



MIDDLE EAST INSIGHTS

MIDDLE EAST INSTITUTE, NATIONAL UNIVERSITY OF SINGAPORE

THE REGULATION OF COLLECTIVE INVESTMENT SCHEMES IN QATAR AND SINGAPORE

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Introduction

The main economic resources of Qatar today are oil and gas, unlike in the 1970s, when much of the economy was based on fishing and pearling. In fact, Qatar has the third largest gas reserves in the world. However, with Qatar aiming to diversify its economy, the government recently started a process of *sportification*¹ to invest in mega sports events and develop its tourism sector. This process will culminate in 2022 with Qatar hosting the FIFA World Cup. Doha in fact aims to be a regional hub for culture, sports, and education. The rapid urban transformation and swift economic development have meant that Qatar has had to face important changes in its legal and investment regulations over the past four decades.

Singapore is a small and wealthy city-state with a long history of immigration. It has a population of more than five million inhabitants, comprised of Chinese, Malays, Indians, and those of mixed European and Asian ancestry. Since the 1990s, the country has enjoyed rapid economic development, becoming one of the world's major financial centres and a global city with an important role in international trade. Its port is among the world's busiest. The country's manufacturing sector as well as its electronics, oil refining, petrochemicals, mechanical engineering, and biomedical sectors are all heavily dependent on exports. Research, education, health, and tourism are its other important sectors.

¹ Mahfoud Amara, "2006 Qatar Asian Games: A 'modernization' project." *Sport in Society: Cultures, Commerce, Media, Politics* 8, no. 3 (2005): 493–514.

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As major financial sectors, how Doha and Singapore are regulated will affect the decisions of asset managers across the world. This paper will focus on the regulation of Doha's and Singapore's Collective Investment Schemes (CISes), which are legal entities created to pool assets from different investors into a single fund with a specific investment strategy. The aim of the paper is to analyse the regulation frameworks in both countries with a view to understanding their similarities and differences.

Collective Investment Schemes in Qatar

The legal system of Qatar is based on civil law with the following hierarchy of laws: the constitution, laws, decrees, and finally ministerial resolutions. For business and commercial activities, there is a Commercial Law to govern the formation and operation of companies in the State of Qatar and a Common Law for those in the Qatar Financial Centre (QFC). The latter is a fully onshore financial and business platform that allows registered entities to do business in Qatar and abroad. The Qatar Financial Centre Authority (QFCA) has been set up for licensing, registering, and incorporating entities in the QFC. If a firm carries out financial services as described in QFCA's Financial Services Regulations, it must be authorised by the Qatar Financial Centre Regulatory Authority (QFCRA) and it is subject to the authority's rules and supervision.

Collective Investment Schemes — Legal forms

All funds, regardless of their legal nature, are established for the sole purpose of constituting a Collective Investment Scheme (CIS). The legal forms they assume are those usually found in common law jurisdictions:

- *Collective Investment Company (CIC)*. A CIC is a company incorporated under the Companies Regulations. It is incorporated to limit liabilities to the CIC and it needs to have directors to carry out executive functions.
- *Collective Investment Partnership (CIP)*. A CIP is a limited partnership registered under the Partnership Regulations. It allows for the agreement structure of a General Partner and Limited Partner.
- *Collective Investment Trust (CIT)*. A CIT is an express trust created under the Trust Regulations. It is similar to the traditional trust agreement among parties present in other common law jurisdictions.

A QFC CIS can assume different forms. It can be incorporated as an umbrella structure, a feeder to an umbrella, or as a single fund. It can be closed or open-ended, depending on the preference of the manager or the type of fund (either a Collective or Private fund). Both CIS structures are eligible to invest in the real estate asset class, and specific regulatory provisions have been set for listed real estate investment trusts (REITs).

Regulatory Framework

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In the case of a retail fund, two appropriately authorised entities are necessary for the CIS to be registered as such: the CIS Operator and the CIS Independent Entity. The former is the firm responsible for managing the CIS and its assets; the latter is the company entrusted with the safeguarding of the CIS property. Both firms are subject to prudential and conduct standards as well as regulatory supervision. In establishing the CIS, one or both firms can be foreign institutions if authorised by the QFCRA.

Collective Investment Schemes – Distribution

Foreign funds can be marketed in or from the QFC only by a QFC firm authorised to arrange, or advise on, securities. CISes are registered based on the investor classification, that is, Qualified Investors or Retail Customers. Private funds are restricted to a maximum of 100 investors.

Collective Investment Schemes in Singapore

Singapore is one of the world's most attractive locations for the asset management industry. According to the latest survey conducted by the Monetary Authority of Singapore (MAS), there are US\$1.8 trillion worth of assets under management in Singapore. The MAS regulates all financial institutions in the country, including asset managers. The primary legislation regulating the investment funds industry is the Securities and Futures Act (Chapter 289) (Securities Act). This is supplemented by the CIS Code and CIS Regulations.

