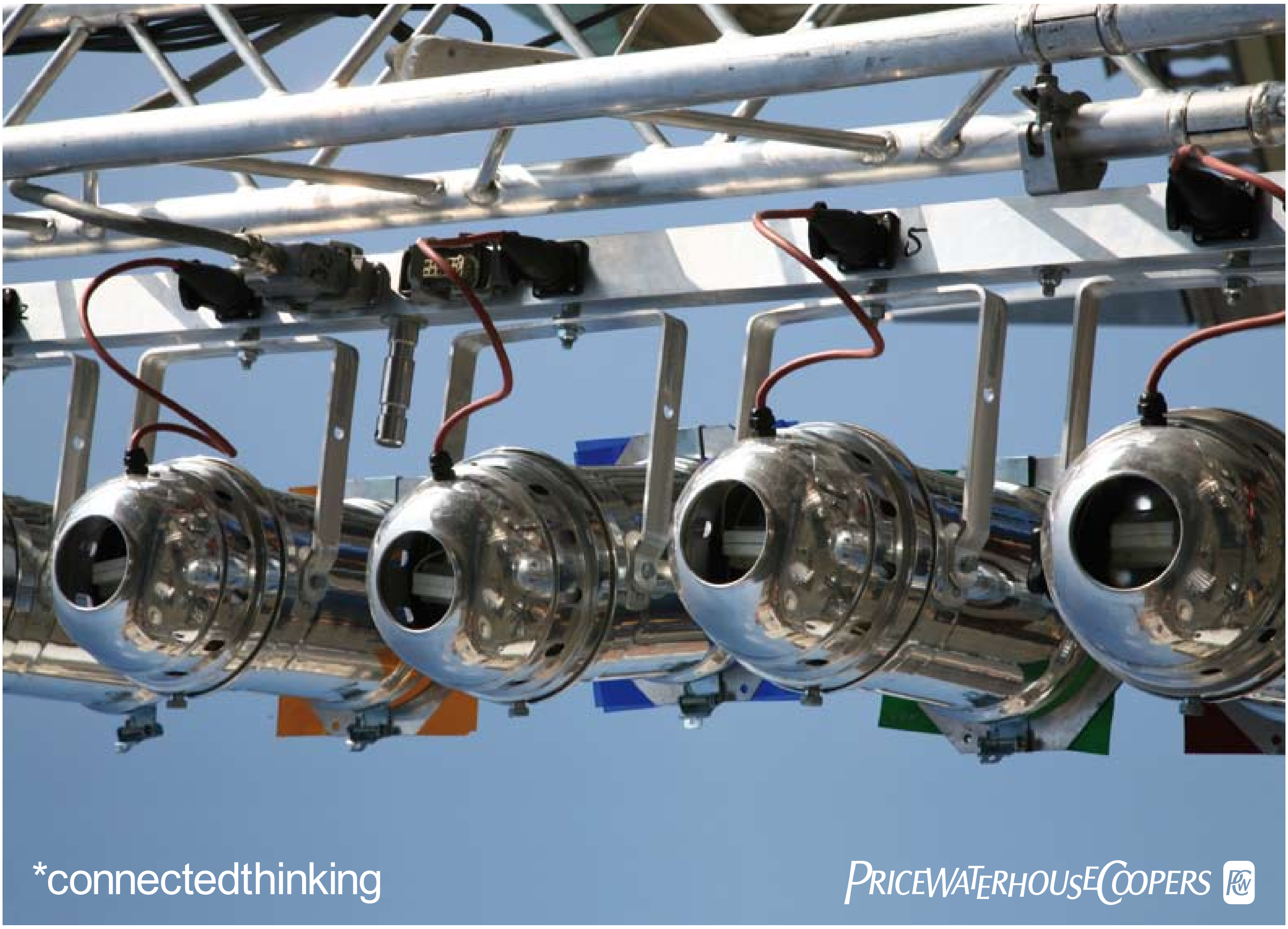
Investment Management & Real Estate

Under the spotlight*

The regulation, taxation and distribution of hedge funds around the globe

June 2007



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Whilst this information represents our understanding at the time of going to press, given the rapid pace of change in the global hedge fund industry, the factual data in this paper may quickly be superceded. Up-to-date advice should always be obtained regarding current regulations and fiscal rules.

Foreword

This is the 5th year we have produced this report and in that time assets in the global hedge fund industry have grown from US$550 billion to over US$2.1 trillion. In Europe the industry has grown from US$84 billion to over US$450 billion. This rapid growth is attracting everyone's attention: institutional investors, governments, regulators, fiscal authorities and of course journalists. There is hardly a day that goes by without some reference to hedge fund activity in the press.

The industry is now firmly established and this year's report demonstrates that there has been an enormous amount of activity by regulators and fiscal authorities during the last year. Fortunately, the approach being taken is generally supportive, as fund managers develop ever more interesting investment strategies and products.

During the year we have also seen a significant increase in the use of permanent capital vehicles and, more recently, managers of alternative investment strategies have been able to securitise their earnings through initial public offerings of their organisations at extremely attractive multiples.

The future challenge will be to keep the industry clean, to address investors' and regulators' issues and accept the better parts of the various corporate governance frameworks in use.

This report was prepared from input from hedge fund specialists located within the PricewaterhouseCoopers Global Alternative Investment Management Industry Group.

Compilation of this paper requires a high degree of cross-border collaboration, and I am grateful to the central team and our international network for their input.

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Section 1

Developments in the hedge fund market

In our report last year we predicted that the hedge fund industry would polarise between those managers who wanted access to institutional money and those niche players servicing the multi-jurisdictional private investor. The pace of this change has been far faster than anticipated. Alongside this an increasing range of new pressures and tensions is building within the industry which we explore in this summary.

Hedge funds have arrived as an asset class

According to Hedge Fund Intelligence, assets deployed to hedge fund investment strategies reached US$2.079 trillion globally in January 2007, more than 30% up on the previous year's figure. Some 381 hedge fund managers had funds under management of more than US$1 billion. The greater analysis and recognition by institutional investors of the need to include a higher percentage of alternative investment strategies in their clients' investment portfolios appears to be driving the growth of the alternatives investment management sector. The prior position, reflecting relative under allocation to hedge fund strategies compared to private equity and property, accentuates the hedge fund growth trends. Institutional investors, with their inherent fiduciary responsibilities, are tending to deploy assets to the larger hedge fund managers who can demonstrate successful investment track records and there has been some slowing of assets allocated to new start up funds.

Geographically, the growth is not confined to the US and Europe; in common with other industries experiencing globalisation, hedge fund managers are aware that the Asian market offers significant potential opportunities to gather assets, aside from the investment opportunities of the emerging market economies. Hedge fund managers are setting up in countries around Asia including Hong Kong, Singapore and Australia and more recently, there has been increasing levels of activity in the Middle East following the massive investment into the establishment of the Dubai International Financial Centre ('DIFC').

In parallel with the geographic growth, there has been an expansion into new investment strategies, particularly in the number of funds pursuing debt or commodity related strategies. Also in common with the private equity industry, certain hedge fund managers are taking a more public and activist approach to their investments.

Necessarily, the combination of the use of new strategies and an activist approach attracts the attention of governments and the regulators. Regulators, whose role is to protect the 'humble' investor and to ensure orderly financial markets, are being challenged about the extent of investor protection and whether the significant capital flows from the use of hedge fund assets is generating systemic risk which some believe could destabilise global financial markets.

With acceptance comes interaction

The flow of assets into the hedge fund industry, albeit small in relation to total investment assets, is having an unprecedented effect on the investment management industry. Investment banks and long only managers are re-evaluating their business strategies.

Investment banks have been growing their in-house proprietary offering with the result that they now rank amongst the largest hedge fund managers creating products based on hedge fund indices and managed account platforms, alongside the more traditional hedge fund products. They have also been broadening their offerings by buying talent through purchasing stakes in hedge fund managers either by outright purchase or minority stakes (e.g. the Morgan Stanley acquisitions of minority interests in three hedge fund managers within a week or Citibank's recent purchase of Old Lane).

The traditional asset managers have reacted by launching new products such as 130/30 funds where they may need to subcontract part of the asset management function to a hedge fund manager or are embarking on the acquisition of hedge fund manager operations or hedge fund teams and integrating their acquisitions into their business structure.

Even the regulators in Europe are helping broaden the marketplace by allowing easier access to hedge fund style products e.g. UCITS III, and in countries such as Spain and Turkey regulators are introducing hedge fund regulatory regimes whilst in the UK, the regulator continues to consult on different products, the latest being the concept of Funds of Alternative Investments Funds, to allow access by the more sophisticated investor to hedge fund type strategies. The industry is also actively engaging with the relevant tax authorities to remove anomalies and update the tax legislation to reflect current investment strategies and the demand for such products.

All this activity brings more transparency to an industry which has traditionally eschewed publicity. The law of unintended consequences comes into play here and there is increasing focus and publicity surrounding the reward levels in the industry; a recent Financial Times report suggested that the remuneration of the top 25 hedge fund manager firms (albeit representing a larger number of individual principals, managers and traders) last year was almost $15bn which exceeds the gross national product of Jordan.

How is this manifested within the hedge fund industry?

A development that was just starting this time last year was accessing the listed public markets with so called 'permanent capital vehicles' (PCVs). Capital raised from these vehicles is being used to invest in underlying hedge funds. Similar activity was taking place in the private equity sector and there were some notably large floats of PCVs on Euronext to fund private equity vehicles. Clearly, such vehicles being permanent in nature, removes some element of the risk of redemptions by investors potentially allowing the fund managers to pursue longer term investment strategies. However, it is not quite this simple because a listing on the public markets brings with it all the attendant requirements of corporate governance and, in particular, the need for independent directors on the board. So whilst such capital might be more 'sticky', poor performance by the underlying funds should still cause the independent directors to evaluate whether continued investment in the underlying funds is appropriate.

Another significant development over the last year is the listing of the managers themselves. There was the listing of Fortress in the US and at the time of writing the proposed IPO of the Blackstone group. The underlying earnings from these managers are not purely from hedge funds and the securitisation of the earnings represents more an alternative assets earnings stream.

Listing activity brings with it the requirements to meet the rigours of corporate governance and certainly puts the activity of the fund managers more into the spotlight.

The unavoidable consequence is the industry is now under the spotlight

There does not seem to be a day that goes by without some comment in the press that implies hedge fund managers are in the public arena and part of the mainstream financial services sector. Certainly hedge fund managers engaging in activist strategies in relation to some large traditional institutions or companies are bound to attract comment. There are similar issues and a similar debate going on in the private equity industry. Currently, press coverage suggests that no group, however large, believes that it is immune from the attention of hedge fund managers and inevitably tensions are emerging between boards and shareholders. Governments become involved as they debate their concerns about the impact on financial markets and jobs.

Regulators around the globe are reappraising their duties to investors and the market. The first issue being tackled is to establish a clear benchmark in relation to the valuations of the investments of hedge funds. The publication of the IOSCO report coupled with the AIMA best practice guide is setting a standard as to the expected processes and procedures to be followed in striking a NAV; this reflects increasing investor concerns as investments become more illiquid and strategies more complex. The second area focuses on whether the significant capital flows originating from hedge funds are in anyway impacting on orderly markets; the emphasis at present is around data collection to assess the issues but further pronouncements should be expected.

Perhaps most importantly, as the institutions allocate more of their client assets to this sector they, as fiduciary investors, are bringing more rigour to the selection process. They will demand that there are adequate systems, processes and controls in place. They will demand that adequate forethought is given to the development of the future infrastructure to meet growth, especially in an industry that outsources many functions. Controlling an organisation that is experiencing rapid growth is always challenging and those that continue to address and to build a strong governance and control structure are likely to be the biggest winners.

In our view, the focus on governance and controls can only result in stronger barriers to entry for new managers; already there is much greater scrutiny of start ups by potential investors.

So what does this mean?

Hedge fund managers are undergoing a sea change in their approach to governance and risk. But the industry's rapid growth means there is much more to do. As firms compete for institutional assets and adopt new strategies, they need to be aware of all the risks they are taking and how they can demonstrate a strong control and monitoring process.

In our view this poses two questions:

Will this result in a drive towards bigger funds because only they can survive under the spotlight?

As the benchmark continues to rise how will the smaller funds get over the bar?

Regulatory developments around the globe

The ever increasing focus on the activities of hedge funds from the media has been in many ways matched by the focus of attention from the regulators. The widely publicised review of the industry conducted by the UK Financial Services Authority (FSA) and the visibility of the SEC in the USA have provided a useful yardstick for the industry as to what and where the concerns of regulators generally have been focused. What has received less attention is the expectation that the G8 group of leading industrialised nations will launch a study into the economic implications of hedge fund activity when Germany assumes the presidency later this year.

It has been interesting to note that despite the plethora of regulatory initiatives, (see below), that in general the regulatory authorities have not taken the route of imposing new rules on hedge fund managers. The regulators appear to have accepted the fact that hedge funds will continue to penetrate the retail market and that they will increase their penetration into the portfolios of the large institutional investors. Whilst a somewhat generalisation, the regulatory approach seems confined to requesting greater transparency of operations, enhanced oversight of the sector and highlighting the need for the governance of the funds to be demonstrably effective.

Europe adopts MiFID

The most substantive change for Europe this year is the implementation of the Markets in Financial Instruments Directive, (MiFID). This forms the cornerstone of the EU Financial Services Action Plan and seeks to encourage greater competition and consumer protection within the financial services industry in Europe. In addition, investment advice becomes a core service and firms are therefore able to now passport this service by way of branch or otherwise. For hedge funds, the introduction of MiFID necessitates a review of existing operations, processes, client disclosures and classification. Along with the rest of the industry, MiFID will require the establishment of a project team to see through to implementation the myriad of small and not so small changes to the regulatory environment.

Of more specific interest to hedge funds has been the work undertaken by AIMA and IOSCO in relation to the perceived issues surrounding the valuation process and the systems, controls and associated protocols thereto. IOSCO published a consultation paper ‘Principles for the valuation of hedge fund portfolios’ in March 2007. The paper sets out 10 principles to be adopted in portfolio valuation and operating procedures; AIMA has produced an updated implementation guide to its 2005 paper. The focus on valuation and especially the identification of potential conflicts in the process is an area that will be expected to remain under review, particularly as this is also a prime focus of MiFID.

Summary of changes

The summer of 2006 saw the 'look through' rule introduced by the SEC vacated by the DC Circuit Court of Appeals. This rule had required hegde fund managers with offshore funds to be registered if the funds they advised had more than 14 investors resident in the United States. Those managers with offshore funds only, that have remained registered with the SEC, still continue to be subject to a SEC-lite regime.

In the UK, the FSA is consulting on proposals that would allow the creation of funds-of-hedge funds in the regime for authorised retail collective investment schemes. These proposals could see the introduction of retail oriented Funds of Alternative Investment Funds (FAIFs) into the existing FSA regulatory regime for Non-UCITS Retail Schemes (NURS).

Funds-of-hedge funds in Ireland can be set up as Qualifying Investor Funds (QIFs), Professional Investor Funds (PIFs) or Retail Funds of Unregulated Funds. Hedge funds seeking to domicile in Ireland, must obtain authorisation from the regulator. In February 2007, the Regulator issued 'Guidance Note 1/07 – Authorisation of Qualifying Investor Schemes – Application process', introducing changes to substantially improve the time to market for Irish domiciled hedge funds set up as QIFs.

Effective from 31 October 2006 the Dutch Minister of Finance has designated Ireland as a state of equal supervision standard under the Netherlands Act on Supervision of Collective Investment Schemes. The consequence of this designation is that Irish collective investment schemes do not need a separate licence to enter the Dutch market. Within the Netherlands, the Act on Financial Supervision (AFS) took effect at the start of 2007. The AFS amalgamates the prior seven supervision Acts but does not seek to impose any additional regulation.

Luxembourg agreed a new law to introduce the concept of Specialised Investment Funds (SIFs) for qualified investors. SIFs are subject to a minimum investment of €125,000 per investor (with some exceptions). One of the key advantages of a SIFs is that such funds can be launched without pre-approval by the CSSF.

In Bermuda, the introduction of the Investment Funds Act 2006 saw investment funds becoming subject to legislation. The Act also establishes core criteria for the fund administration business, requiring fund administrators to be licensed.

In the follow up to the consultation paper circulated in April 2005, the German Ministry of Finance published a discussion draft on 18 January 2007 which would amend the German Investment Act. The proposals are designed to significantly modernise the German investment fund laws and one of the key amendments related to the hedge fund industry concerns the setting of rules for prime brokers of German single manager hedge funds. According to the official rationale the draft rules for prime brokers are designed to allow all currently prevalent models of prime brokerage.

In Guernsey, the Harwood report, published in June 2006, proposed the introduction of the concept of Registered Investment Funds, being either open or closed ended, that would not be required to be regulated by the Guernsey Financial Services Commission (GFSC). This proposal to remove open ended funds, including hedge funds, from regulation will be implemented with legislative changes in 2007. Guernsey funds will be classified as either 'Registered' or 'Regulated' and the distinction between open and closed ended will be removed. Those investment funds that take the 'Registered' route will be exempt from any prior authorisation or regulation and subject only to notification requirements whether structured as open or closed ended.

Spain modified the 2003 regulatory framework for hedge fund product and managers. Changes have been made to the general rules, providing more flexibility in the rules for the subscription and redemption conditions, and the NAV calculation regime. Other changes relate to the facility of the asset manager to impose on investors minimum holding periods in hedge funds.

At the start of 2007 Switzerland saw the Collective Investment Schemes Act (CISA) come into effect which brought some changes to the hedge fund sector. These changes include the introduction of a qualified investor concept and new corporate entities for funds, as well as a few other key changes that will impact hedge funds.

In summary, the continued focus on hedge funds has continued but fortunately the industry has encountered a regulatory community that has refrained from imposing draconian new rules on the industry. As can be seen from the developments above, regulators are changing their domestic rules to accommodate the hedge fund industry. It is to be hoped that this supportive approach continues.

Section 3

Taxation of hedge fund managers – the changing global tax environment

The last few years have seen a rapid expansion in terms of the investment strategies adopted by hedge funds. In the UK this resulted in the Alternative Investment Management Association's Taxation Committee entering into formal consultations with HMRC at the end of 2005 with a view to agreeing an update to the UK taxation legislation to accommodate these newer hedge fund strategies.

Consultations led to the UK HMRC issuing an updated draft of Statement of Practice 1/01 (SOP) which provides guidance on the application of the Investment Manager Exemption. Following the conclusion of the consultation process, the revised SOP will be issued in June 2007. Whilst this accommodates a number of the newer strategies there are still areas such as real estate and insurance which the updated SOP does not or cannot address because primary legislation is required. One of the longer term aims is to bring the list of permitted transactions into line with the FSA definition to achieve consistency between regulatory and tax status. This is still work in progress but the UK Treasury and HMRC have made it clear that they want to encourage the continued growth of the hedge fund industry in the UK; therefore the dialogue with the industry will be ongoing.

The continued expansion of the industry has also spread to Asia where Hong Kong and Singapore now have similar 'safe harbour' rules to the UK. This is leading to a significant increase in the number of managers setting up offices in Asia. There is also evidence that some jurisdictions in Europe are adopting a different approach which would encourage hedge fund managers to relocate or set up operations in these jurisdictions. For example in some Swiss Cantons such as Geneva and also in the Netherlands, the fiscal authorities are prepared, in some circumstances, to give rulings that offshore hedge funds will not be subject to tax if the manager or investment advisor is based in that territory. Whilst there are conditions which must be satisfied to obtain these rulings, the apparent change in approach and willingness on the part of the tax authorities to accommodate the funds is encouraging the growth of the manager fund industry in these markets. Therefore whilst London is clearly still the centre of the European hedge fund industry France, Switzerland and Spain are now growing as important locations for hedge fund managers.

The globalisation of the industry and its increasingly high profile in the press inevitably attracts the attention of fiscal authorities. There is clear evidence emerging of cooperation between fiscal authorities and, whilst this may still be in its early stages, fiscal authorities are looking to share information particularly if such information is in the possession of another fiscal authority but not something which can be easily obtained in the local jurisdiction. Hedge fund managers should expect this trend to continue and to develop at a faster pace than to date.

