

## TURKS AND CAICOS ISLANDS

### MUTUAL FUND REGULATION IN THE TURKS & CAICOS ISLANDS (TCI)

Before passage of The Mutual Funds Ordinance 1998, there was no legislative framework in TCI dealing with the regulation of mutual funds. The Ordinance has not been brought into force pending finalisation of subsidiary regulations. The Regulations are now in final form and it is expected that the Ordinance and the Regulations will be brought into force by October 1<sup>st</sup>, 2000. This update provides an overview of the legislation.

#### TYPES OF FUNDS

The Ordinance divides funds into four categories:

- **Registered mutual funds** constituted under TCI law which are authorized to issue equity interests only to investors who meet prescribed qualifications or in which equity interests are listed on a stock exchange recognized by the TCI authorities for this purpose. The prescribed qualifications for an investor are that he has investments of \$100,000.00 or more in securities quoted on an approved stock exchange and that the Superintendent of Mutual Funds is satisfied from the investor's application form that the investor has sufficient knowledge and experience to understand the funds.
- **Recognized mutual funds** constituted outside TCI whose equity interests are listed on an approved exchange.
- **Licensed mutual funds**, for funds which fall outside the registered and recognized categories.
- **Exempt mutual funds** in which the equity interests are held by not more than fifteen investors the majority of whom are capable of appointing or removing the operator of the fund or funds that are authorized to issue equity interests only to professional investors. A professional investor is a qualified securities broker acting either on its own account or on behalf of an investor with investments of \$5m or more in securities quoted on an approved exchange whose application form satisfies the Superintendent that he has sufficient knowledge and experience to understand the fund.

The "sufficient knowledge and experience" criterion for qualified investors (registered funds) and professional investors (exempt funds) does not require that each application form is submitted to the Superintendent for his review but simply that evidence of the investor's knowledge and experience is included in his application form to the fund

administrator and that the Superintendent, if he later reviews the form in the course of his regulatory functions, is satisfied that the criterion has been met.

### **MUTUAL FUND STRUCTURE**

A fund can be structured as a company, a partnership, or a unit trust.

### **APPLICATION**

Applications for the registration or recognition of funds must be accompanied by particulars of the qualifications and experience of each promoter of the fund, the current prospectus and the prescribed application fee. The application must be made by a mutual funds administrator carrying on business in TCI, who will provide an office in TCI for the fund.

An application for the licensing of a fund not covered by the “registered” and “recognized” categories must be accompanied by extensive documentation to satisfy the Superintendent that the operators, management structure, business plan, investment policies and internal procedures are acceptable.

### **FUND ADMINISTRATORS**

Fund administrators must be licensed. Such a licence may be either unlimited, in respect of an unlimited number of funds, or restricted, in respect of funds specified from time to time in the licence.

### **FUND REGULATION**

The Ordinance establishes the office of Superintendent of Mutual Funds to whom fund administrators are answerable on regulatory matters. A fund administrator has a variety of accounting and reporting obligations regarding the affairs of the funds it administers, and regarding its own affairs.

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