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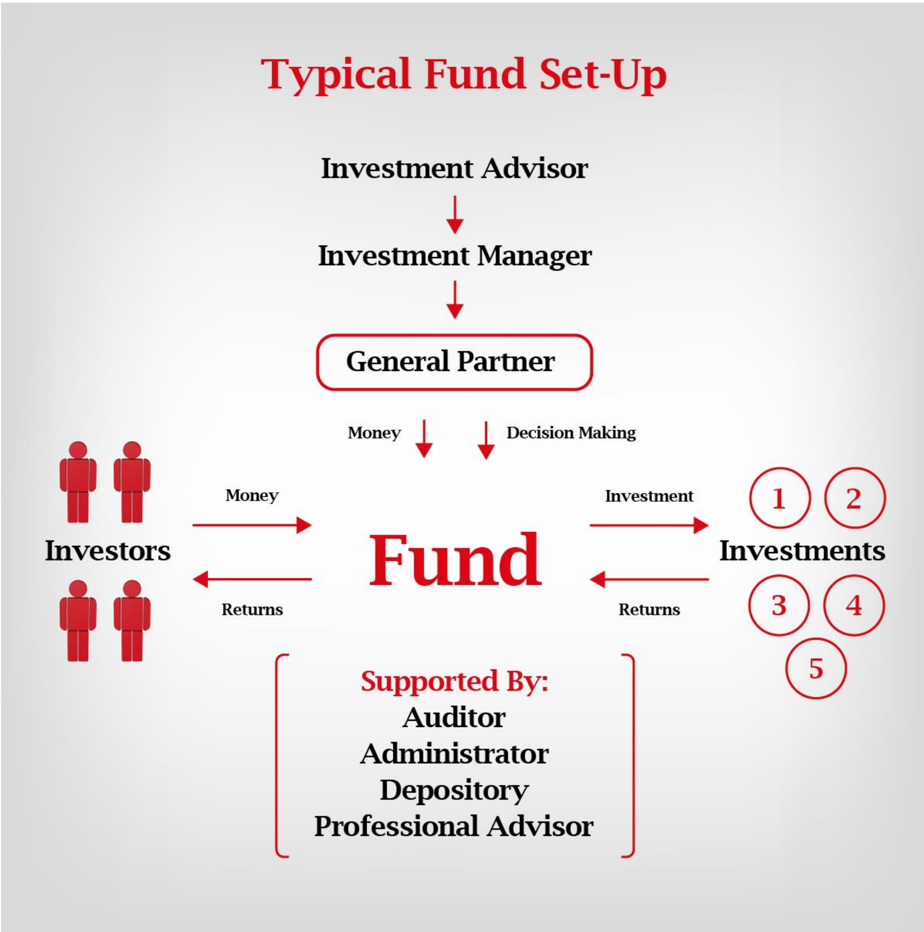
Funds Roles and Responsibilities

There are many different roles, functions and responsibilities associated with funds, with these roles varying according to how the fund is put together.

For example, the roles associated with a private fund may differ to an expert fund, and those associated with a limited partnership will differ to those of a company or unit trust.



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The different roles and responsibilities involved in a fund

Promoter

The financial regulator in Jersey – the Jersey Financial Services Commission (or JFSC) – describes a promoter as 'a person who is the driving force behind a scheme, such that, if the person were to withdraw from the proposals the scheme would not go ahead'. This means the promoter is generally the person or fund management business that has the investment idea and starts the fund.

In the majority of funds, the promoter will remain the same throughout the lifespan of the fund.

Investment manager or advisor

The promoter also usually acts as the investment manager/advisor. They will have a team that researches target investments and, with private equity funds in particular, they can often be directly involved in the operations of the businesses being invested in. An investment manager is appointed by a fund's board to make the investment decisions; whereas, an investment advisor provides advice with the actual investment decisions made by the board.

Investment management and investment advisory firms are often regulated, in Jersey's case by the JFSC, but this can vary according to where they are based and what the fund is investing in.

