

APPENDICES

TOWARDS A LEVEL PLAYING FIELD

REGULATING CORPORATE VEHICLES IN CROSS-BORDER TRANSACTIONS

a review commissioned by the

INTERNATIONAL TAX AND INVESTMENT ORGANISATION

and the

SOCIETY OF TRUST AND ESTATE PRACTITIONERS

conducted by

STIKEMAN ELLIOTT

APPENDIX A
MEMBERSHIP OF
SUPRANATIONAL ORGANISATIONS

	G7	OECD	FATF	FSF	IMF Percentage of Total Votes
G7					
Canada	X	X	X	X	2.95
France	X	X	X	X	4.97
Germany	X	X	X	X	6.02
Italy	X	X	X	X	3.27
Japan	X	X	X	X	6.16
United Kingdom	X	X	X	X	4.97
United States	X	X	X	X	17.16
OECD					
Australia		X	X	X	1.51
Austria		X	X		0.88
Belgium		X	X		2.14
Czech Republic		X			0.39
Denmark		X	X		0.77
Finland		X	X		0.59
Greece		X	X		0.39
Hungary		X			0.49
Iceland		X	X		0.07
Ireland		X	X		0.4
Korea		X			0.77
Luxembourg		X	X		0.14
Mexico		X	X		1.2
Netherlands		X	X	X	2.39
New Zealand		X	X		0.42
Norway		X	X		0.78
Poland		X			0.64
Portugal		X	X		0.41
Slovak Republic		X			0.18
Spain		X	X		1.42
Sweden		X	X		1.12
Switzerland		X	X		1.61
Turkey		X	X		0.46

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	G7	OECD	FATF	FSF	IMF Percentage of Total Votes
Non OECD Member Countries					
Andorra					
Anguilla					
Antigua and Barbuda					0.02
Aruba					
The Bahamas					0.07
Bahrain					0.07
Barbados					0.04
Belize					0.02
Bermuda					
British Virgin Islands					
Cayman Islands					
Cook Islands					
Costa Rica					0.09
Cyprus					0.08
Dominica					0.02
Gibraltar					
Grenada					0.02
Guernsey					
Hong Kong SAR			X	X	
Isle of Man					
Jersey					
Labuan (Malaysia)					
Lebanon					0.11
Liberia					0.04
Liechtenstein					
Macau SAR					
Maldives					0.02
Malta					0.06
Marshall Islands					0.01
Mauritius					0.06
Monaco					
Montserrat					
Nauru					
Netherlands Antilles					
Niue					
Panama					0.11
St Kitts and Nevis					0.02
St Lucia					0.02
St Vincent & the Grenadines					0.02
Samoa					0.02
San Marino					0.02
Seychelles					0.02
Singapore			X	X	0.41
Tonga					0.01
Turks & Caicos					
US Virgin Islands					
Vanuatu					0.02

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Appendix B

Professional Firms Participating in Benchmarking Charts

Stikeman Elliott's London team comprised Richard Hay, Jeffrey Keey, Leigh Nicoll, Robert Reymond and Heather Tibbo.

We gratefully acknowledge the assistance received from leading law firms in the jurisdictions surveyed as part of the benchmarking review. We note that counsel detailed below have reviewed the attached charts. These firms did not review the main report including the case studies. Accordingly, responsibility for errors or omissions, as well as editorial comment, rests with the main authors and contributors. We are grateful for the assistance provided by:

- ⌘ The Bahamas: Higgs & Johnson, John Delaney
- ⌘ Bermuda: Appleby Spurling & Kempe, Alison MacKrill
- ⌘ British Virgin Islands: Harney Westwood & Riegels, Richard Peters
- ⌘ Canada: Stikeman Elliott, Toronto, Philip Henderson
- ⌘ Cayman Islands: Maples & Calder, Anthony Travers
- ⌘ England & Wales/UK re: corporations and limited partnerships: Stikeman Elliott, London, Jeffrey Keey
- ⌘ England & Wales re: trusts: Allen & Overy, Ceris Gardner
- ⌘ Hong Kong: Stikeman Elliott, Hong Kong, Clifford Ng
- ⌘ Isle of Man: Cains, Andrew Corlett
- ⌘ Jersey: Ogier & Le Masurier, Steven Meiklejohn
- ⌘ Luxembourg: Le_Goueff@vocats.com, Stéphan Le Goueff
- ⌘ New Zealand: John Hart, Barrister
- ⌘ Singapore: Khattar Wong & Partners, Gurbachan Singh
- ⌘ Switzerland: Lenz & Staehelin, Richard Pease
- ⌘ USA: Shutts & Bowen, Stephen Gray

APPENDIX C: CORPORATIONS

	REGULATION OF SERVICE PROVIDERS	BEARER SHARES	“CORPORATE” DIRECTORS	REQUIREMENT FOR ANNUAL RETURN	FILING OF ACCOUNTS IN CORPORATE REGISTRY	AUDITING OF ACCOUNTS	BENEFICIAL OWNERSHIP INFORMATION AVAILABLE?	INFORMATION EXCHANGE (EGMONT GROUP MEMBER)
OECD COUNTRIES								
CANADA¹	No	No ²	No ³	Yes ⁴	Public company – yes Private company – no ⁵	Public company – yes Private company – No ⁶	Yes ⁷	Yes
ENGLAND & WALES⁸	No ⁹	Yes ¹⁰	Yes ¹¹	Yes ¹²	Yes ¹³	Yes ¹⁴	No ¹⁵	Yes
IRELAND	No ¹⁶	Yes ¹⁷	No ¹⁸	Yes ¹⁹	Yes ²⁰	Yes ²¹	Yes ²²	Yes
LUXEMBOURG 1929 HOLDING COMPANY²³	No ²⁴	Yes ²⁵	Yes	Yes	Yes ²⁶	Yes ²⁷	No ²⁸	Yes
NEW ZEALAND	No ²⁹	Yes	No ³⁰	Yes ³¹	No ³²	No ³³	No ³⁴	Yes
SWITZERLAND	No ³⁵	Yes	No ³⁶	Yes	No ³⁷	Yes ³⁸	No ³⁹	Yes
U.S. (DELAWARE) (LIMITED LIABILITY COMPANY)⁴⁰	No ⁴¹	Yes	Not applicable ⁴²	No	No	No	No ⁴³	Yes
Non-OECD Countries								
THE BAHAMAS	Yes ⁴⁴	No ⁴⁵	Yes	Limited company-yes IBC-no	No ⁴⁶	Public company-yes IBC-no ⁴⁷	Yes ⁴⁸	Yes
BERMUDA	Yes ⁴⁹	No	No	Only for local companies ⁵⁰	No ⁵¹	Yes ⁵²	Yes ⁵³	Yes
BRITISH VIRGIN ISLANDS	Yes ⁵⁴	Yes ⁵⁵	Yes ⁵⁶	Local company-yes IBC-no ⁵⁷	Public company-yes Private company-no ⁵⁸	Local company public-yes Private company-no ⁵⁹ IBC -no	No ⁶⁰	Yes
CAYMAN ISLANDS	Yes ⁶¹	Yes, but immobilised ⁶²	Yes	Yes ⁶³	Yes ⁶⁴	No ⁶⁵	Yes ⁶⁶	Yes
HONG KONG	No ⁶⁷	Yes ⁶⁸	Yes ⁶⁹	Yes ⁷⁰	Public company-yes Private company-no ⁷¹	Yes ⁷²	No ⁷³	Yes
ISLE OF MAN	Yes ⁷⁴	Yes ⁷⁵	No	Yes	Public company-yes Private company-no ⁷⁶	Yes ⁷⁷	Yes ⁷⁸	Yes
JERSEY	Yes ⁷⁹	No	No ⁸⁰	Yes ⁸¹	Public company-yes Private company -no ⁸²	Public company-yes Private company-no ⁸³	Yes ⁸⁴	Yes
SINGAPORE	No ⁸⁵	No	No ⁸⁶	Yes	Yes ⁸⁷	Yes	No ⁸⁸	Yes

CANADA

¹ All references are to federal provisions unless otherwise stated.