Transfer pricing continues to be high on the taxation agenda. As hedge funds have increased their profile and become international businesses with offices in a number of territories the various fiscal authorities around the globe have become more focused on the industry and started to develop teams with specialist skills and experience. Taxing authorities are actively seeking to ensure that they collect tax on the profits attributable to the activities carried on in their territory. It is becoming clear that a robust transfer pricing document is, as for any organisation with global operations, essential for any hedge fund business. In this respect the message is clear, hedge funds are now global businesses and must manage their tax affairs accordingly.

Taxation of Investors

Each territory has its own legislation governing the taxation of hedge fund returns for each investor class, including within the EU, where the taxation of investors remains in the hands of the governments of the European Member States. Whilst there are still barriers to investment in foreign hedge funds in a number of jurisdictions, the number of countries in which investment in hedge funds would not be seen as a significant asset class is decreasing. This can be seen particularly in countries in southern Europe such as Spain where hedge funds were not traditionally seen as a significant investment opportunity for institutional investors. As with the rest of the world, we would expect these investors to use tax efficient investment structures to mitigate the effect of any tax barriers which remain in their local jurisdiction. With the increasing number of territories looking to attract hedge fund managers we would expect more focus on the taxation of investors going forward.

Taxation of hedge funds

No jurisdiction has as yet developed a specific regime to cater for domestic hedge funds or hedge fund like products. However, the regulatory changes in locations such as the UK where the FSA is consulting on the introduction of Funds of Alternative Investment Funds and the suggestion from the EU that there should be an EU wide tax regime for hedge funds suggest that there will be further developments in this area.

Figure 1: Tax barriers to the distribution of hedge funds

- NT: No tax discrimination against foreign hedge fund
- M: More favourable treatment for foreign hedge fund
- D: Direct tax discrimination against foreign hedge fund
- N: Not likely to be a significant investor class; investment in hedge funds not permitted; or there are no domestic hedge funds
- I: Indirect tax discrimination against foreign hedge fund

	HNWI	Pension fund	Corporate	Bank	Life insurance company
Austria	NT	NT	I	I	I
Bahamas	NT	NT	NT	NT	NT
Belgium	N	N	N	N	N
Bermuda	NT	NT	NT	NT	NT
Cayman Islands	NT	NT	NT	NT	NT
Denmark	NT	NT	NT	NT	NT
Finland	I	I	I	I	I
France	I	I	I	I	I
Germany	I	I	I	I	I
Gibraltar	NT	NT	NT	NT	NT
Greece	N	N	N	N	N
Guernsey	NT	NT	NT	NT	NT
Ireland	D	NT	D	NT	NT
Isle of Man	NT	NT	NT	NT	NT
Italy	D	D	D	D	D
Jersey	NT	NT	NT	NT	NT
Luxembourg	NT	NT	NT	M	M
Malta	NT	NT	NT	NT	NT
Netherlands	NT	NT	M	M	M
Netherlands Antilles	NT	NT	NT	NT	NT
Norway	N	N	N	N	N
Portugal	D	NT	I	I	I
Russia	N	N	N	N	N
Spain	I	NT	I	I	I
Sweden	NT	NT	NT	NT	NT
Switzerland	NT	NT	M	M	M
UK	I	NT	I	I	I
USA	NT	NT	NT	NT	NT

Section 4

Country-by-country overview: Regulation and taxation of hedge funds and hedge fund investors at May 2007

Australia

Regulation

Domestic and foreign hedge funds and funds-of-hedge funds may be distributed to both retail and institutional investors in Australia subject to meeting certain formalities. Australian funds are permitted to short sell stocks.

Taxation

Domestic hedge funds usually take the form of unit trusts which are taxed on a flow-through basis. Investors are taxed on their share of the tax net income of the fund in the year in which their entitlement arises. Income and gains generally retain their character as they flow through the fund to be taxed at the investor's marginal rate.

The taxation of Australian investors in foreign hedge funds is more problematic. The foreign hedge fund will constitute a Foreign Investment Fund ('FIF'). Retail investors with more than A$50,000 in FIF's and institutional investors which do not enjoy an exemption from the FIF regime will be subject to tax on an annual basis, generally on a mark-to-market calculation. In the event market value information is not available at the appropriate times, a deemed rate of return method may apply.

Complying superannuation entities (i.e. pension funds and the pension money of life companies) are exempted from the FIF regime. Such investors will generally be taxed on distributions received from the foreign hedge fund when paid and on the gain made on the disposal of their investment in the foreign hedge fund at the time of disposal. Investors are taxed at a general rate of 15% but an effective rate of 10% on capital gains realised on disposal of assets held for more than 12 months.

Austria

Regulation

According to the Austrian Investment Fund Act the launch of domestic single manager hedge funds is not permitted. Nevertheless, foreign single manager hedge funds, and domestic and foreign funds-of-hedge funds may be distributed to both retail and institutional investors in Austria. They can either be distributed via private placement or via public placement, if they are registered with the Financial Market Authority (FMA). A registration for public distribution is not possible, if the hedge fund uses short-selling, if the investor can be obliged to make additional contributions or if loans can exceed 10% of the fund's assets.

Taxation

Since 1 July 2005, Austrian banks have deducted a 25% withholding tax on distributions and deemed distributed income from foreign funds (calculated by a local tax representative) such that foreign funds are taxed on the same basis as domestic funds, provided that the following requirements are met:

1) The foreign hedge fund appoints a local tax representative to calculate deemed distributed income on an annual basis and provides the Oesterreichische Kontrollbank (OeKB) with this information within four months of the financial year-end (annual reporting).
2) The foreign hedge fund provides the OeKB with information on the net interest income (interest income plus/ minus equalisation minus expenses on interest income) on a daily ('daily' in terms of each time an NAV is published) basis (daily reporting).
3) The foreign hedge fund provides the OeKB with information on the taxable portions in the case of distributions on the distribution date (periodic reporting).

Hedge funds are tax transparent according to Austrian tax law. Individual investors are subject to withholding tax on income distributions and deemed income distributions from hedge fund investments at the rate of 25%, i.e. the income from this fund does not need to be included in the personal income tax return of the investor. Capital gains realised at fund level on the disposal of equities are taxed at an effective rate of 5%, whilst capital gains on the disposal of bonds are tax free.

If individual investors sell the investment fund certificates within one year of acquisition, such gain is subject to progressive income tax as speculative income (up to a maximum rate of 50%).

Corporates, banks and insurance companies are taxed at 25% on both income and capital gains from hedge fund investments. Special rules apply for insurance companies. However, realised capital gains of domestic funds are only taxable on corporate investors when distributed; the total realised underlying gains of foreign funds are taxable, even if they are not distributed.

Austrian pension funds are exempt from tax in Austria.

The safeguard tax of 1.5% deducted by the Austrian depository bank if an Austrian private investor held shares in a foreign hedge fund will also not apply if the above conditions are met.

If a foreign hedge fund does not follow this new reporting regime, an Austrian investor in the fund must include the income in his income tax return. Only distributions paid to Austrian investors holding shares on Austrian deposit are subject to Austrian withholding tax. The same tax rates as for the reporting funds apply. Safeguard tax will be applicable if the investor does not disclose his/her holdings to the tax office.

If a foreign fund has not appointed a local tax representative, it will be treated as a 'black fund' and all investors (except pension funds) will be subject to unfavourable lump-sum taxation whereby the higher of:

i) 10% of the last redemption price in the calendar year; or

ii) 90% of the increase in value between the first and the last redemption price in the calendar year less the actual distribution received by the investor will be subject to 25% tax.

If foreign funds do not appoint an Austrian tax representative, an Austrian investor is able to provide the tax authorities with information on deemed distributed income to avoid lump-sum taxation (previously such information could only be provided by an Austrian tax representative officially appointed by the fund), although it is very difficult for the individual to collect the information and to calculate the relevant figures.

Bahamas

Regulation

Under the Investment Funds Act, 2003, foreign funds wishing to distribute their shares or units in the Bahamas must appoint a representative who has been approved by the Securities Commission of the Bahamas.

Section 29(5) of the Securities Industry Act, 1999 requires the registration and licensing of a securities investment advisor (SIA). However, the Securities Commission has adopted a policy which exempts SIAs from registration and licensing in the Bahamas, if the investment funds they advise are licensed in the Bahamas.

Taxation

Investors and funds are not subject to tax in the Bahamas.

Bahrain

(Part of the Cooperation Council for the Arab States of the Gulf ('GCC')).

Regulation

The Bahrain Monetary Agency ('BMA') has recently been superseded by the Central Bank of Bahrain ('CBB'). The CBB is due to publish a series of financial regulations in the form of a number of volumes comprising the CBB Rulebook. At the time of writing, four volumes have been published and the remaining two are due to be issued during the course of 2007.

In addition to the CBB Rulebook, the CBB has proposed the introduction of a Capital Markets Rulebook which will govern all activities related to the issuance and circulation of securities as well as the markets for such securities. The Capital Markets Rulebook also seeks to modernise the collective investment schemes rules, and introduce specific rules for schemes targeting professional investors.

It has been publicised that the new regulations will provide some exemptions for investment schemes targeting professional investors, with particular emphasis on alternative investment vehicles such as hedge funds.

It is anticipated that the new regulatory framework will be released in phases during 2007 and will conform to international standards.

Taxation

There are essentially no corporate or income tax regulations in Bahrain that apply to the financial services industry.

Belgium

Regulation

Only the private placement of hedge funds is possible in Belgium, provided that the private placement memorandum clearly mentions that:

- The fund is only sold to institutional investors acting for their own account (with certain limits); or
- A minimum investment of €250.000 is required.

However, besides these possibilities, the legislation implementing UCITS III in Belgium makes it possible for the public in Belgium to invest indirectly in hedge funds by allowing capital guaranteed funds or funds with capital protection. Art. 53 Royal Decree of 4 March 2005 relating to some public undertakings for collective investment (UCI) allows investment through:

- A UCI investing in hedge funds (funds-of-hedge funds) which is allowed in and under permanent supervision of a Member State of the European Economic Area;
- A diversified basket of units issued by hedge funds which are allowed in and under permanent supervision in one or more Member States of the European Economic Area such that each fund represents a maximum 20% exposure; and
- A hedge fund index approved by the Banking, Finance and Insurance Commission which must be diversified, representative and published.

Taxation

The tax treatment when investing in a foreign hedge fund depends on whether or not the hedge fund qualifies as a tax transparent entity from a Belgian tax perspective. This in turn has different consequences for different types of investors.

Where the hedge fund is treated as a tax transparent entity from a Belgian tax perspective, all revenues received by the fund will be considered as directly received by its investors. In principle tax would be due in the hands of Belgian investors at the time the foreign fund receives the income from its underlying investments.

The Belgian tax treatment is determined on a case-by-case analysis based on the specific factual circumstances. In the case of non-transparent hedge funds, Belgian (tax resident) individual investors will be taxed on the dividends distributed by the hedge funds and will in principle be subject to a Belgian withholding tax at a rate of 25% or 15%. In principle capital gains realised upon the sale of shares, redemption by the hedge fund or liquidation of the hedge fund, will not be subject to taxation in the hands of the individual investors. However, some exceptions exist in this respect for capitalisation shares. Belgian individual investors could potentially suffer tax leakage of 15% if:

- There is commitment in the hands of the hedge fund, for a period less than or equal to eight years, regarding the amount to be recovered by the investors; or
- The hedge fund has an EU passport and invests more than 40% in interest bearing products.

Where no Belgian financial intermediary is involved, additional municipality taxes will be levied for private investors.

Finally, the Belgian 'Tax on Stock Exchange Transaction' might apply in the case of a sale, redemption or liquidation of the shares/the fund to the extent that the transaction takes place on the secondary stock market and a Belgian financial intermediary is involved. The application of this tax and its level (if applicable), will depend on the parties involved, the underlying shares and the importance of the transaction.

Corporates (including banks and insurance companies) are in principle taxed at a rate of 33.99% on any dividends or capital gains received.

If the investor is a Belgian regulated SICAV no taxation occurs. Under certain conditions, Belgian corporate investors could fall within the participation exemption regime which provides exemption from taxation on dividends received and capital gains. If Belgian withholding tax were to be due, Belgian corporate investors and pension funds will either be exempt or be granted a credit.

When investments are made indirectly via wrapper instruments, the specific tax treatment will depend on the type of wrapper used.

Bermuda

Regulation

Bermuda has introduced legislation through the Investment Funds Act 2006 (the 'Act') to bring the legislation of investment funds under one Act and to streamline the new fund set-up process.

Bermuda now offers four distinct types of collective investment schemes:

1) Institutional funds

2) Administered funds

3) Standard funds

4) Exempted funds

The Exempted funds scheme is in response to the EU Savings Directive (EUSD), whereby Swiss authorities have agreed that such a scheme will not fall within the EUSD for their purposes. In addition, the Act provides for Private funds, where the number of participants does not exceed 20 persons and the fund does not promote itself to the public generally.

The Act also establishes core criteria for the fund administration business, requiring persons or entities carrying on the business of a fund administrator in/from Bermuda to be licensed.

The Bermuda Monetary Authority ('BMA') and the Bermuda Stock Exchange ('BSX') have launched a service whereby funds can be simultaneously approved by the BMA and listed on the BSX in as short a time as two weeks.

Taxation

Bermuda does not impose any income, capital gains, or stamp duty tax. However, exempt companies in Bermuda have to pay a payroll tax, social insurance tax, and an annual exempted company fee.

Each January, every exempted company is required to submit a signed declaration regarding its principal business and its assessable capital, together with the appropriate fee payable to the Registrar of Companies.

The fee ranges from US$1,780 for an exempted company with assessable capital of US$0-12,000, to US$27,825 for an exempted company with assessable capital of US$500,000,001 or more.

Canada

Regulation

Direct regulation of hedge funds in Canada is dependent upon whether the fund is distributed under a prospectus, under exemptions in securities regulation that allow the fund to be sold without a prospectus, or through a linked product such as a principal protected note ('PPN'). Hedge funds sold pursuant to a prospectus comprise a small portion of the overall hedge fund market in Canada, the majority falling into the other categories.

Hedge funds sold under a prospectus and hedge funds sold under the prospectus exemptions are both subject to a range of general securities legislation. There is currently no requirement for hedge fund managers in Canada to be registered unless they are also managing portfolio assets. The Canadian Securities Administrators ('CSA') have proposed, through the Registration Reform Project, to require the registration of fund managers, including those who manage hedge funds. Under current regulations, portfolio managers or advisers who manage hedge fund portfolios and dealers who sell hedge fund securities both must be registered. Registered advisers and dealers advising on or selling hedge funds are required to meet 'Know Your Client' and suitability requirements.

Hedge funds sold pursuant to a prospectus are subject to continuous disclosure requirements which include specified disclosures in the prospectus, and annual and semi-annual filing of financial statements and management reports on fund performance.

Hedge funds sold under exemptions from prospectus requirements may only be sold to accredited investors who meet certain net income or financial asset tests or who can make a minimum purchase in the hedge fund of CDN$150,000. This is the most common method of hedge fund distribution in Canada. While these funds are not required to provide a prospectus they do generally provide an offering memorandum and may be required to provide certain continuous disclosures, such as annual financial statements, to investors.

PPN's, which may give retail investors access to alternative investments, are currently outside the scope of securities regulations in Canada. PPN's are currently under significant regulatory scrutiny in Canada due to the ability of these products to expose retail investors to riskier investment without any regulation.

Taxation

The taxation of an investment made by a Canadian resident in an offshore hedge fund depends on the type of investor and the legal form of the fund.

A Canadian pension fund that is an investor or a charitable foundation (including a charitable endowment) is exempt from Canadian income tax.

Canadian banks calculate their income from an investment in securities on a mark-to-market basis. Other Canadian financial institutions (including life insurance companies, trust companies and investment dealers) are subject to a statutory market-to-market regime on investments in shares, but not on an interest in a trust or a partnership.

The NRT and FIE rules (each discussed below) are part of a new statutory regime for taxing investments in foreign entities. This regime is not currently law but is expected to be passed into law with effect for the 2007 taxation year. The following discussion assumes this regime will be passed into law as currently proposed. Other Canadian resident investors (including individuals, corporations, and trusts) will be subject to Canadian tax on their equity investment in an offshore fund in the following ways.

If the fund is a partnership, the fund will be required to calculate its income as though it was a Canadian resident person according to the Canadian income tax rules. The fund will not be subject to Canadian tax on its income. Each Canadian resident partner will be taxed directly on its share of the fund's income.

If the fund is a trust that received a contribution from a Canadian resident, the trust would be deemed to be a Canadian resident taxpayer under the non-resident trust ('NRT') rules in section 94 of the *Income Tax Act* (Canada) (the 'Act') unless the trust is an 'exempt foreign trust'. The trust would be required to calculate its income according to the Canadian income tax rules (subject to certain modifications) and pay tax. Trusts are entitled to a deduction for income (including taxable capital gains) paid or made payable to its beneficiaries in the year the income is earned. A Canadian resident beneficiary who receives or is entitled to receive the income of the trust is required to include it in its income for Canadian tax purposes and thus is subject to Canadian tax on that amount. Distributions to non-resident beneficiaries are subject to Canadian withholding tax. If a trust that is subject to the NRT rules fails to pay tax, each Canadian contributor and beneficiary is jointly and severally liable with the trust for the tax (subject to limited relief).

Broadly, an 'exempt foreign trust' includes a non-discretionary, non-resident trust (typically a pooled investment trust) that meets one of two sets of conditions. The first set of conditions includes the requirement that there be at least 150 investors, each owning an interest that has a value of at least CDN$500. The second set of conditions generally prohibits the trust from holding 'restricted property' (which includes shares and debt issued by closely held corporations) and contemplates that the Canadian resident investors purchase their interest from the trust for fair market value. The intention is that an investment in an 'exempt foreign trust' will be taxed under the 'FIE' rules, discussed below.

If the fund is a trust not subject to the NRT rules or a corporation, the investor would likely be taxed under the foreign investment entity ('FIE') rules in section 94.1 of the Act, subject to certain exceptions. For example, the FIE rules do not apply to a security of a FIE traded on a prescribed foreign stock exchange or a FIE that is resident in a country with which Canada has a tax treaty. In each case, certain additional conditions apply including a requirement that it is not reasonable to conclude that the investor has a tax avoidance motive in respect of his or her investment. As a result, it may be difficult to conclude that the FIE rules do not apply to an investment in an offshore hedge fund established in a low tax or tax haven jurisdiction (such as one of the Channel Islands, Ireland, Luxembourg, Switzerland or the Cayman Islands).

Each year investors who are subject to the FIE rules are required to include in income one of the following amounts:

1) An amount based on a prescribed rate of interest;
2) The full amount of any change in the value of their investment under a market-to-market regime; or
3) Their share in the actual income and capital gains of the fund.

In situations not described above, the investor would generally be taxed on distributions/dividends when paid by the fund and on capital gains when realised.

If the offshore fund makes investments in Canada or relies on Canadian service providers in the course of making its investments, some care should be taken to ensure that the fund is not itself subject to Canadian tax on its investments by virtue of carrying on business in Canada. Canada has a safe haven rule that is designed to ensure that an offshore fund would not be considered to carry on business in Canada by virtue of using Canadian service providers (such as investment advisors, dealers, custodians) in respect of their investments. This safe haven rule is generally not available for a fund that has Canadian resident investors. For this reason, it may be appropriate to use a feeder fund to house Canadian resident investors if a master fund is expected to make Canadian investments.

Cayman Islands

Regulation

Funds are required to file certain extracts from the Offering Memorandum on application for registration with the Cayman Islands Monetary Authority (CIMA).

A fund's operator (directors, trustee, general partner) is required to complete a Fund Annual Return which must be filed with CIMA by the fund's Cayman auditors within six months of the fund's financial year end, along with a pdf version of the fund's annual audited financial statements.

Taxation

Funds, fund managers and investors are not subject to taxation in the Cayman Islands.

Cooperation Council for the Arab States of the Gulf Countries ('GCC')

The GCC is a cooperative agreement involving six countries: Bahrain, Kuwait, Oman, Qatar, Kingdom of Saudi Arabia and the United Arab Emirates ('UAE').

Each of the six countries has its own laws, rules and regulations. The agreement between the GCC member states was signed to foster cooperation, and harmonisation on a wide range of issues.

This agreement makes specific reference to taxation and accordingly GCC nationals should be taxed in each of these separate jurisdictions as if they are nationals of that jurisdiction itself.

In most GCC countries the taxation of foreigners (i.e. non-GCC nationals) differs to that of GCC nationals.

As part of the overall economic growth in the region, there has recently been a focus on the development of modern investment laws and regulations.

