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20 April 2021

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Our ref FMREG/NB6000-20015/JVS/NRS
Your ref

By Email

Dear Sirs

Review of the UK Funds Regime: Call for Input

Simmons & Simmons LLP welcomes the opportunity to respond to HMT's Review of the UK funds regime: a call for input (the Call for Input).

The future of the asset management industry in the UK is of fundamental importance to Simmons & Simmons. Since the 1980's, we have been active as legal adviser to numerous fund managers and have established a reputation at the forefront in this area globally. In addition to many UK pension funds (for whom many of the topics in the Call for Input are of particular interest), in terms of Assets under Management, we act for

- 40 of the top 50 largest European hedge funds
- 16 of the top 20 largest US hedge funds and
- 15 of the top 20 Global Institutional Managers.

As a result, we take an active interest in seeking to ensure that the UK's regulatory and legal regime creates the correct conditions for a thriving domestic industry. As well as our longstanding involvement through trade associations, such as AIMA, the Investment Association and the BVCA, we are currently represented on both the Steering Committee and Technical Expert Group of the Bank of England / HMT / FCA Productive Finance Working Group.

Executive summary

If the UK fund regime is to be attractive to funds, their managers and their investors, whether in the UK or overseas, its single most important characteristic must be maximum flexibility. .

Learning from experience, to create a successful regime, three core elements – taxation, regulation and investor access – must work together coherently. If any one of these is out of balance, the regime as a whole will fail to achieve its goal.

The new regime should therefore be built upon the following principles:

(a) Taxation

The UK funds tax framework must be underpinned by a simple, straightforward and effective system, where relevant funds may elect into a tax regime that provides full fund-level exemption from taxation or, at least, very low rates of taxation.

(b) Regulation

The regulatory regime should be sophisticated and provide graduated levels of regulation and authorisation:

Level 1 an unregulated regime restricted to "professional"[1] investors.

Level 2 a more lightly regulated, but authorised, regime for funds which would include:

- a very lightly regulated product for professional investors only (such as the QIS),
- a more heavily (but still comparatively lightly) regulated product, which can be marketed to advised retail investors and to retail investors investing indirectly via pension funds etc (such as the LTAF), and

Level 3 a traditional, more heavily regulated regime for funds marketed directly to retail investors (such as a NURS).

These regulatory gradations are shown in the diagram below.

At each level, a fund should be able to take any legal form – corporate, LP, trust, contractual – and should offer optionality around liquidity, being open-ended or closed-ended. This last is important – there should be a move away from the erroneous conflation of risk and illiquidity.

Investor protection, particularly where products are directed at or available to the retail investor, remains crucial and would be achieved through a combination of rigorous disclosure appropriate to the level of sophistication of the target investor base and, at levels 2 and (particularly) 3 or traditional aspects of product regulation.

In terms of implementation:

- at **Level 1**, we would propose an unauthorised fund suite, including an unauthorised OEIC and a contractual professional investor fund
- at **Level 2** we propose that the current QIS should be substantially reformed – such a fund (which we are calling 'NewQIS' for ease of reference) could act as the flagship structure at this intermediate level, with sufficient flexibility to cover all the fund types envisaged
- we see room in Level 2 for a Long-Term Asset Fund **(LTAF)**. Its viability (and form and terms) should be left to the market, rather than political considerations, to decide
- at **Level 3,** the NURS (and UCITS, though see below) would remain the core fund product for the direct retail market.

(c) Investor access

Aside from creating a fertile, flexible ecosystem for fund development, it is crucial that regulation of distribution be amended to keep pace with the new regime. Accordingly. we would wish to see an overhaul of the current NMPI regime which allows appropriate access to the differing types of investors. The current system of rules and guidance is complex and difficult to comply with in practice therefore little used.

