office in the Cayman Islands at the office of a licensed mutual fund administrator (an MFA). Instead of CIMA doing so, it is the MFA who is required to be satisfied that the promoter is of sound reputation, the administration of the fund will be undertaken by persons who have sufficient expertise to administer the fund and are of sound reputation and that the business of the mutual fund and the offer of equity interests will be carried out in a proper way. No regulatory minimum initial investment amount applies to this type of fund.

The 'Section 4(3) Mutual Fund'

This type of fund is not subject to licensing nor is it required to have a principal office provided by an MFA. However, it must either have a minimum initial investment amount of

at least KYD80,000 (or its equivalent in another currency) per investor, and therefore is suitable only for sophisticated investors, or its equity interests listed on a recognised stock exchange, and is therefore subject to additional regulation by this stock exchange.

A 'mutual fund' can be exempt from regulation by CIMA if the fund has no more than 15 'investors' (as defined under the Mutual Funds Law) and these investors have the right to appoint and remove the operator of the fund by a majority in number of these 'investors'.

All funds regulated by CIMA are required to file offering documents and notify CIMA within 21 days of any material changes to service providers or the terms of the offering. In addition, all CIMA regulated funds must file audited accounts and a fund an annual return within six months of their financial year-end.

3.2 Territorial Reach of Regulators

CIMA has wide-ranging powers in respect of Cayman Islands entities that are regulated as mutual funds in the jurisdiction. CIMA has worked alongside overseas regulators, including the SEC and the UK's Financial Conduct Authority, in regulatory investigations involving investment funds.

There is generally no restriction on a fund manager from another jurisdiction managing a fund established as a Cayman Islands vehicle. However, if an overseas manager establishes a Cayman entity to act as the investment manager for a fund, this manager vehicle may be subject to regulation or registration with CIMA under the Securities Investment Business Law.

3.3 Regulatory Approval

Marketing of investment funds in the Cayman Islands does not require specific regulatory approval.

3.4 Authorisation of Marketing Activities

A Cayman Islands company that is not listed on the Cayman Islands Stock Exchange is prohibited from making any invitation to the public in the Cayman Islands to subscribe for any of its securities.

Exempted limited partnerships are prohibited from undertaking business with the 'public in the Cayman Islands' other than so far as may be necessary for the carrying on of the business of the partnership exterior to the Cayman Islands. 'Public in the Cayman Islands' for these purposes does not include:

- any exempted or ordinary non-resident company registered under the Companies Law (2018 Revision);
- a foreign company registered pursuant to Part IX of the Companies Law;

- a foreign limited partnership registered under Section 42 of the Exempted Limited Partnership Law;
- any company acting as general partner of a partnership registered under the Exempted Limited Partnership Law; or
- any director or officer of the same acting in this capacity or the trustee of any trust registered or capable of registration as an exempted trust under the Trusts Law (2018 Revision) acting in this capacity.

Investors in an exempted trust registered under Part VI of the Trusts Law must not and must not be likely to include any person resident or domiciled in the Cayman Islands (other than exempted and ordinary non-resident Cayman Islands companies or the object of a charitable trust or power).

A fund offering interests that are redeemable at an investor's option prior to the end of the life of the fund is required to register with the Cayman Islands Monetary Authority pursuant to the Mutual Funds Law (2015 Revision) unless an exemption applies. The key exemption relied on is the fund having 15 or fewer investors with the right to replace the operator of the fund.

3.5 Investor-Protection Rules

There are no investor-protection rules which restrict ownership of fund interests to certain classes of investors, except that a 'mutual fund' registered under Section 4(3) of the Mutual Funds Law must have a minimum initial investment amount of at least KYD80,000 (or its equivalent in another currency). This fund is geared towards more sophisticated investors and is subject to lighter touch regulation by CIMA. A 'mutual fund' which has a minimum initial investment amount of less than KYD80,000 is subject to increased regulation by having to obtain a licence or having a 'principal office' provided by a CIMA licensed mutual fund administrator.