² Pursuant to subsection 24(1) of the Canada Business Corporations Act, R.S.C. 1985, as amended (“CBCA”), shares of a corporation must be in registered form. As such, bearer shares are not permitted. However, bearer shares are permitted in Quebec (certificat au porteur) under the Companies Act, R.S.Q., c.C-38, although their use is limited.

³ Paragraph 105(1)(c) of the CBCA indicates that a director of a corporation cannot be a person who is not an individual.

⁴ All corporations formed pursuant to the CBCA must file an annual return (i.e., Form 22 – Annual Return, CBCA Regulations, Schedule I)

⁵ In Ontario, corporations whose securities are publicly traded must file audited financial statements with the applicable securities regulatory authorities and also must post their financial statements for public viewing on SEDAR.com (the “System for Electronic Document Retrieval and Analysis”). All companies must file financial statements (not required to be audited) with the applicable income tax authorities.

⁶ Corporations whose securities are publicly traded are required to have their financial statements audited. Pursuant to subsection 163(1) of the CBCA, shareholders of a private corporation may resolve to not have the corporation’s financial statements audited.

⁷ The directors of a corporation, pursuant to subsection 133(1) of the CBCA, must call an annual meeting of shareholders no later than 15 months after the last preceding annual meeting and no later than 6 months after the end of the corporation’s preceding financial year. Solicitation of proxies is mandatory pursuant to s. 149 of the CBCA, unless a corporation has 50 or fewer shareholders and is not a distributing corporation. Pursuant to ss. 57(j) of the CBCA Regulations, a management proxy circular must contain information about the name of each person who, to the knowledge of the directors or officers of the corporation, beneficially owns, directly or indirectly, or exercises control or direction over, shares carrying more than 10% of the votes attached to any class of shares entitled to vote in connection with any matters being proposed for consideration at the meeting. Pursuant s. 235 of the CBCA, the Director of the CBCA may inquire into the ownership and control of a corporation’s security in certain circumstances.

ENGLAND & WALES

⁸ Companies incorporated under the Companies Act 1985, with or without limited liability.

⁹ Save to the extent the services provided comprise regulated activities for the purposes of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, in which case the service provider must be authorised by the Financial Services Authority under section 19 of the Financial Services and Markets Act 2000.

¹⁰ Section 188 Companies Act 1985 - a company limited by shares may, if authorised by its articles, issue for fully paid shares a share warrant entitling the bearer to the shares specified in it which are transferred by delivery of the warrant.

¹¹ Section 289(2) Companies Act 1985 - corporate directors are permitted, but details of corporate name and registered or principal office must appear in the register of directors required to be maintained by each company. Those details must also be provided within 14 days of appointment to the Registrar of Companies (section 288(2) Companies Act 1985) and are available for public inspection.

¹² Sections 363(1) and 709 Companies Act 1985 - every company is required to make an annual return to Companies House which is available for public inspection. This confirms information including its registered office and place where its shareholding registers are kept, its type and business activities, details (including names and addresses) of its directors, secretary and shareholders and details of its authorised and issued share capital (sections 364 and 364A Companies Act 1985).

¹³ Section 242 Companies Act 1985 - certain “small” and “medium-sized” companies are eligible for exemption from the requirement to prepare and file with the Registrar of Companies full audited accounts (Chapter II, Part VII Companies Act 1985). Accounts filed with the Registrar of Companies are available for public inspection (section 704, Companies Act 1985). Unlimited companies need not prepare or file accounts if not a subsidiary of, controlled by or a parent of a limited undertaking (section 254, Companies Act 1985).

¹⁴ Part VII Companies Act 1985 - all companies are required to have their accounts audited, save for certain small or dormant companies.

¹⁵ There is no legal procedure for compelling disclosure of beneficial interests in shares in a private company or in respect of non-voting shares. However, nominee shareholders must be disclosed, pursuant to a requirement that the name and address of, and class and number of shares held by, each member of a company must be

maintained in the statutory register of members maintained by each company (section 352, Companies Act 1985) and shown in the annual return which every company is required to make. In the case of a nominee shareholding of voting shares in a company incorporated as a public limited company, disclosure of material interests in shares representing more than 3% of the share capital is required (section 198 Companies Act 1985) and the company may also require the identity of a beneficial owner of its shares be disclosed (section 212 Companies Act 1985). Non-disclosure can result in freezing of transfer, voting and distribution rights (section 216 Companies Act 1985).

IRELAND

¹⁶ Corporate service providers are not generally regulated, although certain types of service providers are regulated. These include investment companies, insurance intermediaries and credit institutions, insurance companies and mortgage providers.

¹⁷ Although permitted, bearer shares are unusual – the general view is that private companies may not issue them without imperiling their private status.

¹⁸ Section 176 Companies Act 1963.

¹⁹ Sections 125 – 129 Companies Act 1963 – returns must be submitted annually in Companies Registration Office. Mutual funds are exempt.

²⁰ Every company is obliged to submit an annual return to the Registrar of Companies. The annual return must have the following annexed: balance sheet; profit and loss account; director’s report and a copy of the auditor’s report, where the company is audited. However, small private companies are exempted from the requirement to annex a copy of its profit and loss account and the director’s report to the return but must provide an abridged balance sheet. A medium sized company is required to give an abridged balance sheet and short-form profit and loss account.

²¹ Section 160 Companies Act 1963 - all companies, with a de minimis exception for small private companies, are required to appoint an auditor. Companies are generally obliged by law to submit their accounts at least once a year for scrutiny by an independent professional auditor. A non-charitable company can be exempted from the requirement to have an annual audit provided that it complies with certain conditions which are set out in Part III of the Companies (Amendment) (No. 2) Act 1999.

²² A list of shareholders must be contained in the annual return. In the case of a nominee shareholder there are certain disclosure rules concerning beneficial ownership where the beneficial owner attains a 5% or greater interest in the voting capital in a public company. In the case of private companies certain interested parties may apply to the court for an order compelling disclosure of beneficial ownership, but there is no general obligation of disclosure for this type of company.

LUXEMBOURG 1929 HOLDING COMPANY

²³ Luxembourg holding companies are usually incorporated as a *société anonyme* which permits shareholders to retain a high level of confidentiality through the use of bearer shares. Due to the overwhelming recourse to the *société anonyme* form for holding companies, only this form of incorporation will be discussed herein. A holding company can also be incorporated under the form of a S.a.r.l., A Senc, an Seca, or a Sc.

²⁴ There is no specific organisation for the regulation of service providers.

²⁵ Once the shares are fully paid up, and provided that there is no provision to the contrary in the articles of association, the shares of a Luxembourg company may be in bearer form (and so transferable by the physical transfer of the related certificates).

²⁶ 1929 holding companies are obliged to file and publish abridged annual accounts.

²⁷ The commercial company law provides that companies are obliged to use the services of a “*reviseur d’entreprises*” (i.e., an independent auditor) for the control of their accounts if two of the following criteria are met: a total balance sheet is in excess of EUR 2,305,410; the net turnover of the company exceeds EUR 4,610,820; the number of personal employed full time during the fiscal year exceeds 50 employees.