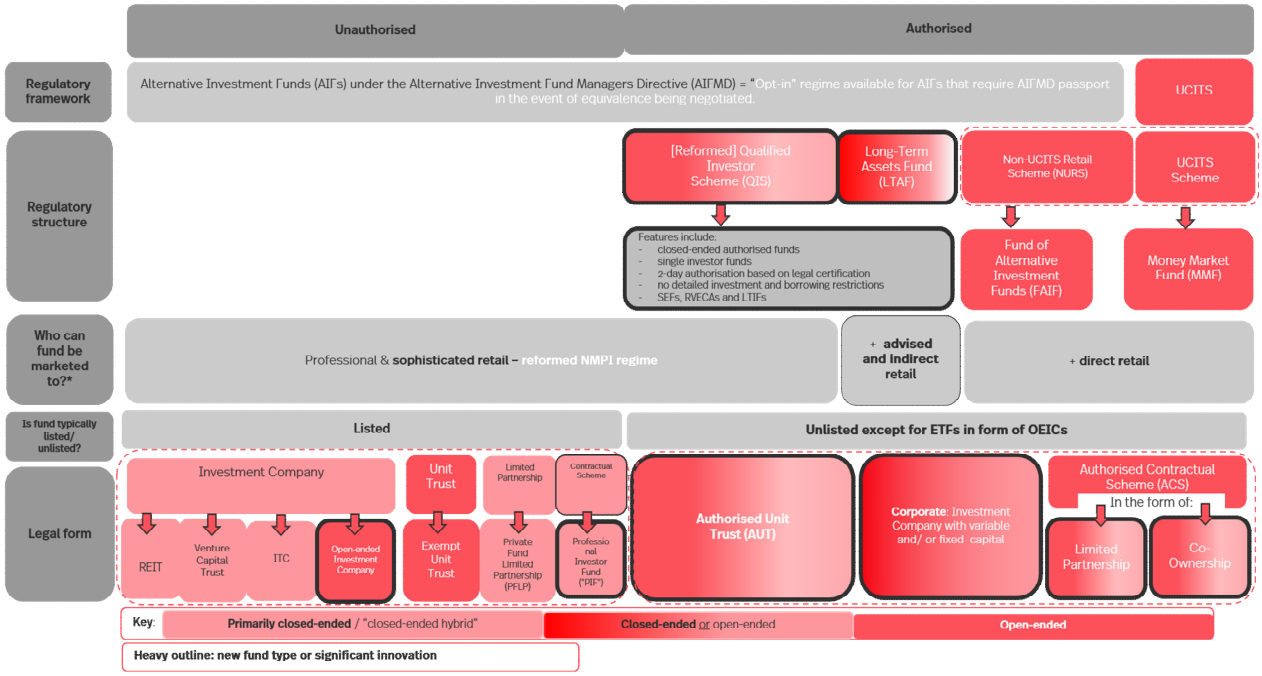
Other points:

- There is a clear opportunity for the UK to develop a 'brand leading' regime in areas such as sustainability, fin tech and productive capital. These, though, will be short lived and other jurisdictions will be trying to establish themselves. In order to beat the competition in these areas, it is imperative that reforms at this point are both ambitious and comprehensive. Further, the UK must be willing to promote itself aggressively and coherently – its rivals are well experienced in doing so.
- HMT, HMRC, and the FCA must all be committed to making the necessary changes in a coordinated manner. Without coordinated and coherent action a significant opportunity for reform will be lost, one which is unlikely to come again for many years.

[1] Please note that, in our submission we use the term 'professional' in a broad sense to include, where appropriate, sophisticated, qualified or certain other categories of expert or experienced investors, rather than as defined in MiFID.

- Any future regime must be efficient to succeed. For example, the time taken for FCA approval of applications must be shortened to compete with existing regimes elsewhere (particularly for Level 2 funds).
- The new regime is likely to be more attractive to newly established funds, rather than for relocating existing ones. To make re-domiciliation a more viable option, though, the UK must allow continuity of form of the vehicle.

