Assessing the Feasibility of Establishing a Publicly Traded Global Real Estate Fund Domiciled in the Cayman Islands

by

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Submitted to the Department of Urban Studies and Planning in Partial Fulfillment of the Requirements for the Degree of Master of Science in Real Estate Development

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ABSTRACT

This thesis examines the feasibility of creating a publicly traded, synthetic REIT-type investment fund for the purpose of investing in a portfolio of international real estate assets. The investment strategy is driven by both an increasing supply of international real estate opportunities and an increasing demand for international real estate investments. The fund will be domiciled in the Cayman Islands, where it will benefit from a tax exempt status, limited regulations, and a well established investment fund industry. The global investment strategy of a synthetic REIT-type Cayman Islands fund is a novel investment strategy.

Because no standard investment structure for an international real estate fund exists, the analysis will focus on creating a fund level and tier level structure in order to achieve certain defined investment, tax, and regulatory objectives. These objectives include providing accessibility to a broad range of investors, minimizing taxation, minimizing regulatory requirements, providing market liquidity and transparency for shareholders, and targeting real estate investments in 40 countries. A primary focus will be on creating a tax-efficient tier structure for repatriating income from real estate investments to the fund. The feasibility of the fund will be assessed based on how successfully it achieves these objectives.

In general, the fund will have several competitive advantages over international REITs, REOCs, and private equity real estate funds. The fund will not have to comply with various organizational, asset, income, long-term debt, distribution, and foreign ownership rules that are imposed on REITs in order to achieve a tax exempt status. REOCs are subject to corporate level taxation and many REITS impose withholding tax on dividends to foreign investors. The fund will be more tax-efficient because no such taxes will be imposed on the fund. The fund will provide more market liquidity and transparency, to a broader range of investors, than private equity real estate funds can provide. Additionally, since most REITs and REOCs are domestically focused, the global investment strategy will provide greater portfolio diversification benefits.

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Chapter 1: Introduction

There are many beneficial reasons for investment in a global portfolio of real estate assets. First of all, adding global real estate assets to a portfolio provides a greater amount of portfolio diversification benefits than does either adding single-country real estate assets or other traditional asset classes such as stocks and bonds. Also, partially due to globalization, the amount of international real estate investment opportunities continues to increase as many real estate markets and capital markets mature, and become more open to foreign investment. Plus, in general, the investor appetite for international real estate assets has increased in recent years, giving rise to an increasing demand for global real estate investment vehicles.

This thesis examines the feasibility of creating an investment vehicle for the purpose of direct and indirect investment in a portfolio of high-quality, international real estate assets. This investment vehicle will be a synthetic international REIT-type structure that is domiciled in the Cayman Islands ("the Cayman Fund"). The overall feasibility of the Cayman Fund will be analyzed based on how successfully it achieves a number of primary investment, tax, and regulatory objectives that are defined below.

The primary investment objectives of the Cayman Fund include the following:

(1) To maximize the number of countries from which investors will be able to invest in shares of the Cayman Fund.

(2) To allow for a variety of investors, such as individual, institutional, corporate and retail investors, to be able to invest in shares of the Cayman Fund.

(3) To maximize the market liquidity of investments in the Cayman Fund – a fund that invests in the inherently illiquid asset class of real estate.

(4) To maximize the number of countries in which the Cayman Fund will be able to invest, directly or indirectly, in high-quality real estate assets.

(5) To allow for investment in both development and operating real estate assets as well as in core, value-added and opportunistic real estate investments.

The primary tax objectives of the Cayman Fund include the following:

(1) To minimize local, foreign taxation on the repatriation of operating and disposition income from real estate investments to the Cayman Fund.

(2) To minimize taxation on fund level income.

(3) To minimize taxation on dividend distributions sent from the Cayman Fund to shareholders.

The primary regulatory objectives of the Cayman Fund include the following:

(1) To minimize legal and regulatory requirements related to the structure, organization, management, and operations of the Cayman Fund.

(2) To provide an adequate level of market transparency regarding the activities of the Cayman Fund in order to meet the financial expectations and objectives of investors.

Currently, no standard investment structure for a multi-country real estate fund exists. Therefore, this thesis will also concentrate on the formation of a feasible investment structure which will be designed in order to meet these primary investment, tax, and regulatory objectives.

First, a fund level investment structure will be created for the Cayman Fund based on an analysis of both the formation of and regulation of investment funds that are domiciled in the Cayman Islands. Then, a tier level investment structure will be created for the Cayman Fund, primarily to create a tax-efficient structure for the repatriation of operating and disposition income from real estate investments to the Cayman Fund. This thesis will not focus on the structuring of individual investments at the local jurisdiction level.

The number of investment vehicles for CMBS or CDO securities, which are domiciled in the Cayman Islands, has increased significantly in recent years. However, only a limited number of investment vehicles for the purpose of direct investment in global real estate assets currently exist in the Cayman Islands. Thus, the Cayman Fund will have a relatively novel investment strategy for an investment vehicle that is domiciled in the Cayman Islands.

There are many beneficial reasons to select the Cayman Islands as the domicile location for the Cayman Fund. Most importantly, the Cayman Islands is a tax neutral jurisdiction. Therefore, no taxes will be levied on either fund level income or on dividend distributions to fund investors. Also, the Cayman Islands has a well established investment fund industry. Additionally, the Cayman Islands imposes a modest level of regulatory requirements on investment vehicles. This allows for greater flexibility in the implementation and structuring of investment strategies. Plus, the Cayman Islands provides a stable and sophisticated legal, political, and economic environment.

The Cayman Fund will be structured as a typical closed-end fund which is publicly traded on a secondary market. This type of investment structure has several benefits. First of all, the shares of a publicly traded fund will be available to a broad range of potential investors. Secondly, this investment structure will provide a high level of market liquidity for shareholders. Third, a publicly traded fund will circumvent the need to incorporate a complex set of parallel feeder fund investment structures – structures which are generally required for private equity real estate funds with similar investment strategies. Fourth, a closed-end fund is exempt from regulation by the Cayman Islands Monetary Authority ("CIMA"). Finally, open-end funds generally sell or redeem shares on a continuous basis. Therefore, an open-end fund must calculate its per-share net asset value ("NAV") on a daily basis. This can be an extremely cumbersome process for a real estate fund because appraisals or other valuations of real estate assets for the purposes of calculating the NAV are generally performed on a periodic basis. On the other hand, a closed-end fund does not need to calculate its per-share NAV on a daily or regular basis.

The synthetic REIT-type structure of the Cayman Fund will offer a competitive advantage over other international REITs and REIT-type investment vehicles ("international REITs"). International REITs must comply with various organizational, asset, income, long-term debt, distribution, and foreign ownership rules in order to achieve a beneficial or tax-exempt status. These regulatory requirements can encumber the organization, structure, and freedom of operations of an international REIT. The Cayman Fund does not need to comply with any regulatory requirements in order to achieve a tax neutral status. Additionally, many international REITs impose withholding or other taxes on dividend distributions to foreign

investors. Since no such taxation will be imposed at the fund level, in general, the Cayman Fund will be a more tax-efficient investment vehicle than many of the international REIT structures are.