²⁸ No disclosure of the beneficial owner to the authorities is required.

NEW ZEALAND

²⁹ The Registrar of Companies is responsible for administration of the Companies Act 1993, though, there is no regulation of corporate service providers.

³⁰ Section 51 Companies Act 1993.

³¹ Section 208 and 214 Companies Act 1993. See also the 4th Schedule, Companies Act 1993 "Information to be contained in Annual Return".

³² While there is a requirement to file an annual return with the Registrar of Companies, this only involves very basic information concerning the identity and addresses of the directors and shareholders, and the existence of any changes. There is no obligation to file accounts, except in relation to "non exempt" companies. These are companies which have 25% or more foreign shareholding as described in footnote 35. In other words, there is both an account filing and audit requirement for such non-exempt companies. Those companies which have taxable income are required to file an abridged summary of income/expenses etc to enable computation of the income tax liability to the tax authorities.

³³ Section 196 Companies Act 1993 - an appointment of an auditor is normally required but some companies may unanimously resolve not to appoint an auditor. (This exception does not apply to a subsidiary of a company or body corporate incorporated outside of New Zealand or New Zealand companies owned as to 25% or more by an overseas entity or to "issuers" within the meaning of Section 4 of the Financial Reporting Act 1993.

³⁴ Section 87 Companies Act 1993 - every company must keep a register of its shareholders. Shareholder information must be filed with the Registrar of Companies on an annual basis. There is no requirement to disclose beneficial ownership where parties are holding shares as nominees, except in relation to listed companies.

SWITZERLAND

³⁵ Corporate service providers are not generally regulated, although the Federal Banking Commission acts as the supervisory authority for the entities that are subject to the Federal Law on Banks or that are securities dealers under the Federal Stock Exchange Act. Corporations used as investment vehicles and which do not fall within the above categories are not subject to any specific supervision.

³⁶ Corporations may however be represented by nominee directors. A majority of the directors must be Swiss nationals.

³⁷ No requirement to file accounts with any registry, but banks, deposit-taking finance companies etc must fulfil special filing requirements. Accounts, must however, be filed with the federal tax administration not later than seven months after the end of the company's accounting period.

³⁸ Auditing is required for Swiss corporations (« Aktiengesellschaft » / « société anonyme »). Auditing is not required for other forms of companies, e.g. limited liability companies (« Gesellschaft mit beschränkter Haftung » / « Société à responsabilité limitée »).

³⁹ The Trade Registry contains no information as to the shareholders / beneficial owners of a corporation. In the case of a limited liability company, the Trade Registry discloses the identity of the holders of the shares in the limited liability company. There is however no requirement that the holder of the share be the ultimate beneficial owner. Should a corporation open a bank account, the bank must comply with the Swiss Know Your Customer rules which imply the identification of the beneficial owner for example whenever the account holder is a company with no commercial activities of its own, i.e. a domiciliary company.

U.S. (DELAWARE)

⁴⁰ A limited liability company, commonly referred to as an "LLC" is an entity which has characteristics of both a corporation and a partnership. It is similar to a partnership as the LLC is not a separate taxable entity and also like a corporation in that all LLC owners are protected from personal liability for business debts and claims.

⁴¹ Corporate service providers/administrators are neither licensed nor regulated.

⁴² There is no distinction between shareholders and directors since management of the company is vested in the members of the company.

⁴³ LLCs are not required to disclose beneficial ownership. There is no administrative procedure for compelling a nominee to disclose the identity of the beneficial owner.

THE BAHAMAS

⁴⁴ An international business company (IBC) may only be incorporated by licensed bank and trust companies and licensed financial and corporate service providers. An IBC incorporated by a licensed bank or trust company is regulated by the Inspector of Banks and Trust Companies and an IBC incorporated by a licensed financial and corporate service provider is regulated by the Inspector of Financial and Corporate Services. Furthermore, The Bahamas Compliance Commission, under the Financial Transactions Reporting Act, is responsible for the

regulation of financial institutions which includes banks and trust companies licensed under the Banks and Trust Companies Regulation Act 2000.

⁴⁵ An IBC may issue registered shares but not shares issued to bearer (section 10(a) International Business Companies Act 2000). An IBC shall keep a share register at its registered office which contains such information as the names and addresses of persons who hold registered shares in the company, the number of shares of each class and series of registered shares held by each person and the date the name of each person was entered in the share register.

⁴⁶ Companies are not required to file accounts with the Companies Registry. However, in the case of a public company, the Registrar may, at any time, request in writing a copy of the annual financial returns. Furthermore, public companies, banks and insurance companies (subject to de minimis exceptions), must file accounts with the relevant authorities.

⁴⁷ Public companies are obliged to have accounts audited – sections 123-128 Companies Act 1992. Financial statements of an IBC are not required to be audited unless required by the IBC's Articles of Association. IBCs are not required to appoint an auditor and members of a private company may resolve not to appoint an auditor (section 130 Companies Act 1992).

⁴⁸ There is no legal requirement to publicly file the list of shareholders for an IBC. Other companies are required to include a list of shareholders in their annual return. There is no legal procedure for compelling a nominee holding shares in any company to disclose identity of the beneficial owner except where money laundering is suspected. A company licensed under the Financial and Corporate Service Providers Act 2000 ("FCSPA") must keep a record in respect of each client, including the name and address of the beneficial owners of all IBCs incorporated and or existing under the International Business Companies Act 2000 (section 14(3) FCSPA).

BERMUDA

⁴⁹ Service providers are regulated by the Bermuda Monetary Authority and the Bermuda Registrar of Companies.

⁵⁰ However, exempted companies must provide an annual Declaration of Business confirming the assessable capital and business of that company.

⁵¹ However, insurance companies are required to file audited financials and a financial return annually with the Bermuda Monetary Authority.

⁵² Companies are required to appoint auditors and accountants, but the appointment of an auditor and the laying of audited financial statements before a company in general meeting can be waived. However, if the production of audited financial statements is waived, a company must still maintain accounts sufficient for the directors and resident representative of that company to ascertain with reasonable accuracy the financial position of a company in any 3 month period.

⁵³ Every company is required to keep a register of its shareholders which is open to inspection by the public. Every person that intends to hold 5% or more of the authorised share capital of a company must provide certain further information to the Bermuda Monetary Authority, whose consent is required to issue or transfer shares to any person who will hold 5% or more of a company's authorised share capital. There is no disclosure of the beneficial ownership of a proposed shareholder of a Bermuda company in the case of companies whose shares are listed on an Appointed Stock Exchange (as are prescribed by the Minister of Finance). Nominee shareholding is permitted however disclosure of the beneficial owner to the Bermuda Monetary Authority is required on a confidential basis, however the Bermuda Monetary Authority and, in the case of insurance companies, the Insurance Division of the Registrar of Companies may disclose information to a regulator with similar responsibilities if there is reciprocity.

BRITISH VIRGIN ISLANDS

⁵⁴ In January 2002, the government established the Financial Services Commission, an independent body which is responsible for supervision of corporate service providers. However, the Financial Services Commission is not yet responsible for regulating investment business.

⁵⁵ Government has made a public commitment to amend the International Business Companies (IBC) Act to "immobilize" bearer shares. The process of immobilization is under consideration. Bearer shares are not permitted for companies carrying on certain regulated activities in the BVI.

⁵⁶ Non-BVI corporate directors are not permitted for managers or administrators licensed under the Mutual Funds Act, 1996.