Dubai in particular (an Emirate of the UAE) has taken some significant steps to establish a new regulatory framework. It has issued specific collective investment legislation to encourage both the establishment of hedge funds and the active management of those funds from a designated financial services centre, i.e. the Dubai International Financial Centre.

Similarly, Bahrain and Qatar have followed suit by also establishing, or revamping, their own specific regimes aimed at the financial services industry.

VAT in the GCC Region

There has been much publicity about the introduction of a VAT in the UAE and possibly those countries comprising the GCC.

For information on the position in each of the countries that make up the GCC, please refer to each country individually, listed alphabetically.

Denmark

Regulation

Domestic hedge funds can only be organised in Denmark as 'hedge associations' and are subject to approval by the Danish Financial Supervisory Authority ("Danish FSA") if the objective of the hedge fund is 1) to receive funds from a wide circle or from the general public, 2) to place their funds in liquid funds, including currency, or in instruments as mentioned in annex 5 of the Financial Business Act, in accordance with the risk policy and risk profile of the association, and to redeem a member's share of the assets with funds derived there from.

Hedge funds which do not aim at a wide circle or the general public may be approved by the Danish FSA as hedge associations. Hedge funds that are not approved by the Danish FSA cannot use the term hedge association 'hedgeforening' in their name. Other hedge funds may not use names or expressions that may create the impression that they are hedge associations.

A hedge association shall have assets of no less than DKK 25 million. Intangible assets may not be included in the total assets for this purpose.

The funds of a hedge association shall be entrusted to and kept separately from the said association with a depositary approved by the Danish FSA. The depositary shall be a bank with its registered office in Denmark or a corresponding foreign credit institution with a branch in Denmark and with its registered office in another country within the European Union or in a country with which the Community has entered into an agreement for the financial area.

Foreign hedge funds registered outside the EU and the EEA are required to obtain approval as per a domestic hedge association. Foreign hedge funds registered within the EU or the EEA are required to obtain approval from the Danish FSA for distribution in Denmark.

Taxation

Individual investors, corporates, life and general insurance companies investing in hedge funds will be taxed on dividend distributions and unrealised capital gains and losses (individuals up to 59%, others 28%. A draft Bill reduces the rate to 22%). Pension funds and life insurance companies are subject to a special pension tax regime and taxed at a rate of 15% on the net yields from investments on a mark-to-market basis. Special rules ensure that life insurance companies are not subject to double taxation.

Finland

Regulation

Both domestic and foreign hedge funds may be distributed to 'professional investors' after submission of a notification to the Finnish Financial Supervision Authority (FFSA). In the case of foreign funds marketing to retail investors in Finland, a licence to distribute in Finland must be obtained from the FFSA. Requirements for a foreign hedge fund to be granted a licence include, among others, adequate home state supervision of the fund.

Taxation

Individual investors are taxed annually on their portion of the realised income of a hedge fund structured as a partnership at either 28% or progressive rates. If a hedge fund is structured as a (special) common fund, the investor is taxed at 28% on distributions or redemptions. If a foreign hedge fund is structured as a company, the return is taxed either as a:

1) Dividend which can be taxed at 28% or progressive rates (depending on several issues) (e.g. a dividend from a non-EU non-Tax Treaty state, such as Cayman or Bermuda, is fully taxed at progressive rates); or

2) ‘Fund distribution’ taxed at 28%.

Corporates, pension funds, banks and insurance companies are taxed annually on their portion of the realised income of a hedge fund structured as a partnership at 26%. Where a hedge fund is structured as a (special) common fund, these investors are taxed at 26% on distributions or redemptions. If a non-Finnish hedge fund is structured as a company, the return is taxed either as a:

1) Dividend which can be usually fully or 75% taxable at 26% (depending on several issues) (e.g. a dividend from a non-EU non-Tax Treaty state, such as Cayman or Bermuda, is fully taxable); or

2) ‘Fund distribution’ at 26%.

A foreign hedge fund could be regarded as a Controlled Foreign Company (“CFC”) under certain conditions, if Finnish tax residents directly or indirectly hold at least 50% of the capital or the votes of the fund. Should that be the case, the pro rata share of the income of the fund could be taxable for the investor even if the income had not been distributed. As this would not apply to e.g. Finnish funds, this could be seen as discriminatory.

If an investor receives dividends through a Finnish fund which is structured as a Finnish limited partnership, the dividends may be fully or partially tax exempt under certain conditions. However, if the investor receives the dividends through a foreign fund structured as limited partnership it seems, based on the wording of the law, that the dividend is fully taxable income.

France

Regulation

Since 2004, there have been no significant changes in the regulation applicable to hedge fund-like products in France.

In 2004, the Autorité des Marchés Financiers (“AMF”) – the French regulatory authority – authorised the creation of new types of funds called the ‘ARIA Funds’ and Contractual Funds. While not strictly similar to the Anglo Saxon hedge funds structures, these funds share a number of similar characteristics and, in particular, the use of leverage.

There are three types of ARIA funds:

1) ‘Simple funds’ are subject to certain rules relating to diversification of holdings and may leverage up to 200% of net assets. Individual investors with a minimum net worth of €1 million or a minimum of one year of relevant work experience are subject to a minimum investment threshold of €10,000. Other individual investors are required to make a minimum investment of €125,000. Certain qualified investors or other types of financial or governmental organisations are not subjected to any minimum investment thresholds.

2) ‘Leveraged funds’ are subject to identical rules regarding diversification and minimum investment thresholds as Simple funds, but may leverage up to 400% of net assets.

3) ‘Funds-of-alternative funds’ may leverage up to 200% of net assets and are required to invest in a minimum of three underlying funds. Where investors are provided with a guarantee of capital preservation, there is no minimum investment threshold; otherwise, there is a threshold of €10,000. Certain qualified investors or other types of financial or governmental organisations are not subjected to any minimum investment threshold.

Contractual Funds are not subject to rules relating to diversification of holdings or limits on the amount of leverage they may employ. Individual investors with a minimum net worth of €1 million or individual investors with a minimum of one year of relevant work experience are subject to a minimum investment threshold of €30,000. Other individual investors are required to make a minimum investment of €250,000. Certain qualified investors or other types of financial or governmental organisations are not subjected to any minimum investment.

In order to create and manage an ARIA Leveraged. Fund or a Contractual Funds, the investment management company must obtain a specific approval from the AMF. There is no specific approval required for a Simple ARIA fund. It should be noted that all investment management companies in France are registered with, and regulated by, the AMF.

Taxation

Currently, the taxation rules are applied, based on the existing OPCVM taxation principles (French UCITS), which provide for tax exemption at the level of the fund (tax transparency). New tax provisions are likely to be implemented in the next couple of years to specifically address the taxation of hedge funds.

Individuals are taxed on receipt of income at marginal income tax rates (up to 40% plus 11% of social contributions); or on capital gains at 27% (including social contributions). If the OPCVM is a FCIMT, which is a special vehicle for alternative investments, capital gains will be taxed at marginal income tax rates if the individual is an existing or professional investor.

Corporations, banks and insurance companies are taxed on receipt of dividends and taxed annually on the adjusted liquidation value of the shares (on a mark-to-market basis). Generally, pension funds may benefit from total tax exemption on capital gains and suffer a maximum 24% taxation on other income.

French investors in foreign funds are normally taxed on the same basis, provided the foreign fund is considered resident in the foreign country and under double-tax treaty provisions signed by France. In other cases, depending on the French tax analysis of the foreign fund's status, the tax transparency of the fund may not be recognised and all income distributed from the foreign-based fund may be taxed at the maximum individual and corporation tax rates.

This tax issue is very important for hedge funds domiciled in jurisdictions such as the Bahamas or the Cayman Islands, which are considered as tax havens for French tax purposes. This may consequently trigger some adverse French CFC issues.

Germany

Regulation

The Investment Act of 2004 introduced a new regime covering both single manager hedge funds and funds-of-hedge funds. Single manager funds, both domestic and foreign, may not be publicly distributed to retail investors in Germany. Foreign fund-of-hedge funds may be publicly distributed in Germany once registered with the regulator, the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin). Registration of foreign fund-of-hedge funds will only be granted in cases where BaFin considers that home state regulation of the fund is effective and that the home state regulator is prepared to cooperate with BaFin.

The Investment Act of 2004 and subsequent decrees allow for the cross- border appointment of prime brokers and fund administrators within the EU for domestic single manager funds. Additionally, German regulations allow asset management functions to be delegated to an investment manager established outside Germany, whether within the EU or in non-EU countries, provided the investment manager is subject to effective home state supervision.

As a follow up to the consultation paper circulated in April 2005, the German Ministry of Finance published a discussion paper for a Draft Act to amend the German Investment Act on January 18, 2007. Expected to come into force in autumn 2007, the Draft Act is designed to significantly modernise the German investment fund laws. One of the key amendments in relation to the hedge funds is the setting of rules for prime brokers of German single manager hedge funds. Although the use of the prime broker is already permissible for domestic single manager hedge funds under the current German Investment Act, the Draft Act aims to resolve questions about the practical use of the prime broker by explicitly stating that the safe custody of assets can be transferred to a prime broker, as long as this prime broker:

a) Has its seat in the EEA or a state that is a full Member of the Organisation for Economic Co-operation and Development;

b) Is subject to effective public supervision in its home state; and

c) Has adequate solvency.

According to the official rationale of the Draft Act, the new rules for the prime brokers are designed to allow all currently prevalent models of prime brokerage. The prime broker can be mandated either directly by the investment company or via a depositary bank. The draft also introduces a legal definition of the term 'prime broker'. According to this definition the main components of a prime brokerage service are the provision of the custody services, leverage financing, securities lending and clearing services related to a hedge fund's operations.

Another significant proposal is that the publication requirements for prices and annual reports for single manager hedge funds will not be required. With respect to the funds-of-hedge funds, there will be the right to leverage their position through loans for liquidity management purposes.

Based on the Ordinance on the Investments of Restricted Assets of Insurance Undertakings (Anlagever-ordnung – AnlV), issued by the German insurance regulator, insurance companies may invest up to 5% of committed assets in domestic hedge funds and funds-of-hedge funds and EEA domiciled hedge funds and funds-of-hedge funds that are subject to supervision in their home country. Additionally, insurance companies

Germany (continued)

may invest in hedge funds indirectly via regulated mixed funds, which can invest up to 10% of their net asset value in domestic and foreign single manager hedge funds. Indirect investments in hedge funds are also possible via wrapper products issued by EEA domiciled hedge funds and funds-of-hedge funds. Total direct exposure to a single manager hedge fund may not exceed 1% of the committed assets and overall total exposure (direct and indirect) may not exceed 5% of committed assets.

Taxation

German legislation classifies hedge funds as either transparent or opaque, depending on the fund's level of German tax reporting. The tax rules provide for a more or less level playing field for German and non-German hedge funds and abolish the prior direct discrimination against foreign funds. The most important tax reporting obligation for German and foreign funds is that a tax transparent fund has to determine its income/capital gains under German tax law. Funds will only be treated as tax transparent if the fund:

1) Calculates taxable income in accordance with German law;
2) Calculates and publishes distributed and accumulated income;
3) Obtains a tax certificate; and
4) Files tax data with the German authorities upon request.

A tax adviser, an auditor or a similar professional has to certify that the fund's German tax reporting complies with German tax law. Dividends, interest and other income (less expenses) generated by an accumulating fund (i.e. where the hedge fund does not make any distributions to the ultimate German investor during the relevant accounting year) will accrue to the German investor as a deemed distribution at the accounting year-end of the fund. Capital gains generated by an accumulating fund do not accrue to the investor as part of the deemed distribution (tax deferral effect for institutional investors).

Individual investors are taxed on distributed/deemed distributed income generated by the hedge fund at marginal income tax rates of up to 45% plus surtaxes. Income from dividends generated by the fund is 50% tax free. Capital gains from the sale/redemption of hedge fund investments by individual investors are generally tax free after a one year holding period.

Corporate entities are taxed on average at 40% on distributed/deemed distributed income generated by the hedge fund. The same tax rate applies to capital gains from the sale/redemption of hedge fund investments. However, there is an exception: dividends and realised/unrealised capital gains from long equity investments generated by the fund are 95% tax free at the corporate investor level, whether distributed by the fund or realised by the investor upon sale/redemption of the investment in the hedge fund. This 95% tax exemption only applies if the hedge fund provides the German investor with an additional NAV related reporting figure (Aktiengewinn), accounting for that portion of the NAV increase driven by equity components.

Pension funds and insurance companies are fully taxable on the relevant income and gains components but there are provisions which entitle them to reduce their effective tax burden.

Investors who hold opaque funds at the end of the calendar year are subject to punitive lump sum taxation. The investor is then taxed on the higher of:

i) 70% of the positive increase between the first and the last NAV of the fund in the calendar year; and
ii) 6% of the last NAV of the fund in the calendar year.

That means even if the fund NAV decreased during the calendar year a minimum taxation of 6% of the calendar year end NAV will be triggered. The tax rates are the same as mentioned above. It is noteworthy that the taxation rules for private investors in the transparent fund are usually more tax beneficial than a direct investment into the assets held by the fund. These significant tax benefits correlate with enhanced but manageable reporting requirements.

From this year, there is a legal option for hedge funds to calculate interim profit.

There are also a number of draft bills which may impact the taxation of hedge fund income in the hands of German investors. Most importantly, there is an intention to introduce a flat rate taxation of 25% on income and gains from capital investments as of 2009. Also, there is a pending regulatory reform which may lead to some hedge funds falling outside the scope of the Investment Tax Act. Such funds may be within the scope of the German CFC rules which may require a separate reporting format.

Gibraltar

Regulation

For a number of years, Gibraltar has experienced growth in its hedge fund industry. Due to the number of new entrants into the market and the interest generated in establishing funds in Gibraltar, the government of Gibraltar issued the Financial Services (Experienced Investor Fund) Regulations 2005. This has enhanced the existing regulatory structure that existed under the Financial Services Act 1989 and Financial Services (Collective Investment Scheme) Regulations 1991 and increased the choice available to hedge fund promoters, allowing for greater flexibility, lower set-up costs and a general streamlining of the set-up process.

Effectively, corporates, trusts and individuals alike can now choose to invest or set up two different types of fund entity:

- Public Fund (PF): A PF can actively market to investors and is regulated by the Gibraltar Financial Services Commission ("GFSC"). A PF must have a minimum share capital of £50,000 and a minimum of 50 shareholders. The average time for licensing a PF is approximately two months. Other conditions for establishing a PF are that a prospectus must be issued, that there are two Gibraltan resident directors and that the fund has a registered office in Gibraltar. A PF may license itself as a UCITS fund. Such funds are then able to passport their services within the EU on the basis of their Gibraltar licence.
- Experienced Investor Fund (EIF): EIFs are only open to a select group of 'qualifying investors' and cannot be actively marketed. There are various criteria to be met in order to be classified as a qualifying investor.

Both PFs and EIFs must be managed and controlled by an administration company regulated by the GFSC and any investments must be held by a licensed custodian or prime broker. EIFs are also required to produce audited annual accounts.

Taxation

Licensed funds in Gibraltar (including EIFs) are exempt from taxation in Gibraltar upon receipt of a certificate from the Commissioner of Income Tax.

In addition, there is no capital gains tax or wealth tax in Gibraltar and stamp duty on the increase of capital and on the transfer of shares is fixed at £10.

Note that Gibraltar is currently in the process of obtaining a decision from the EU as to whether it can have a tax system separate from that of the UK (currently, it does have a tax system different to the UK). The expectation is that this will prove successful and if so a new tax system will be introduced in Gibraltar. However, there are no firm proposals as to what the new system will involve although expectations are that it will be an across the board 8% – 10% corporation tax.

Greece

Regulation

Greek legislation effectively prevents the establishment of domestic hedge funds, unless under a UCITS III form (which seems unlikely under current practice). Distribution of foreign hedge funds by private placement is permissible, subject to the granting of a licence by the Capital Markets Committee.

Taxation

Individuals are taxed, based on a tax scale ranging from 15% to 40%. Individual investors are not taxed on income and capital gains from UCITS funds. For non-UCITS funds, in the absence of any special provision, the taxation will depend on the legal form of the fund (but generally it is expected that the respective income would be fully taxable at the rates above). Corporates, banks and insurance companies are taxed on income and capital gains from UCITS funds at 25% when the respective income and gains are distributed. Special rules determine how taxation may be deferred by allocating the profit that is not distributed to a special tax reserve. Pension funds are exempt from tax, although special rules may apply, depending on the type of pension fund.

Guernsey

Regulation

June 2006 saw the publication of the Harwood Report which has proposed the introduction of the concept of Registered Investment Funds, being either open or closed ended, that would not be regulated by the Guernsey Financial Services Commission (GFSC). This proposal to remove open ended funds, including hedge funds, from regulation will be implemented with legislative changes in 2007. Guernsey funds will be classified as either 'Registered' or 'Regulated' and the distinction between open and closed ended will be removed. Those investment funds that take the 'Registered' route will be exempt from any prior authorisation or regulation subject only to notification requirements as to whether structured as open or closed ended. Closed ended funds that seek to be 'Regulated' will need to comply with new funds' rules to be enacted. Presently, closed ended funds are not regulated in Guernsey.

Implementation has now commenced and the Registered closed ended funds streamlined process was introduced in February 2007. Under that new regime, closed ended funds are granted regulatory consent as Registered funds within three working days provided that a Guernsey fund administrator makes the appropriate certifications to the GFSC. The only restrictions that are imposed on this new regime are that such funds cannot be marketed to Guernsey residents and that a statement is included in the prospectus that GFSC has not reviewed the offering documentation. There are no other restrictions on the identity of investors. The new regime will not be appropriate where the GFSC consent is required by another regulator e.g. Euronext. GFSC has also announced that with effect from 1 February 2007 there will no longer be any Guernsey regulatory requirements to have a principal manager established in respect of Guernsey open ended funds.

Taxation

Individual investors investing into hedge funds are taxed, on a receipts basis, at the rate of 20% on income for corporate vehicles. Capital gains are exempt.

Banks, insurance companies (non-life business) and corporate entities are taxed on income from hedge fund investments at the rate of 20% on a receipts basis. Pension funds are not taxed. Capital gains are exempt.

The recently proposed changes to the local tax regime do not include any changes to the tax treatment of hedge funds. It is also proposed to tax hedge fund managers at 0% in the future.

Hong Kong

Regulation

Hedge funds that have been authorised by the Securities and Futures Commission (SFC) in Hong Kong may be marketed to retail investors in Hong Kong. All authorised domestic funds, including authorised domestic hedge funds, are governed by the Code on Unit Trusts and Mutual Funds ('the Code') issued by the SFC. The Hedge Fund Guidelines (issued by the SFC in 2002) provide a regulatory framework for authorised retail hedge funds and cover both single manager hedge funds and funds-of-hedge funds. The Hedge Fund Guidelines establish minimum subscription thresholds for different categories of hedge fund e.g. US$50,000 for single manager hedge funds and US$10,000 for funds-of-hedge funds. As at March 2006, 13 hedge funds (of which five are single manager hedge funds and eight are fund-of-hedge funds) have been authorised by the SFC.

An entity providing asset management services in Hong Kong is required to be licensed by the SFC to carry out such activities in Hong Kong. The regulated activities which require SFC licenses are defined in Schedule 5 in the Securities and Futures Ordinance.

Taxation

Except under the new 'deeming provisions' which are explained below, individual and corporate investors are generally not taxed on the distributions from hedge funds, if the distributions are in the form of dividends. Distribution of profits by a partnership hedge fund to its partners in most cases are not taxed in the hands of the partners.

Individual investors are usually not taxed on the gains on the disposal of the equity interests in hedge funds provided that the individuals are not carrying on a business of trading in hedge funds. Corporate investors are presumed to carry on business and therefore gains on disposal of the equity interests in hedge funds will be subject to Hong Kong profits tax. However, if the gains on disposal of the hedge funds are regarded as capital gains or offshore income, no tax is payable in Hong Kong. The Hong Kong profits tax rates for individuals and corporates are 16% and 17.5% respectively.

However, if an offshore hedge fund is exempt from Hong Kong profits tax under the recent tax exemption provisions enacted on 10 March 2006, Hong Kong resident investors will be subject to 'deeming provisions' if either one of the following conditions is satisfied:

i) the Hong Kong resident investor together with his associates (regardless of the residency of the associates), directly or indirectly, holds 30% or more of the beneficial interests in the fund; or

ii) the Hong Kong resident investor is associated with the fund and holds, directly or indirectly, a beneficial interest in the fund.

