

Business Update:

Using Isle of Man Holding Companies for IPOs

Isle of Man companies have been used as listed holding companies for a wide variety of international businesses, from small start-ups to large multinational groups.

This briefing note examines the reasons why Isle of Man companies have been so popular as listing vehicles and highlights the benefits an Isle of Man holding company could offer for groups seeking to raise funds via the international capital markets.

Key advantages of an Isle of Man holding company

Tax neutrality

Tax neutrality at the holding company level: an Isle of Man company is not subject in the Isle of Man to any income or capital taxes, there are no withholdings on account of Isle of Man tax on the payment of dividends or interest on loans, and no stamp duty or other similar taxes are levied in the Isle of Man on the issue or transfer of shares in an Isle of Man company.

VAT

The Isle of Man is the only offshore jurisdiction that is part of an onshore VAT network, allowing an Isle of Man holding company to VAT group with other group companies in the UK on an expedited basis through the Isle of Man Government's Customs and Excise Division. The ability to deal with VAT registration and filings in the Isle of Man is a potential advantage for any UK or EU business seeking to establish a holding company in a tax neutral jurisdiction and is a clear differentiator between the Isle of Man's international offering and the offerings of other offshore jurisdictions.

Where an Isle of Man company (which is established simply to hold shares in subsidiary companies) seeks a listing in New York, Toronto, Singapore or Hong Kong, the Isle of Man's VAT status is likely to be immaterial given that a large majority of the professional fees payable by the company in connection with such a listing are unlikely to be subject to VAT.

Company Law

The Isle of Man Companies Act 2006 provides a robust legal framework for a flexible and cost-effective corporate vehicle that is

very attractive for both international businesses and investors. Key benefits include:

- a company's articles of association can be structured in such a way as to meet the expectations of investors and accommodate the requirements of any relevant listing rules;
- there are no prescriptive content requirements for offering documents; such documents must simply contain all material information required to enable informed investment decisions to be made by recipients;
- shares can be traded through CREST (and certain other electronic trading platforms) without the need for depositary receipts and can be denominated in any currency;
- distributions (including dividends), shares buy-backs and capital returns may be made subject solely to a resolution of the directors and satisfaction of a statutory solvency test (unless provided otherwise in the company's articles of association);
- financial assistance may be given without any statutory prohibition or restriction; and
- the UK Takeover Code applies to Isle of Man companies.

In addition, a closed-ended company is not subject to financial services regulation in the Isle of Man and there is no requirement to obtain pre-incorporation or pre-listing approval from any Isle of Man government agency (unlike in some other offshore jurisdictions).

Access to global capital markets

Isle of Man corporate vehicles have direct access to global capital markets and have established a successful track record of listing on recognised stock exchanges in London, New York, Hong Kong, Singapore, Frankfurt, Johannesburg and Toronto.

In relation to LSE Main Market listings, Isle of Man companies are potentially eligible for inclusion in the FTSE Indices, giving access to a larger range of institutional investors.

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Isle of Man companies have also been formally included on the Hong Kong Stock Exchange's approved list of companies and are able to list on its exchanges.

Jurisdictional benefits

The Isle of Man, which was immediately "whitelisted" by the OECD in 2009, is a leading international finance centre that is well regarded by international governments and regulators as a jurisdiction which has co-operated fully with international initiatives (such as those against money laundering, terrorist financing and tax evasion).

In the words of the Minister of the UK Ministry of Justice, the Isle of Man "leads the way in terms of how small jurisdictions with financial services should operate".

Other key benefits of the Isle of Man include:

- a stable and sophisticated finance industry with highly qualified and motivated professionals in law, accountancy, banking and fiduciary services (the fees for such services typically being very competitive when compared to the cost of similar service offerings in certain other offshore jurisdictions);
- a legal system that is based on the principles of English common law;
- the Isle of Man is bound by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards;
- an established and well regarded track record of Isle of Man company listings;
- quick and simple company incorporation process: incorporation within 2 hours (for expedited service) or 48 hours (for normal service) of documents being lodged with the Companies Registry;
- economically and politically stable with substantial financial reserves; and
- in the same time zone as London.

Methods of establishing an Isle of Man holding company

There are a number of ways of establishing an Isle of Man holding company.

In relation to a new business, if the founders of a new business anticipate a listing at some point in the future, an Isle of Man holding company could be established and used from the outset.

In relation to an existing business, a new Isle of Man holding company of the existing group could be established by way of a group re-organisation (usually effected by way of a scheme of arrangement or a share for share exchange) or the existing foreign holding company could be re-domiciled to the Isle of Man (subject to satisfaction of certain conditions).

Why use Cains?

Capital markets experience

Cains has been involved in advising on, and assisting in connection with, some of the largest IPOs, rights issues and secondary offerings involving Isle of Man companies.

Full service offering

In conjunction with its sister company, Cains Fiduciaries Limited ("CFL"), Cains is in a position to offer a full package of services to clients ranging from legal support to the provision of ongoing corporate and accounting services.

With the integration of the expertise of the lawyers at Cains, the corporate managers and administrators and the accounting managers at CFL, Cains is in a position to provide its clients with a comprehensive service. This 'joined-up' approach has proven attractive to many listed clients and their metropolitan advisers.

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Cains

Cains is a leading international Isle of Man law and professional services group incorporated in the Isle of Man with offices also in London and Singapore. Its legal side is expert in advising clients in the fields of international banking and financial services, cross border restructuring and insolvency, commercial real estate structures, space and satellite, shipping and capital markets. Cains acts for a broad range of clients including Governments, multinational corporations, financial institutions, regulatory bodies and family offices. Cains also has a strong track record of working in partnership with leading law firms to effect international transactions for clients, including market listings.

Cains has received various prestigious awards in recognition of its provision of legal services of the highest standards to its international clients and is the exclusive Isle of Man member of Lex Mundi, the world's leading association of international law firms.

Cains Fiduciaries Limited

Cains Fiduciaries is licensed by the Isle of Man Financial Supervision Commission to provide corporate and collective investment scheme services, together with Isle of Man trust services. Cains Fiduciaries provides administration services to many of the world's largest and best known financial and commercial institutions in respect of structures established in the Isle of Man, the BVI, Cyprus and elsewhere. The value of assets under management and administration by Cains Fiduciaries is materially in excess of US\$12.5 billion.

Cains Accounting Services Limited

Cains Accounting Services include qualified chartered and certified accountants who have extensive experience in the accounting services industry and provide accountancy services to international property funds structured as exempt schemes, family offices and sovereign wealth funds participating in private equity structures.

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Please note that this guide is intended to provide an introduction to the Isle of Man and the possibilities that exist for establishing various types of structure in the jurisdiction. It seeks only to give the reader an overall view of the subject and is not a substitute for specific advice.

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