C/M/S/ Cameron McKenna

Investment funds

Adding value through experience

At CMS Cameron McKenna we work hard to be a truly client focused law firm. This means understanding the unique needs and challenges of your market sector and providing a tailored service addressing your particular concerns and requirements.

Why choose us?

The investment funds sector has undergone dramatic change in recent years witnessing significant growth in the number and types of investment funds formed and the continued development of innovative fund products. In the current challenging economic climate we can help to provide innovative solutions to fund structuring and promotion, addressing issues faced by funds and their managers.

Innovative solutions for our funds clients: we have advised on a number of ground-breaking funds within the UK, European and emerging markets, such as some of the first funds to invest in India and Russia, and have further advised on innovative structures such as Dutch co-ops and Mauritian and Cypriot entities.

Extensive client base: we advise a range of wholesale and retail clients including fund managers, promoters, administrators and institutional investors across a wide range of different fund sectors and structures. Acting for such a range of clients means that we have a good understanding of all the relevant issues from the perspective of both the managers and the investors.

Specialist sector advice: we have particular expertise across a number of asset classes including:

- Real estate
- Private equity and venture capital
- Infrastructure
- Hedge and other alternative funds

Cross-disciplinary team: our funds team comprises specialists from across the firm covering core services, both domestically and cross-border, including:

- Fund structuring and promotion
- Fund investment and portfolio advice
- Debt finance
- UK and international tax
- Management and performance incentive schemes
- Regulatory advice

as well as a range of services that cover the wider business needs of funds such as use of derivatives, outsourcing, dispute resolution and employment advice.

Adding value through experience: our team has worked with many of the key players in the funds sector including:

- 3i
- Aberdeen Asset Management
- AIB Capital Markets
- Bank of Ireland
- Blackstone
- CBRE Investors
- Close Brothers
- Deutsche Property Asset Management
- F&C Asset Management
- Henderson Global Investors
- IVG
- JP Morgan
- Jupiter Asset Management
- Matrix Securities
- M&G
- Moorfield Group
- Prudential Property Investment Managers
- Robeco
- Rockspring
- RPMI/Railpen
- RREEF UK
- Rutley Capital Partners
- Scottish Widows Investment Partnership
- Wellcome Trust

Our network of offices across Europe allows us to advise across all of the European markets and further afield.

"Their expertise, their ability to manage a relationship, commercial capability, ability to cut through legal jargon - those are their strengths."

CEO

A wealth of experience

Fund formation

We help fund managers on all aspects of establishing funds and fundraising:

- Advising on the best structures and jurisdictions to present the most tax efficient solutions and to meet the particular needs of the fund manager, target investors and assets.
- Providing advice on market standards and developing terms and negotiating terms with investors. Our experience on key issues - such as fees and withdrawal terms - helps to make this as painless as possible.
- Advising on fund promotion across a number of jurisdictions, on regulatory permissions required and any suitable exemptions.

We co-ordinate with our experienced network of advisors in the key offshore jurisdictions, such as the Channel Islands and the Caymans, to put new funds in place quickly and cost-effectively so that our clients can meet market demand.

We have provided legal advice in relation to a number of structures including:

- UK and offshore Limited Partnerships and Limited Liability Partnerships
- Jersey Property Unit Trusts (often set up as 'Expert' Funds)
- Guernsey AIM listed companies
- Luxembourg FCP's, SICAF's and SICAR's
- Cayman Partnerships and Segregated Asset Companies
- BVI and Bermudan SPV companies
- Off-shore and on-shore OEICs and Unit Trusts
- UK listed property investment companies (including REITs)
- Venture Capital Trust and Investment Trusts.