Furthermore, with the exception of some international REITs that are domiciled in Luxembourg or Singapore, international REITs and listed real estate operating companies ("REOCs") are typically domestically focused on the local jurisdiction in which they are domiciled. Only a limited number of international REITs and REOCs have implemented a large-scale multi-country strategy for investment in real estate assets. Therefore, the global investment strategy of the synthetic REIT-type Cayman Fund is a relatively novel investment strategy when compared to the investment strategies of most international REITs and REOCs.

The Cayman Fund will also have the following competitive advantages over international private equity real estate funds. First of all, the Cayman Fund will be available to a broader range of potential investors. Secondly, the Cayman Fund will provide more market liquidity to its shareholders. Finally, the Cayman Fund will not need to incorporate a complex network of parallel feeder fund investment structures.

Outline of Thesis:

The remainder of **Chapter 1** will describe some potential benefits of global real estate investments. In **Chapter 2**, the benefits of the Cayman Islands as a domicile for offshore funds are described. Next, the regulatory requirements for Cayman Islands mutual funds are described.

Then, alternative legal entities and fund structures for the Cayman Fund are analyzed. Finally, a conclusion for the most feasible investment structure of the Cayman Fund is presented.

In **Chapter 3**, the primary market, tax, and regulatory objectives of the Cayman Fund are discussed in detail. The reasons why a publicly traded company will circumvent the need for parallel feeder funds structures are also presented. Additionally, the general regulatory requirements imposed on international REITs in order to achieve a tax beneficial status are described. Finally, a competitive operational advantage that the Cayman Fund will have over other international REITs, in terms of taxation and regulatory requirements, is presented.

In **Chapter 4**, several investment structuring methods are presented. The Cayman Fund will implement these methods to structure indirect investments in global real estate assets in an attempt to both create a tax-efficient structure as well as meet the market, tax, and regulatory objectives of the fund. These structuring methods include the use of Cayman Islands Financing Companies, Cayman Islands Holding Companies, Danish Holding Companies, Dutch Financing Companies, and Singapore Holding Companies. Also, the general strategy for the disposition of real estate assets by the Cayman Fund is presented. Additionally, the benefits of the European Union Parent-Subsidiary Directives on dividends and interest payments are discussed.

In **Chapter 5**, six general tier level investment structures are presented. These tier level investment structures will be used by the Cayman Fund to invest in real estate assets. Additionally, a preliminary analysis is conducted in order to determine the most tax-efficient tier level investment structure for each of the 40 Target Countries for real estate investments. In

Chapter 6, the primary investment objective of market transparency is discussed. Also, several of the regulatory and listing requirements associated with the Cayman Fund being listed on a stock exchange are briefly described. Additionally, the reputation and business acumen requirements for the manager of the Cayman Fund are detailed. Finally, in **Chapter 7**, the overall feasibility of the Cayman Fund is analyzed based on how successfully the primary investment, tax, and regulatory objectives of the fund can be achieved.

The Benefits of Global Real Estate Investment:

Currently, there are many beneficial reasons for global investment in real estate assets. Perhaps the most discussed and well documented reason is the portfolio diversification benefits of international real estate investment. Real estate returns have a relatively low correlation with the returns of other traditional asset classes such as stocks and bonds. Furthermore, there exists a low cross-correlation between different, regional real estate markets.

> "The correlation across regions is considerably lower for (both private and securitized) real estate . . . than it is for stocks and bonds. This suggests that the benefit of holding a globally diversified portfolio of real estate . . . is higher than for bonds or broad equities."[1]

Due to this low cross-correlation, diversification of a real estate portfolio across different countries will tend to smooth out fluctuations in income yields. For example, according to a recent study by Morgan Stanley Investment Management, from a risk/return perspective, global listed real estate companies offer higher returns with modestly higher volatility compared to

[1] Chen, Lijian and Thomas Mills. Global Real Estate Investment Going Mainstream (Hartford: UBS Global Asset Management Real Estate Research, 2004): 2.

domestic listed real estate companies.[2] Additionally, diversification can help to protect investors from local and regional economic or geopolitical shocks.

Globalization has also created many benefits for international real estate investing. Globalization has helped to increase the number of maturely developed real estate and capital markets. Additionally, many other real estate and capital markets are continuing to develop and mature quickly. Globalization has also spurred many local legislative and regulatory changes, as well as led to an increasing number of favorable tax treaties. The recent, dramatic increase in the number of international REIT markets and the increased securitization of real estate assets abroad are excellent examples of these changes. These factors have significantly reduced the barriers to entry in many real estate markets. The result is a broader spectrum of international real estate investment opportunities, investment strategies, and ownership forms.

Additionally, market inefficiencies still exist in many real estate markets. Competitive market forces may lag the fast-paced transformation of certain real estate markets. This has resulted in opportunistic investment possibilities for the sophisticated and savvy real estate investor. There are also an increasing number of opportunities to take various real estate products that have been successful in a particular market abroad, to expand the concept internationally.

The recent increase of interest in global real estate investment can also be partially attributed to a general under-weighted allocation to real estate in both domestic and overseas

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[2] Bigman, Ted and Christina Chiu. "The case for a strategic allocation to global real estate securities" (*Investment Management Journal*, Volume 1, Issue 2, 2005): 17.

portfolios. This under-weighted allocation, and the herd mentality created by the recent strong performance in global real estate assets when compared to other investment classes such as stocks and bonds, have helped to increase the pool of real estate capital. This has resulted in many investors entering new real estate markets in search of lucrative opportunities in which to deploy their increased allocation to real estate investments.

Chapter 2: The Cayman Islands as Domicile for Offshore Funds

The Benefits of the Cayman Islands as a Domicile for Offshore Funds:

The Cayman Islands is often considered the preferred domicile of choice for the establishment of a wide array of offshore investment structures such as mutual funds, hedge funds and holding companies. In particular, the Cayman Islands fund industry has experienced rapid growth in recent years. According to the Cayman Islands Monetary Authority, the number of active registered mutual funds has grown 620% in the last eight years, from 1,037 funds in 1997 to 6,429 funds in 2005.[3] In addition, there exist a large number of unregistered funds which are eligible for various exemptions.

One of the primary benefits of domiciling in the Cayman Islands is its tax neutral status. The Cayman Islands does not levy any direct taxes on fund income nor on the income of fund investors or managers. Additionally, the Cayman Islands does not have any foreign currency requirements or restrictions.

Another "primary advantage in domiciling . . . in the Cayman Islands is the 'appropriate' level of regulation by the Cayman Islands Monetary Authority. The funds are regulated but not in a manner that impedes the creativity of the asset manager nor requires significant effort or

[3] Cayman Islands Monetary Authority (April 10, 2006). "Regulatory Framework: Investment Statistics". Retrieved on July 8, 2006. URL: http://www.cimoney.com.ky/section/regulatoryframework/sub/default.aspx?section=ISD&id=721

costs to maintain this compliance."[4] The Cayman Islands has adopted innovative, sound and modern fund legislation. There are no restrictions on investment strategies or objectives. Moreover, the Cayman Islands offers a broad range of flexible structures which are available for the establishment of funds. Additionally, unlike many other offshore havens, the Cayman Islands does not have any requirements for local administrators, managers, or directors of investment funds. Plus, the regulatory environment has enabled the ease and speed of fund formation. In general, it only takes between 2 to 5 business days to establish and register a mutual fund. Finally, there exist flexible reporting options that allow for the use of various worldwide accounting standards.