Deeming provisions will not be invoked if the fund is, bona fide, widely held.

If the 'deeming provisions' are invoked, the Hong Kong resident will be taxed based on his portion of the underlying Hong Kong sourced profit of a revenue nature of the offshore hedge fund, regardless of whether an actual distribution has been made or not.

Funds authorised under the Securities and Futures Ordinance are exempt from Hong Kong profits tax. Unauthorised funds, including hedge funds, are also exempt from Hong Kong profits tax if they comply with certain regulatory requirements and exempt from Hong Kong profits tax if the following conditions are satisfied:

i) The fund is a non-resident of Hong Kong;

ii) Profits were derived from 'specified transactions';

iii) The specified transactions were carried out through or arranged by a 'specified person'; and

iv) The fund does not carry on any other trade, profession or business in Hong Kong.

Income from transactions incidental to the specified transactions is also exempt from Hong Kong profits tax if the receipt from such incidental transactions is not more than 5% of the total trading receipts.

Hedge funds that do not qualify for Hong Kong profits tax exemption will be subject to Hong Kong profits tax if:

i) the hedge funds, directly or indirectly, carry on a trade or business in Hong Kong; and

ii) Hong Kong sourced profits of a revenue nature are derived from such trade or business.

Profits sourced outside Hong Kong and capital gains (which are not revenue in nature) are not taxable in Hong Kong.

Ireland

Regulation

Hedge funds in Ireland can be set up as Qualifying Investor Funds (QIFs), Professional Investor Funds (PIFs) or Retail Funds of Unregulated Funds. Hedge funds seeking to domicile in Ireland, must obtain authorisation from the Regulator. Approval is a two stage process involving the approval of the fund's promoter and the approval of the fund itself, including details of the service providers. The promoter must be approved before the documentation for the approval of the fund is submitted to the Regulator. The Regulator continues to streamline the hedge fund approval process: hedge funds no longer have to formally obtain the pre-approval of prime brokerage documentation from the Regulator, provided that the fund's legal advisers certify compliance with requirements for such documentation. This reduces the length of the approval process.

In February 2007, the Regulator issued 'Guidance Note 1/07 – Authorisation of Qualifying Investor Schemes – Application process'. The Financial Regulator will authorise a QIF on receipt of a complete application for authorisation provided that the parties involved are approved in advance of the application and meet the necessary authorisation criteria; and appropriate confirmation is received in relation to the contents of the relevant documentation. The application for authorisation must be made in writing, requires certification and requires approval in advance by the regulated parties/ service providers to the fund. Application is to be filed no later than 3pm on the day prior to proposed date of authorisation. Letters of authorisation are to be issued by close of business on the day of authorisation. This move substantially improves the time to market for Irish domiciled hedge funds set up as QIFs.

QIFs may enter into over the counter (OTC) contracts, provided that they hold all their assets with a prime broker rather than a custodian. Professional Investor Funds (PIFs) are able to place their assets with a prime broker up to a limit of 140% of the fund's borrowings from the prime broker. Any balance of assets held with the same prime broker will be required to be segregated from the prime broker's own assets in a separate custody account and subject to a separate custodian agreement. PIFs may enter into OTC contracts provided that exposure to each individual counterparty does not exceed 20% of NAV (30% in the case of certain credit institutions).

Since 2005 Irish funds legislation has allowed for segregated liability between sub-funds in umbrella investment companies and allows for cross investment between sub-funds of investment companies.

In December 2006 the Regulator issued some policy changes including derogations from the minimum requirement for investors in PIFs who are trustees of pension plans; derogations from the minimum subscription requirements for PIFs and QIFs for specified directors and employees when they resign from the qualifying directorship; and the Regulator no longer objects to disclosure of rebate agreements between service providers to the fund and individual unitholders.

Effective 31 October 2006, the Dutch Minister of Finance has designated Ireland as a state of equal supervision standard under the Netherlands Act on Supervision of Collective Investment Schemes (the Act). The consequence of this designation is that Irish collective investment schemes do not need a separate licence to enter the Dutch market. However, they do need to present themselves to the Dutch Financial Markets Authority with proof of Irish supervision. Notwithstanding the designation they need to adhere to information and advertising requirements of the Act and corresponding delegated legislation.

Taxation

Irish resident individual investors in hedge funds are generally subject to tax on income at the standard rate of income tax (currently 20%) and on capital gains at the standard rate of income tax plus 3% (23%) on a receipts basis.

For investors who acquired their interest in the fund on or after 1 January 2001, the holding of shares at the end of a period of eight years from acquisition (and thereafter on each eight year anniversary) will constitute a deemed disposal and reacquisition at market value by the Shareholder on the relevant shares. The tax payable on the deemed disposal is subject to tax at the standard rate of income tax plus 3% (currently 23%). Any tax arising on such a deemed disposal will be taken into account in respect of any subsequent disposal of the relevant shares.

Under the provisions of the Irish Finance Act 2007, which became law in April 2007, if the hedge fund is based outside Ireland but in an EU, EEA or double tax treaty country, it must be analogous to an Irish regulated fund in order for the above treatment to apply. If it is not analogous to an Irish regulated fund, then Irish investors will be subject to taxation at their marginal rate of income tax, likely 41% (plus 5% social insurance/health levy) on income received from the fund, and at 20% on gains realised. Also pursuant to the Irish Finance Act 2007, special anti-avoidance rules may apply where the investor, together with connected parties, is in a position to direct the investment strategy of the fund.

If, however, the hedge fund is located in a country outside the EU or EEA, and with no double tax agreement with Ireland (non-EU/non-EEA/non-DTA), individual investors will be taxed at 41% (plus 5% social insurance/health levy) on income and gains on a receipts basis (gains on disposal of units in a fund which has been designated by the Irish Revenue as a 'distributing fund' are liable to capital gains tax at 40% and are not liable to social insurance/health levy).

Corporate investors in hedge funds are subject to tax on trading income at 12.5%, non-trading income at 25% and capital gains at either 12.5% or 23% (normally on a receipts basis). If the hedge fund is located in a non-EU/non-EEA/non-DTA country, corporate investors will be taxed on capital gains at 40% (qualifying distributing funds) or 25% (non-distributing funds) on a receipts basis.

In general, bank and insurance company investors in hedge funds are subject to tax on income and capital gains at 12.5% on a fair value basis, although realisation basis applies in certain circumstances. Where such companies are reporting under IFRS, the accounting profit (fair value) will form the basis of the taxable profits. Pension fund investors are tax exempt.

Legislation introduced in the 2004 Finance Act effectively ensures that locating the investment management activity of a hedge fund in Ireland does not give rise to an Irish tax exposure for the fund, once it meets certain independence criteria.

Isle of Man

Regulation

There have been no recent changes to the regulatory environment in the Isle of Man. Administration of PIFs must be carried out in the Isle of Man. However, PIFs are not subject to any further Manx regulation.

The EIF is a further special subcategory of the Isle of Man's international collective investment schemes classification. The EIF is specifically developed as a vehicle for global investors with a high degree of experience and is designed to be both simple and flexible to administer. The fund itself is not subject to regulatory approval, and the onus for its proper administration is laid firmly on the licensed fund manager or fund administrator. EIFs can be limited companies, limited partnerships or 'cell companies'.

Foreign funds may be administered in the Isle of Man without being subject to Manx regulation.

Taxation

All Isle of Man tax resident companies (excluding licensed banks and companies that receive income from land and property situated in the Isle of Man) are taxed at 0%.

Italy

Regulation

Domestic and foreign hedge funds are required to be authorised by the Bank of Italy and CONSOB (Commissione Nazionale per le Societa e la Borsa). The CONSOB regulates the distribution of foreign and domestic hedge funds.

Distribution to individual investors is restricted by the fact that no public marketing is allowed, a €500,000 minimum investment requirement and a maximum limit of 200 shareholders.

Domestic hedge funds are required to appoint an Italian bank or an Italian branch of a bank incorporated in another EU Member State as a depository bank.

Taxation

Domestic hedge funds are generally subject to a 12.5% substitutive tax applied on the net result of the fund. The rate may be reduced to nil where all the investors are 'qualified' non-resident investors.

Private individuals investing in domestic hedge funds are not subject to tax on the fund's proceeds.

Corporations, banks, insurance companies and foreign investors with an Italian permanent establishment investing in a domestic fund are taxed at ordinary income tax rates, with a tax credit of 15% on income received.

Non-resident investors without an Italian permanent establishment are not subject to withholding tax upon collection of the fund's proceeds. 'Qualified' non-resident investors in domestic funds may obtain a tax refund of 15% on income from capital.

Italian pension funds investing in domestic funds are subject to an 11% tax with a credit of 15% on income from capital.

Italian individuals investing in foreign hedge funds are fully taxable at progressive ordinary tax rates starting from 23% up to 43%. Italian corporations, banks and insurance companies investing in foreign hedge funds are taxed at ordinary income tax rates. Pension funds investing in foreign hedge funds are subject to tax at 12.5%.

Notes:

1) A withholding tax of 12.5% may be applied by Italian authorised intermediaries upon remittance of the income, which is treated as a creditable advance tax payment by individuals, corporations, banks, insurance companies and pension funds.

2) 'Qualified' non-resident investors include investors resident in countries where they are exchange of information procedures with Italy.

Japan

Taxation

Japanese corporations investing in hedge funds are subject to corporate tax at the rate of approximately 42% (unless size-based taxation applies in which case the rate may vary) on income and gains from investments in hedge funds. If hedge funds are structured as corporations or investment trusts and the paying agent is based in Japan, distributions from hedge funds may also be subject to withholding tax at the rate of 20% (reduced to 7% if the funds are publicly traded).

In the case of Japanese individual investors, distributions from hedge funds (established as corporations or investment trusts) are subject to withholding tax at the rate of 20% (reduced to 10% if the funds are publicly traded). If the funds are not publicly traded, the distribution is subject to income tax at progressive individual income rate (up to 50%). Capital gains arising from the sale of units in a hedge fund are subject to income tax at the rate of 20% (reduced to 10% if the funds are publicly traded and the sale is made through a broker-dealer acting in Japan.

If hedge funds are established as partnerships and treated as pass though for Japanese tax purposes, the Japanese investors are treated as investing in the underlying assets in the hedge funds directly and taxed according on an 'arising' basis.

Foreign hedge funds may be subject to the Japanese anti-tax haven (CFC) rule if more than 50% of its units are owned directly or indirectly by Japanese resident (including related parties) individual or corporate investors. In such a case, investors that own not less than 5% of the total number of units of a hedge fund may be liable to tax in respect of the portion of income retained in the foreign hedge funds attributable to the investor, even if it is not distributed from the hedge fund.

A foreign hedge fund that has a permanent establishment ('PE') in Japan is subject to tax in Japan on Japanese source income. Furthermore, even if a foreign hedge fund has no PE in Japan, capital gains derived from certain sales of shares are subject to Japanese tax in certain circumstances. In addition, capital gains derived from the sale of shares in a Japanese corporation, holding mainly real estate assets in Japan, will be subject to taxation in specified cases based on the extent of the shareholding of the hedge fund in the corporation. In certain circumstances, the above rules may be overridden by the terms of double tax treaties with Japan, if available.

Jersey

Regulation

There are three different regimes available to hedge funds in Jersey:

1) 'Expert Funds' streamline and accelerate the regulatory approval process by shifting the emphasis away from comprehensive regulation of each fund towards a regulation of the functionaries in the Island. The Expert investor definition includes professional investors, individuals or entities with net investment assets of not less than US$1million, carried interest investors and any investor who invests a minimum initial amount of US$100,000. There are no restrictions on investment strategies and investment limits.

2) 'Unclassified funds' which also fall under the Collective Investment Fund Law ("CIF") Law but have a lower minimum investment requirement than the Expert and Private Funds. This category covers funds which are to be marketed principally outside the UK by means either of a public offering or an offering to more than 50 persons or where the securities to be issued by the fund will be listed.

3) 'Private funds' are not governed by the CIF Law provided that the fund is offered to fewer than 50 professional or institutional investors and has a minimum investment requirement of £250,000. The Regulator ('JFSC') does continue to exercise ongoing supervision of these funds but there is considerable flexibility in the way in which these funds can be structured and operated.

The JFSC are currently consolidating and streamlining the regulatory framework into a single statute focusing on the regulation of service providers rather than the underlying products and structures they administer. As part of this change, a Code of Practice for fund functionaries will be introduced in the middle of 2007.

Since February 2006, companies may also be established as a 'Protected Cell Company' (PCC) or an 'Incorporated Cell Company' (ICC) and in January 2007 the JFSC introduced the Listed Fund Guide which ensures that closed ended investment funds that are listed on European and other leading stock exchanges can be subject to a streamlined 72-hour approval process.

Jersey continues to review its regulatory framework in light of industry developments and proposals to amend the current framework are anticipated by the end of 2007.

Taxation

Individual investors, resident in Jersey, investing into hedge funds are taxed, on a receipts basis, at the rate of 20% on income. Capital gains are tax-exempt. Banks, insurance companies (non-life business) and corporate entities, resident in Jersey, are taxed on income from hedge fund investments at the rate of 20% on a receipts basis. Pension funds are not taxed. Capital gains are tax-exempt. Changes were recently proposed to the local tax regime. The proposals do not include any changes to the tax treatment of hedge funds. It is also currently proposed to tax hedge fund managers at 0% in the future.

Kingdom of Saudi Arabia

(Part of the Cooperation Council for the Arab States of the Gulf ('GCC'))

Taxation

A new tax law was recently introduced in Saudi Arabia. Accordingly, there is some degree of uncertainty over several tax issues and it is therefore highly advisable to seek professional tax advice on a case by case basis.

The new tax law essentially introduced two types of income taxes: a flat rate of income tax at 20%, and withholding taxes on any payments made outside the Kingdom (again at rates of up to 20%).

Kuwait

(Part of the Cooperation Council for the Arab States of the Gulf ('GCC'))

Taxation

The Kuwaiti tax authorities apply corporate income tax rates of up to 55% on all Kuwaiti sourced gains and profits of a corporate entity. However, there is no clear definition of what constitutes Kuwaiti source income, though work which is done outside of Kuwait under a composite contract which involves an onshore activity may be considered to be work performed in Kuwait.

Liechtenstein

Regulation

Under current law domestic IUG (Law on Investment Undertakings) regulated hedge funds and funds-of-hedge funds need a custodian bank and an administrator domiciled in Liechtenstein.

Foreign sub-custodians are acceptable and certain administrator services can be further delegated by the administrator to foreign administrators. Currently, Liechtenstein does not have a typical prime broker concept.

For domestic IUG regulated hedge funds and funds-of-hedge funds the formal 'fund management company' as defined by the law has to be domestic. However, portfolio management services can be delegated to a foreign investment adviser.

Foreign hedge funds and funds-of-hedge funds approved for distribution in Liechtenstein need a domestic approved representative and a domestic paying agent for the settlement of subscriptions, redemptions, distributions, etc.

IUG regulated open ended Liechtenstein hedge funds or funds-of-hedge funds and foreign regulated hedge funds approved for distribution in Liechtenstein can be sold to retail, high net worth and institutional investors. Alternatively, a bank or other professional asset manager can distribute hedge funds and funds-of-hedge funds within the scope of an approved and disclosed formal asset allocation policy, based on a discretionary management contract with the client.

The distributor of IUG regulated funds generally either is an FMA (Financial

Market Authority Liechtenstein) regulated institution or has to obtain the FMA's approval as a distributor.

Furthermore, hedge funds and funds-of-hedge funds not approved for distribution in Liechtenstein can still be used within the scope of the asset allocation policy applied on discretionary management contracts, or can be sold to investors on their own request, but such funds must not be publicly advertised and promoted.

Taxation

Since 1 July 2006 there has been no taxation on a hedge fund's capital. Income on assets under management is not subject to income taxes at the fund level.

There is no withholding tax levied in Liechtenstein on distributions made by the fund. The investors receive the whole distribution without any deductions, irrespective of where the investors (corporations or individuals) have their tax residence.

Individual investors that are tax resident in Liechtenstein have to declare the income received from hedge funds on their normal income tax return. In Liechtenstein, individuals are taxed, based on realised capital gains while unearned income is not taxed.

Tax privileged Liechtenstein companies, like privileged foundations, do not pay any income tax. Any capital gain or distribution from a hedge fund is therefore tax free.

Luxembourg

Regulation

Luxembourg retail investors can invest in hedge funds and fund-of-hedge funds domiciled in any country, provided that the fund is approved by the Commission de Surveillance du Secteur Financier (CSSF) for public offering. Only funds that are subject to home state supervision which the CSSF deems to be adequate will be approved.

The implementation in May 2005 of the CSSF's circular on the use of derivatives in UCITS III funds (Circular CSSF 05/176) has allowed the development of hedge fund-like products. This circular allows the creation of UCITS with significant leverage as exposure to derivatives can be calculated on a Value-at-Risk (VaR) basis.

Authorised hedge fund managers operating in Luxembourg are not required to obtain authorisation for each new fund that they launch, other than approval by the CSSF for domestic funds.

A new law was passed on February 13, 2007 to introduce the concept of Specialised Investment Funds (SIFs) for qualified investors. The law imposes no investment restrictions but still requires the application of the risk spreading principle and allow small entities to create such Luxembourg funds.

SIFs are subject to a minimum investment of €125,000 per investor (with some exceptions). One of the key advantages of SIFs is that such funds can be launched without a pre-approval by the CSSF. Therefore, the time to market can be very short provided that an application is filed with the CSSF within one month following the creation of the fund.

Taxation

Luxembourg resident individual investors are taxed, in principle, on receipt of income (dividends) derived from hedge fund investments at their progressive tax rates up to a maximum of 38.95% increased by the 1.4% dependency contribution. However, certain kinds of dividends may benefit from a 50% exemption.

Capital gains realised by a Luxembourg resident individual investor are exempt after six months if his/her direct/indirect shareholding in the fund does not exceed 10% (alone or together with members of his/her household) and the disposal takes place more than six months from the date of acquisition. Otherwise, if the disposal takes place within six months of the acquisition the capital gains will be taxed at a maximum of 38.95% increased by the 1.4% dependency contribution (some allowances are available). If the disposal takes place after six months and the shareholding exceeds 10%, the capital gain will be taxed at half the rate mentioned above.

In certain situations, depending on the characteristics of the fund and location of the paying agent, the European Union Savings Directive (EUSD) may be applicable resulting in either exchange of information or withholding tax being levied.

Banks, insurance companies and corporate entities are taxed upon receipt of income and capital gains from hedge fund investments at the rate of 29.63%.

For pension fund investors, income and capital gains from hedge fund investments are included in their taxable base; however, pension schemes generally are tax neutral.

Malta

Regulation

The Maltese Investment Services Act provides a comprehensive regulatory regime for investment services and collective investment schemes (CIS) – which include Private Investment Funds (PIFs). All hedge funds that have been set up in Malta are PIFs.

The Malta Financial Services Authority (MFSA) is responsible for the licensing, regulation and supervision of CISs, including PIFs. The main regulations concerning the establishment and regulation of hedge funds in Malta are:

- Hedge funds may not be marketed to retail investors in Malta although Malta's entry into the EU means that UCITS funds (which may have certain hedge fund-like characteristics) are eligible for a 'passport' enabling them to be marketed in Malta.
- Hedge funds are typically established as PIFs; however, it is also possible for a fund established overseas to transfer its domicile to Malta and apply to be registered as a PIF.
- PIFs may be marketed to corporates and trusts, as well as the following types of individual investor:
  - Qualifying Investors: there are various criteria to be met to be classified as a qualifying investor. However, the main criteria is that the investor must have more than US$1 million of net assets and that the minimum initial investment is at least US$100,000 (or equivalent in another currency).
  - Experienced Investors: these are defined as persons having the expertise, experience and knowledge in the acquisition/disposal of funds of a similar risk profile to which the proposed PIF relates. The minimum investment threshold is US$20,000.
  - Extraordinary Investors: there are various criteria to be met to be classified as an extraordinary investor. However, the main criteria is that the investor must have more than US$10 million of net assets and that the minimum initial investment is at least US$1,000,000 (or equivalent in another currency).
- There are no restrictions on the investment powers of a PIF. However, there is a restriction on the extent of leverage through the use of derivatives or borrowing in the case of PIFs marketed to Experienced Investors.
- The MFSA has committed to process applications for the authorisation of PIFs within seven working days, provided all relevant documentation has been provided and that all functionaries are based and regulated in a 'Recognised Country' (i.e. members of the EU or EEA and some other specified countries).