Our recent experience includes:

- Scottish Widows Investment Partnership - advising on the Airport Industrial Property Fund investing in airport related infrastructure and properties. Set up as an offshore (Jersey) unit trust.
- Bank of Ireland - advising Bank of Ireland on their European Infrastructure Fund which will invest in infrastructure projects in the UK, Ireland and continental Europe.
- F&C Asset Management - advising on the formation of their institutionally promoted European venture capital fund of funds.
- Matrix Group - advising on a number of private equity and hedge funds.
- Rutley Group - advising on the formation and promotion of Rutley European Russian and Indian property funds.
- IVG Immobilien AG - advising on the establishment of a number of offshore fund structures in connection with German retail fund offerings and the establishment, jointly with AXA of the Greater London Fund.
- JP Morgan - Pan-European fund Pramerica Real Estate Investors formation and fund raising of real estate funds.
- Rockspring Property Investment Management Limited - advising on the structuring, establishment and closings of the TransEuropean Property Limited Partnership III.
- RREEF Limited - advising on the establishment, acquisition and disposal of numerous offshore unit trusts, limited partnerships and LLPs.
- Seven Dials Consulting Limited - Advising on the structuring and establishment of Seven Dials European Property Fund Limited, a Guernsey company established as a European fund of property funds.
- Aon/Railpen/XL - advising a number of leading fund management firms on the establishment of collective investment vehicles, including pensions pooled vehicles and OEICs, to manage the funds of their pension scheme clients.

Fund investment

Investments made by funds

We know that each fund has different needs, driven by its chosen investment policy and approach. We structure and implement investment transactions for funds across a range of strategies and markets:

- Real estate - advising fund managers and developers on asset acquisition and disposal and portfolio management
- Private equity - advising on transactions from early stage venture capital to large leveraged buy-outs
- Infrastructure - advising on investments and acquisitions in the primary and secondary markets
- Structuring synthetic exposures where direct investment into the underlying asset is not possible for tax, regulatory or other reasons.
- Leveraging investments through use of derivatives and other instruments.
- Tax structured investment products.

Our recent experience includes:

- Jupiter Asset Management - Advising on asset, operations and investment structures for a major Croatian tourism and hotel development – the first major 5 star operation to restructure tourism in Croatia.
- Moorfield Group Limited - Formation of Delaware limited partnership as vehicle for real estate acquisition.
- £110 million acquisition - UK hotel portfolio acquisition from WA Shearings.
- Pramerica Real Estate Investors/Sunrise Senior Living - Formation and operation of joint ventures for assisted livingschemes in the UK and Germany.
- Realstar - Asset management of a portfolio of 73 hotels bought by Lehman Brothers, GIC Real Estate from InterContinental for £1 billion.

Investing in funds

We regularly advise major institutional investors including charities and pension funds on investments in a diverse range of funds to help them achieve the best terms, as well as advising them on using leverage and margin facilities for making their investments - giving us strong insight from both sides of the negotiating table.

We advise investors in listed shares, structuring derivative trades and other transactions, and ensure compliance with takeover and listing rules.

Our recent experience includes:

- Wellcome Trust - Advising on investments in numerous European property and private equity funds, involving in particular Luxembourg and Channel Islands structures for investment in property in Germany, Italy and other European jurisdictions.
- Robeco - advising a leading private equity fund-of-funds on investments into more than twenty leading European private equity funds.
- Goldman Sachs Infrastructure Partners - advising a major pension fund on a substantial investment into Goldman Sachs Infrastructure Partners and co-investment arrangements.
- Barclays Pension Fund - advising them in relation to investments in venture capital, hedge and real estate funds.

Debt finance advice

We advise a range of clients in relation to fund debt finance matters, from funds themselves to investors raising finance on or for their investment to the commercial lenders. We have strong relationships with a number of the lenders in the market.

We co-ordinate with a network of legal advisers in the relevant offshore jurisdictions, including the Channel Islands, Isle of Man and Luxembourg.

Our recent experience includes:

- **IVG:** Advising the acquisition and financing of 30 St Mary Axe, London (the Gherkin). This was at the time the largest ever UK property transaction for a single office building.
- **RREEF:** Various investment and development facilities.
- **Nykredit Realkredit A/S:** Facilities to funds operated by, amongst others, Protego and Goodman.
- **Bank of Ireland:** Facilities to a number of Lasalle Investment Management new funds.