⁵⁷ Public companies incorporated under the Companies Act must submit an annual audited balance sheet to the Registrar of Companies, banks, trust companies and management companies must submit annual audited

accounts to the Head of Banking and Fiduciary at the Financial Services Commission; public funds registered under the Mutual Funds Act 1996 must keep annual audited financial statements and insurance companies must submit to the Insurance Supervisor annual audited accounts. Government has made a public commitment to amend the IBC Act to require names and addresses of directors of IBCs to be filed at the Registry of Companies.

⁵⁸ Public companies under the local Companies Act must file audited financial statements with the Registrar of Companies. Private companies are not required to file accounts of any type with the Registrar of Companies. However, companies incorporated under the local Companies Act must file an income tax return which would almost always be supported by financial statements.

⁵⁹ Public companies, banks and trust companies, insurance companies, public mutual funds and company management companies and mutual funds managers and administrators are required to appoint auditors. Public companies must file an auditor's report on annual accounts.

⁶⁰ On establishment the Memorandum of Association which includes names, addresses and descriptions of subscribers must be delivered to the Registrar of Companies. Local companies are required to submit shareholder information in their annual return. Discovery of the identity of the beneficial owner of a nominee shareholding is achieved by application of evidence rules generally in criminal and civil matters. The Anti-Money Laundering Code of Practice requires registered agents of IBCs to maintain records of identity in respect of new clients, except in circumstances where the client has been introduced by a similarly regulated entity from another jurisdiction. These records need not be retained in the BVI as long as they are available on request of the registered agent.

CAYMAN ISLANDS

⁶¹ Service Providers are regulated by the Cayman Monetary Authority.

⁶² Bearer shares are not permitted unless they are subject to custodial arrangements with a recognised international custodian or licensed Cayman Islands entity.

⁶³ An annual return must be filed for every company with the Registrar of Companies in prescribed form.

⁶⁴ Regulated entities must file accounts. No requirement to file accounts with the Registrar of Companies but banks, trust companies, mutual funds, mutual funds administrators, insurance companies and company management companies must prepare and file audited financial statements and reports in accordance with the relevant laws and any special terms and conditions imposed by the Cayman Islands Monetary Authority at the time of the granting of each individual licence. Financial statements must be maintained by all companies but only the entities designated must file audited financial statements with the Cayman Island Monetary Authority.

⁶⁵ Company financial statements must be prepared but need not be audited.

⁶⁶ On incorporation the Memorandum of Association which includes the names and addresses of subscribers must be delivered to the Registrar of Companies. The records are not available for public inspection. The Money Laundering Regulations and Guidance Notes contain specific provisions dealing with the obligation of any financial service provider to obtain specified details on the beneficial owners. This information is available to the Cayman Island Monetary Authority.

HONG KONG

⁶⁷ However, banks, restricted licenced banks and deposit-taking companies are regulated by the Hong Kong Monetary Authority and securities dealers, investment advisors, commodity dealers and securities margin financiers, together with investment products are regulated by the Securities and Futures Commission.

⁶⁸ A company may issue warrants to bearer if so authorised by its articles.

⁶⁹ However, corporate directors are not permitted in the case of a public company or a private company which is a member of a group of companies including a listed company.

⁷⁰ Submitted annually to the Registrar of Companies.

⁷¹ Public companies are required to file financial accounts with the Companies Registrar (as part of the company's annual information return) and with the Inland Revenue Department (as part of the company's profit tax return). Private companies are not required to file financial accounts with the Companies Registrar but are required to file financial accounts with the Inland Revenue Department (as part of the company's profit tax return).

⁷² All companies are required to have their financial statements audited by a certified public accounting firm in Hong Kong.

⁷³ The registers of members of both public and private companies are available for inspection by members and any other person at the registered office of the company. The register shows the registered owner, not the beneficial owner. There is no legal procedure for compelling a nominee holding shares in a private company to disclose the identity of the beneficial owner. For listed companies, disclosure is required if the beneficial owner is

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a director of the company or a substantial shareholder. There is no specific provision in any other legislation regarding identifying the beneficial owner of shares but the courts have a general power to make orders against a person in a specific case and there are investigative orders that may be granted by a court in the case of the investigation of organised and serious crime.

ISLE OF MAN

⁷⁴ Under the Corporate Service Providers Act 2000, only those licensed as corporate service providers (CSPs) by the Financial Supervision Commission are now permitted to incorporate and administer companies. The Commission is also responsible for the regulation and supervision of CSPs.

⁷⁵ Warrants to bearer are permitted but as part of the Isle of Man's OECD commitment the legislation permitting warrants to bearer will be repealed.

⁷⁶ Only public companies are required to deliver accounts to the Companies Registry. However, as part of the Isle of Man's OECD commitment, a company will either have to file accounts with the taxation authorities or prepare audited accounts which must be available for production to the taxation authorities on request.

⁷⁷ An audit is required unless the company is private and is either dormant or tax exempt pursuant to, principally, the Income Tax (Exempt Companies) Act 1984 and all its members have passed a resolution to dispense with the appointment of an auditor. This audit exemption is currently under review as part of the Isle of Man's OECD commitment.

⁷⁸ The name and address of, and class and number of shares held by each member of a limited company must be shown in the annual return. The beneficial owners of companies are required to be known to and verified by the relevant corporate service provider and available on request to the Commission as part of its compliance procedures function or be produced to third parties by court order.

JERSEY

⁷⁹ Service providers are regulated by the Jersey Financial Services Commission.

⁸⁰ Article 73(2)(d) Companies (Jersey) Law 1991.

⁸¹ Article 71 Companies (Jersey) Law 1991.

⁸² Article 106 Companies (Jersey) Law 1991 - accounts for public companies must be filed with the Registrar of Companies and are open for public inspection. There are no requirements for private companies to file financial accounts with any central registry nor to submit accounts to any local tax authority.

⁸³ Public companies are required to prepare and file audited accounts annually. Article 109(1) and 110 Companies (Jersey) Law 1991 - a private company only need prepare an audit if the articles of the company so require or if a resolution in a general meeting so requires.

⁸⁴ All companies must disclose beneficial ownership information to the Jersey Financial Services Commission (JFSC) on incorporation. In the case of an exempt company or an IBC, any changes in beneficial ownership must be reported to the JFSC when it occurs. (Control of Borrowing (Jersey) Order 1958).

SINGAPORE

⁸⁵ There is no specific organisation which regulates corporate service providers in their capacity as such. However, corporate service providers (lawyers and accountants) are regulated by their respective professional bodies. The Monetary Authority of Singapore supervises the banking, insurance, securities and futures industries.

⁸⁶ Section 145 Companies Act Chapter 50, 1994 Revised Edition.

⁸⁷ Annual accounts must be filed with the Registry of Companies and Business. However, "private exempt companies", which are defined as a company, with less than 20 shareholders all of whom are individuals are permitted to file a directors' report and accounts with the registrar.

⁸⁸ The name, and address of, and class and number of shares held by, each member of a limited company must be shown in the annual return. No administrative procedure exists for compelling a nominee holding shares in a private company (or non-voting shares in a publicly listed company) to disclose the identity of the beneficial owner. A substantial shareholder has the obligation to state whether he holds voting shares as beneficial owner or otherwise.