Netherlands

Regulation

Foreign hedge funds can be authorised for distribution in the Netherlands, subject to the same rules as ordinary investment funds: these rules require the manager to obtain a licence prior to offering its participations in the Netherlands, unless an exemption is available.

The Netherlands Authority for the Financial Markets (AFM) will grant such a licence provided certain requirements are met. These may include consideration of whether the manager, established outside the Netherlands in a non-EU country, is subject to adequate supervision in that jurisdiction. The AFM has determined that currently only a limited number of countries provide appropriate levels of supervision.

As of 1 January 2007 a new Act has come into force in the Netherlands, the Act on Financial Supervision, the 'AFS' (Wet op het financieel toezicht). The AFS incorporates seven formerly applicable supervisory Acts that were applicable in the Netherlands. The new AFS does not have the intention to create any material changes to the requirements as stated in the formerly applicable acts. The AFS has inter alia, implemented UCITS III into Dutch legislation.

The main effects of the AFS on hedge funds and their managers are as follows:

1) Domestic hedge fund managers are required to obtain a licence from the AFM and may then launch new sub-funds in existing hedge funds without the individual sub-funds being required to obtain a separate licence, provided an updated prospectus is available.
2) Foreign hedge fund managers established in countries that the AFM has determined apply appropriate home country supervision may apply for a notification in the Netherlands. Hedge fund managers in other countries should apply for a licence.

Furthermore, the AFS requires providers of various types of financial services (for instance offering and acting as intermediary in relation to financial products) to obtain a licence from the AFM. Therefore hedge fund managers may under certain circumstances be required to obtain a second licence. Legal entities and natural persons making offers of shares in hedge funds or providing advice to the public on hedge funds will be required to obtain a licence pursuant to the AFS.

Taxation

Resident individual investors are deemed to receive a notional yield of 4% on the average annual value of their hedge fund investments, which is taxed at a rate of 30%. Distributions of actual income and gains are not taxable. Banks, insurance companies and corporate entities are taxed on income and capital gains from hedge fund investments at the corporate tax rate of 25.5% (2007 rate). Pension funds are exempt from corporate income tax.

Capital duty was abolished from 1 January 2006.

Netherland Antilles

Regulation

A hedge fund domiciled in the Netherlands Antilles can be incorporated as an LLC, a private LLC or a Netherlands Antilles private LLC, all of which are subject to supervision by the Central Bank of the Netherlands Antilles.

Taxation

Netherlands Antilles private LLCs are exempt from taxation. Individual investors, resident in the Netherlands Antilles, are deemed to receive a notional yield of 4% on hedge fund investments (held through a non- Antilles investment company or a Netherlands Antilles exempt company), which is taxed at the rate of 19.5% (in case of 5% shareholding or more in the hedge fund) or at maximum 49.4% (in case of shareholding lower than 5% in the hedge fund). Distributions of actual income and gains are not taxable.

Banks, insurance companies and corporate entities are taxed on income and capital gains from hedge fund investments at a profit tax rate of 34.5%. A 95% participation exemption may be available in respect of investments of 5% or more in foreign hedge funds, or 5% or more in Netherlands Antilles exempt companies or investments in hedge funds with a cost price of at least ANG1 million (approximately US$561,798).

Insurance companies may also opt for a special regime under which only the premium income is subject to profit tax.

Norway

Regulation

Under current regulations, the Norwegian Securities Fund Act prohibits the solicitation of subscriptions in hedge funds, from both individuals and legal entities, although foreign hedge funds may be actively promoted in Norway with the permission of the Norwegian Financial Supervision Authority (FSA). However, we understand that no foreign hedge fund has yet been granted permission by the FSA to be promoted in Norway.

The Ministry of Finance issued a consultation paper proposing to allow hedge funds to be marketed to professional investors. The consultation period ended in April 2005, but the Ministry has not yet announced whether the Securities Fund Act will be changed in order to allow solicitation of subscriptions in hedge funds to professional investors.

Taxation

Individual investors, tax-resident in Norway, will be subject to tax at 28% on income and capital gains on a receipts basis from hedge fund investments structured as corporate vehicles. From 1 January 2006 a component of the return (currently estimated at 2.1% of cost price) is treated as tax-exempt. Hedge funds structured as partnerships will be treated as tax transparent in Norway and all classes of investors will be taxed on a proportionate part of the hedge funds income under the tax regulations applicable to each investor. Corporate investors in EEA-domiciled hedge funds, structured as corporate vehicles, will be exempt from tax on dividends received and gains made on shares under participation exemption rules.
This is regardless of the level of holding or the time period for which the shares have been held. Losses will not be tax deductible. For corporate hedge funds domiciled outside the EEA, the participation exemption for capital gains will only apply where the shareholder holds 10% or more of the capital and voting rights of the fund for a period of two consecutive years. In addition, the Participation Exemption will not be available where the hedge fund is situated in a low tax country.

Oman

(Part of the Cooperation Council for the Arab States of the Gulf (‘GCC’)).

Taxation

All Omani registered companies, irrespective of the extent of foreign ownership, are taxed at reduced income tax rates of up to 12%. This is compared to a top rate of tax of 30% for branches of foreign companies and unregistered entities.

There are a number of tax exemptions and, of particular note, is a tax exemption for investment funds which are incorporated in Oman or incorporated abroad dealing with securities listed on the Muscat Security Market.

Portugal

Regulation

Special investment funds (SIFs) were introduced by the end of 2003 following the changes introduced in the investment funds regulation. Short selling, leveraging, cash and security loans, repos, and derivatives, including commodity derivatives, are permitted in SIFs, but subject to limits. Operations on short selling, derivatives, cash and security loans and repos can not exceed 50% of the fund net asset value. Fewer rules apply to SIF's than to mutual funds, but certain rules are still applicable, for example those relating to authorisation by the Portuguese Securities Market Commission (CMVM) and transparency. There is no other legislation specific for hedge funds in Portugal.

Taxation

Individual investors into domestic hedge funds are exempt from tax, unless the income is connected with commercial, industrial, or agricultural activity, which is taxed at marginal rates, but withholding tax of up to 25% is imposed at the fund level. Capital gains are taxed at 10%, unless gains are connected with commercial, industrial, or agricultural activity, which are treated as taxable profits taxed at normal rates.

Individual investors in foreign hedge funds are subject to tax at marginal rates up to 42%, although distributions by paying agents located in Portugal are taxed at 20%. Capital gains are taxed at a flat rate of 10%.

Corporations, banks and insurance company investors in domestic hedge funds are taxed on income and capital gains (up to 26.5%). These entities can recover the tax paid at the fund level.

Pension funds are exempt from tax and may reclaim withholding tax and any tax paid by the fund. Income derived from a foreign fund is treated as taxable profit.

Foreign investors in domestic hedge funds are exempt from tax on income and capital gains. The exemption on capital gains does not apply in the case of investors resident in offshore countries, or to corporate investments held by Portuguese entities with a participation of at least 25%.

Qatar

(Part of the Cooperation Council for the Arab States of the Gulf ('GCC')).

Regulation

The State of Qatar established the Qatar Financial Centre ('QFC') in 2005 and has prescribed a range of activities (termed as 'permitted activities') which may be conducted in or from the QFC. The activities largely constitute financial services or services found in support of financial services businesses, together with a number of related or corporate headquarter type activities. The permitted activities have been further classified into two categories, namely, non-regulated activities and regulated activities. The activities of the financial services firms broadly fall under the regulated activities.

The QFC consists of the QFC Regulatory Authority (to supervise QFC registered financial services firms) and the QFC Authority.

Taxation

The QFC has its own tax regime allowing QFC entities to enjoy a tax holiday until April 2008, after which time they will be subject to corporate tax at a flat rate of 10% (regardless of whether the entity is owned by GCC nationals).

Profits arising as a result of 'activities' in Qatar, outside the QFC, are taxed at rates of up to 35%.

Russia

Regulation

Generally, asset management activity is regulated by the Federal Service of Financial Markets (FSFM) and is subject to licensing. There are currently no regulations specific to hedge fund products in Russia and, depending on the exact circumstances, domestic hedge fund products may or may not be subject to regulation by the FSFM. Foreign hedge funds can only be promoted in Russia if there is an agreement with the country of domicile and/or the regulatory authority of that country. However, we are not aware of any cases where such agreement has been reached.

Taxation

Individual investors in a domestic unit investment fund (UIF) are taxed at a rate of 13% on distributed income and capital gains. Corporate entities, banks and insurance companies are taxed at a rate of 24% on income distributable by UIF and capital gains. Pension funds are taxed at a rate of 24% on income and capital gains. Generally, the profits tax base of non-state pension funds is determined as the difference between return on investments and return under the refinancing rate of the Central Bank of Russia (currently 10.5% on Russian Roubles).

For foreign hedge funds, individuals who are Russian tax residents are taxed on dividend income at a rate of 9% (13% on other income). For corporate entities, banks and insurance companies, dividend income is taxed at 15% (subject to double-tax treaty relief) and other income at 24%. Pension funds are taxed at 24%. Capital gains are taxed at 24%.

South Africa

Regulation

Hedge funds are unregulated and may not be marketed to retail investors at present. The Financial Services Board (FSB), Alternative Investment Association (AIMA) South African Chapter and the Association for Collective Investments have compiled a White Paper on proposed hedge fund regulations. The proposed regulatory framework outlined in the White Paper has not been accepted by all parties concerned and as a result no draft regulations have been issued by the FSB to date. The current uncertainty around the future tax treatment of hedge funds appears to be one of the main issues delaying progress. As a consequence, the FSB's future approach towards foreign funds is also still unclear. It is likely that foreign funds will only be allowed to be marketed in South Africa if they are domiciled in FSB-approved jurisdictions such as Ireland, the UK and the Channel Islands, where the regulatory framework is deemed to be in line with the regulatory framework to be introduced in South Africa. Investment in foreign hedge funds by regulated hedge funds may also be restricted to those hedge funds domiciled in FSB-approved jurisdictions.

Currently, hedge fund managers are authorised by the FSB as Discretionary Financial Services Providers under FAIS. This is the category into which a traditional discretionary investment manager also falls. The FAIS is expected to be amended within the next few months to introduce a distinct category to accommodate hedge fund managers. Following the change, hedge fund managers are likely to be subject to more stringent 'fit and proper' requirements than those expected of traditional investment managers and will have a separate code of conduct.

Taxation

There is still much uncertainty in South Africa regarding the tax treatment of hedge funds. Generally, domestic hedge funds are operated as tax transparent partnerships or trusts with investors participating as limited partners or beneficiaries and subject to tax on income and gains on an accruals basis. Individual investors are taxed on income and 25% of capital gains (if not viewed as a trader) at marginal rates of up to 40%.

Companies, banks and insurance companies (except certain policyholder funds) are taxed on income and 50% of capital gains at 29%. Pension funds are currently taxed on only certain streams of income (e.g. interest, certain dividends and net rental income) at 9% with effect from 1 March 2006 (previously 18%). However, the Minister of Finance has announced that this tax will be waived from 1 March 2007.

Investors in corporate foreign hedge funds are taxed on income derived by the foreign fund. Capital gains on disposal of interests in foreign hedge funds are subject to tax as either revenue or capital gains.

Investors in non-corporate foreign hedge funds are taxed on their share of the fund's income and expenditure.

The Revenue Service is awaiting the finalisation of the regulations referred to above before determining the appropriate tax treatment for domestic hedge funds. To date, it is unclear whether existing unregulated domestic hedge funds would obtain any tax relief upon conversion to an approved legal structure under the pending regulations if asset transfers are required. It is also unclear whether domestic hedge funds will be treated in a similar manner to other collective investment schemes, which are effectively treated as tax transparent at the fund level, with investors only being subject to tax when income is declared or when units are redeemed.

Spain

Regulation

Following the adoption of the 2003 regulatory framework for hedge fund products and hedge fund managers in Spain, at least 25 hedge fund managers have been authorised by the Spanish Financial Services Authority and around 10 single strategy hedge fund products are now operating in local hedge fund industry in Spain. However, the Spanish authorities have made additional changes to the general regulations.

In fact, following some industry players' demands, the new regulatory framework has been modified and completed in March 2007 with the adoption of the Royal Decree 362/2007, which provides specific changes to the general rules applicable to single manager hedge funds and funds-of-hedge funds.

This revision to of the general rules provides more flexible rules for the subscription and redemption conditions (e.g. single manager hedge funds and funds-of-hedge funds may impose cap amounts for redemptions and require advanced notice for subscriptions or redemptions) and the NAV calculations. Other changes refer to the ability of the asset manager to impose on investors minimum holding periods in single manager hedge funds. There is also clarification that the regulatory restriction applicable to the active marketing of local single manager hedge funds which are confined to qualified investors does not prevent retail investors from investing at their own discretion in such products.

Under the new rules local funds-of-hedge funds are not allowed to invest in target funds-of-hedge funds products, in either local or foreign jurisdictions.

The current Spanish regulatory framework for single manager hedge funds and funds-of-hedge funds includes the following rules:

- Law 35/2003, dated 4 November 2005, on undertakings for collective investments (which was adopted in November 2005 and provided a basic framework for launching and distributing domestic single manager hedge funds and funds-of-hedge funds in Spain).
- Royal Decree 1309/2005 dated 4 November 2005, implementing Law 35/2003 (as amended by RD 362/2007 of March 16, 2007).
- CNMV Circular 1/2006, dated 3 May 2006, implementing Royal Decree 1309/2003.

The framework covers, inter alia, the distribution of domestic hedge fund products to institutional and retail investors, and specific requirements for hedge fund managers regarding authorisation and ongoing requirements covering organisational matters, internal control and risk management matters, as well as controls over outsourcing and operational risk.

Marketing of single manager hedge funds is limited to qualified investors. However, access to retail investors is not prevented on the basis of unsolicited marketing and provided that the retail investor acknowledges the level of risks connected to the investment in such products in writing.

Marketing of foreign hedge fund products remains subject to prior authorisation by the Comisión Nacional del Mercado de Valores (CNMV). However, it seems likely that authorisation could be granted in cases where foreign hedge fund products are subject to similar regulatory requirements as those now applicable to domestic funds. The CNMV is likely to pay particular attention to investor protection matters in determining whether authorisation will be granted.

Taxation

Individual investors in Spanish hedge funds or funds-of-hedge funds are taxed as if they invested in Spanish UCITS funds. Distributions and the redemption or sale of units or shares in a fund are taxed as savings income at a fixed rate of 18%. Individual investors in foreign hedge funds or funds-of-hedge funds are not taxed under rules similar to those applicable to investors in Spanish funds. This is mainly due to the fact that such funds are not included in the scope of application of the UCITS Directive. The taxation may vary significantly depending on the legal status of the vehicle and on whether the fund is resident in a black-listed tax haven jurisdiction.

Corporations, banks and insurance companies are taxed at a fixed rate of 32.5% in 2007 (30% rate from 2008). Investment funds and SICAVs incorporated under Law 35/2003 of Collective Investment Institutions (Real Estate funds have to comply with additional tax rules) are taxed at a 1% rate and pension funds are not subject to tax (0% rate). Investments in Spanish hedge funds or funds-of-hedge funds are taxed (except in the case of pension funds) as if they invested in Spanish UCITS funds. The rules for the computation of income or gains vary depending on the specific accounting guidelines applicable to

Spain (continued)

ordinary corporations or to each type of institutional investor and on the choices on institutional investor makes for accounting purposes.

Corporate investors in foreign hedge funds or funds-of-hedge funds are not taxed under rules similar to those applicable to investors in Spanish funds. As in the case of individual investors, this is mainly due to the fact that such funds are not included in the scope of application of the UCITS Directive. There are different tax rules for the taxation of investment in foreign hedge funds or funds-of-hedge funds depending on:

1) The legal status of the fund;
2) Its fiscal residence;
3) The specific accounting guidelines applicable to any ordinary corporation or to each type of institutional investor;
4) Choices on institutional investor may make for accounting purposes; and
5) Regulatory approvals for marketing in Spain.

Sweden

Regulation

Approval from the Swedish Financial Supervisory Authority (FSA) is required, prior to distributing or marketing foreign hedge funds in Sweden. Registration takes approximately two months and is only granted if certain requirements are met, including that the foreign hedge fund is subject to adequate home state supervision.

Domestic funds are required to obtain a licence from the FSA following the same procedures as for UCITS III funds, but applying for exemptions regarding specific investment restrictions.

Swedish funds-of-hedge funds are permitted to invest in foreign hedge funds and may be marketed to retail investors. Single manager hedge funds may be distributed to retail investors.

Taxation

Individual investors are taxed, on a receipts basis, on income and capital gains from hedge fund investments at the rate of 30%. Banks and insurance companies (non-life business) are taxed on income and capital gains from hedge fund investments at the rate of 28% on an accruals basis (although they may elect for a receipts basis). Other corporate entities are taxed on income and capital gains from hedge fund investments at the rate of 28% on a receipts basis.

Switzerland

Regulation

On 1 January 2007 the new Federal Act on Collective Investment Schemes (CISA) and the related ordinance of the Federal Council has become effective, followed by the related ordinance of the Swiss Federal Banking Commission (SFBC) on 15 February 2007. Introduced with the objective of ensuring competitiveness of the Swiss fund market, the new regulatory framework also significantly impacts Swiss hedge funds and hedge fund managers. The most significant changes for hedge funds and funds-of-hedge funds – the appropriate legal term of this category of funds is ‘other funds for alternative investments’ – include the introduction of:

- A qualified investor concept: qualified investors in general include all regulated financial intermediaries, other institutional investors with a professional treasury function (pension funds, government, corporates), private investors with financial assets of at least CHF two million, and private investors who have a discretionary asset management agreement with a regulated bank, securities dealer, fund management company or independent professional asset manager;
- New corporate forms for funds, such as the investment company with variable capital (SICAV), the limited partnership for collective investment, and the (non-listed) investment company with fixed capital (SICAF);
- A licensing requirement for the asset managers of Swiss collective investment schemes: not only the funds but also the independent asset manager/promoter of a Swiss collective investment schemes need to be authorised by the SFBC;

- Swiss-domiciled asset managers of foreign funds can apply for an asset manager licence if they manage funds subject to foreign supervision equivalent to supervision in Switzerland and the foreign regulator requires a regulated asset manager;
- A prime broker concept: upon application by a hedge fund, the SFBC approves the use of regulated prime brokers, both foreign and domestic;
- A simplified prospectus regime;
- A revised simplified approval and authorisation process for both qualified investor funds and public funds, if SFBC-approved standard fund documents developed by recognised industry organisations are used for the application; and
- A possible lock-up period for investors of up to five years, upon application.

The changes also eliminate the previous requirement for a written contract between the fund management company and the investor covering the sale of shares/units in single manager hedge funds or funds-of-hedge funds.

With the introduction of the CISA, the scope of regulatory supervision in the fund market has been increased and now includes the managers of Swiss collective investment schemes and SICAFs, if they have non-qualified investors and are not listed. Also all closed ended foreign funds are within the scope of the CISA (previously only open ended foreign funds were subject to Swiss regulation, if public distribution was intended in Switzerland). Closed end investment companies listed on a regulated stock exchange, investment foundations, holding companies and investment clubs are, in general, not in the scope of the CISA.

Also, domestic managers of foreign collective investments are not in the scope of the CISA; however, if they manage funds which are subject to regulation and supervision equivalent to Switzerland and for which a regulated manager is required, they can apply for an asset manager licence on a voluntary basis. Regulated by the CISA, however to a very limited extent only, are structured products. Structured products can only be offered to the public, if they are issued or guaranteed by regulated banks, securities dealers or insurance companies. The simplified prospectus for a structured product must disclose that it is neither a collective investment nor subject to regulatory supervision.

In Switzerland both qualified and retail investors may invest in the shares of funds-of-hedge funds that are closed ended, non-regulated investment companies listed on a regulated stock exchange. Open ended domestic hedge funds or funds-of-hedge funds regulated under the CISA and foreign hedge funds approved for distribution in Switzerland may also be sold to retail and qualified investors. Hedge funds that are not approved in this manner may not be publicly marketed. However, they can be sold to qualified investors via private placement and to all types of investors in connection with a discretionary management contract, provided that hedge funds form part of an overall asset allocation by the wealth manager (bank, securities dealer, independent professional asset manager) for the specific investor profile.