As a British overseas territory, the Cayman Islands provide a stable political and economic environment. The government proactively cooperates with the private sector to encourage and promote the Cayman fund industry. Additionally, there exists a sophisticated legal environment with an experienced and independent judicial system. Plus, high quality professional service providers, such as administrators, auditors, and lawyers, are readily available. Other factors attributing to popularity of the Cayman Islands as a domicile for offshore entities include a positive investor perception as well as geographic and time zone proximity to North America.

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[4] Ernst & Young, LLP. "Funds: The Cayman Islands are a global leader for offshore investment funds also known as hedge funds". URL: http://www.ey.com/global/content.nsf/Cayman/Funds

Regulation of Cayman Islands Mutual Funds:

Mutual funds domiciled in the Cayman Islands are governed in accordance with the legal framework detailed in The Mutual Funds Law (2003 Revision). Generally, this legislation offers much flexibility in terms of the establishment and operations of mutual funds. The Mutual Funds Law defines a mutual fund as follows:

> "any company, trust or partnership . . . which issues equity interests redeemable at the option of the investor, the purpose of which is the pooling of investors funds with the aim of spreading investment risk and enabling investors to receive profits or gains from investments."[5]

It is important to note that since shareholders of a closed-end fund have no redemption rights, closed-end funds are not included in this legal definition of a mutual fund.

The Mutual Funds Law also outlines the regulation of mutual funds by CIMA. Certain types of mutual funds are exempt from regulation by CIMA. These exempt funds include the following: **(1)** closed-end funds since they are not legally defined as a mutual fund; **(2)** other mutual funds in which shareholders have no redemption or repurchase rights; and **(3)** mutual funds in which not more than fifteen share/unit holders hold the voting rights to appoint the directors of a company, general partners of a limited partnership, or trustees of a unit trust. The later type of exempted mutual fund is not suitable for the Cayman Fund since one of the primary investment objectives of the fund is that its shares will be available to a broad range of investors. Additionally, since one of the primary regulatory objectives of the Cayman Fund is to minimize legal and regulatory requirements related to the structure, organization, management, and

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[5] Cayman Islands Monetary Authority (March 17, 2006). "Regulatory Framework: Frequently Asked Questions – What is a mutual fund". Retrieved on July 8, 2006. URL: http://www.cimoney.com.ky/section/regulatoryframework/sub/default.aspx?section=ISD&id=607

operations of the fund, the Cayman Fund will be structured as a typical closed-end fund which is publicly traded on a secondary market and has no redemption or repurchase rights. Because close-end funds are exempt from regulation by CIMA, this type of investment structure will circumvent the additional regulatory requirements of a non-exempt fund.

Regulated mutual funds are categorized as “licensed”, “administered”, or “registered” funds. Licensed mutual funds are only available to reputable financial institutions. The primary benefit of a licensed mutual fund is that it does not need to appoint a service provider that is located in the Cayman Islands. On the other hand, administered mutual funds must be operated by a licensed mutual fund administrator located in the Cayman Islands. Registered mutual funds, or §4(3) funds, are either mutual funds in which equity interests are only available to sophisticated investors who make a minimum investment of $50,000, or mutual funds that are listed on an approved secondary stock exchange (which includes The Cayman Islands Stock Exchange; any licensed U.S., Canadian, or European Union stock exchange; or any exchange that is a full member of the World Federation of Exchanges). Registered mutual funds do not need to be licensed and they do not need to appoint a service provider that is located in the Cayman Islands.

Several requirements are necessary in order for CIMA to approve the registration of a regulated mutual fund. These requirements include the following: **(1)** a MF1, MF2 or MF3 registration form, for registered, administered, and licensed mutual funds, respectively; **(2)** the current offering memorandum; **(3)** an auditor’s letter of consent; **(4)** a Certificate of Incorporation for a company, or evidence of registration for a partnership or unit trust; **(5)** a

personal questionnaire related to the financial and personal character of the directors for a licensed fund; **(6)** a licensed administrator's letter of consent for an administered fund or registered fund; and **(7)** an application fee.

Regulated mutual funds are also required to report to CIMA on a regular basis. Regulated mutual funds must submit audited financial statements to CIMA within six months after the end of the fiscal year. These financial statements must adhere to certain auditing standards and an approved auditor is required. Upon request, access to all of the fund records must be provided to CIMA. And, amended or supplementary offering documents must also be submitted to CIMA.

Representative Legal Entities for Cayman Islands Investment Funds:

The three legal entities that are most commonly used for exempted funds in the Cayman Islands are an "exempted company", an "exempted limited partnership", and an "exempted unit trust". Because an exempted limited partnership usually has a limited number of investors that hold somewhat illiquid investment interests, this structure is not suitable for a broad range of investors nor does it provide an acceptable level of market liquidity. Thus, the exempted limited partnership structure does not meet the investment objectives of the Cayman Fund. Additionally, the unit ownership aspect of an exempted unit trust is not suitable for the Cayman Fund since it will be structured as a publicly traded company (for the reasons discussed in both the **Regulation of Cayman Islands Mutual Funds** section, on page 17, and the **Circumventing Parallel**

Feeder Fund Structures section on page 25). Therefore, the Cayman Fund will be structured as an exempted company entity.

The exempted company entity is the most common structure for Cayman Islands mutual funds because it is a highly flexible legal entity with limited regulatory requirements. An exempted company is governed in accordance with the legal framework detailed in The Companies Law (2004 Revision). An exempted company must register its Articles of Incorporation with the Register of Companies and is generally required to conduct its primary operations outside of the Cayman Islands. One of the primary benefits of an exempted company is that it is permitted to operate as either an open-end or a closed-end fund. Additional benefits include the following: **(1)** only one shareholder and one director is required, and neither is required to reside in the Cayman Islands; **(2)** non-negotiable (book entry), negotiable and no par value shares are permitted; and **(3)** a 20-year to 30-year exemption can be obtained from the Cayman Islands Government that will allow the company to remain tax-exempt from any future tax legislation during that time period.

An exempted limited partnership is governed in accordance with the legal framework detailed in The Exempted Limited Partnership Law (2003 Revision). Because of the partnership structure, and exempted limited partnership usually has a limited number of investors. An exempted limited partnership is generally required to conduct its primary operations outside of the Cayman Islands. At least one general partner is required to either reside (if an individual) or be incorporated (if a company) in the Cayman Islands. A 50-year exemption can be obtained

from the Cayman Islands Government that will allow the company to remain tax-exempt from any future tax legislation during that time period.

An exempted unit trust entity is incorporated in accordance with The Trust Law (2003 Revision). The trustee of the exempted unit trust holds the assets of the trust on behalf of the unit holders, and these assets are divided into units representing ownership in the trust. An exempted "unit trust (structure) is often used for investors in jurisdictions where participation in a unit trust is more acceptable or attractive than owning shares in a company"[6] would be. A typical unit investment trust ("UIT") in the U.S. generally does not actively trade its investment portfolio. Instead, such a UIT buys a relatively fixed portfolio of securities. This allows unit holders to know what they are investing in for the duration of their investment. However, this feature of a typical U.S. UIT is not necessarily the case for an exempted unit trust in the Cayman Islands. Rather, in the Cayman Islands, an exempted unit trust is typically structured so that the unit holders have investment rights that are quite similar to the rights of shareholders in exempted companies. A 50-year exemption can be obtained from the Cayman Islands Government that will allow the company to remain tax-exempt from any future tax legislation during that time period.