APPENDIX D: TRUSTS

	LICENSED OR REGULATED TRUSTEES	CENTRAL REGISTRY FOR CONSTITUTING DOCUMENTS	REQUIREMENT TO FILE FINANCIAL STATEMENTS	REQUIREMENT TO AUDIT FINANCIAL STATEMENTS	SETTLOR AND BENEFICIARY INFORMATION AVAILABLE OR FILED ¹	EXCHANGE OF INFORMATION - MEMBER OF THE EGMONT GROUP
OECD COUNTRIES						
CANADA (ONTARIO)	Yes ²	No	No	No	Yes ³	Yes
ENGLAND & WALES	No ⁴	No ⁵	No ⁶	No ⁷	Yes ⁸	Yes
IRELAND	No ⁹	No	No	No	No ¹⁰	Yes
NEW ZEALAND	No ¹¹	No	No	No	Yes ¹²	Yes
SWITZERLAND	No	No	No	No	Yes ¹³	Yes
U.S. (DELAWARE)	No ¹⁴	No ¹⁵	No	No	No ¹⁶	Yes
NON-OECD COUNTRIES						
THE BAHAMAS	Yes ¹⁷	No ¹⁸	No	No	Yes ¹⁹	Yes
BERMUDA	Yes ²⁰	No	No	No	Yes ²¹	Yes
BRITISH VIRGIN ISLANDS	Yes ²²	No ²³	No	No	Yes ²⁴	Yes
CAYMAN ISLANDS	Yes ²⁵	No	No ²⁶	No	Yes ²⁷	Yes
HONG KONG	No ²⁸	No	No	No	Yes ²⁹	Yes
ISLE OF MAN	No ³⁰	No ³¹	No ³²	No ³³	Yes ³⁴	Yes
JERSEY	Yes ³⁵	No	No	No	Yes ³⁶	Yes
SINGAPORE	Yes ³⁷	No ³⁸	No	No	Yes ³⁹	Yes

¹ ie can be elicited through an administrative as opposed to judicial process

CANADA

² The *Loan and Trust Corporations Act* (Ontario) (“**LTCA**”), R.S.O. 1990, c. L-25 regulates loan and trust corporations carrying on business in Ontario.

³ The LTCA does not contain any requirement to file settlor and beneficiary information with the Superintendent (who is appointed under the *Financial Services Commission of Ontario Act, 1997*). However, the *Proceeds of Crime (Money Laundering) Act, 1991*, c. 26, establishes strict record-keeping requirements including for banks and trust corporations and the identity of potential clients. New record-keeping requirements are expected to be implemented in 2002 pursuant to the regulations under the new legislation entitled the *Proceeds of Crime (Money Laundering) Act and Terrorist Financing Act, 2000*, c. 17.

ENGLAND & WALES

⁴ Trust companies (which must be distinguished from “trust corporations” which have a statutory definition and are required to comply with specific statutory condition) are not regulated (other than having to comply with the Companies Act or Charities Acts (if appropriate)). The Financial Services and Markets Act 2000 (the “Act”) will apply if such a company is concerned with making or trading in investments or giving investment advice. However, subject to any contrary indication in the trust instrument, trustees have statutory powers to invest funds as if they were absolutely entitled to the trust assets and thus should not be within the terms of the Act.

⁵ There is no central registry for trusts although certain information must be provided to Companies House and to the Charity Commission in respect of charitable trusts.

⁶ Other than the submission of annual tax returns to the Inland Revenue, there is no requirement for trustees to file financial statements. Subject to certain exceptions, charities are required to file their annual accounts with the Charity Commission.

⁷ There is no requirement to audit financial statements, save that charities with an annual income of at least £250,000 are obliged to have their accounts audited.

⁸ On the creation of a trust, trustees are required to submit a Form 41G (Trust) to the Inland Revenue which requires information about the trustees, the settlor and the assets settled. Certain other events, depending on the type of trust, will also prompt a requirement for further forms to be completed. Money laundering laws apply to trustees and advisers. The laws require client identification procedures to be adopted and information retained on file.

IRELAND

⁹ Trust companies are regulated by the Central Bank of Ireland only in the context of mutual funds.

¹⁰ The trustees of private trusts do not have to identify the settlors and all the beneficiaries of either existing or new trusts. Any relevant information is kept by the trustees on file as there is no regulatory register.

NEW ZEALAND

¹¹ There is no regulation of trust companies, although there is regulation in relation to trusteeship of deceased estates and the performance of a “statutory supervisor” function under the Securities Act 1978 which broadly relates to trusteeship/supervision of publicly offered securities.

¹² Pursuant to the Financial Transactions Reporting Act 1996, financial institutions, which include any person “whose business consists of acting as trustee in respect of funds of other persons” have imposed on them obligations, which include the verification of the identity of persons. There is no disclosure or central filing obligation as such; just a requirement to make inquiries and hold materials on file.

SWITZERLAND

¹³ A Swiss trustee qualifies as a financial intermediary under the Swiss Money Laundering Act (“MLA”) and is subject to the applicable supervision (official authority or self-regulating body). Information about the settlor and beneficiary must be known by the trustees and kept on file pursuant to the MLA, however this does not need to be filed with any central registry nor is it publicly available. However, should the trustee open a bank account, the bank will be obliged to identify the settlor and beneficial owner under the applicable know your customer rules.

U.S. (DELAWARE)

¹⁴ There is no requirement that a trustee be licensed and there is no regulation as such (individuals can be trustees). The trustee must have a Delaware address.

¹⁵ Business trusts have the opportunity to register a certificate of trust, but it is not required.

¹⁶ The identities of the settlor and beneficiaries need not be disclosed.

THE BAHAMAS

¹⁷ Trust companies conducting business in The Bahamas have been required to be licensed since 1962. The Banks and Trust Companies Regulation Act, 2000 (“BTCRA”) expands these provisions.

¹⁸ Section 94 of the Trustee Act provides that “Notwithstanding any provisions of the Registration of Records Act, any deed creating a trust, all deeds of appointment made pursuant to the terms of a trust and all other deeds (but not including conveyances of Bahamian real property or personalty) executed by the trustees, settlors, beneficiaries or protectors of a trust pursuant to the powers and discretions specified in the trust instrument, are exempt from registration under the provisions of the Registration of Records Act.”

¹⁹ Pursuant to the Financial Transactions Reporting Act, 2000 (“FTRA”) and the Financial Transactions Reporting Regulations, 2000 (“FTRR”), a financial institution (inclusive of a bank or trust company licensed under the BTCRA) is required to verify the identity of both existing and new facility holders (including the beneficial owner of the facility (if different from the facility holder)). In the case of a trust, the settlor’s identity must be verified as a facility holder. A financial institution is also required to verify the identity of beneficiaries of a trust with a vested interest. There is no requirement to verify the identity of potential beneficiaries ie persons who do not have a vested interest. Identification verification information must be retained by a financial institution for a minimum period of 5 years after the end of the relationship with a facility holder (section 24 FTRA).

BERMUDA

²⁰ The Trusts (Regulation of Trust Business) Act 2001 requires that persons carrying on trust business in or from within Bermuda are licensed undertakings. Private trust companies which have been incorporated specifically to act as trustees for private family trusts or a group of related trusts are not regulated by the Act.

²¹ Trustees are regulated under two separate areas of legislation; the proceeds of crime legislation (The Proceeds of Crime Act 1997, the Proceeds of Crime (Money Laundering) Regulations 1998 and the Guidance Notes on the Prevention of Money Laundering) and the trusts regulation legislation (the Trusts (Regulation of Trust Business) Act 2001 (now in force) and the Statement of Principles and Code of Practice thereunder (expected to be in force later 2002)). Under the former, verification of the settlor and, where appropriate, the principal beneficiaries, is required. This information is held on file. Although there were grandfathering provisions, any addition to the trust fund will trigger the verification procedure so in most cases verification has occurred even if the trust was an existing trust in 1997. Under the latter, the Code provides that the trustees must be able to satisfy the proceeds of crime legislation and, in addition, they are required to have adequate information relating to the beneficiaries (identity and their needs) so that the trustees are in a position to carry out their responsibilities and fiduciary obligations.