Simplified diagram of what the UK's fund regime could look like



HMT's Call for Input

There could hardly be a better time at which to take stock of the UK funds and funds tax regimes.

Brexit has fundamentally altered the ability of UK fund managers to access investors in the EU. Further, we see threats to the existing delegation model under which aspects of fund management can be undertaken by UK firms on behalf of EU funds.

At the same time, Brexit offers the UK a degree of freedom to develop a regulatory and tax framework, distinct from that in the EU. This can be a more flexible regime, avoiding those aspects which have been criticised for the unnecessarily onerous and restrictive obligations they impose.

In addition, the COVID pandemic has put governments around the world under pressure to find ways of allowing easier access for private capital to finance the economic recovery. This will require a new generation of funds designed to invest in long-term assets and projects, which in turn must drive a serious reconsideration of prior regulatory attitudes to liquidity.

Simmons & Simmons' response

Our response to the Call for Input consists of three parts:

- this covering letter, which sets out our "blueprint" for a future UK funds regime. Inevitably, given the breadth of the topic, the questions posed in the Call for Input itself do not necessarily go to what we see as the heart of the issues faced by the UK regime
- our answers to the specific questions in the Call for Input and
- a summary of the results of a survey of our clients and contacts, the data from which have informed our response.

The survey was completed by 82 different clients. These cover a significant range of fund types and sizes – UK and non-UK, open-ended, closed-ended, authorised, unauthorised and servicing retail, sophisticated and professional investors.

In addition, in preparation for our final submission, we held two roundtables for clients and representatives from industry associations. These gave us the opportunity to discuss our own views and the findings from the survey and to take soundings from industry as to what currently works, what doesn't - and why not. A number of comments made during the roundtables appear in the attached summary of the survey referred to above.

The future UK funds regime

A successful fund regime requires three separate but (critically) interdependent elements to work in combination:

- an attractive and workable tax regime, based around the core design principles of simplicity, certainty and efficiency
- a regulatory regime which is as light touch as possible, while providing protection appropriate to the sophistication of the relevant investor base and
- the ability easily to access appropriate investors.

Get any one of these elements wrong and the result will be like a stool with three legs of different length – it will stand up, but it won't be much use.

Examples of this can be seen from past attempts to introduce new structures and regimes, in the UK and elsewhere.

In the UK, neither the QIS nor the REITs regime made the broad market impact which had been intended when they were introduced.

- In the case of the **QIS**, as we argue in more detail below, the regulatory framework put in place was overly restrictive and perceived to be (among other things) unnecessarily onerous given that the target investor was 'professional'. In addition, from a tax perspective, the original substantial holding rule preventing investors holding more than 10% of a QIS stifled its adoption when the regime was introduced. Although this was replaced by the genuine diversity of ownership (GDO) condition some years after the regime was introduced, managers are still not able to use the QIS structure in all cases due to the requirements imposed by this condition – for example, a QIS cannot be used as a fund of one for an institutional investor.
- As far as **REITs** are concerned, the market view was that the original regime adopted in 2007 was appropriate for those listed property companies that initially converted to REIT status, but did not achieve all the objectives set out in the original REIT consultations, such as addressing supply concerns in the residential market.

We recognise that HMT and HMRC made efforts to update the regime in 2012 and 2014 and appreciate their related willingness to provide clarity on the practical interpretation of the REIT regime. Nevertheless, we would note that there are areas which are not facilitated by the current regime and where further changes are, we consider, merited. These would include serious consideration being given to the introduction of private unlisted REITs for Joint Venture/club deals between institutional investors, the potential extension of the regime to cover income and gains from real estate debt as well as real estate itself and also updates to the regime to accommodate developing forms of real estate occupation in the UK, be that through residential shared ownership or more flexible forms of commercial property occupation such as serviced offices.

