



**ISLE OF MAN  
FINANCIAL SERVICES AUTHORITY**

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## **Guidance Note - Trading Platforms and investor declarations for Specialist, Qualifying and Experienced Investor Funds**

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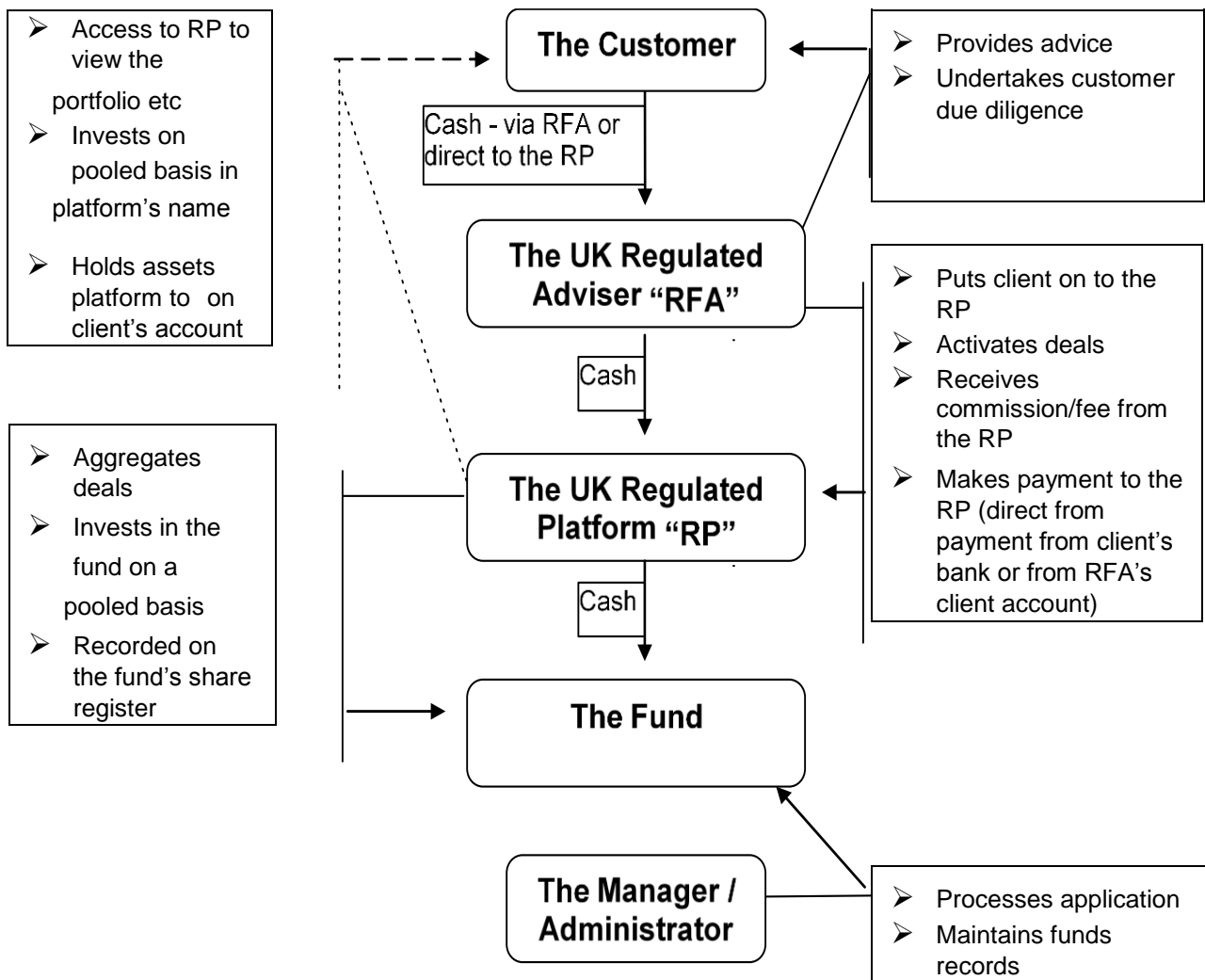
### **TRADING PLATFORMS**

#### **THE SCENARIO**

Financial advisers are increasingly utilising trading platforms when servicing customers. This paper establishes a new process for investor declarations when a UK Regulated Financial Adviser is arranging customer investments into qualifying, specialist and experienced investor funds through a UK Regulated Trading Platform.