BRITISH VIRGIN ISLANDS

²² The Banks and Trust Companies Act, 1990 requires all trust companies (no matter where they are incorporated) which carry on “trust business” within the BVI and all BVI-incorporated companies carrying on trust business (whether in the Territory or outside the Territory) to be licensed under that Act. Foreign incorporated trust companies operating in the BVI, which are in the business of providing trustee or other specified services must also be licensed under the Banks and Trust Companies Act 1990.

²³ The Trustee (Amendment) Act 1993 exempts all deeds creating trusts, all deeds of appointment pursuant to the terms of a trust and all other deeds executed by trustees, settlors and beneficiaries pursuant to the powers and discretions in the instrument creating the trust, from registration and filing save for trust deeds relating to unit trusts which are public funds under the Mutual Funds Act, 1996.

²⁴ Records of identity of new clients must be maintained by registered agents and other registered entities pursuant to the Anti-Money Laundering Code of Practice, save where the client has been introduced by a similarly regulated entity in another jurisdiction. Provided that the BVI trustee is satisfied the records are maintained and are readily accessible, there is no requirement for them to be kept within the BVI. Thus the BVI trustee will have information about the settlor available on file. Information about the beneficiaries is not required by statute, but for best practice, BVI trustees should maintain this.

CAYMAN ISLANDS

²⁵ All companies acting as trustees must be licensed and regulated under The Banks and Trust Companies Law.

²⁶ There are no public filing requirements for inter vivos trusts, unless the trust is to be registered as an exempted trust.

²⁷ As a matter of trust law the trustees are under an obligation to know the identities of the settlor and beneficiaries. Furthermore, verification of the identity of the settlor and all due diligence with regard to source of funds is required by the Money Laundering Regulations (and as further detailed in the guidance notes), which are of necessary application to all licensed trust companies in the Cayman Islands.

HONG KONG

²⁸ A Hong Kong incorporated company may apply to be registered as a trust company by the Registrar of Companies under the Trustee Ordinance (Section 77(1)). Registered trust companies and trustees are subject to the provisions of the Trustee Ordinance. A company that is not registered as a trust company can act as trustee and may not be subject to regulation (unless it is regulated as a bank, insurance company, securities dealer, etc. under another law). However, a company cannot act as executor of a will, apply for probate or letters of administration, nor be appointed by a court as a trustee, unless it is registered as a trust company.

²⁹ Trustees of private trusts do not have to identify the settlors and beneficiaries of a trust (absent a court order) pursuant to any statutory provisions. However, as a matter of trust law the trustees will need to identify the settlor and beneficiaries. The information would be kept only on the trustee’s file.

ISLE OF MAN

³⁰ Providers of administration services to companies are regulated under the Corporate Service Providers Act 2000. There is no equivalent legislation for trustees, although the Isle of Man Government has announced its intention to introduce such legislation in the short term.

³¹ There is no central registry for constituting documents, but charitable purpose trusts are required under the Charities Registration Act 1989 to register with the Charities Registry.

³² There is no requirement to file financial statements, save that charitable purpose trusts are required to file audited financial statements.

³³ There is no requirement to audit financial statements, save that charitable purpose trusts are required to file audited financial statements.

³⁴ Under the anti-money laundering know your customer requirements, a trustee must know and verify the identities of the real settlor, the protector (if any) and to the extent possible under the form of trust, the beneficiaries. In addition, the trustee has to satisfy himself as to the source of funds forming the corpus of the trust and the underlying identity of all those who have remitted such funds.

JERSEY

³⁵ The Financial Services (Jersey) Law 1998 regulates the carrying on of “trust company business” both in or from within the Island and if carried out by a company incorporated in the Island, anywhere in the world.

³⁶ A Jersey trustee of a Jersey law trust will know the identities of the settlor and beneficiaries of the trust.

SINGAPORE

³⁷ Service providers are regulated pursuant to the Trust Companies Act (1985).

³⁸ Private trusts are not required to be registered. The Charities Act provides for mandatory registration with the Commissioner of Charities of charitable trusts established in Singapore.

³⁹ Apart from income tax returns on distributions of income or deemed income and company law requirements as to substantial shareholders, there is no requirement by the trustees to register or file information on the settlor or beneficiaries of a trust. In addition, at present, trustees of private trusts do not have to identify the settlors and all the beneficiaries of both existing and new trusts under any statute. As a matter of general trust law however, the trustee will have to identify the settlor and beneficiaries.

APPENDIX E: LIMITED PARTNERSHIPS*

	REGISTRATION OF PARTNERSHIP ON ESTABLISHMENT	REQUIREMENT FOR LOCAL PARTNER	REQUIREMENT FOR REGISTERED OFFICE IN JURISDICTION	ANNUAL REPORTING REQUIREMENTS	FILING OF ACCOUNTS IN CENTRAL REGISTRY	AUDITING OF ACCOUNTS	FILING OF OWNERSHIP INFORMATION	INFORMATION EXCHANGE (EGMONT GROUP MEMBER)
OECD COUNTRIES								
CANADA (ONTARIO)	Yes ¹	No	No ²	No	No ³	No ⁴	Yes ⁵	Yes
IRELAND	Yes ⁶	No	Yes ⁷	No	No ⁸	No ⁹	Yes ¹⁰	Yes
LUXEMBOURG ¹¹	Yes	No	Yes	Yes	No ¹²	Yes ¹³	General partner-yes ¹⁴ Limited partner-no	Yes
NEW ZEALAND (SPECIAL PARTNERSHIP ¹⁵)	Yes ¹⁶	Generally not required	Yes	No	No ¹⁷	No	Yes ¹⁸	Yes
SWITZERLAND	The legal form of a limited partnership is available but very rarely used.							
UNITED KINGDOM ¹⁹	Yes ²⁰	No	Yes ²¹	No	No ²²	No	Yes ²³	Yes
U.S. (DELAWARE)	Yes ²⁴	Yes	No ²⁵	No	No	Only for public limited partnerships	General partner-yes Limited partner-no ²⁶	Yes
NON-OECD COUNTRIES								
THE BAHAMAS (EXEMPTED LIMITED PARTNERSHIP)	Yes ²⁷	Yes ²⁸	Yes ²⁹	Yes ³⁰	No	No	General partner-yes Limited partner-no ³¹	Yes
BERMUDA (EXEMPTED LIMITED PARTNERSHIP)	Yes ³²	No ³³	Yes ³⁴	Yes ³⁵	No	No ³⁶	General partner-yes Limited partner-no ³⁷	Yes
BRITISH VIRGIN ISLANDS (INTERNATIONAL LIMITED PARTNERSHIP)	Yes ³⁸	No ³⁹	Yes ⁴⁰	No	No ⁴¹	No ⁴²	General partner-yes Limited partner-no ⁴³	Yes
CAYMAN ISLANDS (EXEMPTED LIMITED PARTNERSHIP)	Yes ⁴⁴	Yes ⁴⁵	Yes ⁴⁶	Yes ⁴⁷	No	No	General partner-yes Limited partner-no ⁴⁸	Yes
HONG KONG	Yes ⁴⁹	No	No ⁵⁰	No	No ⁵¹	No	Yes ⁵²	Yes
ISLE OF MAN	Yes ⁵³	No ⁵⁴	Yes ⁵⁵	Yes ⁵⁶	No ⁵⁷	No	Yes ⁵⁸	Yes
JERSEY	Yes ⁵⁹	Generally not required	Yes ⁶⁰	No	No ⁶¹	No ⁶²	General partner-yes Limited partner-no ⁶³	Yes
SINGAPORE	Limited partnership not available.							

