

● PRIVATE PLACEMENT FUNDS IN JERSEY

INTRODUCTION

Funds which will be made available to a restricted circle of persons, in particular no more than fifty persons, and will not be listed on a stock exchange within one year, are treated as private funds in Jersey ("Private Funds").

Private Funds are regulated on a case-by-case basis by the Jersey Financial Services Commission ("JFSC"). On 26 January 2012, the JFSC issued a Private Placement Funds Guide ("Guide"), effective immediately, making it quicker and easier to establish a closed-ended Private Fund, including a property fund or private equity fund, which meets the requirements of the Guide ("Private Placement Fund").

The Guide does not replace the existing regulatory regime available for Private Funds. However, it provides a published regulatory policy, including a streamlined authorisation process which should take as little as 3 working days, for funds which comprise Private Placement Funds.

STRUCTURE

A Private Placement Fund must:

- be a company (standalone, protected cell or incorporated cell company), partnership (limited partnership, special limited partnership or incorporated limited partnership) or unit trust;
- be established in Jersey or managed in Jersey;
- have at least two Jersey resident directors if a company, or a Jersey corporate trustee or general partner with at least two Jersey resident directors;
- be closed-ended;
- not be offered to more than fifty investors, all of which must be Professional Investors or Sophisticated Investors;
- be administered by a Jersey administrator.

INVESTORS

Only Professional Investors or Sophisticated Investors as defined by the Guide may invest in a Private Placement Fund.

There are eleven categories of Professional Investor. These include: (a) a person whose ordinary activities involve the person acquiring, holding, managing or disposing of investments for the purposes of the person's business; (b) certain persons (not including an individual) who have property with a market value of not less than US\$10 million (or currency equivalent); (c) certain service providers to the Private Placement Fund, including an investment manager, and senior employees, directors, partners, members of shareholders of the service provider.

A Sophisticated Investor includes any investor who makes a minimum initial investment of £250,000 (or currency equivalent).

THE OFFER DOCUMENT

A Private Placement Memorandum issued by a Private Placement Fund must contain all information specified in the Guide and all such material information which:

- investors and their professional advisers would reasonably require, and would reasonably expect to find and to have brought fairly to their attention in the Private Placement Memorandum for the purpose of making an informed judgement about: the merits of purchasing securities in the Private Placement Fund; and the nature and levels of the risks accepted by making such a purchase; and
- is within the knowledge of the persons responsible for issuing the Private Placement Memorandum or which would have been within the knowledge of such persons by the making of reasonable enquiries.

OTHER CONSIDERATIONS

The promoter or investment manager of a Private Placement Fund must be of good standing and meet the requirements of the Guide. In particular, the promoter must be established in an OECD member state or any other state or jurisdiction with which the JFSC has entered into a Memorandum of Understanding (or equivalent); and either:

- be regulated in that state or jurisdiction; or
- possess amongst its Principal Persons (as defined) relevant experience in relation to promoting, managing or advising on institutional, professional or sophisticated investors' investments using similar strategies to those to be adopted by the Private Placement Fund.

The accounts of a Private Placement Fund must be audited.

A Private Placement Fund must appoint a money laundering reporting officer and money laundering compliance officer.

AUTHORISATION

Consent to the issue of securities in a Private Placement Fund will be issued by the JFSC on a fast-track basis relying upon the receipt of certain written self-certifications, including by the promoter and administrator, a copy of the Private Placement Fund's proposed Private Placement Memorandum and details of the Principal Persons of the promoter. The Guide provides that the JFSC will use its best endeavours to issue the requisite regulatory consent within 3 days of receiving the correctly completed application.

FOR MORE INFORMATION,
PLEASE CONTACT:



MARK RAWLINS

PARTNER

t: +44 (0)1534 601 750

e: mark.rawlins@collascrill.com



ADRIAN ODELL

SENIOR ASSOCIATE

t: +44 (0)1534 601753

e: adrian.odell@collascrill.com

Collas Crill **Jersey**

40 Don Street,
St Helier,
Jersey, JE1 4XD

t: +44 (0) 1534 601700

f: +44 (0) 1534 601701

e: jersey@collascrill.com

w: www.collascrill.com