- It has to be said that creating a regime which fails to win over its intended market is by no means restricted to the UK. For instance, the EU's initiative over the past decade or so to establish a range of branded longer-term asset vehicles – the **European Social Entrepreneurship Fund, the European Venture Capital Fund** and the **European Long-term Investment Fund** – has been notable mainly for how few funds have been established.

  In this case, the market was unconvinced that the advantages of being able to access the EU marketing passport outweighed the disadvantages of the cumbersome and costly regulatory restrictions, such as eligible investments, operating conditions and regulatory reporting.

This last point is crucial. The funds industry is remarkably flexible, innovative and fast moving. Where it sees a gap in the market which might give a competitive advantage, it looks to fill that as efficiently as possible. At the same time, there is an element of conservatism – where a tried and tested model already exists that has proved to be investible by target classes of investor and a firm is comfortable with using it, there needs to be a very good reason to change to something different.

Feedback from clients, in response to our survey and at our roundtables, repeatedly suggested that firms would be slow to migrate existing non-UK funds to the UK, largely because this is regarded as a complicated and, therefore, costly step to take. Accordingly, although the UK should be looking primarily to attract start-up funds rather than expect a significant number of existing funds to re-domicile, if the aim is to attract any level of 'repatriation' of funds from (for example) Ireland, a re-domiciliation regime must be implemented which allows offshore funds established as corporate vehicles to 'continue' as UK companies, which is not currently permitted. We realise that this is likely to require a reciprocal arrangement with the jurisdiction of the fund's current domicile (for example, Ireland) but suggest that this should be pursued as part of the package of measures to enhance the UK as a domicile of choice for UK and international asset managers.

Although, as we argue in our responses, the UK should look to replicate the best aspects of fund regulatory models elsewhere - for example the Irish Qualifying Investor Alternative Investment Fund (QIAIF) and elements of the Luxembourg Reserved Alternative Investment Fund (RAIF) - what the UK must also do is (a) identify a gap in the market, (b) develop a product, or series of products, to fill that gap and (c) publicise the new offering among the firms and investors most likely to find it attractive.

So, where are the gaps in the market?

First, our view is that, as things stand, the UK fund regime most notably lacks an adequate vehicle for professional investors only.

Second, we are at a significant fork in the road in terms of both sustainability and digitalisation. The appetite for ESG investments, for example, has grown greatly recently and shows no signs of abating. So far, no one region or fund type has established itself as the 'brand leader' (although the EU's work, including its Sustainable Finance Disclosures Regulation – SFDR - can probably be regarded as the frontrunner at the moment) and the UK has an opportunity to stake a claim in this area. That opportunity, though, is unlikely to last for long and, if missed, will be gone for good.

Third, with the increased need for private finance to help fund the post-COVID economic recovery, the issue of productive finance will become increasingly important. With it, and with the inherent illiquidity of many productive finance assets, comes the question of the liquidity mismatch and the need to balance the protection of advised or indirect retail investors with the liquidity profile of an inherently illiquid asset base. Rather than compelling such products to offer liquidity which is in many cases inherently in conflict with their investment strategies, it would be preferable to create a less liquid (and, potentially, illiquid) fund category to avoid this mismatch. The work that HM Government, the Bank of England and the FCA have been undertaking in this area over the past few years stands the UK in good stead. If a fund vehicle such as the LTAF can be developed that combines investment in longer term assets with an adequate degree of regulatory protection for the (advised or indirect) retail investor, we consider that this would be an attractive offering. The LTAF, if properly implemented, could be a significant milestone towards establishing the UK in the vanguard of this developing area.