* For the purposes of this exercise, only limited partnerships have been reviewed and in any event, this does not include limited liability partnerships.

CANADA (ONTARIO)

¹ Under the *Limited Partnership Act* (Ontario) (“LPA”), R.S.O. 1990, c. L-16, as amended, and regulations made under the LPA (“LPA Regulations”), a written declaration signed by all of the general partners must be filed with the registrar appointed under the *Business Names Act*, R.S.O. 1990, c. B-17 (“BNA”). The general partner will be deemed to be carrying on business in Ontario through the limited partnership. Pursuant to the LPA Regulations, included among the prescribed information to be filed with the registrar is a statement of a partner’s contribution to the limited partnership and the general nature of the business. A record of limited partners, pursuant to ss. 4(1) of the LPA, must be kept at the limited partnership’s principal place of business in Ontario. No person associated in a limited partnership may carry on business or identify himself or herself to the public unless the name of the partnership has been registered by all partners or by a designated partner under the LPA.

² However, pursuant to subsection 33(1) of the LPA, every limited partnership shall keep certain information at its principal place of business in Ontario, including a copy of the partnership agreement, a copy of the declaration and a copy of each declaration of change amending the declaration. Pursuant to subsection 33(2) of the LPA, where an extra-provincial limited partnership (“EPLP”) does not have a principal place of business in Ontario, the documents referred to in the foregoing sentence shall be kept by the EPLP’s attorney and representative in Ontario.

³ Financial statements of the limited partnership are not required to be filed with the registrar. However, such information is required to be submitted to the applicable income tax authorities.

⁴ Although a limited partnership’s financial information would not normally be audited, the general partner’s financials might be.

⁵ Ownership information of a limited partnership must be filed with the registrar pursuant to the regulations made under the LPA. Pursuant to subsection 19(2) of the LPA, a declaration of change must be filed for the admission of a new general partner, but not for a new limited partner (also see section 17 of the LPA). As stated above, however, a record of limited partners must be kept at the limited partnership’s principal place of business in Ontario.

IRELAND

⁶ Section 5 of the Limited Partnership Act 1907 – a statement signed by all the partners which includes the full name of the partners must be sent to the Registrar of Companies.

⁷ Section 8 Limited Partnership Act 1907 – principal place of business must be in the Republic of Ireland.

⁸ It is not necessary to file financial accounts as at least one general partner has unlimited liability for the liabilities of the partnership. However, if all of the partners effectively have limited liability, then regulation 6 of the European Community (Accounts) Regulation 1993 applies and accounts must be filed. Furthermore, a limited partnership is required to file tax returns with the Irish Revenue Commissioners and the Revenue Commissioners look for financial statements to support tax computations.

⁹ However, with regards to Investment Limited Partnerships, the Central Bank is the regulator and may require audits of the partnership.

¹⁰ Registration of Business Names Act 1963 - a full list of partners must be filed with the Registrar of Companies on establishment and when changes occur.

LUXEMBOURG

¹¹ We have reviewed the ordinary limited partnership (i.e., *le Société en Commandite Simple*).

¹² Except for limited partnerships where all their general partners are financing companies.

¹³ The commercial company law provides that companies are obliged to use the services of a “*reviseur d’entreprises*” (i.e., an independent auditor) for the control of their accounts if two of the following criteria are met: a total balance sheet is in excess of EUR 2,305,410; the net turnover of the company exceeds EUR 4,610,820; the number of personal employed full time during the fiscal year exceeds 50 employees.

¹⁴ The commercial company law provides that a limited partnership must be formed under a business name which must comprise the name of one or more general partners. In addition, general partners’ names must be filed on establishment and when changes occur. There are no such requirements for limited partners.

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NEW ZEALAND (SPECIAL PARTNERSHIP)

¹⁵ Section 50 Partnership Act 1908 – “[a] partnership may consist of general partners, who shall be jointly and severally responsible as general partners ... [and] special [limited] partners, who shall contribute to the common stock specific sums in money as capital, beyond which they shall not be responsible for any debt of the partnership” except in certain cases.

¹⁶ Section 51 Partnership Act 1908 – all the partners must sign a certificate containing the information set out in Section 51 which includes the names and addresses of all the partners. This certificate must be acknowledged by each partner before a Justice of the Peace and registered in the office of the High Court of New Zealand (Section 54).

¹⁷ Limited partnerships are not required to file financial accounts with any central registry. However, the income of a partnership and the partners’ shares in the partnership are disclosed to the Commissioner of Inland Revenue in a joint return. This information is confidential to the Commissioner.

¹⁸ Partners’ names and home addresses are filed at the High Court Registry on formation. It is common practice for changes of limited partners to be dealt with by way of contract, utilising a so called “deed of accession”. There is no strict statutory requirement for such changes of ownership to be recorded in the High Court, although this would usually occur at the time of renewal of a special partnership after the expiry of its initial term (which has a maximum term of 7 years). Accordingly, the public record may not be current in identifying beneficial owners.

UNITED KINGDOM

¹⁹ Limited partnerships formed under the Limited Partnership Act 1907 (the “LPA”) but not limited liability partnerships formed under the Limited Liability Partnership Act 2000.

²⁰ Section 8 of the LPA - a statement as to the firm’s name, business, principal place of business, partners, terms and date of commencement and contribution of the limited partners must be filed with the Registrar of Companies in that part of the U.K. in which the firm’s principal place of business is situated. Failure renders the firm a general partnership (section 5 of the LPA). Statements so filed are available for public inspection (section 16 of the LPA).

²¹ Section 8 of the LPA – the principal place of business must be situated or proposed to be situated in the United Kingdom.

²² However, when the firm is within the scope of the Partnerships and Unlimited (Accounts) Regulations 1993 because each of its members is a limited company or an unlimited company, or a Scots firm, each of whose members is a limited company (wherever those entities are formed) the local corporate partner must under those Regulations append the partnership return to its own return– unless the firm is consolidated in group accounts prepared by an EU member state member (or parent of such member).

²³ Sections 8 and 9 of the LPA - all of the partners’ names, the contributions of limited partners and whether in cash or otherwise must be filed with the relevant Registrar of Companies on establishment of the partnership and within 7 days of any changes.

U.S. (DELAWARE)

²⁴ A certificate of limited partnership must be filed with the Delaware Secretary of State.

²⁵ There is a requirement of a local registered agent. There is no requirement of a local place of business.

²⁶ For all limited partnerships, the certificate of partnership, which lists the general partners only, is a public record. The identities of limited partners are not disclosed or public.

THE BAHAMAS (EXEMPTED LIMITED PARTNERSHIP)

²⁷ Section 9, Exempted Limited Partnerships Act 1995 (the “ELPA”) - a statement signed by or on behalf of the general partners which includes the general nature of the business, the address in The Bahamas of the registered

office of the exempted limited partnership and the full name and address of each of the general partners must be filed with the Registrar of Exempted Limited Partnerships.

²⁸ At least one general partner must be a Bahamian resident, an international business company existing under the International Business Companies Act 2000, a company incorporated under the Companies Act 1992 or a foreign company registered in The Bahamas under the Companies Act 1992.