3.6 Approach of the Regulator

CIMA is a well-respected and dynamic regulator that consistently evolves its practice and approach to reflect the changing regulatory environment. CIMA has well-established consultation processes which are mandated by statute and which allow for co-ordinated feedback from industry. CIMA has historically adopted a light-touch approach to enforcement, looking to assist in remedying breaches and minimising the chances of future errors, rather than penalising regulatory oversights. However, there are signs that this approach is shifting, largely in response to external assessments, and the use of active enforcement to drive compliance is anticipated, particularly in the light of new powers granted to CIMA to impose administrative fines for regulatory breaches without recourse to the judicial system.

4. Fund Finance

4.1 Access to Fund Finance

The Cayman Islands are a leading fund finance jurisdiction where both Cayman Islands and non-Cayman Islands security packages are respected and recognised. Financing counterparties recognise the Cayman Islands as a 'creditor friendly' jurisdiction and are very familiar with, and comfortable lending to, all forms of Cayman Islands funds vehicles. Both subscription line facilities secured on investors' capital commitments and leveraged finance facilities secured by the relevant target group's assets are very common and well-established products in the Cayman market.

4.2 Borrowing Restrictions/Requirements

There are no restrictions, issues or requirements imposed by Cayman Islands legislation and Cayman Islands vehicles are able to access the full range of debt finance options seen in the market. Restrictions or requirements in relation to borrowing may, however, be contained in the constitutional and organisational documents of the Cayman Islands vehicle(s). These are discussed and negotiated by the sponsor and investors at launch, and/or with the finance provider at the outset of a new borrowing transaction, in the usual way.

4.3 Securing Finance

Cayman Islands vehicles may be subject to, and grant a wide range of, security packages which will vary depending on the deal type, other jurisdictions involved, and normal deal considerations and requirements. Cayman Islands vehicles are able to enter into both Cayman Islands and non-Cayman Islands security packages and documentation. All these arrangements typically will be recognised by the Cayman Islands courts, provided they are valid and enforceable under the laws of the relevant non-Cayman Islands legal system(s). As noted above, subscription line facilities secured on investors' capital commitments are particularly prevalent.

4.4 Common Issues in Relation to Fund Finance

There are no significant issues in relation to fund finance transactions from a Cayman Islands legal perspective. As with any jurisdiction or deal, transaction participants should pay close attention to constitutional and organisational documents at the outset to ensure they are in a suitable form for the type of borrowing transaction and security package contemplated.

5. Tax Environment

5.1 Tax Framework

The Cayman Islands tax system is predominantly based on indirect taxes, with government revenues being derived from the imposition of fees on the financial services industry, custom duties, work permit fees and tourist accommodation charges, generating government taxation revenue equal to

approximately 22% of GDP. The government of the Cayman Islands does not, under existing legislation, impose any form of direct tax on profits, income, gains or appreciations or by way of withholding in whole or in part on the payment of dividends or other distributions of income or capital by investment funds structured within the Cayman Islands.

5.2 Tax Treaty Network

The Cayman Islands are not party to any double tax treaties with any country that are applicable to any payments made to or by investment funds structured within the Cayman Islands.

5.3 FATCA and CRS Regimes

The Cayman Islands entered into a Model 1B (ie, non-reciprocal) inter-governmental agreement to improve international tax compliance and the automatic exchange of information with the USA on 29 November 2013 (the Cayman/US IGA). A Cayman Islands financial institution shall be treated as complying with, and not subject to withholding under, Section 1471 of the US Code, so long as the Cayman Islands financial institution complies with its obligations under the Cayman/US IGA and those contained in the Cayman Islands implementing legislation.

The Cayman Islands is also a signatory to the Multilateral Competent Authority Agreement to implement the OECD Standard for Automatic Exchange of Financial Account Information – Common Reporting Standard (CRS) with effect from January 2016.

Cayman Islands regulations have been issued to give effect to the Cayman/US IGA and CRS (collectively, the AEOI Regulations). Pursuant to the AEOI Regulations, the Cayman Islands Tax Information Authority has also published guidance notes on the application of the Cayman/US IGA and CRS to financial institutions structured in the Cayman Islands.

All Cayman Islands 'Financial Institutions' are required to comply with the registration, due diligence and reporting requirements of the AEOI Regulations.