Alternative Fund Structures for the Cayman Fund:

Alternatives for the structure of the Cayman Fund include what are commonly known as an "open-end company", a "closed-end company", and an "interval fund". As was previously

[6] PricewaterhouseCoopers. "Cayman Island Investment Management Industry Profile" (PricewaterhouseCoopers, 2002): 5.

mentioned, investments in real estate assets are somewhat illiquid. Additionally, the appraisal valuations of real estate assets for purposes of calculating the NAV are generally performed on a periodic basis. Therefore, a closed-end company or interval fund investment structure is more feasible for the Cayman Fund than is an open-end company investment structure, which must continuously calculate its per-share NAV. However, the Cayman Fund will be structured as a typical closed-end investment structure which is publicly traded on a secondary market rather than as an interval fund structure which is not publicly traded but allows for periodic redemption of investor's shares in the fund (for the reasons discussed in both the **Regulation of Cayman Islands Mutual Funds** section, on page 17, and the **Circumventing Parallel Feeder Fund Structures** section on page 25).

In the U.S., mutual funds are legally known as open-end companies which generally sell their shares on a continuous basis. Shares in open-end companies are purchased either directly from the fund or through an intermediary broker representing the fund. Typically, investors are not able to purchase shares of an open-end company from other investors or on a secondary market such as a public stock exchange.

> "The price investors pay for . . . shares is the fund's per-share NAV plus any shareholder fees that the fund imposes at purchase. Fund shares are 'redeemable'. This means that when . . . investors want to sell their fund shares, they sell them back to the fund (or a broker acting for the fund) at their approximate per-share NAV minus any redemption fees that the fund imposes at that time."[7]

Since open-end companies generally sell and redeem shares on a continuous basis, the per-share NAV must be calculated daily. This calculation is both extremely inefficient and difficult for an investment structure that is investing in somewhat illiquid real estate assets.

[7] U.S. Securities and Exchange Commission (October 1, 2002). "Mutual Funds". Retrieved on July 8, 2006. URL: http://www.sec.gov/answers/mutfund.htm

Generally, closed-end companies do not continuously sell their shares. Instead, they sell a fixed number of shares during the initial public offering. Subsequently, the shares are typically traded on a secondary market, or public stock exchange. Generally, shares of closed-end companies are not redeemable in that the fund is not required to repurchase shares back from investors. The share price of closed-end companies is determined by the secondary market. Thus the shares can trade at a price that is above or below the current per-share NAV. Because shares of closed-end companies are not redeemable or sold by the fund on a continuous basis, and therefore the per-share NAV does not need to be calculated on a daily basis, these closed-end funds are able to invest in illiquid assets, such as real estate, more easily than open-end funds are able to.

An interval fund is a type of closed-end fund that offers to repurchase a stated amount of its shares back from investors at specified intervals – usually every three, six or twelve months. Interval funds typically continuously offer to sell shares at a price that is equal to the fund's per-share NAV plus any fees. The periodic redemption price is also based on the fund's per-share NAV, as of a specified date, less any redemption fees. Additionally, these shares are not usually traded in secondary markets. Interval funds are a convenient structure for real estate funds, which measure the NAV of its real estate assets based on periodic appraisals.

Chapter 3: Investment, Tax and Regulatory Objectives of the Cayman Fund

Investment Objective – Targeted Investors for the Cayman Fund:

One of the primary investment objectives of the Cayman Fund is to maximize the number of countries from which investors will ideally be allowed to invest, directly or indirectly, in shares of the Cayman Fund. The 44 countries listed in **Table I**, below, have been selected as Target Countries for potential fund investors. The methodology for selecting these Target Countries is **(1)** to include all high-income countries with a population in excess of 275,000 individuals; and **(2)** to include the 15 countries with the highest levels of Gross Domestic Product ("GDP"). **Appendix A,** on page 100, details this methodology for selecting these 44 Target Countries.

Table I: 44 Target Countries for Potential Fund Investors

Australia	Denmark	Ireland	Netherlands	South Korea
Austria	Finland	Israel	New Zealand	Spain
Bahrain	France	Italy	Norway	Sweden
Belgium	Germany	Japan	Portugal	Switzerland
Brazil	Greece	Kuwait	Qatar	The Bahamas
Brunei	Hong Kong, China	Luxembourg	Russia	United Arab Emirates
Canada	Iceland	Macao, China	Saudi Arabia	United Kingdom
China	India	Malta	Singapore	United States
Cyprus	Indonesia	Mexico	Slovenia	

Investment Objective – Market Liquidity:

One of the primary investment objectives of the Cayman Fund is to maximize the market liquidity of investment interests in the fund. This will allow for investors to quickly buy or sell investment interests in the fund without being subject to significant movements in the price of

the investment interests. Another purpose of market liquidity is to allow for a broader range of investors to be able to own investment interests in the fund. This allows for the flexibility of individual, institutional, corporate and retail investors, which is another primary investment objective of the Cayman Fund. A major reason for this market liquidity objective is to offer a competitive alternative to a REOC or global REIT-type vehicles by providing a similar level of market liquidity, for a broad spectrum of investors, in an investment vehicle that invests in the inherently illiquid asset class of real estate. In terms of market liquidity, the Cayman Fund will more closely resemble a closed-end publicly-traded REIT or REOC; rather than an open-end real estate fund, a private REIT, a private RELP, or closed-end private equity real estate fund.

Circumventing Parallel Feeder Fund Structures:

As was previously discussed, among the market objectives of the Cayman Fund is to allow individual, institutional, corporate, and retail investors from 44 Target Country jurisdictions to feasibly invest in shares of the fund. However, these different types of investors have a variety of different tax considerations and local regulatory requirements concerning the purchase of fund shares. For example, U.S tax-exempt institutional investors are concerned with Unrelated Business Taxable Income ("UBTI") and generally prefer a corporate blocker entity to avoid potential UBTI from passive income. On the other hand, U.S. taxable investors generally prefer a flow-through entity, such as a partnership, in order to avoid the double taxation created by a corporate blocker entity. Also, different European pension funds may prefer different investment structures. An example of this is that German investors generally prefer a flow-

through entity in order to take advantage of favorable local taxation on real estate investments, a benefit that is generally not available to other European pension fund investors.

One method that private (non-public) funds often use in order to accommodate the tax structuring needs of such a broad spectrum of investors is to incorporate several parallel feeder fund structures ("feeder funds") above the fund level in order to allow for indirect investment in shares of the fund. Groups of investors with similar tax considerations are pooled into separate feeder fund entities. This pooling is best accomplished by measuring the pros and cons of each feeder fund and then comparing these to the each individual investor's requirements in order to find the best structure for each investor. This often requires a balancing act in order to find the best overall fit for as many potential investors as possible without creating an inefficient, unmanageable or overly complex investment structure. Additionally, this method generally requires the prioritizing of different types of investors and/or jurisdictions in order to maximize the universe of investors that can feasibly invest through one of the feeder funds. It is extremely difficult to set up feasible feeder funds that will satisfy every tax and regulatory consideration for such a diverse set of investors.