²⁹ Section 6(4) of the ELPA - exempted limited partnerships must have a registered office in The Bahamas for the service of process and delivery of notices and other communications.

³⁰ Section 19(1) of the ELPA - an exempted limited partnership is required to file an annual return with the Companies Registry. Section 10(1) of the ELPA - additionally, any changes in the registered particulars of the statement of the exempted limited partnership must also be filed at the Companies Registry.

³¹ The names and addresses of each general partner must be filed with the Registrar on establishment of the partnership and the information must be updated if any changes occur. Further, pursuant to section 14(3) of the Financial and Corporate Service Providers Act 2000 (the "FCSPA"), a company licensed under the FCSPA should keep a record in respect of each client, including the name and address of all partners registered under the ELPA.

BERMUDA (EXEMPTED LIMITED PARTNERSHIP)

³² Certificate of Particulars of Limited Partnership, Certificate of Particulars of Exempted Partnership together with fully executed partnership articles, must be filed with the Registrar of Companies. (n.b. when articles of partnership are amended the revised articles are not required to be registered.)

³³ However, section 17 of the Exempted Partnerships Act 1992 (as amended 1999) (the "EPA") - an exempted partnership shall maintain a resident representative in Bermuda, this person is frequently provided by the local service providers but also a Bermuda exempted company that has appropriate objects can act as Resident Representative.

³⁴ Section 10(10) of the EPA.

³⁵ Section 12(1) of the EPA - the partnership must send to the Registrar a declaration stating the general nature of the business transacted by the exempted partnership each year.

³⁶ Section 16 of the EPA - If in respect of a particular interval all the partners including limited partners agree in writing that no financial statements or auditors report needs to be prepared, there is no obligation to cause a financial statement or auditor's report to be prepared for that interval.

³⁷ During the course of application for consent for an Exempted Partnership details of the beneficial ownership of the General Partners must be disclosed to the Bermuda Monetary Authority - this information is not available to the public. The Certificate of Particulars of Exempted Partnership must include the name and address of the General Partner - section 5 of the EPA. In the case of a Limited Partnership the register of limited partners must be maintained at the Registered Office of the Partnership and is available to be inspected by the public - section 7 and 8 of the Limited Partnership Act 1883.

BRITISH VIRGIN ISLANDS (INTERNATIONAL LIMITED PARTNERSHIP)

³⁸ A memorandum which includes the names of all general partners must be submitted to the Registrar for registration. (The articles only have to be submitted to the registered agent of the limited partnership.)

³⁹ However, must maintain a registered agent in the British Virgin Islands.

⁴⁰ Section 82 The Partnership Act 1996.

⁴¹ Not required unless it is a public fund registered under the Mutual Funds Act 1996, in which case annual audited financial statements must be kept available for examination by the Registrar of Mutual Funds and all investors of the public fund at the fund's place of business or registered office in the British Virgin Islands. Managers and administrators of mutual funds are also required to appoint an auditor.

⁴² See footnote 40 above.

⁴³ A memorandum which includes the names of all general partners is required to be filed at the Registry on establishment. An amendment to this memorandum is necessary to effect the admission of additional general partners. Additional limited partners are admitted by making an amendment to the articles which need not be filed at the Registry. The Anti-Money Laundering Code of Practice requires service providers to maintain records

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of identity in respect of new clients except in circumstances where the client has been introduced by a similarly regulated entity from another jurisdiction. These records need not be in the BVI as long as they are accessible and the service provider is satisfied that they are being mentioned.

CAYMAN ISLANDS (EXEMPTED LIMITED PARTNERSHIP)

⁴⁴ Section 9(1) The Exempted Limited Partnership Law (2001 Revision) (the "ELPL") - An exempted limited partnership must be registered with the Registrar of Exempted Limited Partnerships. It comes into existence on completion of the partnership document but does not obtain the benefit of limited liability until registered.

⁴⁵ At least one general partner must be an individual resident in the Cayman Islands or a company registered under the Companies Law or registered under Part IX of the Companies Law or a partnership registered under the ELPL.

⁴⁶ Section 6(4) of ELPL.

⁴⁷ Section 19 of the ELPL - an exempted partnership must file with the registrar each year a return certifying that the exempted partnership has complied with section 10(1) (notification of any changes) and there has been no breach of the declaration under section 9(1) (f) (not undertake business with the public in the Island).

⁴⁸ Partner information which must be filed is set out in some detail in section 9(1)(d) of the ELPL. Changes in general partners must also be filed under section 10. A Register of Limited Partners is maintained at the registered office and is available for public inspection.

HONG KONG

⁴⁹ Section 4 of the Limited Partnerships Ordinance - limited partnerships must be registered with the Companies Registry.

⁵⁰ There are no statutory requirements for a registered office in Hong Kong; however, a limited partnership must carry on business in Hong Kong to take advantage of the Limited Partnerships Ordinance.

⁵¹ A limited partnership is not required to file its financial accounts with a central registry. However, a limited partnership must provide supporting information for its profits tax return which is filed with the Inland Revenue Department. The Inland Revenue Department has broad authority to require information to be provided to it by a taxpayer.

⁵² On the establishment of a partnership a statement which includes the names of all the partners, including limited partners must be filed with the Registry. Any change to the information in the statement must be filed.

ISLE OF MAN

⁵³ Section 48(1) of the Partnership Act 1909. The Corporate Service Providers Act 2000 requires that any administration services to a limited partnership is a licensable activity. Under the terms of the corporate service provider regulatory codes and the AML Code, a corporate service provider is required to apply full KYC due diligence on the limited partnership including its constituent parties and partnership assets.

⁵⁴ However, there is a requirement for a local partner if a tax exemption is required.

⁵⁵ Sub-section 48A(1), The Partnership Act 1909 - Limited partnership must have a place of business on the Isle of Man.

⁵⁶ Sub-sections 51(1A) and 51(1B) The Partnership Act 1909 - An annual statement containing the firm name; the general nature of the business; the principal place of business; the name and address of each partner; the name and address of each person who has ceased to be a partner since the last annual statement or, if there has been no previous statement, since the registration of the partnership; and a description of every limited partner or former limited partner.

⁵⁷ Filing of accounts not normally required unless the partnership is licensed, eg under the Investment Business Act 1991.

⁵⁸ The full name of all partners and their home addresses must be filed with the Registry on establishment and when changes occur. In addition see note 52 above for KYC due diligence by the corporate service provider.

JERSEY

⁵⁹ Article 4 of the Limited Partnerships (Jersey) Law 1994 - in order to form a limited partnership under the Limited Partnerships (Jersey) Law 1994, a declaration must be filed with the Registrar of Limited Partnerships in Jersey stating the name of the partnership, its registered office in Jersey and details of the general partner, the duration of the partnership and such other particulars as may be prescribed.

⁶⁰ Article 8(1) Limited Partnerships (Jersey) Law 1994 - the partnership must have a registered office in Jersey, notice of which (and any change in which) must be given to the Registrar of Limited Partnerships.

⁶¹ There is no requirement for a limited partnership to file its financial accounts with any central registry nor any tax authority.

⁶² Article 9(2) Limited Partnerships (Jersey) Law 1994 - Unless the partnership agreement provides otherwise, it is not necessary for a limited partnership to appoint an auditor or have its accounts audited.

⁶³ Articles 4 and 5 Limited Partnerships (Jersey) Law 1994 - general partners' names must be filed on establishment and when changes occur. Article 8(4) - a register of limited partners must be held at the registered office but need not be filed.