Regulatory advice for fund managers

Our Regulatory team has extensive experience on advising fund managers, from setting up the initial fund, through to on-going regulatory advice and advising on FSA investigations and disputes.

Our services include:

- Getting FSA authorisation and ensuring proper systems and controls and compliance procedures are in place from the start.
- Ensuring the manager is set up in a tax efficient way, particularly to take advantage of the UK investment management exemption and to minimise irrecoverable VAT.
- Negotiating investment management and advisory, custody, administration and prime brokerage agreements.
- On-going regulatory issues including dealing with principles-based regulation and senior management responsibility, systems and controls, market abuse/insider dealing, preparing for Arrow, thematic and unannounced visits from FSA and regulatory developments such as MiFID and UCITS.
- Dealing with FSA investigations and enforcement actions. We have represented over 200 firms and individuals in regulatory investigations and enforcement actions brought by FSA and its predecessors. Our experience includes defending FSA action on issues such as conflicts, fraud, market abuse, custody and mis-selling.

Our recent experience includes:

- Internos Real: assisted new property fund managers in obtaining FSA authorisation.
- rpmi: we advised them on FSA authorisation and assist them in ongoing compliance matters.
- Jupiter Adria: we advised on marketing funds in the UK/EU taking advantage of exemptions within the UK regime for the promotion of unregulated collective investment schemes.
- M&G/Scottish Widows Investment Partnership: we advise on a range of regulatory matters such as MiFID, UCITS and general compliance with the FSA's rules.
- Aberdeen Asset Management: acted for this leading fund manager in connection with FSA's investigation into split capital investment trusts.
- AAC Capital: we advised AAC on the disposal by ABN of its interests in AAC's funds to Goldman Sachs.
- Leading fund manager: we have assisted them in the set up of a number of managers/advisers in the past few years.
- Numerous fund managers: assisting in connection with FSA investigations including market abuse/insider dealing investigations by FSA and foreign regulators.

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Dispute Resolution

Our Dispute Resolution group has wide experience of handling claims for and against funds. Our specialist team also understand the regulatory context in which our clients operate and recognise the importance of finding commercial solutions.

Since the economic downturn there has been a marked increase in claims brought by investors' based upon allegations of breach of mandate and/or investment policy, mis-selling of packaged products, negligence in portfolio selection and misrepresentation.

Recent experience includes:

- Defending a leading fund manager against a claim in negligence by a split capital investment company for substantial damages in connection with advice given on flotation and management of the income portfolio after flotation. The case involved important issues regarding the disclosure of FSA investigation documents to civil claimants that were considered by the Court of Appeal.
- Defending a Commercial Court action by a Private Equity Fund over rights in an Option Agreement over shares acquired by an investment vehicle in the context of a contested take over.
- Defending a leading fund manager in its defence of claims concerning alleged mis-selling and failure to advise on investment risk.
- Settling a dispute for a major asset manager concerning negligent advice allegedly relied on by a sophisticated investor when restructuring its shareholding in various investment funds.
- Advising investors in relation to the potential negligence of a fund manager over investment strategies in the current economic climate.
- Advising fund managers over potential liabilities in relation to falling valuations and potential breaches of banking covenants.
- Settling claims for a hedge fund against a major European bank arising from alleged misrepresentations concerning the pricing of various CDOs.
- Assisting an asset manager defend its corporate reputation and protect its rights to privacy under attack from the press and broadcast media.
- Advising a large fund manager on potential claims and regulatory issues arising out of the pricing of its unit trusts.
- Advising asset managers in relation to corporate reputation and risk issues, including privacy, breach of confidence, defamation, malicious falsehood, and press and broadcast issues.

Get in touch

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"They know the way the industry works and therefore can shortcut decisions and help us shortcut decision-making"

Leading financial institution

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