Taxation

Swiss individual investors in domestic distributing hedge funds are taxed on a receipts basis, with a tax refund for any withholding tax (35%) levied by the fund on the distribution. The applicable tax rate for individual investors for this income is between 25% and 55%, depending on the canton where the individual investor is resident. Individual investors in domestic accumulating funds are taxable on deemed income distributions. Capital gains distributed/accumulated by funds are tax-exempt provided sufficient information is provided to the Swiss tax authorities and the investment is held as a private asset.

Swiss corporation, pension fund, bank and insurance company investors in domestic distributing funds are taxed on income and capital gains distributed. The average applicable tax rate is between 16% and 25%, depending on the canton where the company is domiciled and on any special tax status of the company. Accumulated income is not subject to tax on an unrealised basis. Pension funds may be exempt from income tax if certain conditions are satisfied. Individual investors in a capital gains oriented domestic funds-of-hedge funds (transparent for Swiss tax purposes) that derives 98% of income from capital gains are deemed to derive capital gains, which are not subject to income tax. Investors in other fund-of-hedge funds are taxed as if the investors had a direct investment in the underlying funds.

Income of foreign hedge funds that are organised in non-corporate form (e.g. tax transparent) are taxed at the investor level. Any distributions from corporate foreign hedge funds that are not treated as transparent for Swiss tax purposes, are treated as dividend income in the hands of corporate and individual investors. Corporate investors may be able to apply for participation relief if certain conditions are satisfied.

Taiwan

Regulation

Neither local nor offshore fund managers are permitted to publicly offer hedge funds in Taiwan. Moreover, the Taiwan Financial Supervisory Commission ('FSC'), is careful to prohibit offshore hedge funds from investing in Taiwan, due partly to uncertainty about the impact of their investments on the Taiwan market.

In April 2006, the FSC for the first time agreed to relax their policy, allowing hedge funds to be marketed in Taiwan through an unregistered private placement, as distinguished from a registered public offering. Therefore, two options became available for local investors to invest directly in offshore hedge funds – they may invest in a privately placed local fund which is itself a hedge fund or is a local feeder fund which in turn invests in offshore hedge funds, or they may invest in a privately placed offshore hedge fund. Local investors may also replicate the effect of hedge funds through purchasing derivatives that track hedge fund indices.

The conditions for a private placement include satisfaction of qualitative and quantitative criteria.

In the short term, absent the establishment of a supervisory framework for hedge funds, it does not appear that Taiwanese authorities are ready for deregulation in this sector.

Taxation

Under the Taiwanese tax regime a Taiwanese fund itself is a 'pass-through' entity and hence is not a tax entity for Taiwanese income tax purpose. However the fund is still subject to Taiwanese indirect tax on its trading transactions where applicable. In addition, the fund would be liable to potential withholding tax obligations when it distributes income to its investors. As the fund is a so-called transparent entity, withholding tax withheld on income (such as interests or dividends) received by the fund can be, subject to certain criteria, passed to its investors along with distributions.

With respect to taxation on investors, capital gains realised from redemption of units of a Taiwanese fund are exempted from Taiwanese income tax. However, gains realised from distributions by a Taiwanese fund to its investors would attract income tax (corporate income tax rate 25%; individual income tax rates range from 6% to 40%). Distributions by a fund invested into offshore securities or funds (i.e. where a Taiwanese feeder fund invests in offshore hedge fund), to Taiwanese resident individuals would be exempted as currently Taiwan individual income tax is only levied on Taiwan-source income.

Note that a new regulation named Alternative Minimum Tax ('AMT') introduced in 2006 has potentially changed the exemption status. Under the AMT, starting from 2009 or 2010 (subject to the tax authority's further announcement) offshore income (including income distributed by a local fund which in turn invests into an offshore fund) exceeding certain thresholds received by a resident individual would be subject to the AMT at the rate of 20%.

Where an investor invests directly into an offshore fund (instead of investing in a Taiwanese fund which in turn invests into an offshore fund), gains and income from the offshore fund would be taxable income to a resident corporate investor. On the other hand, as mentioned above, the non-Taiwan sourced income would be exempted from individual income tax though potential AMT may apply from 2009/2010.

Turkey

Regulatory

The Capital Markets Board – Sermaye Piyasasi Kurulu ("CMB") has called for consultation with interested parties on the proposed changes to the Communiqué regarding investment funds. These changes would allow for the establishment of Turkish domiciled hedge funds which are defined as 'Free Investment Funds' ('FIFs') that are formed in order to be marketed only to qualified investors, such as Turkish and foreign investment funds, REITs, brokerage houses, banks, insurance companies, portfolio management companies, pension fund and individuals or legal entities who have YLT one million worth of money and capital market instruments as of the public offering date of participation certificates. FIFs would be:

- Available for subscription only by qualified investors, which includes a wide range of investors;
- Able to set any minimum investment amount (including no investment amount). (Please note that the CMB is authorised to determine the principles of the internal statute of the funds, and any change in the internal statute is subject to the approval of the CMB therefore setting minimum investment amount may be subject to CMB approval);
- Able to determine the number of investors. (Please note that this may also be subject to CMB approval);
- Able to set their own investment strategies and any concentration limits without reference to the Regulations applicable to other regulated investment funds; and
- Required to declare their price at least once in a month as opposed to the daily basis applicable to other regulated investment funds.

Taxation

Recently, CMB legislation has recognised hedge funds in its communiqué regarding Turkish investment funds. Based on certain conditions, hedge funds established in Turkey in accordance with CMB legislation are deemed to be Turkish investment funds. The taxation of Turkish hedge funds is therefore no different to the taxation of Turkish investment funds. Under the current legislation, portfolio management income of a hedge fund established in Turkey is exempt from corporate tax. Withholding tax of 0% is applied at source on certain portfolio management income (i.e. repo income, interest from deposits and capital gains etc.). The corporate tax exempt income of a hedge fund is also subject to 0% withholding tax.

Income derived from redemption of participation certificates of Turkish hedge funds by resident individual investors and resident corporate investors is subject to 10% withholding tax at source. It is debatable whether 0% or 10% should apply to such income to non-resident corporate investors having a permanent establishment in Turkey, but our view is that 0% should apply. There is an exemption from the 10% withholding tax where the redemption of participation certificates of Turkish hedge funds payable to other funds is done:

1) After holding the participation certificates for more than one year; and
2) A minimum of 51% of the portfolio of the hedge fund is invested in Turkish equities on a continuous basis.

Furthermore, income derived by resident corporate investors and non-resident corporate investors that have a permanent establishment in Turkey is subject to taxation on income derived from a local hedge fund as part of their ordinary corporate income. With effect from 1 January 2006 the corporation tax rate is reduced to 20%. The 10% withholding tax levied at source can be offset against the corporate tax liability.

From 7 July 2006 income derived from participation certificates issued by Turkish hedge funds held by non-resident individual investors and non-resident corporate investors who do not have a permanent establishment in Turkey are subject to 0% withholding tax provided that the documentation requirements are met (i.e. certificate of residence should be submitted to the tax office for non-resident individuals and documents of incorporation such as articles of association and a certificate of establishment should be submitted to the tax office for non resident companies).

Although income derived by resident individual investors from a foreign hedge fund is subject to income tax through filing of an annual income tax return and is subject to progressive income tax rates that vary from 15% to 35%, double tax treaties may provide relief for taxation in Turkey.

As in the case of local hedge funds, resident corporate investors (including banks and insurance companies) and non-resident corporate investors that have a permanent establishment in Turkey are subject to taxation on income derived from foreign hedge funds as part of their ordinary corporate income. Taxes paid offshore can be offset against Turkish taxes, subject to certain conditions.

United Arab Emirates

(Part of the Cooperation Council for the Arab States of the Gulf ('GCC')).

Regulation

Broadly, there are two potential options for establishing a fund or a fund manager in the United Arab Emirates (UAE). These are to establish under the supervision of the UAE Central Bank (i.e. an onshore registration) or alternatively under a different regime (such as a free zone), e.g. the DIFC which is not regulated by the Central Bank.

Onshore registrations tend to be unattractive and there are little, if any, foreign funds of financial managers established 'onshore'.

Currently, the only free zone specifically aimed at financial services industry is the DIFC. The DIFC is regulated by the Dubai Financial Services Authority ('DFSA') for all financial and ancillary services.

The DFSA issued a consultation paper in early 2006 on its proposals for the regulation and distribution of collective investment schemes ('CIS'). The proposed collective investment law was enacted and came into force later that year and mirrors much of the existing regulatory framework. For example, there are limitations on promotion, requirements for risk assessment, audit requirements and the provision of specific oversight roles.

Of particular note, the enacted legislation contains several restrictions relating to the distribution of some foreign funds. Broadly speaking, the restrictions apply where the foreign fund is not located in a 'recognised jurisdiction'. A recognised jurisdiction is one which is a signatory to the IOSCO framework. Notably, the Cayman Islands and the British Virgin Islands are not signatories to this framework and this would therefore seem to preclude the distribution of Cayman/BVI domiciled funds.

Furthermore, the CIS law may in certain circumstances prohibit the operation of a foreign fund from the DIFC, or the operation of a domestic fund (i.e. a fund that is established or domiciled in the DIFC) from outside the DIFC.

As mentioned above, onshore funds or fund managers, (i.e. those not located within the DIFC are regulated by the UAE Central Bank).

Taxation

There are no federal taxes in the UAE. Instead, most of the Emirates introduced individual (general) income-tax decrees in the late 1960s which potentially tax activities carried out in the Emirates. In practice, however, the general tax decrees have not been enforced to date and consequently, tax is not actually levied under these decrees for most businesses operating in the UAE (oil producing activities and branches of foreign banks are the exception to this rule).

DIFC registrations are however treated differently for tax purposes to businesses established under UAE domestic law. In particular, the DIFC offers guaranteed tax holidays (via a zero rate of tax) to businesses (and their employees) set up in the free zone for 50 years. The zero rate of tax also extends to transfers of assets or profits to any party outside the DIFC.

The guaranteed tax holiday should provide greater certainty for the financial services sector going forward if the above-mentioned tax decrees are enforced in the future.

United Kingdom

Regulation

The FSA's dedicated hedge fund supervisory team has undertaken a number of themed visits to the 25 largest hedge fund managers. The visits focused on valuation methodologies, including the role of the hedge fund manager in valuing positions, and disclosure to clients of the existence of side letters. In both cases, the FSA was interested in how conflicts of interest arose and how these were managed in practice.

On 27 September 2006, the Alternative Investment Management Association (AIMA) published an industry guidance note for the benefit of hedge fund mangers regarding the circumstances in which material side letters need to be disclosed to a fund's investors. The FSA, who were consulted during the development of this guidance, have stated that their supervisors will take the guidance into account in their risk assessment work on individual firms in line with a more principles-based approach to regulation of firms.

A consultation paper was issued by the FSA in March 2006 ('Implementation of the Transparency Directive/Investment Entities Listing Review') in which the regulator floated its proposals for, among other things, relaxing the diversification requirements for investment entities listed on the main market of the LSE. The March consultation paper proposed replacing the range of old, detailed and prescriptive rules that governed various types of listed investment entities with a single, principles-based regime allowing greater flexibility for investment strategies. In December 2006 the FSA published a further consultation paper given the responses it had received. Some detailed aspects of the proposed rules needed to be modified in the light of responses received by the FSA but the general approach and many specific proposals were favourably received by respondents. The key revised proposals include:

- A proposal to remove the prohibition in the Listing Rules on closed ended funds controlling companies in which they invest, thus allowing these vehicles (for example private equity funds) to pursue a wider range of investment strategies;
- Greater clarity on what a primary listed closed ended fund will have to include in the investment policy it will be required to publish and adhere to; and
- Revised proposals on the disclosure of a primary listed investment entity's risk profile aimed at ensuring investors have sufficient information to evaluate a company's risk profile.

In a March 2007 consultation paper, the FSA set out proposals that would allow the creation of funds-of-hedge funds (and other funds of unregulated schemes) within the regime for authorised retail collective investment schemes. The FSA proposals would:

- Introduce retail oriented Funds of Alternative Investment Funds (FAIFs) into the existing FSA regulatory regime for Non-UCITS Retail Schemes (NURSs);
- Lift the existing 20% investment restriction into unregulated collective investment schemes for NURSs, thereby allowing the development of FAIFs.
- Apply due diligence guidance for fund managers producing FAIFs, to guide them on the matters to consider in making their initial and on-going investment decisions.
- For existing NURSs, leave the current rules unchanged, although a few consequential changes would be necessary to ensure overall consistency in the regime.
- Ensure the regime for Qualified Investor Schemes (QISs) is in line with the FSA's revised approach for NURSs.

The consultation will close on 27 June 2007. The FSA will then finalise the draft rules in light of the responses and publish a Policy Statement giving feedback towards the end of the year.

Taxation

Individual investors are taxed at up to 32.5% on dividends from non-transparent overseas hedge funds. Individual investors will also be subject to tax on non-dividend income and capital gains up to 40%.

Corporations are subject to 30% (28% from 1 April 2008) tax on income derived from an offshore hedge fund. For corporate investors, the return from a foreign hedge fund may be taxed on an annual mark-to-market basis in certain circumstances, in which case the offshore fund rules (see below) do not apply. Pension fund investors are exempt from tax.

Open ended investment companies (OEICs) and authorised unit trusts are taxed at 20% on income, but are not subject to tax on capital gains on disposal of investments. Unauthorised unit trusts are taxed at 22% on income. A technical paper will be published in 2007 to consider the tax disadvantages for OEICs and Authorised Unit Trusts investing in property.

The regulations governing the taxation of authorised funds (including (QISs) came into force from 1 April 2006. These rules set out that qualified investor schemes and retail non-UCITS funds will generally be taxed in the same manner as authorised unit trusts and OEICs. These rules do however contain anti-avoidance rules that affect certain investors holding substantial interests in a QIS (broadly meaning that which exceeds 10%). This would require taxation of the increase in market value of the fund whether or not a distribution or disposal has been made.

Investment in a foreign hedge fund is likely to constitute an interest in an offshore fund. This means that UK resident investors may prefer the foreign hedge fund to obtain UK distributor status in order to safeguard the tax treatment of realised capital gains as opposed to having an income receipt on disposal. These rules are currently under review with changes expected to be enacted in the Finance Act 2007.

USA

Regulation

As noted in Section 2 of this report, the Securities and Exchange Commission (SEC) requires offshore hedge fund advisers to be registered, if the adviser has more than 14 clients who are resident in the United States, unless an exemption is available. The SEC had passed a rule requiring that such investors be counted on a 'look through' basis rather than a product basis, however this rule was overturned by the DC Circuit Court of Appeals and is no longer relevant.

An offshore adviser that is required to register with the SEC can avoid most of the substantive compliance requirements applicable to onshore advisers if it advises offshore funds only.

Such offshore advisers will still be subject to examination by SEC staff, although we note that current SEC staffing constraints would seem to make the wholesale review of offshore advisers highly unlikely in the near term. Offshore advisers with no domestic clients will also not be exempt from the requirement (generally arising through the application of Rule 204-2(a) of the Investment Advisors Act) to keep certain books and records, although there are some exceptions with respect to transactions involving offshore clients.

Certain other requirements applicable to onshore advisers, including the compliance, custody and proxy voting rules under the Investment Advisers Act, would not apply to registered offshore advisers, provided that they have no US clients (other than for the purpose of determining whether SEC registration is required).

Finally, registered offshore advisers with no US clients (other than for counting purposes, as above) will not be required to adopt a code of ethics, but will be required to retain the personal securities dealing reports for so-called 'access persons' that would otherwise be required to be kept under such a code.

Taxation

Hedge funds marketed to both US and non US investors are structured through a parallel or a master-feeder fund structure. Under a parallel structure, a separate fund in the form of an offshore corporation (e.g. Cayman, BVI) is set up for U.S. tax-exempt investors such as pension funds and not-for-profit entities and a US limited partnership (LP) or a US limited liability company (LLC) fund is set up for U.S. taxable investors such as US individuals and corporations.

Under the master-feeder structure, the two funds described above hold their investments through another offshore corporate vehicle (the 'master fund') that makes an election to be treated as a partnership for US tax purposes. While the parallel structure normally allows for more flexibility with respect to structuring of the investments, a master-feeder structure could reduce the administrative costs as all the investments are held through one vehicle. An LLC or an LP fund is structured as a fiscally transparent entity for US tax purposes. Investors in a fiscally transparent fund are treated as earning the income that is derived by the fund (i.e. the fund does not pay any tax itself).

Also, the income earned by a fiscally transparent fund retains its character at the level of the investors. Therefore, individuals, corporations, banks and insurance companies investing in a fiscally transparent foreign-domiciled fund are taxed on the income (including capital gains) derived by the fund on an accruals basis, regardless of whether such income is distributed. The income is taxed at graduated rates, with the highest rate being 35%. However, certain types of qualified dividends and long-term capital gains are taxable to the individual investors at the rate of 15% or lower, depending on their income-tax bracket. When investors dispose of their holdings in a fiscally transparent fund, capital gains may arise to the extent that the tax base of the investors in the fund (adjusted for the income allocable to the investor over the life of the fund and contributions and distributions) is different from the amount realised.

For non-fiscally transparent foreign funds there is, generally, no tax on current income or capital gains earned by the fund with respect to a particular investor, unless such an investor makes a qualified electing fund (QEF) election with respect to such fund. There are certain procedural requirements that have to be satisfied by the fund and certain information statements need to be provided in order for an investor to make a QEF election.

If a QEF election is made, the investors are taxable on an accruals basis on the income that is earned by the fund. If a QEF election is not made, any gains realised on disposition of an interest in a non-fiscally transparent fund or certain distributions from it are treated as taxable. This tax is increased by a deferred tax amount. The computation of the deferred tax amount attempts to subject a portion of the gain realised on a distribution or sale attributable to each year of the holding period to an interest charge and the tax at the highest applicable income tax rate in effect for that year. Note that QEF considerations are only relevant for US investors that are subject to US tax.

As mentioned above, US tax-exempt investors invest through a non-fiscally transparent corporation fund. This is due to US unrelated business income tax (UBIT), which is imposed on certain income that is not connected with the tax-exempt purpose. A UBIT liability arises with respect to income from a trade or business regularly carried on and not substantially related to a not-for-profit entity's exempt purpose. A UBIT liability could also arise with respect to certain debt financed property income. By investing through a non-fiscally transparent fund, US not-for-profit investors are able to isolate themselves from the UBIT liability (mainly related to the debt financed income) as the only income that they would receive from the fund would be in the form of dividends that are not subject to the UBIT. Note that since not-for-profit investors are not subject to tax in the US, the QEF considerations are not relevant for them. Finally, non-US managers looking to market their funds to US investors should be prepared for the significant tax-compliance costs that they will face to prepare information in accordance with US tax principles.