A primary concern with incorporating feeder funds above the Cayman Fund is that it will most likely diminish the market liquidity of fund shares. As was previously discussed, one of the market objectives of the Cayman Fund is to provide investors with an adequate level of market liquidity in order to readily dispose of their shares. If an open-end or interval fund investment structure is used for the Cayman Fund, the structure will have to accommodate several different types of redemption strategies in order to provide an adequate level of market liquidity. These

redemption strategies include the following: **(1)** a share redemption program for direct investors in the Cayman Fund that enables them to sell their shares back to the fund; **(2)** a redemption program for indirect investors that enables them to sell their investment interests back to their feeder fund; and **(3)** a share redemption program for each feeder fund that enables it to sell its shares back to the Cayman Fund. Furthermore, a solution will have to be created that allows the Cayman Fund and the various feeder funds to reallocate shares of the Cayman Fund between the direct investors and the indirect investors of each feeder fund in order to reallocate ownership between current investors that want to redeem shares and potential investors that want to directly or indirectly purchase these redeemed shares.

The best way to both circumvent the need to incorporate a complex set of feeder funds as well as to avoid a reduction in market liquidity that results from such feeder funds is to structure the Cayman Fund as a typical closed-end fund which is publicly traded on a secondary market and has no redemption or repurchase rights. A publicly traded, closed-end structure for the Cayman Fund will avoid the necessity to incorporate feeder finds because publicly traded companies generally do not incorporate separate investment structures, above the corporate level, for each of their potential investors. While this does not alleviate the need for different investment structures above the Cayman Fund in order to accommodate the individual tax and regulatory considerations of the various investors, it transfers that requirement from the fund level to the investor level. Individual investors will be responsible for structuring their own investments in shares of the Cayman Fund in order to meet their individual needs. Furthermore, a publicly traded, closed-end fund structure for the Cayman Fund will maximize the market liquidity of fund shares. Finally, a publicly traded, closed-end fund structure for the Cayman

Fund will meet the market objectives of allowing individual, institutional, corporate, and retail investors from 44 Target Country jurisdictions to feasibly invest in shares of the fund.

Investment Objective – Target Countries for Potential Real Estate Investments:

One of the primary investment objectives of the Cayman Fund is to maximize the number of countries in which the fund will ideally be allowed to invest, directly or indirectly, in high-quality real estate assets or in local operating entities that own such real estate assets. The 40 countries listed in **Table II**, below, have been selected as Target Countries for potential real estate investments. The methodology for selecting these Target Countries is **(1)** to include the 26 countries selected by UBS Global Asset Management Real Estate Research ("UBS") as having favorable characteristics for international investors to invest in core real estate assets; and **(2)** in order to allow for value-added or opportunistic investment strategies in other selected developing countries, to include the 16 countries with the highest level of Foreign Direct Investment ("FDI") which were not included in the UBS list. **Appendix B**, on page 104, details this methodology for selecting these 40 Target Countries.

Table II: 40 Target Countries for Potential Real Estate Investments

Argentina	China	Hungary	Netherlands	South Korea
Australia	Czech Republic	India	New Zealand	Spain
Austria	Denmark	Ireland	Norway	Sweden
Azerbaijan	Finland	Italy	Poland	Switzerland
Belgium	France	Japan	Portugal	Taiwan
Brazil	Germany	Kazakhstan	Romania	Turkey
Canada	Greece	Malaysia	Russia	United Kingdom
Chili	Hong Kong	Mexico	Singapore	United States

Additionally, another primary investment objective of the Cayman Fund is to create a structure that is flexible enough to allow for investment in both development and operating real estate assets, as well as in core, value-added and opportunistic investments. The structuring of the Cayman Fund to allow for core, value-added and opportunistic investments in both development and operating real estate assets, which are located in any of the 40 Target Countries for potential real estate investments, is discussed in detail in both **Chapter 4**, on page 39, as well as in **Chapter 5**, on page 61.

Tax Objective – Minimize Taxation on the Repatriation of Income:

One of the primary tax objectives of the Cayman Fund is to minimize local, foreign taxation on the repatriation of operating and disposition income from real estate investments to the Cayman Fund, whether this repatriation is in the form of dividend distributions or related party interest payments. This tax objective is discussed in detail in both **Chapter 4**, on page 39, as well as in **Chapter 5**, on page 61.

Tax Objective – Minimize Taxation on Fund Level Income:

One of the primary tax objectives of the Cayman Fund is to minimize taxation on fund level income. As previously discussed, the Cayman Islands is a tax neutral jurisdiction. This means that the Cayman Islands does not levy any direct taxes on fund income nor on the income of fund investors or managers. Therefore, domiciling the Cayman Fund in the Cayman Islands will meet the primary tax objective of minimizing the taxation on fund level income.

Furthermore, international REITs generally must comply with various regulatory requirements in order to achieve a beneficial or tax-exempt status. These regulatory requirements can encumber the organization, structure, or freedom of operations of these international REITs. Since the Cayman Fund does not need to comply with any regulatory requirements in order to achieve a tax neutral status, it will generally have a competitive operational advantage over other international REITs which must operate under these various restrictions. The regulatory requirements and tax considerations of international REITs are discussed in detail in both the **Regulatory Requirements for International REITs** section, on page 34, as well as in the **Tax Considerations of International REITs** section, on page 31.

Tax Objective – Minimize Taxation on Dividends to Shareholders:

One of the primary tax objectives of the Cayman Fund is to minimize taxation on dividend distributions sent from the Cayman Fund to shareholders. Due to its tax neutral status, the Cayman Islands does not levy any withholding or other taxes, at either the fund level or the investor level, on dividend distributions to foreign shareholders. Therefore, domiciling the Cayman Fund in the Cayman Islands will meet the primary tax objective of minimizing the taxation on dividend distributions to shareholders.

Furthermore, many international REITs impose withholding or other taxes on dividend distributions to foreign investors. Thus, in general, the Cayman Fund is a more tax-efficient investment vehicle than many of the international REIT structures are. Ceteris paribus, this increased tax efficiency should generate superior returns to Cayman Fund shareholders. The tax

considerations of international REITs are discussed in detail in the **Tax Considerations of International REITs** section, on below.

Tax Considerations of International REITs:

According to Ernst & Young, LLP, international REITs exist in at least 26 countries. These countries include the following: Australia, Belgium, Brazil, Canada, Costa Rica, France, Germany, Greece, Hong Kong, Israel, Italy, Japan, Luxembourg, Malaysia, Mexico, The Netherlands, Puerto Rico, Russia, Singapore, South Africa, South Korea, Spain, Taiwan, Turkey, the United Kingdom, and the United States.[8] These international REITs generally must comply with various regulatory requirements in order to achieve a beneficial or tax-exempt status. These regulatory requirements are discussed in detail in the **Regulatory Requirements for International REITs** section, on page 34. Additionally, many of these international REITs are subject to various tax considerations.

