



Guidance Note – Acceptable Jurisdictions Criteria

January 2017

Introduction

Acceptable jurisdiction means a jurisdiction accepted by the Isle of Man Financial Services Authority (“the Authority”) as applying appropriate standards of regulation to entities carrying out relevant licensable activity.

Under the Collective Investment Schemes Regulations 2010, relating to Specialist, Qualifying and Experienced Investor Funds and also the published Authority licensing policy, certain functionaries are required to be located in acceptable jurisdictions.

The following are some of the criteria used for assessing whether another jurisdiction can be treated as “acceptable” for the purposes of Specialist Funds, Qualifying Funds and Experienced Investor Funds.

Criteria applied by the Isle of Man Financial Services Authority when assessing whether a jurisdiction is an acceptable jurisdiction.

- Is there a memorandum of understanding between the Isle of Man Financial Services Authority and its equivalent regulatory body providing, inter alia, for mutual assistance and cooperation in relation to fund management/administration and associated activities?
- Are licenceholders in that jurisdiction licensed on the basis of a “Fit and Proper” assessment?
- Are there adequate arrangements in place in the jurisdiction for the supervision of its licenceholders?
- Are there adequate powers for enforcement and remedial action at the disposal of the regulatory body (equivalent to those of the Isle of Man Financial Services Authority)?

In considering these questions the Authority may take into account:

- any relevant international assessment reports which consider the jurisdiction’s compliance with international regulatory standards and cooperation principles (including those of MONEYVAL, FATF and the International Monetary Fund);

- participation in international cooperation initiatives (such as the IOSCO Multi-Lateral Memorandum of Understanding); and
- any experience of regulatory cooperation with that jurisdiction.

Regulatory Requirements

According to the Licencing Policy and the Collective Investment Schemes Regulations 2010, relating to Specialist, Qualifying and Experienced Investor Funds the following functionaries are required to be located in an acceptable jurisdiction:

Specialist Fund

The fund must have an administrator who —

- (a) is an authorised person; or
- (b) is licensed to act as administrator of this type of fund in an acceptable jurisdiction.

- Overseas Administrator;
- In certain circumstances, the trustee of a unit trust.

Qualifying Fund and Experienced Investor Fund

- Custodian;
- Promoter;
- In certain circumstances, the trustee of a unit trust.

Status of Guidance: The Isle of Man Financial Services Authority issues guidance for various purposes, including to illustrate best practice, to assist licenceholders to comply with legislation and to provide examples or illustrations. Guidance is, by its nature, not law, however it is persuasive. Where a person follows guidance this would tend to indicate compliance with the legislative provisions, and vice versa.