

SHOW US THE MONET!

By Sean Cheong, Partner Collas Day Commercial



When a director of a leading art gallery in London's West End, Justin Williams, approached Collas Day to discuss forming an Art fund, I was delighted to get involved. This would be the first fund of its type for Guernsey. That made it an opportunity to show - on a blank canvas - how art could be made accessible to a wider investor base in a market hitherto dominated by a small and elite group of individuals and institutions with deep pockets. Guernsey was chosen based on its reputation as a sound, pragmatic jurisdiction, with innovative professionals and on the presence of the Channel Islands Stock Exchange.

The Commission

The team of advisers which took on this challenge included Collas Day and Praxis Fund Services. Between us, Justin Williams, his associates and the advisers

had to work out how the fund should be structured and then deliver it - not a straightforward task. We arrived at a structure using a protected cell company established as a closed-ended investment vehicle. To those who are not familiar with the concept, a PCC ("protected cell company") is a single legal entity, with multiple 'cells' which allows for segregation of assets and liabilities of one cell from another. This structure offered the advantage that additional cells could be added at a later date at minimal cost and in an abbreviated timescale.

Having settled on a structure, we decided that the characteristics of this fund made it suitable for the fast-track Qualified Investor Fund (QIF) route to approval by the Guernsey Financial Services Commission. This makes the process of approval quicker and easier but limits the range of

investors to whom the fund can be marketed to professional or sophisticated investors.

Praxis, as the prospective administrator, undertook the relevant due diligence on the promoters, the advisers and the processes involved in the investment and custody arrangements for the underlying assets. Checks were carried out, involving visits to various specialist art warehouses and safekeeping facilities. Contractual terms were thoroughly reviewed, from fundamental issues like insurance and security to details of the transportation arrangements for art work.

Investor appetite

The Art Investment Fund PCC Limited with its first cell, the Art Trading Fund, was launched in June 2007 after successfully completing its fund-raising.