Distributions to foreign shareholders, from international REITs in 17 countries, are subject to withholding tax rates ranging from 6% to 30%. This includes international REITs in the following countries: Belgium, Brazil, Canada, France, Germany, Italy, Japan, Malaysia, The Netherlands, Puerto Rico, Russia, Singapore, South Korea, Spain, Taiwan, the U.K., and the U.S. In many cases, reduced withholding tax rates may apply under various double taxation treaties, or for tax-exempt institutional investors. Additionally, capital gains distributions to foreign investors, from international REITs in Spain and the U.S., are subject to a 35% withholding tax.

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[8] Ernst & Young, LLP, (2005). "Tax Treatment of REITS", Ernst & Young LLP.

Plus, foreign investors in Australian or Costa Rican international REITs are taxed on local source income.

Profits are taxable at the REIT level for international REITs in Israel, Italy, Russia (for Joint-Stock Investment Funds only), and Spain. Additionally, any non-distributed income is taxable at the REIT level for many international REITs, such as those in Australia, Canada, Malaysia, Singapore, South Africa, and the U.S. (i.e. via a 4% excise tax in the U.S.). Finally, international REITs in Spain are subject to a 1% corporate tax, and international REITs in Belgium and Luxembourg are subject to an annual subscription tax on NAV of 0.06% and 0.05%, respectively.

These and other tax considerations for international REITs are summarized in **Table III**, on page 38, and listed in **Appendix C**, on page 107.

<u>Regulatory Objective – Minimize Legal & Regulatory Requirements:</u>

One of the primary regulatory objectives of the Cayman Fund is to minimize legal and regulatory requirements related to the structure, organization, management, and operations of the Cayman Fund. In terms of the structure and organization of the Cayman Fund, the objective is to provide an investment structure that can be easily formed and which is flexible enough to satisfy the market objective of allowing for core, value-added or opportunistic investment in development and operating real estate assets that are located in any of the 40 Target Countries for real estate investments. In terms of the management of the Cayman Fund, the objective is to

ensure that none of the fund administrators, managers or directors are required to reside in the Cayman Islands. This will allow for the offshore management of the Cayman Fund from the U.S. or any other jurisdiction that is preferred by the fund sponsor.

In terms of the operations of the Cayman Fund, one objective is to minimize the regulation and reporting requirements of the fund. This objective includes minimizing the regulatory requirements that are commonly imposed on international REITs, such as organizational, asset, income, long-term debt, distribution, and foreign ownership rules. The regulatory requirements for international REITs are discussed in detail in the **Regulatory Requirements for International REITs** section, on page 34. Another operating objective is to establish the Cayman Fund in a location with a well established and sophisticated legal, political and economic environment. Finally, another operating objective is that high quality professional service providers are readily available in the domiciled location of the fund.

For the following reasons, a closed-end fund investment structure in the form of a Cayman Islands exempted company will satisfy these regulatory objectives of the Cayman Fund. First of all, an exempted company can be formed in the Cayman Islands in 2 to 5 business days. Secondly, no restrictions are imposed on the investment strategy or objectives of a Cayman Islands mutual fund. Thus, the market objective of allowing for core, value-added or opportunistic investment in development and operating real estate assets, which are located in any of the 40 Target Countries for real estate investments, can be readily achieved. Third, there are no requirements for local administrators, managers, or directors of the Cayman Fund. This will allow for the offshore management of the Cayman Fund from the U.S. or any other

jurisdiction. Fourth, closed-end funds are exempt from regulation by CIMA. Fifth, the Cayman Fund will not be subject to the typical organizational, asset, income, debt, distribution or foreign ownership rules that are imposed on international REITs. This will generally provide the Cayman Fund with a distinct operational advantage when compared to other international REITs. Sixth, the Cayman Islands has a well established and sophisticated legal, political and economic environment. Finally, high quality professional service providers are readily available in the Cayman Islands. The benefits of both the Cayman Islands as a domicile for the Cayman Fund, as well as the benefits of a closed-end fund in the form of an exempted company, are enumerated in detail in **Chapter 2**, on page 15.

Regulatory Requirements for International REITs:

Organizational Rules – Almost all international REITs have some form of organizational rules in order to qualify as a recognized entity. For example, international REITs that are domiciled in nine countries must be listed on a local or a recognized stock exchange. These countries include the following: Costa Rica, France, Greece (for Real Estate Investment Companies), Hong Kong, Israel, Singapore, South Africa, Turkey, and the U.K. Additionally, international REITs that are domiciled in nine countries have significant restrictions on share/unit holders. These restrictions include either the minimum number of share/unit holders required or the percentage of shares that must be offered to the public. Countries that impose such restrictions include the following: Belgium, Canada, Japan, The Netherlands, Puerto Rico, South Korea, Spain, Taiwan, and the U.S. Also, Canadian and Malaysian international REITs have restrictions on the percentage of equity which can be owned by foreign investors.

Income and Asset Rules – Almost without exception, the income rules of international REITs specify that income must be derived from qualifying assets. A vast majority of international REITs have significant restrictions on the definition of a qualifying asset. In most cases, a significant percentage of assets must be real estate related assets, and the small portion of allowable non-real estate related assets is often limited to liquid assets. Countries that impose such asset rules on international REITs include the following: Australia, Belgium, Brazil, Costa Rica, France, Germany, Greece, Hong Kong, Israel, Italy, Japan, Malaysia, Mexico, Puerto Rico, Singapore, South Africa, South Korea, Spain, Taiwan, Turkey, the United Kingdom, and the United States. In fact, Canada, Luxembourg, The Netherlands, and Russia are the only countries which allow international REITs to hold significant investments in securities (other than shares of real estate property companies). For international REITs in Belgium, Germany, Greece, Luxembourg (for Investment Funds), and Spain, individual assets may not exceed 20% to 35% of the entire investment portfolio.

International REITs that are domiciled in eight countries are only permitted to invest in operating real estate assets. These countries included the following: Australia, Costa Rica, Hong Kong, Israel, Japan, The Netherlands, Singapore, and the U.K. On the other hand, a Luxembourg SICAR is only permitted to invest in real estate development. Additionally, international REITs, located in Hong Kong, Luxembourg, Singapore, the U.K, or the U.S., are generally the only international REITs that can favorably invest in international real estate assets.

Long-Term Debt Restrictions – International REITs in 11 countries impose significant restrictions on long-term debt – generally long-term debt cannot exceed a specified percentage of

either the gross asset value or the market value of real estate assets. The countries with such long-term debt restrictions include the following: Australia, Costa Rica, Germany, Greece, Hong Kong, Israel, Italy, Luxembourg, The Netherlands, Singapore, and South Africa. Additionally, Russia, South Korea, and Spain impose even more significant long-term debt restrictions on international REITs. Long-term debt is not permitted in Russia, long-term debt is only allowed for certain purposes in South Korea, and long-term debt cannot exceed 10% of total assets in Spain.

Distribution Rules – In general, the distribution rules for international REITs fall into the following four categories:

(1) For international REITs in 13 countries, in general, a significant percentage of income, ranging from 80% to 100%, must be distributed annually. These countries include the following: Belgium, Brazil, France, Hong Kong, Israel, Japan, The Netherlands, Puerto Rico, Singapore, South Korea, Taiwan, the U.K., and the U.S.