How to fill these gaps

(a) From a tax perspective,

We would argue that the following key building blocks should be adopted:

- the existing UK authorised fund tax regime should be preserved, given that this is generally considered to be fit for purpose for most funds targeting retail investors in the UK
- alongside the existing regime, however, it should be open for relevant funds to elect into a tax regime that either provides full fund level exemption from taxation, or which provides for a very low effective rate of tax (<1%) on net profits at fund level
- the regime should be available at the very least for the new professional investors fund which we propose below (where established in corporate or unit trust form), but consideration could be given to whether this could be made available more generally, for example to deal with balanced funds that are not catered for by the current tax regime and for which the TEF regime does not make sense

- the issue of taxation of UK investors should be separated from the question of fund level taxation – one simple approach may be to treat the PIF (or other funds that qualify for the new optional regime) to be treated as offshore funds for UK tax purposes, given that the offshore funds regime (including the ability to seek reporting fund status) is well understood by investors; it should be noted that for non-domiciled investors, any new regime would ideally treat the interests in the fund (and any related income) as non-UK situs for remittance purposes, as otherwise the regime will not be competitive with non-UK regimes
- from a VAT perspective, it is critical that the provision of management services to such a fund should be zero rated, so that no VAT applies at the fund level and the UK manager is able to recover related input VAT in full – otherwise there is limited incentive for a manager to choose a UK fund over fund vehicles available in e.g. Ireland that would provide an equivalent treatment
- for funds that remain within the "basic" UK authorised fund tax regime, some changes would also be merited, for example to update the GDO condition to enable a fund to be treated as meeting this condition where it is a fund of one that is targeted at a particular institutional investor such as a pension fund or charity
- in either the basic or the optional regime, clarity should be provided that as well as no taxation at the fund level, the fund should not be required to withhold amounts in respect of UK tax from payments it makes, whatever the character of those payments and
- consideration should be given to whether there are other approaches that could be offered to make the regime for UK funds not just on a par, but in practice more attractive than the equivalent regime in other jurisdictions such as Ireland, for example by introducing relief from UK stamp taxes that would otherwise be incurred by the fund.

(b) From a regulatory perspective:

Our proposal would consist of three levels of regulation, depending on the target investor base.

Across these levels, we would wish to see funds being able to offer the maximum possible flexibility appropriate to their investor base, in terms of

- eligible investments
- the fund's legal personality (whether corporate or / partnership etc)
- the fund's regulatory status (whether authorised, registered, unauthorised etc) and
- optimal cellularisation.

Level 1 – Unauthorised funds for professional[2] investors

These should provide access to a regime where the fund is unauthorised and unregulated at the product level (though managers would, of course, remain subject to regulation if they are established in the UK).

The funds in this category should be permitted any legal form of their choice and it should be for the fund sponsor or manager to decide whether to be open-ended or closed-ended. If any of these forms turns out to be commercially unattractive, then no (or very few) such funds would be established. But the important point is that, at this level, it should be for the market to decide.

We in no way understate the importance of providing protection to investors, whether the investor base is retail or professional. However, what constitutes an appropriate level of investor protection depends entirely on the investor's level of sophistication (in effect, the degree to which it is capable of 'looking after itself').

For funds intended for professional investors, it is acceptable for protection primarily to take the form of appropriate transparency – if the correct information is provided at the correct time, this category of investor is capable of making its own mind up and accepting the consequences of its decision.

In terms of possible products within this Level, we would wish to see an unauthorised (or optionally lightly regulated) professional investor fund (PIF) for professional investors only, which could exist as

- a UK private fund limited partnership (LP)
- a company (with fixed or variable capital)

[2] To note again, we use the term 'professional' in a broad sense to include, where appropriate, sophisticated, qualified or certain other categories of expert or experienced investors, rather than as defined in MiFID.

- a contractual scheme (PIF) or
- a unit trust (UT).

This would be available to all 'professional clients' (including MiFID elective professional investors and direct contribution (DC) pension schemes) on an unrestricted basis and without the need for any product regulation.

There would be clear exemptions for joint venture structures (along the lines of the AIF guidance, not the collective investment scheme position under s. 235 of FSMA 2000, and so allowing joint ventures to take the form of limited partnerships).