#### **A typical arrangement through trading platforms**

- The UK Regulated Financial Adviser (“RFA”) advises the customer (and undertakes normal customer due diligence including suitability, status of the customer and Anti-Money Laundering) and the customer agrees to proceed.
- The deal is placed through the external automated platform (for the purposes of this paper this is restricted to UK FSA Regulated Trading Platforms (“RP”). – The platform aggregates deals and makes the investment with the fund.
- The platform has no involvement with the customer.



### The issue

This scenario does not fit with the standard regulatory requirements for sign offs in qualifying, specialist and experienced investor funds. The platform is dealing on an "automated basis" on the instruction of the RFA and has no direct contact with the client (see the diagram above). As such neither party can give a part 2 declaration that the underlying client meets the definition for a qualifying/ specialist fund.

### The solution

A standard modification has been approved whereby normal application signoffs can be replaced providing both the RFA and the Trading Platform are regulated in the UK.

This modification is as follows:

#### 1. Terms of Business with the Trading Platform

The trading platform (UK REGULATED) must enter into terms of business with the fund (it is placing investments on behalf of investors who are advised by their UK Regulated IFA's).

This terms of business confirmation must include the following -

“I/we confirm that —

- (a) I am/we are a qualifying/specialist investor as defined on page [ ] of the offering document of [name of fund] dated [ ]; and
- (b) I am/we are sufficiently experienced to understand the features and risks associated with an unauthorised and unapproved fund of this type; and
- (c) I/we have read and fully understood the offering document, including in particular the information on the risks associated with the fund (contained on pages [X – X] of the offering document); and
- (d) I am/we are investing in the qualifying/ specialist fund on behalf of another person/ other persons under instructions from a UK Regulated Financial Adviser / UK Regulated Financial Advisers appointed to act on behalf of that person/ those persons; and
- (e) When making investments into the fund we will confirm the name and contact details of the UK Regulated Financial Adviser that is responsible for advising the underlying investor on this investment.

[Signed ] [Dated]”.

## **2. Confirmation of Regulated Financial Advisers associated with the aggregated investment**

For each deal placed, the platform must provide the [manager/ administrator] of the fund with details for each Regulated Financial Adviser associated with the aggregated application including:

- Name of the Firm
- Contact at the Firm
- Address / email

These details must be prefaced with the statement:

“The UK Regulated Financial Adviser(s) who has/ have given instructions relating to this application are as follows:”

## **3. Regulated Financial Adviser procedural confirmation**

Each Regulated Financial Adviser must have entered into terms of business with the fund’s [manager/ administrator] which includes the following procedural confirmation:

“We confirm that when advising a client to make an investment in an unregulated fund via a trading platform —

- (a) we have procedures and controls in place to ensure that —

- (i) the client meets the UK Financial Services Authority's requirements to be able to invest in an unregulated collective investment scheme;
  - (ii) the client has confirmed in a separate document that the firm can promote unregulated schemes to them;
  - (ii) the client has had the opportunity to read the offering documents for funds of this nature, where they wish to do so, and as such has information about and accepts the levels of risks associated with this type of investment; and
  - (iv) the client, where necessary, meets the minimum criteria of a class of investor in a fund of this nature; and
- (b) no investment in this type of fund is made without obtaining a signed investor confirmation from the relevant investor in the following form;

"Investor Declaration - the [ ] fund, a qualifying/specialist investor fund.

I/we confirm that —

- (a) I am/we are a qualifying / specialist investor as defined on page [ ] of the offering document of [name of fund] dated [ ]; and
- (b) I am/we are sufficiently experienced to understand the features and risks associated with an unauthorised and unapproved fund of this type; and
- (c) I/we have read and fully understood the offering document, including in particular the information on the risks associated with the fund (contained on pages [X – X] of the offering document), before deciding to invest in the fund; and
- (d) I/we confirm that, where appropriate, I/we have taken independent advice on the suitability of this investment within my/our overall investment portfolio; and
- (e) I/we personally accept all the risks associated with this investment and particularly that my/our investment in the [name of fund] involves risks that could result in a loss of a significant proportion or all of the sum invested.

[Signed ]

[Dated]" and

- (c) we will provide a copy of the Investor Declaration signed by each investor to the fund's [manager/administrator].

[Signed] [Dated]

[Business name]

[Regulated status]"

**4. Action where a Regulated Financial Adviser procedural confirmation is not held**

Where an application is received which was instructed by a UK Regulated Financial Adviser who has not entered into the required terms of business – the procedural confirmation and Investor Declaration must be obtained or the investment must be reversed out.