(2) For international REITs in four countries, non-distributed income is taxable at the REIT level. These countries include the following: Australia, Canada, Malaysia, and South Africa.

(3) The distribution rules for international REITs located in Costa Rica, Germany, and Italy are generally determined by the individual REIT's organizational documents.

(4) Greece, Luxembourg, Mexico, Russia, Spain and Turkey impose either no or limited distribution rules on international REITs.

Cayman Fund - The Cayman Fund has no significant income rules, asset rules, distribution rules, or long-term debt restrictions. Additionally, the Cayman Fund has no significant organizational requirements. However, for reasons other than organizational requirements, the Cayman Fund will be publicly traded on a secondary market.

These and other regulatory requirements for international REITs are summarized in **Table III**, on page 38, and listed in **Appendix C**, on page 107.

Regulatory Objective – Market Transparency:

One of the primary regulatory objectives of the Cayman Fund is to provide an adequate level of market transparency. Even though the other primary regulatory objective of the Cayman Fund is to minimize legal and regulatory requirements, such as those imposed on international REITs, it is imperative that market transparency exists so that investors are comfortable with the structure and operations of the Cayman Fund in order to meet their financial expectations and objectives. This market transparency objective will be achieved through the regulatory and reporting requirements that are imposed on the Cayman Fund as a result of it being a publicly traded company on a secondary stock exchange. The aspects of being a publicly traded investment vehicle, and how these will achieve the adequate level of market transparency, are discussed in detail in **Chapter 6**, on page 87.

Table III: Summary of Regulatory Requirements & Tax Considerations for International REITs

	Cayman Fund	Australia - ALPT	Belgium - SICAFI	Brazil - FII	Canada - REIT	Costa Rica - FII	France - SIIC	Germany - KAG	Greece - REMF	Greece - REIC	Hong Kong - REIT	Israel - REIF	Italy - REIF	Japan - J-REIT	Luxembourg (Inv. Fund)	Luxembourg - SICAR	Malaysia - REIT	Mexico - REIT	Netherlands - FBI	Puerto Rico - REIT	Russia - CEMF	Russia - JSIF	Singapore - REIT	South Africa - SAT	South Korea - REIT	Spain - REIF	Spain - REIC	Taiwan - REIT	Turkey - REIT	United Kingdom - REIT	United States - REIT
Tax Considerations:		√	√	√	√	√	√	√				√	√	√	√	√	√		√	√	√	√	√	√	√	√	√	√		√	√
Withholding Tax on Distributions to Foreign Shareholders			X	X	X		X	X					X	X			X		X	X	X	X	X		X	X	X	X		X	X
Taxed on Local Source Income		X				X																									
Profits Taxable at REIT Level												X	X									X				X	X				
Non-Distributed Income Taxable at REIT Level		X			X												X						X	X							X
Annual Subscription Tax / Corporate Tax			X												X	X										X	X				
Organizational Rules:	√		√		√	√	√			√	√	√		√			√		√	√			√	√	√	√	√	√	√	√	
Must be Listed on Stock Exchange	X					X	X			X	X	X											X	X					X	X	
Significant Restrictions on Share/Unit Holders			X		X									X					X	X					X	X	X	X		X	
Restrictions on Foreign Equity Ownership					X												X														
Income & Asset Rules:		√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
Income Must be Derived from Qualifying Assets		X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Significant Asset Restrictions		X	X	X		X	X	X	X	X	X	X	X	X			X	X		X			X	X	X	X	X	X	X	X	X
Can't Have Significant Holdings of Securities		X	X	X		X	X	X	X	X	X	X	X	X			X	X		X			X	X	X	X	X	X	X	X	X
Restrictions on Individual Asset Size			X					X	X	X					X											X	X				
Only Permitted to Invest in Operating Assets		X				X					X	X		X					X				X							X	
Only Permitted to Invest in Development Assets																X															
Long-Term Debt Restrictions:		√				√		√	√	√	√		√		√	√			√		√	√	√	√	√	√	√				
Significant Restrictions on Long-Term Debt		X				X		X	X	X	X		X		X	X			X		X	X	X	X	X	X	X				
Distribution Rules:		√	√	√	√	√	√	√			√	√	√	√			√		√	√			√	√	√			√		√	√
Significant % of Income Must Be Distributed Annually			X	X			X				X	X		X					X	X			X		X			X		X	X
Non-Distributed Income Taxable at REIT Level		X			X												X							X							
Distribution Rules Determined By Organizational Docs.						X		X					X																		

Chapter 4: Tax Objective – Minimize Taxation on the Repatriation of Income

One of the primary tax objectives of the Cayman Fund is to minimize taxation on the repatriation of operating and disposition income from the local real estate assets, up through the fund structure, to the Cayman Fund, whether this repatriation is in the form of dividend distributions or related party interest payments. There are numerous ways to structure investments in real estate assets, which are located in any of the 40 Target Countries for real estate investments, in an attempt to meet this objective. One strategy for such investment structuring is to utilize double taxation treaties in an attempt to minimize withholding taxes on the repatriation of dividends or interest payments. Another strategy for such investment structuring is to utilize local tax legislation which is favorable to real estate investment, offshore holding structures, or offshore financing structures, in an attempt to minimize taxation on tier entity income.

In addition to meeting this primary tax objective of the Cayman Fund, the market and regulatory objectives of the fund must also be considered when structuring individual investments. Because there are multiple feasible solutions to structuring investments in each of the 40 Target Countries, another goal is to minimize the total number of structuring methods used by the Cayman Fund in order to create an efficient fund investment structure which, at the same time, maximizes the universe of Target Country jurisdictions in which investments can be feasibly structured in order to meet the enumerated objectives. For example, these investment structures should attempt to maintain efficient organization, management, and operations of the Cayman Fund by minimizing maintenance costs and regulatory requirements.

This thesis will analyze several structuring methods, which although they are just a few of numerous possibilities, this author believes that the use of these few structures will create an efficient overall structure for the Cayman Fund while attempting to both maximize the number of Target Country jurisdictions that the fund can indirectly invest in as well as to meet the market, tax and regulatory objectives of the fund. These structuring methods include the following:

(1) The utilization of a general disposition strategy for real estate assets which is to sell the shares of Offshore Holding Entities which either directly own real estate assets or own Local Operating Entities that own real estate assets.

(2) When tax efficient, the utilization of Cayman Islands Holding and Financing Companies as the preferred method for investment structuring.

(3) The utilization of European Union ("EU") Parent-Subsidiary Directives that allow for tax-exempt dividends and interest payments from a subsidiary entity located in one EU member state to a parent entity located in another member state.

(4) The utilization of Danish Holding Companies which can directly own foreign real estate assets in a tax efficient manner. Denmark has many favorable double taxation treaties that reduce withholding taxes on dividend and interest payments to foreign investors.