Cellular versions of each product should be permissible.

Level 2 – Authorised funds which can be marketed to professional and advised or indirect retail investors

This level would accommodate both:

- authorised funds sold only to professional investors and
- funds which are also (additionally) available to some retail investors, specifically only those who are either 'professionally advised', or are accessing indirectly via, for example, a DC pension product.

Level 2 funds would, again, have full flexibility as to legal form and would be regulated under a reformed version of the QIS regime. Whilst the QIS is perhaps an imperfect starting point, we see little merit in creating an entirely new category of lightly-regulated authorised fund products. We believe that, with appropriate support from the industry and regulators alike the QIS will serve this purpose well (and, perhaps, ultimately become the authorised UK alternative to the Irish QIAIF).

There are various reasons why a fund which could perfectly well fall within the unauthorised Level 1 regime might want some form of authorised/regulated status. To have value, though, that status must come with some sort of 'cost' in terms of greater regulatory requirements than would be the case for an unauthorised Level 1 fund.

At the same time, it should not be forgotten that Level 2 would still be limited to investors largely able to look after their own interests, whether this is through their own expertise and sophistication or through the assistance of others.

As a result, our view is that investor protection for Level 2 should again be achieved primarily through a disclosure regime, both pre-contract and on-going, which ensures that investors (and their advisers) have full access to the information that they need to come to decisions.

Within this level, we would wish to see flexibility which would:

- permit funds with an AIFMD-derived minimum baseline but also those with a lower non-AIFMD level of regulation, where the fund is not being sold into the EU and investors might not want the added cost of compliance
- provide clarity on the fund's ability to originate loans
- allow single investor funds – with reform of the GDO condition as discussed above to facilitate institutional single investor funds
- allow distribution of capital – some pension fund investors value the ability to structure retirement provision vehicles based on the flexibility to distribute out of capital with appropriate disclosure
- allow the ability to smooth income or not to pay / be deemed to have paid income.

The 'NewQIS" would need to include significant improvements on the current regime in terms of approval timeframes and lighter-touch product regulation. As is already the case with "light touch" regimes in Ireland and Luxembourg, much of the fund documentation could be self-certified / pre-approved by the fund or by a professional adviser, limiting the call on the FCA's time (at least in respect of funds targeted at professionals only). It would then also require substantial investment in terms of promotional effort and support from the industry and from government and regulators, targeted at the asset management community around the world.

This would enable professionals-only access to a UK-authorised alternatives fund vehicle with meaningful, but proportionate, regulation as an alternative to the unregulated fund where a level of regulation is required or desired by the investor base.

As a minimum we suggest the 'core' amendments to the QIS regime (for professional-only Level 2 authorised funds, at least) would comprise:

- removal of all detailed investment and borrowing powers. The QIS manager should, instead, be able to rely on product disclosure and investor due diligence to provide the necessary transparency to investors and
- specifically, removal of the upper limit on borrowing of 100%. This is a function of the commercial offering that (in a 'professionals' only fund) should be capable of being set between the manager/ provider and the investors.

Given that a QIS can currently be marketed to "sophisticated retail" investors, it may be necessary to consider whether all the relaxations proposed above are made available regardless of investor type or whether some, such as that in respect of leverage, would only be available for funds with true professionals only. While having a single fund type has its attractions, this should not come at the expense of investors being able to access funds which are not wholly appropriate for their level of expertise.

In addition to "professional only" QIS products, we would see room for the LTAF and other structures within Level 2, as 'sophisticated retail products', which could be sold only to professionals (in our broad sense) or also to retail investors who are advised or are accessing such products via an indirect medium such as a pension fund.