Table 1 – Availability of hedge funds and fund-of-hedge funds to investors by country at May 2007

Country	Single strategy hedge funds			Fund-of-hedge funds			Minimum investment Amount	Average time taken to set up a fund?
	Domestic	EU domiciled?	Other domiciles?	Domestic	EU domiciled?	Other domiciles?		
Austria	✗	✓	✓	✓	✓	✓	nil – minimum investment amounts can be set by the hedge funds individually.	Approximately 4 to 6 months.
Bahamas	✓	✓	✓	✓	✓	✓	N/A	Professional funds – 3 days. Recognised foreign funds – 1 day SMART Funds – for an approval template will vary between 2 days and a week. Standard funds – 4 weeks.
Belgium	✓	✓	✓	✓	✓	✓	N/A	N/A
Bermuda	✓	✓	✓	✓	✓	✓	$ nil (retail) $50,000 (administered fund) $100,000 (institutional fund).	Set-up can be a 2 stage process: 1) incorporation – 1 day (to allow bank accounts, etc to be created) and 2) fund approval by BMA – 2 to 3 days.
Canada	✓	✓	✓	✓	✓	✓	$nil [1]	3 to 6 months
Cayman Islands	✓	✓	✓	✓	✓	✓	$100,000 (Cayman-regulated funds) $nil (retail).	1 day for Cayman-regulated funds.
Denmark	✓	✓	✓	✓	✓	✓	Depends on type of investors the fund is marketed to and the type of fund.	6 to 8 weeks from filing all required documents with the Danish Financial Supervisory Authority.
Finland	✓[2]	✓	✓	✓	✓	✓	€nil – funds may set own requirements for minimum amounts.	4 to 6 months.[3, 4]
France	✓	✓	✓	✓	✓	✓	€10,000 for funds-of-hedge funds. Generally either €125,000 (Aria Funds) or €250,000 (Contractual Funds) for single manager funds.	Once the manager is authorised by the Autorité des Marchés Financier (AMF), it may take a further 3 to 6 months to set up a single manager hedge fund.
Germany	✓	✓[5]	✓[5]	✓	✓	✓	€nil Domestic hedge funds and funds-of-hedge funds.	3 to 6 weeks. Foreign funds-of-hedge funds: maximum 4 months.[6]
Gibraltar	✓	✓	✓	✓	✓	✓	Depends on type of investors the fund is marketed to and the type of fund.	2 months
Greece	✗	✓[7]	✓[7]	✗	✓[7]	✓[7]	N/A	N/A
Guernsey	✓[8]	✓	✓	✓[8]	✓	✓	Depends on type of investors the fund is marketed to and the type of fund.	Depends on nature and type of fund but can range from a minimum of 3 days to 6 to 8 weeks.
Hong Kong	✓	✓	✓	✓	✓	✓	The minimum level of initial subscription by each investor must not be less than US$50,000. For funds-of-hedge funds, the minimum level of initial subscription must not be less than US$10,000.	Approximately 1 to 3 months.
Ireland	✓	✓	✓	✓	✓	✓	Single manager hedge funds: [9] €125,000 or €250,000.	24 hours for QIFs; 6-8 Weeks for all other fund structures.
Isle of Man	✓	✓	✓	✓	✓	✓	£nil	3 days
Italy	✓	✗	✗	✓	✗	✗	€500,000	6 to 8 months
Jersey	✓	✓	✓	✓	✓	✓	$nil or $100,000 [10]	3 days
Liechtenstein	✗	✓	✓[11]	✓	✓	✓	CHF nil	4 months
Luxembourg	✓	✓	✓	✓	✓	✓	€nil except for SIF where the minimum investment is €125,000.	2 to 3 months except for SIF where the time to market is very short as NO pre-approval by the Regulator is required.

Country	Single strategy hedge funds			Fund-of-hedge funds			Minimum investment Amount	Average time taken to set up a fund?
	Domestic	EU domiciled?	Other domiciles?	Domestic	EU domiciled?	Other domiciles?		
Malta	✓	✓	✓	✓	✓	✓	US$20,000 in the case of an Experienced Investor Fund, US$100,000 in the case of a Qualifying Investor Fund, or US$1,000,000 in the case of an Extraordinary Investor Fund.	If filing of all required documents with the Malta Financial Services Authority is carried out, 7 working days in the case of an Experienced and Qualifying Investor Fund and 3 working days in the case of an Extraordinary Investor Fund.
Netherlands	✓	✓	✓	✓	✓	✓	€nil	Approx 1 month for managers established in countries with adequate supervision, regular licence application for manager approx 3 to 6 months.[12]
Netherlands Antilles	✓	✓	✓	✓	✓	✓	€nil	2 to 4 weeks
Norway	✗	✗	✗	✗	✗	✗	N/A	N/A
Portugal	✓	Information unavailable [13]	Information unavailable [13]	✓	Information unavailable [13]	Information unavailable [13]	€15,000 or €30,000 [14]	1 to 2 months for a straight forward fund; longer for more complex funds.
Russia	✗	✗	✗	✗	✗	✗	N/A	N/A
South Africa	✓	✓	✓	✓	✓	✓	ZAR nil [15]	No regulatory time period, but current structures can be complex to avoid being classified as a collective investment scheme.
Spain	✓	✓	✓	✓	✓	✓	€50,000 for subscription to single manager Hedge Funds.	Standard regulatory 3 month period for authorisation of collective investment undertakings.
Sweden	✓	✓	Possibly	✓	✓	Possibly	SEK nil	Domestic hedge funds: up to six months from completing the application. Other domiciles: approximately two months.
Switzerland	✓	✓	✓[16]	✓	✓	✓[16]	CHF nil	1 to 2 months for funds eligible for simplified approval process. For other funds 3 to 12 months.[17]
United Kingdom	✓	✓	✓	✓	✓	✓	£250 to £250,000	2 to 6 months.
USA	✓	✓	✓	✓	✓	✓	$nil	3 to 6 months.

Table 1 notes

Canada	**1.**	Minimum investment depends on method of distribution.
Finland	**2.**	Hedge funds are formed as Special Funds (usually Special Common Funds).
	3.	The Financial Services Authority (FSA) must be notified or a licence must be obtained when marketing mutual funds or special common funds.
	4.	Under the Mutual Funds Act, UCITS funds may commence marketing their units two months after the submission of the relevant notification, unless the FSA has special cause to prohibit the commencement of marketing.
Germany	**5.**	The average time for authorisation depends on the complexity of the investment strategy and the product structure.
	6.	Only via private placement.

Table 1 notes (continued)

Greece	**7.** Only via private placement, subject to the granting of a licence by the Capital Markets Committee.
Guernsey	**8.** Proposals to be enacted to allow all Regulated funds to be offered to Guernsey residents however Registered funds will not be capable of being offered to the public in Guernsey, but may be listed.
Ireland	**9.** Minimum investment amounts have been abolished for retail funds-of-hedge funds. Minimum investments are €125,000 for Professional Investor Funds (PIFs) and €250,000 for Qualified Investor Funds (QIFs).
Jersey	**10.** There is no minimum investment for professional or institutional investors or investors with a net worth above $1million. Otherwise the minimum initial investment is $100,000.
Liechtenstein	**11.** Generally, offshore products in jurisdictions not subject to adequate regulation and supervision will not be approved for public distribution in Liechtenstein. However, such products can be invested in by regulated funds-of-hedge funds, structured products, as well as by professional wealth managers and banks who manage customer accounts under a discretionary management agreement, provided hedge funds form part of the regular asset allocation for the relevant client category that a particular client of a given asset manager falls into.
Netherlands	**12.** The periods stated are for (1) managers established in counties with adequate supervision (to be determined by the AFM). This is a new facility since for such countries a licence application is no longer necessary but only a registration with the AFM. Therefore, the period of 1 month is an estimate, or (2) established in an EU country. The AFM has determined that currently only a limited number of countries provide adequate supervision, including the United States.
Portugal	**13.** There are funds marketed in Portugal which are domiciled elsewhere but no information on whether these are EU or non-EU. However, there is no information publicly available on whether any of these are hedge funds and if so whether they are single strategy hedge funds or funds-of-hedge funds.
	14. The minimum investment amount depends on the type of investments that the fund holds. If investments are made in other than marketable securities, UCITS, liquidity, financial derivatives the minimum investment applicable is €30.000.
South Africa	**15.** The minimum investment amount is at the discretion of the hedge fund manager. The Financial Services Board issued a discussion paper to assist in drafting hedge fund regulations. The paper suggested that ZAR250,000 should be considered reasonable as a minimum investment amount in a single-strategy hedge fund and that regulated funds-of-hedge funds might have no minimum investment amount.
Switzerland	**16.** Funds from jurisdictions not subject to adequate regulation and supervision will not be approved for public distribution in Switzerland. However, such funds can be distributed to qualified investors (which also include regulated funds-of-hedge funds); also, such funds can serve as underlying for structured products, or be used by banks, securities dealers and independent professional wealth managers who manage customer accounts under a discretionary management agreement, provided hedge funds form part of the regular asset allocation for the relevant client category that a particular client of a given asset manager falls into.
	17. Funds which use a standard fund regulations/fund prospectus of an industry organisation which are accepted as a minimum standard by the Swiss Federal Banking Commission (SFBC) are eligible for a simplified authorisation process: Qualified investor funds for alternative investments are automatically authorised four weeks after acknowledgement of receipt of the fund application by the SFBC, however the SFBC can request changes of the fund application documents for up to three months; public funds for alternative investments are authorised within eight weeks after acknowledgement of receipt of the fund application by the SFBC, unless the SFBC requires further information which stops the authorisation period. The authorisation for all other domestic funds for alternative investments not eligible for the simplified authorisation process will be in the range of three to 12 months, depending on the quality of application documents, the complexity of the fund and the profile of the applicant at the SFBC.

Table 2 – Channels of distribution of hedge funds by country at May 2007

Country	Main marketing channels							Summary of regulations currently governing distribution of hedge fund products and significant non-tax barriers to development of new distribution channels	Restrictions on location of key service providers service providers?
	Banks	Fund distribution companies	Via Wrappers	Private placement	Investment managers	Other regulated financial services institutions	Non-regulated financial intermediaries		
Austria	✓	✓	✓	✓	✓	✓		If a foreign hedge fund qualifies as an investment fund within the meaning of the Austrian law, public distribution will require the permission of the Austrian Financial Market Authority (FMA). Such permission will not be granted where the fund undertakes uncovered short selling, if investors can be obliged to make additional contributions or if loans exceed 10% of the fund's assets.	✗[1]
Bahamas				✓	✓			Hedge fund products not generally available to retail investors in the Bahamas.	✓[2]
Belgium	✓		✓	✓				Domestic legislation effectively prevents the establishment of domestic hedge funds. Public distribution of foreign hedge funds is not permitted except through bond wrappers, life wrappers or capital protected or capital guaranteed fund of fund wrappers.	✗
Bermuda	✓			✓	✓			Distribution to retail investors is governed by the Investment Funds Act 2006.	✓[3]
Canada	✓	✓	✓	✓	✓	✓		Registration status is determined based on whether the hedge fund is distributed under a prospectus, under prospectus exemptions or through a linked product. Know your client and suitability requirements exist for dealers in the distribution chain.	✗
Cayman Islands	✓			✓	✓			A Cayman-domiciled fund cannot be distributed to retail investors in the Cayman Islands unless it is registered as a licensed fund under the Mutual Funds Law or it is listed on a recognised stock exchange. If the fund is structured as a Cayman offshore company, then it must be listed on the Cayman Islands Stock Exchange.	✓[4]
Denmark	✓			✓	✓			Full FSA approval is required for distributing domiciled funds and funds domiciled outside the EEA. Other hedge funds registered in EU countries must give notice to the Danish FSA before cross-border distribution.	✗[5]
Finland	✓	✓			✓			The Mutual Funds Act on Common Funds governs the distribution of Common Funds (UCITS) and Special Common Funds (non-UCITS). Domestic hedge funds are generally formed as SCFs. The Securities Market Act governs distribution of non-Finnish funds that are available only to institutional investors (for which no marketing licence is required. The FSA must be notified prior to the commencement of marketing of UCITS funds. Non-EU mutual funds marketing their units to retail investors must obtain a licence from the FSA.	✗
France		✓	✓	✓	✓			Hedge funds and hedge fund-like products are regulated as either Authorised Funds with Simplified Investment Rules (OPCVM Agreés a Regles d'Investissement Allégées – ARIA) or Contractual Mutual Funds (OPCVM Contractuels) under the Financial Securities Act of 2004 and may be marketed to different categories of investors including retail investors.	✗[6]
Germany	✓[7]					✓	✓[8]	Single strategy hedge funds may not be publicly distributed to retail investors. Funds-of-hedge funds, whether foreign or domestic, may be publicly distributed to retail investors with the permission of BaFin. Generally, aside from the duty to publish a prospectus, publicly distributed wrapper products are not subject to direct supervision. However, it has recently been debated whether offshore issuers of such products are required to comply with licensing requirements applying to the cross-border provision of banking services.	✓[9]
Gibraltar	✓				✓	✓		None.	✓[10]
Greece				✓				Domestic funds are regulated according to their legal form, however Greek legislation effectively prevents the establishment of domestic hedge funds. All non-UCITS funds seeking to distribute to retail investors are required to obtain a licence from the Capital Markets Committee. Distribution of foreign hedge funds tends to be by private placement only and outside the scope of the regulatory framework.	✗
Guernsey	✓	✓	✓	✓	✓	✓	✓	Hedge funds can be distributed globally, subject to the rules of the territory in which they are being promoted.	✗

Country	Main marketing channels							Summary of regulations currently governing distribution of hedge fund products and significant non-tax barriers to development of new distribution channels	Restrictions on location of key service providers service providers?
	Banks	Fund distribution companies	Via Wrappers	Private placement	Investment managers	Other regulated financial services institutions	Non-regulated financial intermediaries		
Hong Kong – retail funds	✓	✓				✓	✓	Hedge funds which are marketed to the Hong Kong public must be authorised by the Securities and Future Commission in Hong Kong.	✗
private funds					✓	✓	✓		
Ireland	✓[11]			✓	✓	✓[12]		Hedge funds domiciled outside Ireland, which are seeking to market publicly in Ireland, must be approved by the Financial Regulation.	✓[13]
Isle of Man		✓	✓[14]	✓	✓			Hedge funds can be distributed worldwide, subject to the rules of the territory in which they are being sold.	✓[15]
Italy				✓				Authorisation to establish domestic hedge funds (single strategy and fund-of-hedge funds) is granted by the Bank of Italy, who must approve the fund's constitutional documents. Hedge funds may not be offered publicly in Italy.	✓[16]
Jersey	✓	✓	✓	✓	✓	✓	✓	Hedge funds can be distributed globally, subject to the rules of the territory in which they are being promoted.	
Liechtenstein	✓							Regulated open ended Liechtenstein hedge funds or fund-of-hedge funds and foreign regulated hedge funds approved for distribution in Liechtenstein can be sold to retail, high-net-worth and institutional investors. Alternatively, a bank or other professional asset manager can distribute hedge funds and funds-of-hedge funds within the scope of an approved and disclosed formal asset allocation policy, based on a discretionary management contract with the client. The distributor of IUG regulated funds generally either is an FMA regulated institution or else has to obtain the FMA's approval as a distributor. Furthermore, hedge funds and funds-of-hedge funds not approved for distribution in Liechtenstein may form part of the asset allocation policy applied to clients' portfolios managed under discretionary management contracts, and can be sold to investors on their own request, but must not be publicly advertised or promoted.	
Luxembourg	✓					✓		Hedge funds domiciled outside Luxembourg seeking to market to the public in Luxembourg must be approved by the Commission de Surveillance du Secteur Financier ('CSSF'). Only funds which are subject to adequate prudential supervision in their country of origin will be approved.	
Malta	✓	✓		✓		✓		In order for hedge funds to be marketed in Malta, they must first be approved by the Malta Financial Services Authority.	✓[17]
Netherlands			✓		✓	✓		The Act on Financial Supervision or 'AFS' provides licence requirements for investment managers.	✓[18]
Netherlands Antilles				✓				Netherlands Antilles – domiciled funds are generally not available to retail investors in the Netherlands Antilles.	✓
Norway								Under current regulations, the Norwegian Securities Fund Act prohibits the solicitation of subscriptions in hedge funds, from both individuals and legal entities, although foreign hedge funds may be actively promoted in Norway with the permission of the Norwegian Financial Supervision Authority (FSA). However, we understand that no foreign hedge fund has been granted permission by the FSA to be promoted in Norway. The Ministry of Finance issued a consultation paper proposing to allow hedge funds to be marketed to professional investors. The consultation period ended in April 2005, but the Ministry has not yet announced whether the Securities Fund Act will be changed in order to allow solicitation of subscriptions in hedge funds to professional investors.	
Portugal	✓							**Domestic/EU-domiciled funds** Special Investment Funds (SIFs) may be distributed only to specific investors as defined in their constitutional documents. CMVM may refuse to authorise the distribution of SIFs to certain investor types if it has concerns that a fund will not adequately protect investors. Foreign funds that are EU domiciled can be distributed in Portugal provided that CMVM does not oppose to the distribution and authorises the related contract. **Non-EU-domiciled fund or EU domiciled funds that do not follow the EU directive 85/611/CEE** These are also required to be authorised by CMVM prior to distributing publicly in Portugal. Authorisation will not be granted if the distribution conditions and the fund itself do not provide the investor similar security and protection conditions to those of the funds domiciled in Portugal.	✓[19]

Country	Main marketing channels							Summary of regulations currently governing distribution of hedge fund products and significant non-tax barriers to development of new distribution channels	Restrictions on location of key service providers service providers?
	Banks	Fund distribution companies	Via Wrappers	Private placement	Investment managers	Other regulated financial services institutions	Non-regulated financial intermediaries		
Russia				✓				Hedge funds may only be distributed by private placement.	✗
South Africa	✓		✓	✓	✓			Hedge fund managers are not currently allowed to actively solicit investments into their funds. The restriction on marketing covers foreign hedge funds sold in South Africa as well as domestic hedge funds. Banks and insurance companies currently dominate distribution. A collective investment scheme managed outside South Africa, must at all times have a representative office in South Africa and maintain a minimum capital amount of ZAR2 million (invested in liquid assets) in order to distribute in South Africa.	✓
Spain	✓	✓		✓	✓	✓[20]		Under Spanish legislation, the marketing of to domestic or foreign single manager hedge fund products confined to qualified investors as defined under the Prospectus Directive (it does not mean that retail investors are prevented from investing in such categories provided certain conditions are met). Retail investors may invest in single manager hedge funds and funds-of-hedge fund products subject to certain conditions and representations about their knowledge about the risk of such type of products. This representation is not necessary in case of investment under a portfolio discretionary management basis. Any category of foreign hedge fund product, which intend to distribute shares/units in Spain under the same conditions as those prescribed for Spanish products is required to obtain prior authorisation of the CNMV.	✓[21]
Sweden	✓	✓			✓	✓		Activities aiming to further the sale of any product or service in Sweden, including securities and fund shares, are subject to the provisions of the Swedish Marketing Practices Act.	✓[22]
Switzerland	✓	✓	✓	✓	✓	✓		There are no restrictions for retail investors to invest in shares of closed ended investment companies listed on a regulated stock exchange (funds-of-hedge funds), as these are not in the scope of the CISA. CISA regulated open ended Swiss hedge funds or funds-of-hedge funds and foreign regulated hedge funds approved for public distribution in Switzerland can be sold to retail and/or qualified investors. Investments in closed-end CISA regulated limited partnerships can only be distributed to qualified investors. Banks, securities dealer and other independent professional asset managers can use regulated and non-regulated domestic and foreign hedge funds and funds-of-hedge funds on the basis of discretionary management contracts with clients. Furthermore, hedge funds and funds-of-hedge funds not approved for distribution in Switzerland may be sold via private placement to qualified investors. Distributors of CISA regulated funds or SFBC registered foreign funds are either a SFBC regulated institution or are required to obtain the SFBC's approval as a distributor prior to commencing distribution.	✓[23, 24]
UK	✓		✓	✓	✓			Hedge funds should not be promoted to the public. However, there are a number of products that are aimed at, and promoted to, the retail market in the UK with hedge fund exposure. These have typically been structured as UK listed companies, which are funds-of-funds.	✗
USA				✓				In the USA, marketing rules governing hedge funds are covered by: (1) the rules of the SEC, which govern much of the activities of investment advisors. (2) State/Blue Sky regulations. (3) The rules of the NASD, which regulate the offering of hedge funds by registered representatives of broker dealers who offer hedge funds. The majority of hedge funds and funds-of-hedge funds are sold via private placements, however funds may register with the SEC and be offered more widely.	✗

Table 2 notes

Austria	**1.**	Foreign funds need to appoint a custodian bank, a paying agent as well as a legal representative in Austria. Only Austrian credit institutions or domestic branches of an European Economic Area credit institution can take over these functions.
Bahamas	**2.**	Foreign funds must appoint a representative in the Bahamas who is approved by the Securities Commission.