General partner

A general partner manages a limited partnership in line with its limited partnership agreement. As part of their role, the general partner will instruct the fund's other service providers, such as the investment advisor and administrator. As well as managing the business of the partnership, the general partner is liable for all of its debts, while investors, who are not involved in the management of the business, are only liable for the amount they invested.

Some funds operate with a manager, which can be a separate function from the actual management of investments. In this instance the management function tends to be more operational in nature and could actually involve the manager being delegated certain administrative functions.

Where a fund has an investment advisor and no separate investment manager it is known as a self-managed fund.

Administrator or registrar

A fund's board, general partner or trustee instructs an administrator to undertake any administrative work required for the fund. This can include maintaining financial records, producing financial statements and net asset valuation calculations, processing payments, maintaining records of investors, assisting with processing the fund's investments and providing support to ensure the fund complies with any regulations.

The administrator usually performs the related role of registrar, which involves maintaining the register of investors' interests and updating the register to reflect subscriptions, redemptions or transfers.

Trustee, custodian or depositary

A trustee, custodian or depositary is primarily responsible for the safe keeping of a fund's assets, which can include cash and securities, or it could be documents of title or even physical assets.

The regulatory status of a fund may determine the precise nature of custody required for a particular fund. For a retail fund for example, a bank with a significant balance sheet would usually be required to act as custodian, holding securities independently. For a private equity fund though, custody might be given to an administrator, who is simply required to hold documents of title.

Auditor

An auditor provides an independent 'opinion' on the annual financial statements of a fund. They will review the fund's financial records, including investment transactions undertaken before issuing an opinion to state whether the valuation of assets in the annual financial statements is accurate. Some funds need to be audited every year. If an auditor identifies any issues, they may issue a 'qualified opinion' aimed at highlighting problems such as with the valuation of the fund.

Professional advisors

Promoters need to consider the type of fund they are launching and where their target investors live before deciding on where the fund should be located. But a promoter will not usually have legal or tax expertise, so they will need to consult a relevant professional for certain decisions. For instance, a legal advisor could be contracted to draft documents, help with any regulatory applications and provide legal advice on marketing restrictions in specific countries. Such advice will help the promoter decide the fundraising strategy.

Tax advisors, on the other hand, will advise a promoter on the tax implications of a particular fund structure and help the promoter choose a structure that works for both the promoter and target investors.

Investor

As much as a scheme would not go ahead without a promoter, it could equally not go ahead without investors. An investor puts their money into a fund based upon their personal investment objectives, i.e. they might be seeking capital growth, a regular income, or a combination of both. Investors range from being non-professional individuals to highly sophisticated, financial institutions, such as pension funds. Non-professional investors tend to invest smaller amounts in discretionary managed funds- where an investment manager decides on what to invest in on behalf of the fund and its investors – 'retail' funds where the degree of risk is lower. Institutions, on the other hand, will look at a whole range of fund types including hedge and private equity.

Jersey's funds regime does cater for retail funds but these were much more prevalent in the 1980s and 1990s and the industry has evolved over time to be geared more towards the servicing of the alternative investment fund structures aimed at sophisticated and professional investors.

Prime brokers

As well as having a custodian or depositary some hedge funds might appoint prime brokers. These are banks or other firms that provide a range of services including lending, where particular strategies can be employed by the investment manager/advisor to either manage risk or increase returns.

Placement agents

Some promoters and fund boards may instruct placement agents who maintain relationships with a large network of (typically institutional) investors and can help with fund raising.

Example

This example describes a typical private equity fund, operating in Jersey as a limited partnership under the expert fund regime.

1. Promoter, often London-based, has an investment idea.

2. Promoter consults with legal and tax advisors, who recommends using Jersey.

3. Jersey legal advisors appointed.

4. Administrator appointed and an auditor, if setting up an expert fund.

5. Fund established by the general partner, typically a company licensed as a fund services business, and an initial limited partner – usually a company ran by the administrator – which exits once investors are brought onboard.

6. General partner’s directors and the fund approved by the JFSC.

7. Fund launches following a board meeting to officially engage the promoter, administrator and auditor.

8. Fund ready to accept investors and start making investments.