- As with funds in each of our Levels, these could be established using any legal form.
- There would be no liquidity limitations - we assume HM Treasury and the FCA's work on liquidity to which we refer below will lead to appropriate regulatory change that (effectively) prohibits liquidity mismatches.
- Such funds would be subject to no or very limited investment restrictions.
- Enhanced disclosure/transparency would be necessary for these funds – it must be very clear to investors exactly what they are getting, what the risks are and what they might expect in terms of return (or the possibility of no returns).
- We offer some further thoughts on the LTAF below.

One further requirement for Level 2 would be a reconsideration of the current Non-Mainstream Pooled Investment (NMPI) regime to make this consistent, more flexible and clearer.

For example, COBS 4.12.13(2)G within the FCA Handbook provides that the QIS is "intended only for professional and sophisticated investors". However, this clear and straightforward statement is then undermined by the following sentence, which notes that the FCA's view is that promotion of a QIS to a retail client which is neither a certified nor a self-certified sophisticated investor is "unlikely to be appropriate or in that client's best interests".

The current mixed messaging around retail/quasi-retail distribution of a QIS is unhelpful and acts as a brake on the use of such structures in the private wealth sphere.

For this and other reasons, a wide-ranging review of the NMPI regime would be sensible to make it more user friendly and to ensure that the rules are clear as to what funds can be marketed to which investors. This will help investors and managers, in turn, understand where the UK's regulatory parameters are and make their decisions with the benefit of greater certainty.

Long-Term Asset Funds

We would see the LTAF as a product that may be sold to some types of retail investor – notably indirectly through pension products such as defined contribution or DC schemes but also, with advice or other form of certification of "sophistication".

These could be established using any legal form: AUT, Company (open or closed-ended) and Authorised Contractual Scheme (ACS) (including an LP).

Ideally, there would be few, if any, investment restrictions or prescribed investments to allow product development in line with developing technology and innovation.

On liquidity, we would urge consideration of a principles-based regulation that (effectively) prohibits liquidity mismatch but which has no minimum frequency of redemptions to enable flexibility of product design to meet

investor expectations. We accept that there are statutory provisions for all authorised funds which (severally) require that investors have an entitlement to redeem their investments at a price related to net assets

- for an ICVC, that requirement is enshrined in Regulation 15(11) of the OEIC Regulations 2001
- for an ACS, see s.261E(1) of FSMA 2000
- for an AUT, see s. 243(10) of FSMA 2000.

We consider there is no need to make specific regulation in addition to these provisions for the LTAF in the short term as the above constraints would enable an LTAF to be formed with long term liquidity to match most productive finance asset types. There are, however, good and valid illiquid productive finance strategies that are best suited to a truly closed-end, fixed life fund vehicle and which are currently available only in unregulated vehicles.

In the medium term, in order to achieve a truly closed-ended version of the LTAF which is suited to such asset types, it is likely that the above-mentioned statutory requirements will have to be relaxed or removed.

Level 3 – Funds capable of being marketed to all retail investors

We have less to say at the retail end of our proposed spectrum, other than that we see little need to change the current regime substantially (although Brexit has an impact on the UK's continued ability to offer UCITS).

We wholly accept that investor protection for retail funds needs to be significantly more stringent than for Levels 1 and 2 and it is likely that closed-ended funds are unsuitable for true retail investors, given the increased dependence on the ability to redeem ones investment quickly.

However, for the sake of consistency and flexibility, our view is that retail funds should be capable of being established using any legal form, including but not limited to Authorised Unit Trusts, ICVCs or ACS (assuming the minimum investment criterion is lowered). Although clearly open-ended authorised funds are more suitable for UCITS and most other retail vehicles, we think that closed-ended variations of each legal form could be permitted for certain fund types and strategies.

The retail regime should – for the time being at least – be centred on the NURS framework. Although, following Brexit, the UK is no longer an EU Member State so is unable to offer 'true' UCITS, we see no reason for not maintaining the idea of a UK UCITS regime. If an equivalence regime is subsequently agreed with the EU, NURSs could then be offered the choice of opting in to the UCITS regime (to make use of the marketing passport which would again be available) or continuing as a NURS and enjoying the greater flexibility that comes with such funds.