Table 2 notes (continued)

Bermuda	**3.**	The custodian and administrator must be located in Bermuda for Bermuda domiciled retail funds, although the Bermuda Monetary Authority (BMA) may grant exemptions or permit services to be sub contracted outside Bermuda in certain circumstances.
Cayman Islands	**4.**	Funds registered with CIMA are required to appoint a local CIMA approved auditor.
Denmark	**5.**	Domestic hedge associations are required to appoint a bank as the depository. This bank is required to have its registered office in Denmark or be a corresponding foreign credit institution with a branch in Denmark and with its registered office within the EU or EEA.
France	**6.**	The custodian must be located in the EU.
Germany	**7.**	Banks may distribute overseas hedge funds by issuing wrapper products.
	8.	Only funds-of-hedge funds may be distributed by non-regulated financial intermediaries.
	9.	For domestic funds, both the investment manager and custodian bank are required to be located and regulated in Germany.
Gibraltar	**10.**	The custodian, investment manager and trustee must be registered in Gibraltar and must be regulated.
Ireland	**11.**	Private banks only.
	12.	Brokers only.
	13.	Irish domiciled hedge funds must appoint an Irish trustee/custodian and fund administrator and perform certain other tasks in Ireland.
Isle of Man	**14.**	Wrapper products issued by insurance companies only.
	15.	Day-to-day operations of Professional Investor Funds and Experienced Investor Funds must be carried out in the Isle of Man.
Italy	**16.**	The depository bank for Italian hedge funds must be located in Italy, however this could be an Italian bank or a branch of an EU bank located in Italy.
Malta	**17.**	The custodian/prime broker, administrator, manager and advisor appointed by the Fund must be located in an established, regulated and recognised jurisdiction, which include members of the EU or EEA and some third countries.
Netherlands	**18.**	Outsourcing of services to external service providers by a regulated investment vehicle is possible provided certain restrictions are met. The investment manager remains responsible for the outsourced activities and outsourcing may not hinder supervision. Outsourcing of the execution of the investment policy is only allowed to regulated entities. There must be an outsourcing agreement in place that meets certain requirements.
Portugal	**19.**	Domestic funds must appoint a local bank or a local branch of an EU bank as custodian. It is possible for the investment management function of domestic funds to be subcontracted to an entity either in Portugal or in the EU, subject to certain conditions and to the management company keeping its ultimate responsibilities. Outside the EU, authorisation can also be granted where regulation in the country of the investment manager is deemed by the Portuguese regulator to be of an acceptable standard and the cooperation between the regulators is secured.
Spain	**20.**	ISD Firms and financial intermediaries.
	21.	Domestic funds must appoint a local bank or a branch of an overseas bank in Spain as Custodian. Additionally, regulations require that any outsourcing entity can demonstrate appropriate experience in performing the outsourced activity and the local hedge fund manager must have proper follow-up resources and systems to ensure adequate monitoring of the activities outsourced. In any case, outsourcing should not imply ‘letter-box’ management companies in Spain.
Sweden	**22.**	Funds must have a domestic paying agent for the settlement of subscriptions, redemptions, distributions.
Switzerland	**23.**	Domestic open ended hedge funds and funds-of-hedge funds must appoint a domestic administrator (except for self-administrated SICAVs) and a domestic custodian. Closed-end CISA regulated hedge funds and fund-of-hedge funds have to appoint a domestic custodian and paying agent. Hedge funds, upon approval by the SFBC, can use foreign professional prime brokers.
	24.	Foreign hedge funds and funds-of-hedge funds approved for public distribution in Switzerland are required to appoint an SFBC approved domestic representative and a domestic paying agent for the settlement of subscriptions, redemptions and distributions.

Table 3 – Regulation of hedge fund managers by country at May 2007

Country	Name of regulator	Minimum capital required to operate as hedge fund manager	Notes
Austria	Finanzmarktaufsicht (FMA)	Varies	1
Bahamas	Securities Commission of The Bahamas	$25,000	
Belgium	Banking, Financial and Insurance Commission	N/A	2
Bermuda	Bermuda Monetary Authority (BMA)	None	3
Canada	Canadian Securities Administrators ("CSA")	None	4
Cayman Islands	Cayman Islands Monetary Authority (CIMA)	Cayman-domiciled investment managers must register under the Securities Investment Business Law (SIBL). An exemption from the normal US$500,000 minimum capital, audit and financial statement filing requirement is available where the funds being managed are only open to institutional and high net worth investors.	
Denmark	Danish Financial Supervisory Authority	Total assets of at least DKK25 million (approximately €3.4 million) and intangible assets are not included in total assets.	
Finland	Financial Supervision Authority (FSA)	€125,000. plus 0.02% of assets under management in excess of €250 million (subject to an overall maximum capital requirement of €10 million).	
France	Autorités des Marchés Financiers (AMF)	Net equity must be maintained at a level equal to the greater of: – 25% of annualised expenditure; and – €125,000 + 0.02 % of asset under management in excess of €250 million.	
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin)	Initial capital of at least €730,000 (€300,000 according to the modifications of the German Investment Act scheduled to be implemented in autumn 2007) plus an ongoing capital requirement based on assets under management. Own funds shall at no time be less than 25% of annual operating expenses.	
Gibraltar	Financial Services Commission (FSC)	£10,000 of paid up share capital if no staff or premises, otherwise the higher of £25,000 and 3 months' expenditure.	
Greece	N/A	N/A	
Guernsey	Guernsey Financial Services Commission (GFSC)	£10,000 of paid up share capital if no staff or premises, otherwise the higher of £25,000 and 3 months' expenditure.	5
Hong Kong	Securities and Futures Commission (SFC)	Minimum paid-up share capital: Nil to HK$30,000,000 minimum liquid capital: HK$100,000 to HK$15,000,000, depending on the nature and scope of the activities.	
Ireland	Irish Financial Services Regulatory Authority (IFSRA)	Promoters of Irish-domiciled hedge funds must maintain minimum regulatory capital of €635,000.	6
Isle of Man	Financial Supervision Commission (FSC)	The greater of £75,000, or 3 months' expenditure.	
Italy	Bank of Italy; Commissione Nazionale per le Società e la Borsa	€1,000,000 (although this can be larger depending on the nature and scale of investment management activities).	
Jersey	Jersey Financial Services Commission (JFSC)	£25,000	7
Liechtenstein	Finanzmarktaufsicht (FMA)	Varies	8
Luxembourg	Commission de Survéillance du Secteur Financier (CSSF)	€125,000 (Type 2 managers); €1,500,000 (Type 3 managers)	9
Malta	Malta Financial Services Authority	For a category 2 licence holder – shall be the higher of (i) and (ii) below: (i) Initial Capital (ii) The higher of the following: • The sum of the non trading business risk components, the trading book business risk components, the commodities instruments – risk component, the large exposures risk component and the foreign exchange risk component; • The fixed overheads requirement. Initial capital being equity capital and reserves with a minimum of €125,000 The above requirements reflect the transposition of the capital adequacy requirements laid down in directives 2006/48/EC and 2006/49/EC.	
Netherlands	Netherlands Authority for the Financial Markets (AFM) for supervision of market conduct. Dutch Central Bank (DCB) for prudential supervision	€225,000 (non-UCITS manager) if it manages assets of at least EUR 250 million. EUR 125,000 (non-ucits manager) if it manages assets of less than EUR 250 million.	
Netherlands Antilles	Central Bank of Netherlands Antilles	N/A	
Norway	Financial Supervisory Authority of Norway	€125,000	
Portugal	Portuguese Securities Market Commission (CMVM)	(i) €€250,000 (share capital) plus a requirement based on assets under management. (ii) €€7,500,000 (own funds) for managers of closed ended vehicles other than investment funds management company.	10
Russia	N/A	N/A – hedge fund managers are not regulated in Russia.	
South Africa	Financial Services Board (FSB)	N/A	11
Spain	Comisión Nacional del Mercado de Valores (CNMV)	€300,000 plus additional own funds requirements based on the level of assets under management and their net income received from its management activities.	

Country	Name of regulator	Minimum capital required to operate as hedge fund manager	Notes
Sweden	The Swedish Financial Supervisory Authority	€125 000 initial capital. In addition, capital equal to 3 months' annualised expenditure must be maintained, plus 0.02% of assets under management in excess of €250 million (up to a maximum capital requirement of €10 million).	
Switzerland	Swiss Federal Banking Commission (SFBC)	Minimum capital of CHF200'000 fully paid (or bank guarantee for natural persons and non-corporate entities). Additional regulatory capital of up to CHF 20 million, depending on assets under management and fixed operating cost of the hedge fund manager. Net regulatory capital has to cover at least 25% of the fixed expenses per the last annual financial statements of the hedge fund manager.	12
UK	Financial Services Authority (FSA)	Regulatory capital must generally be equivalent to three months' fixed overheads.	13
USA	The Securities and ExchangeCommission (SEC) and, in some cases, the Commodity FuturesTrading Commission (CFTC)	None	14

Table 3 notes

Austria	**1.**	The FMA is only responsible for Austrian banks and Austrian ISD firms: if a bank is the manager, the capital requirement is €5 million (€2.5 million for Austrian ManCos); if an ISD firm is the manager, the capital requirement is either €50,000 or €125,000 depending on scope of services provided.
Belgium	**2.**	Hedge fund managers may only operate private hedge funds (public distribution of hedge funds in Belgium is not allowed (except through bond wrappers, life wrappers or capital guaranteed or protected fund of fund wrappers)). Hedge fund managers operating such funds are not subject to any specific prudential controls.
Bermuda	**3.**	Domestic hedge fund managers are not regulated in Bermuda unless they are distributing funds to residents of Bermuda, in which case they are required to be registered under the Investment Business Act.
Canada	**4.**	There is currently no requirement for a hedge fund manager to be registered unless they are also managing portfolio assets. This is currently under examination by the CSA as part of its Registration Reform Project. Current proposals would require minimum capital of CDN $100,000.
Guernsey	**5.**	There is no requirement to have a principal manager set up and regulated in Guernsey to operate either a closed or open ended hedge fund. The Guernsey hedge fund engages the services of a regulated Guernsey administrator.
Ireland	**6.**	Promoters of Irish-domiciled hedge funds must maintain minimum regulatory capital of €635,000.
Jersey	**7.**	There is no requirement to have a principal manager set up and regulated in Jersey to operate either a closed or open ended hedge fund. The Jersey hedge fund engages the services of a regulated Jersey administrator.
Liechtenstein	**8.**	The initial capital in the case of a fund management company must be at least CHF1 million. A self-managed investment company is required to have an initial capital of at least CHF500,000 (or a bank guarantee for an equivalent amount). The initial capital of a investment company managed by a third management company is at least CHF 50,000.
Luxembourg	**9.**	Type 2 and Type 3 managers manage non-UCITS funds domiciled inside and outside of Luxembourg respectively. However, the implementation of MIFID is expected to change those rules with an harmonisation of capital requirements for both type of hedge funds managers to €125,000.
Portugal	**10.**	(i) €250,000 is the minimum share capital for an investment funds management company (Sociedade Gestora de Fundos de Investimento – SGFI); additionally, SGFIs are required to maintain own funds that are not less than the sum of 0.5% of the first €75 million of assets under management and 0.1% of any additional assets under management. (ii) For closed ended funds, other than the SGFI the manager can also be a credit institution (CI). The minimum share capital of a CI depends on the nature of its main activity, e.g. banking, leasing, etc. However, other than the share capital, to manage a closed ended fund a CI has a minimum requirement for own funds of €7.500.000.
South Africa	**11.**	As the hedge fund industry in South Africa is currently unregulated, there is no minimum capital requirement for hedge fund managers. Hedge fund managers are authorised by the FSB as Discretionary Financial Services Providers under FAIS. This is the category into which a traditional discretionary investment manager also falls. The FAIS is expected to be amended within the next few months to introduce a distinct category to accommodate hedge fund managers which may have its own minimum capital requirements.

Switzerland	**12.**	Applicable to hedge fund manager of Swiss collective investment schemes. Usually no minimum capital requirements are applicable to Swiss domiciled hedge fund managers of foreign hedge funds, as they are generally not regulated. If hedge fund managers manage foreign hedge funds subject to foreign supervision equivalent to Swiss supervision, and the foreign regulator requires a regulated hedge fund manager, they can voluntarily apply for an asset manager license of the Swiss Federal Banking Commission.
UK	**13.**	Detailed requirements depend on the precise activities of the manager.
USA	**14.**	Rules in the US generally require investment advisers to register with the SEC if they manage the assets of US clients. There are certain exemptions from registration for advisers that manage the assets of fewer than 15 clients (or for US-domiciled advisers that manage less than $25 million). Advisers who have their principal place of business outside the United States (Offshore Advisers) only need to count their US resident clients (determined at the time of initial investment) towards this 15-client threshold.

Table 4 – Taxation of hedge funds and hedge fund managers

<table>
<tr><th>Country</th><th>Single-strategy fund</th><th>Fund-of hedge funds</th><th>Hedge fund manager</th></tr>
<tr><td>Austria</td><td colspan="2">Fund is tax transparent</td><td>Subject to corporate income tax at the rate of 25%.</td></tr>
<tr><td>Australia</td><td colspan="2">Resident fund is tax transparent.</td><td>Subject to corporate income tax at the rate of 30%. However, if Offshore Banking Unit concession applies, tax rate is 10%.</td></tr>
<tr><td>Bahamas</td><td colspan="2">0%</td><td>0%</td></tr>
<tr><td>Belgium</td><td colspan="2">N/A</td><td>N/A</td></tr>
<tr><td>Bermuda</td><td colspan="2">0%</td><td>0%</td></tr>
<tr><td>Cayman Islands</td><td colspan="2">0%</td><td>0%</td></tr>
<tr><td>Denmark</td><td colspan="2">Tax exempt. Subject to a final withholding tax of 15% on dividends received on shares in Danish companies.</td><td>Taxed at corporate rates.</td></tr>
<tr><td>Finland</td><td colspan="2">Taxable at investor level if structured as a partnership. If structured as a special common fund, the fund is tax exempt.</td><td>26%</td></tr>
<tr><td>France</td><td colspan="2">Fund is tax transparent</td><td>Taxed at standard rates.</td></tr>
<tr><td>Germany</td><td colspan="2">Tax-exempt</td><td>A German domiciled hedge fund manager in the legal form of a corporation is taxed at a flat rate of 25% corporate tax plus trade tax (trade tax rate is applicable according to regional laws).</td></tr>
<tr><td>Gibraltar</td><td colspan="2">0% (No tax exempt certificates are now issued in Gibraltar and those that have been issued in the past will expire in 2010 per an agreement reached with the EU.)</td><td>0% (tax exempt companies) or 35% (there is a small company's rate of 20% which rises to 35% once taxable profits have exceeded £105,000).</td></tr>
<tr><td>Greece</td><td colspan="2">25%</td><td>25%</td></tr>
<tr><td>Guernsey</td><td colspan="2">05 (20% on Guernsey income excluding bank interest)</td><td>0% to 20%</td></tr>
<tr><td>Hong Kong</td><td colspan="2">0%/17.5%</td><td>17.5%</td></tr>
<tr><td>Ireland</td><td colspan="2">Tax-exempt</td><td>12.5% on trading profits; 25% on non-trading income</td></tr>
<tr><td>Isle of Man</td><td colspan="2">0%</td><td>Taxed at 0%.</td></tr>
<tr><td>Italy</td><td colspan="2">0% (only foreign qualified investors)/12.5%</td><td>33% (corporate income tax) and 4.25% / 5.25% (regional tax on productive activities).</td></tr>
<tr><td>Jersey</td><td colspan="2">0% (20% on Jersey income)</td><td>0% to 20%</td></tr>
<tr><td>Liechtenstein</td><td colspan="2">0%</td><td>Profits taxed under normal corporate tax regime from 7.5% to 15% (up to 20% if a distribution with a sum bigger than 8% of the capital of the company is made). Capital of the company is taxed at 0.2%. Additional withholding tax of 4% must be paid on distributions of corporations.</td></tr>
<tr><td>Luxembourg</td><td colspan="2">Tax-exempt, but registration duty of EUR 1,250 and annual subscription tax of 0.01% (for Specialized Investment Funds or sub-funds, the shares of which are dedicated to institutional investors) or 0.05% on funds NAV. For fund of hedge funds, no subscription tax is levied in respect of Luxembourg-domiciled underlying funds.</td><td>Profits taxed under normal corporate tax regime at 29.63% plus annual 0.5% Net Wealth Tax (on unitary value of the company). Capital duty of 1% is levied upon incorporation. The management company of a sole FCP could benefit from an exemption from income tax and net wealth tax.</td></tr>
<tr><td>Malta</td><td colspan="2">Maltese licensed hedge funds would typically have more than 15% of their investments situated overseas. Such funds are not taxed in Malta on their income or capital gains. Separate rules apply for funds having at least 85% of their investments situated in Malta.</td><td>Fund managers managing non-resident funds and / or local funds are subject to tax at the normal corporate rate of 35% (although effective tax leakage upon distributions to non-resident shareholders could be minimal due to local imputation system which would result in a refund of most of the tax paid on distributed profits).</td></tr>
<tr><td>Netherlands</td><td colspan="2">Dutch funds are either transparent or subject to a special tax regime (0% corporate income tax and a distribution to distribute profits which are subject to 15% dividend withholding tax). Another special regime is expected to become available in the 2nd half of 2007 that provides for a full exemption from corporate income tax and dividend withholding tax.</td><td>Income and capital gains taxed at normal corporate rates.</td></tr>
<tr><td>Netherlands Antilles</td><td colspan="2">0%</td><td>Taxed at 34.5%.</td></tr>
<tr><td>Norway</td><td colspan="2">N/A</td><td>Subject to corporate income tax at the rate of 28%.</td></tr>
<tr><td>Portugal</td><td>Domestic hedge funds that qualify as mutual funds are treated as tax transparent. Withholding tax is levied on distributions at rates of 10-25% depending on type of income received by the fund.</td><td>Domestic hedge funds that qualify as mutual funds are treated as tax transparent. Distributions from underlying funds are exempt.</td><td>Taxed at normal corporate rate of 25% plus 1.5% (maximum) municipal surcharge on taxable income.</td></tr>
<tr><td>Russia</td><td colspan="2">Funds incorporated as 'units investments funds' (UIF) are not recognised as separate legal entities and are exempt from profits tax. A 2.2% property tax is payable based on the value of the fund's fixed assets by either manager or investor. Shareholder funds are subject to tax on capital gains and other income.</td><td>Taxed at 24%.</td></tr>
</table>

Country	Single-strategy fund	Fund-of hedge funds	Hedge fund manager
South Africa	Fund is tax transparent.		Corporate managers taxed at 29%.
Spain	Corporate Tax on net profits at a 1% rate (for CII incorporated under Law 35/2003 – Real Estate funds have to comply with additional tax rules).		Corporate Tax on net profits at 32.5% rate in 2007 (30% in 2008).
Sweden	Realised income taxed with the exception of capital gains on shares and share-based derivatives.		Taxed at 28% on an accrued income/loss basis.
Switzerland	Can be either tax transparent or opaque depending on form. If opaque, taxed as a corporate and if transparent, no tax at fund level.		13-25% taxed on income depending on the canton the Hedge Fund Manager is domiciled.
Taiwan	Fund is tax transparent.		Subject to corporate income tax at the rate of 25%.
UK	Funds organised as OEICs/AUTs taxed on income at 20% with capital gains exempt from tax.Unauthorised unit trusts are taxed at 22%.		Corporate managers taxed at 30%. Fund (28% from 1 April 2008) managers organised as Limited Liability Partnerships are tax transparent. Income tax at Partner's marginal tax rate (up to 40% plus self employed NI) paid by partners.
USA	Hedge funds marketed to US investors are structured through a parallel or master-feeder structure. Under a parallel structure, a separate fund in the form of an offshore (e.g. Cayman or B.V.I corporation is set up for U.S. tax-exempt investors such as pension funds and not-for-profit entities and a US limited partnership ('LP') or a US limited liability company (LLC) fund is set up for US taxable investors, such as US individuals and corporations. Under the master-feeder structure the two funds invest in an offshore corporate vehicle (the 'master fund') which holds the investments and which makes an election to be treated as a partnership for US tax purposes. While the parallel structure normally allows for more flexibility with respect to structuring of the investments, a master-feeder structure can reduce administration costs as all the investments are held through a single vehicle.		

Contacts

PricewaterhouseCoopers Global Alternative Investment Management Industry Group – Our services and contacts

PricewaterhouseCoopers Global Alternative Investment Management Industry Group comprises a team of industry specialists who advise alternative investment managers in all aspects of the development of their businesses.

Our team of specialists serve 80 of the top 100 asset managers around the world.[1]

We serve as trusted business advisers to investment managers, distributors and other sponsors of investment partnerships, offshore funds and structured vehicles covering hedge funds and other alternative investment products.

PricewaterhouseCoopers services to hedge funds and alternative investment strategy managers include:

Assurance – We have experts in all relevant territories and our ongoing cooperation between offshore and onshore audit teams, allows us to provide a seamless assurance service to the funds and the various entities within the management structure, including audits and controls assurance.

Tax – We are a leading authority on the tax planning and structuring issues in relation to forming and operating hedge funds and other alternative investment products, including both domestic and cross-border structures. Our services include tax effective remuneration strategy and planning.

Advisory – We provide financial, tax and market due diligence and deal structuring services. Our advisory teams have assisted clients in strategic assessments of hedge fund businesses, preparing business plans and economic analyses, advising on operating structures and process improvement.

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[1] Source: P&I Watson Wyatt World 500, ranked by AUMs at 31/12/2005

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