5.4 Tax Structuring Preferences of Investors

From an investor's perspective, while the Cayman Islands adds no additional tax layer to the structuring of their global financial transactions, investee entities as well as investors are still subject to their home jurisdictions' relevant taxes and are responsible for complying with these obligations. As noted above, the Cayman Islands has in place globally accepted standards for transparency and cross-border co-operation with tax authorities and law enforcement agencies and automatically exchanges information with worldwide revenue authorities annually pursuant to FATCA and CRS.

6. Miscellaneous

6.1 Asset Management Industry Bodies

Cayman Finance represents firms within the Cayman Islands' financial services sector and their mission is to:

- protect, promote, develop and grow the Cayman Islands' financial services industry (the Industry) through co-operation and engagement with domestic and international political leaders, regulators, organisations and media;
- promote the integrity and transparency of the Industry by legislative and regulatory enactment; and
- encourage the sustainable growth of the Industry through excellence, innovation and balance.

The AIMA's National Group in the Cayman Islands was established in 2006 and is an active association with a large membership that represents the Industry comprised of expert service providers including administrators, attorneys, auditors, bankers and directors. AIMA's core objective is to provide leadership to the alternative investment industry and to be its pre-eminent voice globally. AIMA engages proactively and constructively in shaping the global financial markets reform debate, drawing upon the expertise and diversity of its membership. AIMA is closely aligned with policy makers, legislators and regulatory authorities around the world, also collaborating with key governments and authorities on proposed legislation and consultation.

The Cayman Islands Directors Association (CIDA) is a self-regulating association of individuals resident in the Cayman Islands who hold office as directors of one or more Cayman Islands registered companies. The purpose of CIDA is to promote and safeguard the interests of directors of Cayman Islands registered companies and to define a code of conduct and best practice for its members which will ensure corporate governance of the highest standard, thereby further strengthening the integrity of the Cayman Islands financial services sector.

The Cayman Islands Fund Administrators Association (CIFAA) was established in 1995 and is represented by a membership of fund administrators based in the Cayman Islands. The objectives of CIFAA are to:

- provide a channel of communication between the fund administration industry and the Cayman Islands government and CIMA;
- assist in setting up training and educational programmes for fund administration staff in the Cayman Islands;
- provide a forum for mutual exchange of ideas and to generally promote and enhance the reputation of the fund administration business in Cayman; and
- liaise with similar associations locally or in other jurisdictions on matters of mutual and topical interest.

6.2 Preference for Courts or Arbitration

In this firm's experience, court proceedings are more frequently seen than arbitration in Cayman Islands law governed fund documents. However, the Cayman Islands courts play a supportive role to facilitate arbitration procedures and will generally recognise and enforce foreign arbitral awards made in any of the contracting states to the New York Convention under the terms of the Convention.

6.3 Level of Litigation/Arbitration

The Cayman Islands courts continue to deal with a steady stream of investment fund-related litigation. This takes a number of forms, including winding-up petitions (and subsequent court-supervised fund wind-downs and restructurings), claims involving former directors and service providers, claw-back actions and suits by disgruntled investors. The prominence and large number of investment funds incorporated in the Cayman Islands means that fund-related disputes occupy a significant proportion of the diet of the Financial Services Division of the Cayman Islands Grand Court, which in turn means that Cayman Islands judges have a high degree of familiarity with fund structures and the issues which arise in connection with them.

Public company merger dissent actions have also recently become a significant feature of the Cayman Islands litigation landscape. That has, in part, been driven by investment funds which have embarked upon a merger arbitrage strategy, investing in listed funds with a view to exercising dissent rights under Cayman Islands law.

Arbitration in the Cayman Islands involving investment funds (and indeed, generally) remains relatively rare. Even when parties in investment fund structures do agree to arbitration, the Cayman Islands is not commonly selected as the seat of that arbitration.

6.4 Periodic Reporting Requirements

Funds that are regulated by CIMA are required to file audited accounts together with a Fund Annual Return within six

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months of their financial year end. No information filed with CIMA is publicly available, although CIMA lists the names of the entities which it regulates on its website.

6.5 Powers of Attorney

Investors in investment funds domiciled in the Cayman Islands can grant powers of attorney in favour of the fund manager.