(On the question of being able to redeem ones investment quickly, to which we refer above, we note the significant work which HM Treasury and the FCA has been doing recently in the area of productive capital – in particular, trying to square the circle of allowing funds to invest in longer-term assets (as will be increasingly important in funding the recovery from COVID-19) while, at the same time, offering an acceptable level of liquidity to their investors. The Call for Input, though, is perhaps not the occasion to set out our detailed submissions on this topic.)

(c) From an investor access perspective

As mentioned above, we favour as light touch regulation as possible with reliance on disclosure providing adequate investor protection for non-retail investors.

We also believe it should be made entirely clear which funds can be sold to which investor type(s). A thorough review of the NMPI is an important aspect of this, as already argued.

Other matters to consider

There are a number of matters which are important to a fund when determining where to set up.

An important factor is undoubtedly **speed to market**. If it is to compete to any meaningful way with existing regimes in other jurisdictions, the time taken for FCA approval of applications simply must be shortened. A six month maximum time frame is too long when other jurisdictions are managing to complete applications in less than half that time - even where the FCA is, in fact, achieving significantly shorter turnarounds as part of its service levels, it is the headline 'six months' timescale which managers will have in mind.

To this end, we would wish to see significant **reductions in the applicable statutory timeframes** (perhaps with built in 'get outs' where, for example, the documentation provided is incomplete, to give comfort to the FCA) but also far greater publicity to the FCA's actual approval figures.

In our response to the questions posed in the call for Input, we note that greater use could be made of **self-certification of documents** and/or provision of greater clarity around regulatory demands (or a checklist for managers) in order to help speed the overall process up for non-retail fund applications.

Allied to this, several participants at our client roundtables noted that they would wish to see HM Government and the FCA making more of an effort to **publicise the UK's regime** at industry conferences – they note that regulators from other countries are well known for attending and participating at such meetings and spreading the word effectively for their home jurisdiction.

It is our belief that any new regime is primarily likely to attract newly established funds, rather than leading to the relocation of existing ones. However, there will be some existing fund providers who will look to see if moving to the UK makes commercial sense. To make re-domiciliation a more viable option, though, the UK must allow continuity of form of the vehicle, so it will be seen as a UK entity without the requirement to incorporate from scratch.

Although there are more appropriate occasions at which to set out detailed arguments on the point, we would note that opportunities exist right now to **develop a 'brand leader' regime** in areas such as sustainability, digitalisation and/or productive capital. These opportunities, though, will be short lived and other jurisdictions will be trying to establish themselves. The UK must be willing to strike while the iron is hot and to promote itself strongly and consistently – its rivals will be doing so.

One further action which HM Government may wish to consider is, following the example of, say, Singapore and Hong Kong, to **subsidise managers** for the costs incurred in setting up new vehicles in the UK through a form of grant or one off contribution, open for a limited period of time.

Finally, to reiterate our view that, if the regime is to work, all three elements of it (tax, regulation and access to the appropriate investors) must all work in harmony, we think it crucial that HM Treasury, HMRC, and the FCA are all **committed to making the necessary changes**. Equally important is to ensure that the market has confidence that the regime put forward will have a degree of permanence and will not be subject to a reversal in government policy following the possible outcome of the next general election. To this end, cross-party political support would be most welcome (and demonstrated publicly).

If these steps are not taken, we believe that a significant opportunity for reform will be lost, one which is unlikely to come again for perhaps a decade or more.

As we mention at the start of this covering letter, the success of the UK fund regime is a matter of great importance to Simmons & Simmons. If there are any aspects of our response that you think would be helpful to discuss with us further – or if you have any questions about the funds industry or the approach taken in other jurisdictions – please do not hesitate to let us know.

Yours faithfully

Simmons & Simmons LLP