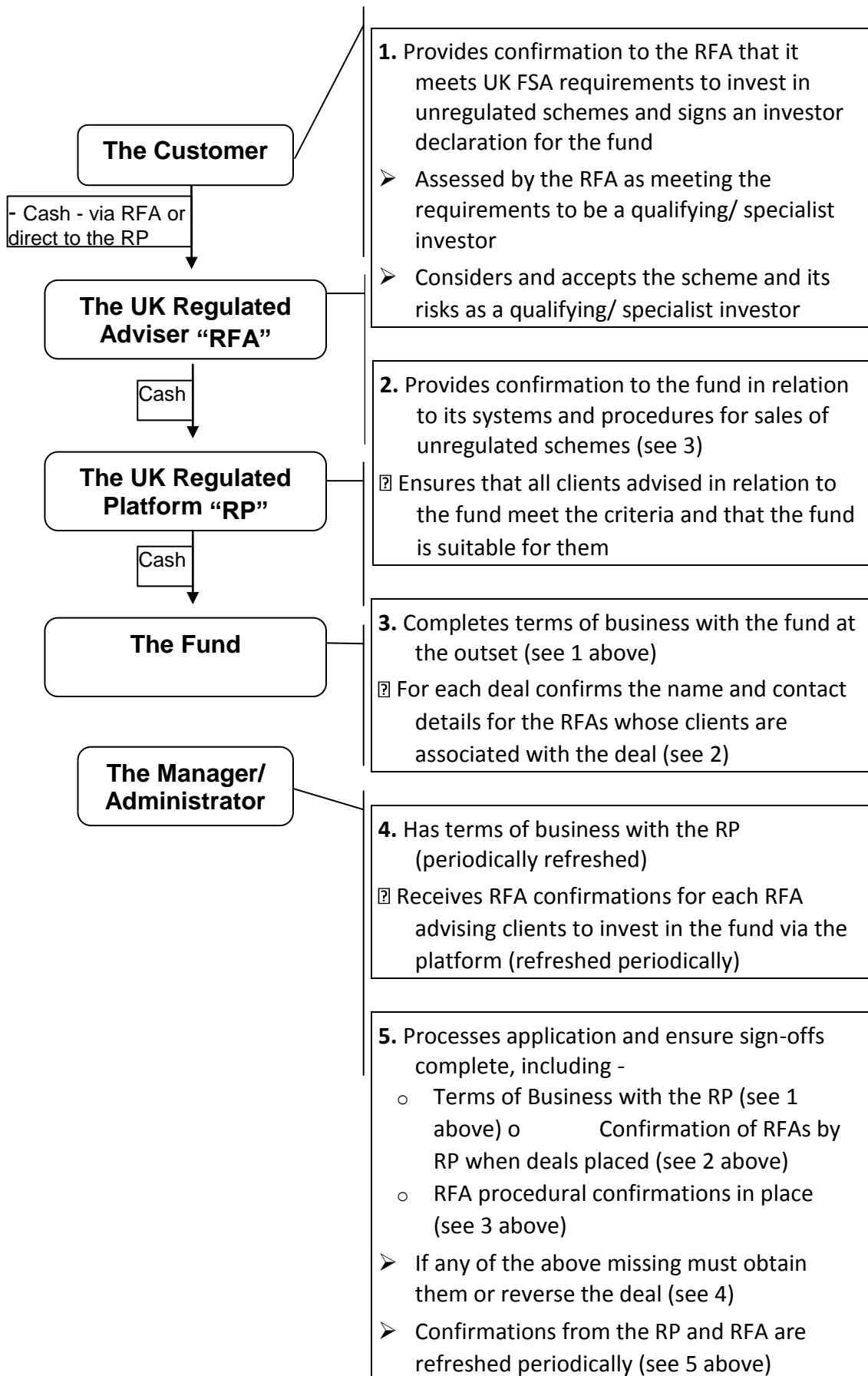
**5. Periodic update of the platform's terms of business and Regulated Financial Advisers' confirmations**

The fund's [manager/administrator] must refresh their records at least annually to ensure that the platform's terms of business and RFA's confirmations remain current.

**6. Applying for the standard modification to apply to a fund**

Where a fund wishes to avail itself of the modification it should make a request to the Commission. If this is approved the Commission will apply the modification by way of a direction to the fund.

**Diagram representing the application / signoff process above**



*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.*