Collective Investment Schemes — Legal Forms

The structure of a fund depends on the underlying assets and the type of investors, but there are some common fund structures:

- *Private Limited Company (PLC)*. A PLC can be used to establish a fund. Liabilities and obligations lie with the company, while shareholders are liable to the extent of any unpaid capital.
- *Limited Partnerships (LP)*. A Limited Partnership consists of general partner(s) (GP) and limited partner(s) (LP). Individuals and companies can be GP and LP. The GP is liable for all liabilities and obligations while the LP is liable only to the extent of its limited partnership. Usually, the fund manager is the GP while the investor is the LP.
- *Unit Trust (UT)*. Retail funds are generally structured as unit trusts and are subject to the CIS regulatory regime. The units are the interests of participants in the fund and their liabilities are limited to the investment made into the fund. A UT is a form of trust set up under a trust deed in which the property is vested in a trustee. The trustee has the legal obligation to administer the property for the benefit of the unit holders who collectively own the property. For schemes constituted in Singapore, the asset manager, a private or public company, must hold a Capital Market Service (CMS) licence or be exempted from holding one. For a foreign fund, the asset manager must be licensed or regulated in its jurisdiction.

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- *Real Investment Trusts (REITs)*. These have been highly successful CISes in Singapore because they are structured as unit trusts and also listed on the Singapore Stock Exchange.

Fund structures adhere to international standards. In addition to the single fund structure, umbrella schemes and groups of sub-funds with different strategies are allowed under the management of the same investment manager. Feeder structures are also allowed.

Regulatory Framework

The Investment Manager (IM) of a CIS must hold a CMS licence for fund management, be a Registered Fund Management Company (RFMC) or be exempted from a CMS licence under the Securities Act. Capital requirements are in place for these types of licensed firms. In all these cases, the IM can market its own funds. A person licensed under the Financial Advisers Act is also allowed to market CISes. Intermediaries can be used to market the funds provided they are properly regulated.

Collective Investment Schemes — Distribution

Any CIS that is offered in Singapore needs to be authorised or recognised by the MAS. CISes constituted in Singapore and offered to retail clients are referred to as “authorised schemes”, while the ones constituted outside Singapore are referred to as “recognised schemes”. CISes constituted in Singapore and offered to high net worth individuals and institutional clients are referred to as “restricted schemes”, while the ones constituted outside Singapore are referred to as “restricted foreign schemes”. CISes offered to high net worth individuals and institutional clients are subject to fewer regulatory requirements than the ones offered to retail investors. The table below summarises the different schemes:

	Schemes Constituted in Singapore	Schemes Constituted outside Singapore
Offers to Retail Investors	<p><u>Authorised Schemes</u></p> <p>Asset Manager must hold a Capital Markets Services Licence.</p> <p>In the case of a scheme structured as a Unit Trust, the Trustee must be approved as one for CISes.</p> <p>Scheme needs to comply with the Code on CISes.</p> <p>An investor’s prospectus has to be prepared and registered.</p>	<p><u>Recognised Schemes</u></p> <p>Asset Manager must be licensed or regulated in its jurisdiction, provided that laws and regulations in its jurisdiction comply with the Securities and Futures Act.</p> <p>Recognised schemes are not subject to the investment guidelines of the Code of CISes provided their home jurisdictions’ requirements are similar to Singapore’s.</p> <p>A representative for the scheme has to be present in Singapore to liaise between local investors and the foreign manager. The representative can be an individual or a company.</p> <p>An investor’s prospectus has to be prepared and registered.</p> <p>The asset manager needs to have at least S\$500 million under management in Singapore.</p>

Offers to High Net Worth Individuals and Institutional Investors	<u>Restricted Singapore Schemes</u>	<u>Restricted Foreign Schemes</u>
	<p>Asset Manager must be licensed or regulated in its jurisdiction. Alternatively, it can be a public company exempted from the requirement to hold a Capital Markets Services Licence.</p> <p>In the case of a scheme structured as a Unit Trust, the Trustee must be approved as one for CISes.</p> <p>The Scheme does not need to comply with any investment guideline.</p> <p>An investor’s information memorandum has to be prepared and registered if offered to High Net Worth Individuals. It is not required if offered to institutional investors.</p>	<p>Asset Manager must be licensed or regulated in its jurisdiction.</p> <p>In the case of a scheme structured as a Unit Trust, the Trustee must be approved as one for CISes.</p> <p>An investor’s information memorandum has to be prepared and registered if offered to High Net Worth Individuals. It is not required if offered to institutional investors.</p>

Conclusion

The legal systems in Qatar and Singapore are clear and open, while their tax regimes are internationally competitive. In a world that is becoming highly regulated, each offers a good platform to corporate entities that would like to conduct business in and from the respective country. The CIS regulations of the two countries are comparable as both jurisdictions are effectively common law systems. Furthermore, Qatar-regulated CISes are recognised as having a status equivalent to those regulated by other regulatory authorities. Thus, Qatar and Singapore have similar regulatory systems for (i) incorporating companies/funds, (ii) governance rules, and (iii) prudential rules for asset managers. The main difference concerns the distribution of funds. In Singapore, foreign entities do not need to be regulated to distribute their funds, provided their home jurisdiction’s requirements are similar to those of Singapore. In Qatar, foreign entities need a local partner to distribute their funds. Since the regulatory structures in both countries are

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complementary, there could be opportunities for asset managers in Singapore to manage funds authorised by the Qatari authorities and vice versa.

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