

## Listing UK Real Estate Investment Trusts (REITs) on The International Stock Exchange (TISE)

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UK real estate investment is considered by many to have a positive and significant track record of attracting investment flows as an alternative asset class for institutional investors such as pension funds, insurance companies, sovereign wealth funds and private equity for both UK-based investors and internationally.

### UK REITs

A UK REIT is a real estate investment business that meets eligibility criteria set out by the UK tax authority, Her Majesty's Revenue and Customs (**HMRC**). These eligibility criteria include that:

- the property investment business be structured as a company (or group of companies) which is tax resident in the UK
- the principal purpose of the business is real estate investment (UK or international real estate) and specifically,
  - at least 75% of the business's profits are derived from real estate rental income, and
  - at least 75% of the business's gross assets comprise cash or assets involved in real estate rental investment business.
- the company must not be a close company or must be a close company only because it has as a participator one or more 'institutional investors' (which includes, inter alia, a person acting on behalf of a limited partnership which is a collective investment scheme, UK or overseas pension schemes, REITs, life insurance business, open-ended investment companies, authorised unit trust schemes, certain charities or sovereign immunity investors)
- shares issued by the REIT must be either listed on or admitted to trading on a "recognised stock exchange", "recognised" by HMRC under the UK Income and Corporation Taxes Act

2007 (ICTA). This includes TISE as a recognised exchange.

## **Advantages to investors**

Investment in a UK REIT provides investors with investment returns directly correlated to an investment return on the UK commercial or residential property rental market on a tax efficient, risk diversified, pooled investment basis.

Although a UK tax resident company, a UK REIT delivers an investment platform which the UK framework has made exempt from double taxation, i.e. it is effectively tax transparent for its investors so moves the point of taxation from the REIT to the investor.

A UK REIT is exempt from UK corporation tax on both the income profits and capital gains derived from the REIT's UK qualifying property rental business. Profits (income and gains) of the property rental business are exempted from tax, but distributions of those profits to investors as dividends are taxed in the hands of the investors.

UK REITs must distribute not less than 90% of their taxable income in each accounting period to investors. Investors are taxed under the laws applicable to their own tax residency with UK taxation (in relation to international investors) being treated as taxation on property rental income and are therefore subject to a UK withholding tax at the UK basic rate of income tax for non-exempt investors. Exempt investors such as charities, local authorities, pension funds and other entities subject to UK corporation tax can register to receive UK REIT distributions of income gross rather than are subject to withholding tax.

Liquidity in secondary market investment in UK REITs is further enhanced by differential rates of UK transfer tax applicable to UK companies.

Investment in shares of a UK incorporated REIT will incur UK stamp duty of 0.5% on transfer, in contrast to UK stamp duty land tax on direct investment in UK commercial property of 5%.

UK REITs can also now be wholly owned by one or a small number of institutional investors.

## **Structuring UK REITs as Jersey/Guernsey incorporated companies**

Although it is a requirement that a UK REIT be a company and be tax resident in the UK, this does not necessarily mean that the REIT itself must be incorporated as a UK company.

Of the UK REITs which are admitted to listing on TISE at the date of this briefing, almost 50% are companies incorporated in Jersey, but managed and controlled in the UK.

The tax laws of both Jersey and Guernsey expressly confirm that companies incorporated in

either jurisdiction will be solely tax resident in the UK if managed and controlled in the UK and UK tax resident under UK law.

Jersey/Guernsey companies law is very similar to the English position but has also adopted additional flexibility which can be utilised by REITs incorporated as Jersey/Guernsey companies, such as distributions being authorised on a cash-flow solvency basis, which can provide a more practicable and realistic accounting basis for distribution decisions.

Wherever incorporated, specific advice should be obtained by the REIT's board in relation to cross-border investor marketing and any applicable regulatory requirements under the applicable law of its' domicile.

## Recognised Stock Exchanges - The International Stock Exchange

Listing on TISE is an attractive option for REITs and more than a third of all UK REITs are listed on TISE.

A TISE listing enables a real estate investment group to meet the requirements for UK REIT status with the advantage of significant cost saving and operational efficiency.

TISE's listing authority (**TISEA**) charges initial and annual fees which are highly competitive, being set currently at £5,000 on application for a primary listing for a closed-ended investment vehicle such as a UK REIT, with annual listing fees of £2,000 for such issuers.

TISEA also has a responsive approach, deliberately fostering strong relations with listing sponsors. Its listing and membership committee meets daily to consider applications and it offers a rapid turnaround: responses to initial applications will be made within 3 business days from submission and subsequent reviews will be carried out within 2 business days.

TISEA's business-orientated approach is demonstrated by its adaptation of the generally applicable rules as to free float in the shares of listed investment companies. The general rule, that at least 25% of such listed companies' shares be held in public hands, has been disapplied in relation to REITs. This complements the UK's abolition of restrictions on ownership concentration for institutional investor REITs.

Therefore, joint venture, club investment or single institutional investor REITs can be listed on TISE.

TISEA applies globally recognised stock exchange listing standards, based on London market norms, in a manner which is pragmatic, proportionate and adaptable to the needs of individual investment businesses.

## Listing on TISE

A UK REIT must satisfy all conditions for listing under the equity listing chapters of TISEA's listing rules (the **Listing Rules**) which covers investment vehicles and includes REITs.

### *Listed Securities*

The listed securities must be freely transferable and tradeable (subject to certain exemptions set out in the Listing Rules) and the expected minimum market capitalisation of securities to be listed must be at least £1,000,000 and maintained at or above this amount for the duration of the listing.

### *The Listing Document*

TISEA offers a pragmatic approach to disclosure requirements which aims to provide investors with sufficient information without imposing unnecessarily onerous demands. The Listing Document can therefore be a relatively short-form document but must contain sufficient information to enable investors to make an informed assessment of the REIT and its listed securities. This generally applicable rule is supplemented by specific disclosure requirements. Where such rules are not applicable or certain information needs to be omitted, the listing sponsor can apply for a derogation in respect of these requirements, where appropriate.

The directors of the REIT will be responsible for the information in the Listing Document.

### *Directors*

The Listing Rules require a UK REIT to have a minimum of three directors, of whom at least two must be independent of any investment manager, investment advisor or related party.

Directors of UK REITs must collectively have relevant expertise of the real estate investment business and must be able to demonstrate the ability to act independently of any investment manager which may be appointed.

### *Accounts*

The UK REIT must (subject to exemptions in the Listing Rules, such as for newly incorporated REITs) provide audited annual accounts which cover at least three years, are consolidated accounts prepared in respect of the issuer and all its subsidiaries (if a UK REIT is required to prepare consolidated accounts under its chosen GAAP) and have been prepared and independently audited by the auditors without qualification.

## Listing sponsor

All applications to TISEA for admission to listing on TISE and for continuing eligibility purposes require the support of a listing sponsor authorised to act as such by TISEA.

Ogier Corporate Finance Limited (**OCFL**) is a market leading listing sponsor on TISE and was a founder member of TISE when it launched over twenty years ago.

In addition:

- OCFL is an active member of TISEA's rules committee, which reviews TISEA's Listing Rules on an ongoing basis in order to improve TISE's offering and the listing process;
- OCFL's listings team includes former TISE listing and technical managers, who maintain excellent working relations with TISEA and provide exceptional technical knowledge and insight to assist our clients;
- OCFL works together with the issuer and its professional advisors to ensure the suitability of the proposed listing prior to submission of the initial listing application; and
- as part of OCFL's full service offering we provide an ongoing post-listing service to issuers, providing advice and assistance in relation to TISEA's Listing Rules and compliance with the continuing obligations applicable to listed issuers.

## Continuing Obligations

Once listing is granted, the REIT must comply with the continuing obligations set out in the Listing Rules. The continuing obligations are intended to ensure that all market users have simultaneous access to the same information and to maintain an orderly market in the listed securities.

For more information on continuing obligations, please contact a member of our listings team who will be able to advise on the obligations for issuers of equity securities on TISE.

## Next steps

Please contact a member of our listings team who will be happy to talk through the listing process and provide a competitive listing agent fee quote.

## About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

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## Meet the Author



Raulin Amy

Partner

Jersey

E: [raulin.amy@ogier.com](mailto:raulin.amy@ogier.com)

T: [+44 1534 514239](tel:+441534514239)

## Key Contacts



Bruce MacNeil

Partner

Jersey

E: [bruce.macneil@ogier.com](mailto:bruce.macneil@ogier.com)

T: [+44 1534 514394](tel:+441534514394)



Niamh Lalor

Partner

Jersey

E: [niamh.lalor@ogier.com](mailto:niamh.lalor@ogier.com)

T: [+44 1534 514210](tel:+441534514210)



Richard Daggett

Partner

Jersey

E: [richard.daggett@ogier.com](mailto:richard.daggett@ogier.com)

T: [+44 1534 514071](tel:+441534514071)



Lucy Chambers

Counsel

Jersey

E: [lucy.chambers@ogier.com](mailto:lucy.chambers@ogier.com)

T: +44 1534 514475



Emily Renouf

Counsel

Jersey

E: emily.renouf@ogier.com

T: +44 1534 514329

## Related Services

Listing services

Legal