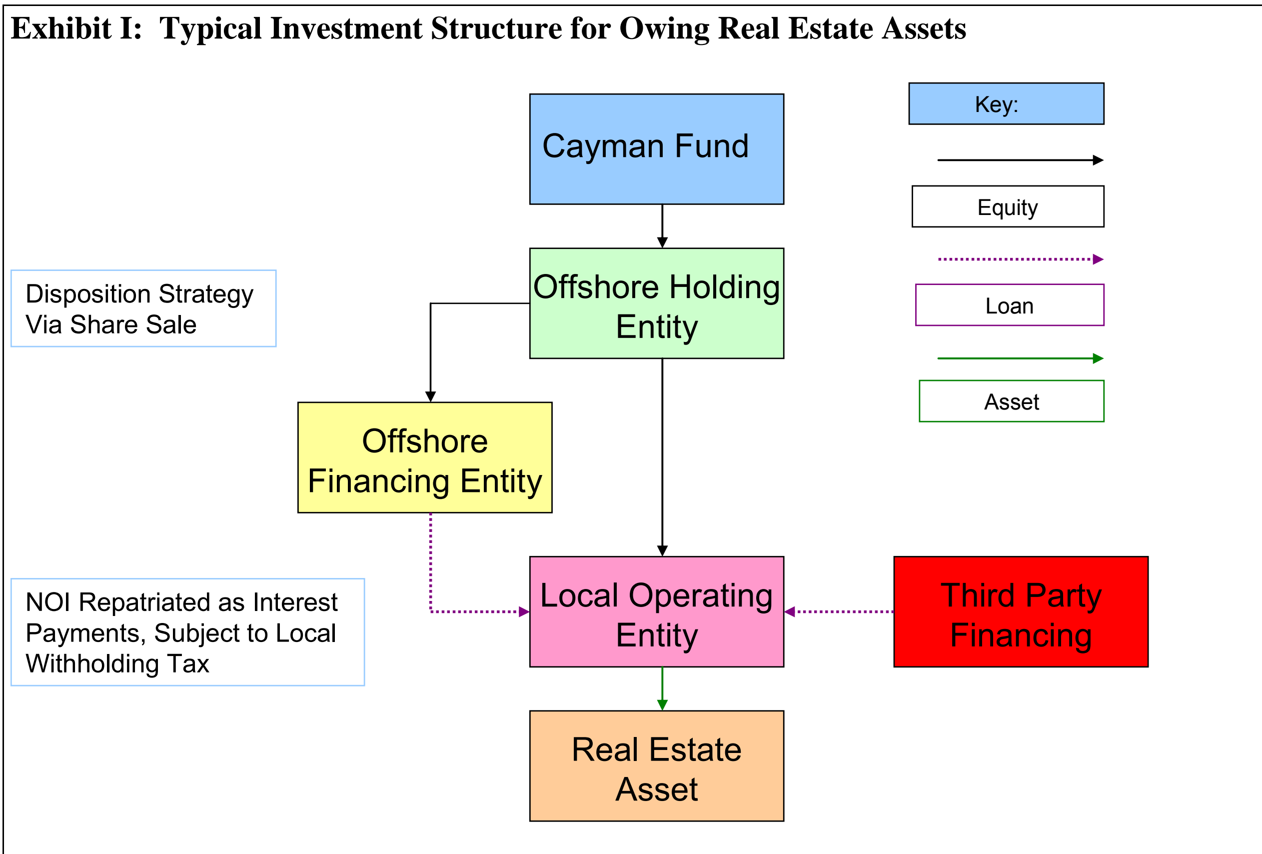
(5) The utilization of Dutch Financing Companies which provide a tax efficient method for the related party financing of foreign real estate investments.

(6) The utilization of Singapore Holding Companies which provide a tax efficient method for the repatriation of dividends. Singapore has a favorable tax regime related to inbound and outbound foreign dividends.

Typical Investment Structure:

Investment Structure – In general, the Cayman Fund will own the shares of both an Offshore Holding Entity as well as an Offshore Financing Entity. The Offshore Holding Entity will own the shares of a Local Operating Entity that is domiciled in the country where the real estate asset is located. The Local Operating Entity will own a development or operating real estate asset. This typical investment structure is illustrated in **Exhibit I**, below.

Exhibit I: Typical Investment Structure for Owing Real Estate Assets



Financing Structure – In general, the acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from the

Offshore Holding Entity; **(2)** related party debt financing from the Offshore Finance Entity; and **(3)** third-party debt financing. Related party loan financing from the Offshore Finance Entity can be used in lieu of additional equity contributions in order to take advantage of interest expense deductions that reduce the taxable income of the Local Operating Entity (where available).

Repatriation of NOI – Net operating income ("NOI") of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Offshore Financing Entity. The Offshore Financing Entity will then repatriate this interest income to the Offshore Holding Entity in the form of dividends. Secondly, the Local Operating Entity will repatriate any excess NOI to the Offshore Holding Entity in the form of dividends. In both cases, the Offshore Holding Entity will then repatriate this dividend income to the Cayman Fund in the form of additional dividends.

Legal & Tax Considerations – The investment and financing structures for individual real estate assets must be determined on a case-by-case basis. The key to structuring is to find the most tax-efficient combination of equity and related party financing, for an individual real estate asset, utilizing the most tax beneficial jurisdictions in which to domicile the Offshore Financing and Holding Entities. Factors to consider include the following:

(1) The tax treatment of interest expense for Local Operating Entities.

(2) Withholding tax rates on the repatriation of interest payments from Local Operating Entities to Offshore Financing Companies.

(3) Withholding tax rates on the repatriation of dividends from Offshore Financing Companies to Offshore Holding Companies.

(4) Withholding tax rates on the repatriation of dividends from Local Operating Entities to Offshore Holding Companies.

(5) The tax treatment of dividend and interest income for Offshore Holding and Financing Entities.

(6) Withholding tax rates on the repatriation of dividends from Offshore Holding Companies to the Cayman Fund.

(7) Applicable double taxation treaties.

Additionally, efforts must be made to ensure that the financing structure is in compliance with applicable local legislation; such as various “arm’s length” rules regarding acceptable related party interest rates, “thin-capitalization” rules regarding the percentage of investments that can be financed with shareholder debt rather than equity, or “at-risk” rules that limit the amount of losses which can be claimed on an investment to the amount that is actually at risk.

<u>Disposition Strategy for Real Estate Assets:</u>

The disposition strategy for a typical real estate asset will be to sell the shares of the Offshore Holding Entity which either **(1)** directly owns the real estate asset; or **(2)** both directly owns a Local Operating Entity that owns a real estate assets as well as owns any Offshore Financing Entity that financed the investment of the real estate asset via a related party loan (so that the purchaser receives the built in tax benefits of the financing structure). This disposition

strategy is an alternative to either selling the local real estate asset or selling the shares of the Local Operating Entity that owns the real estate asset.

Because the Offshore Holding Entity will generally be domiciled in a tax neutral jurisdiction, no offshore tax liability will be created via this share sale strategy. Also, since no transaction will occur in the local jurisdiction, this disposition strategy will generally not create any local capital gains tax or similar local tax liabilities. Additionally, this disposition strategy will not be subject to local taxation generated by foreign investment in local real estate assets. In the U.S., an example of such a tax is the Foreign Investment Real Property Tax Act ("FIRPTA"). The provisions of FIRPTA impose a 30% withholding tax on any gains that are created from the disposition of real estate assets owned by foreign individuals. Finally, this disposition strategy will not incur some traditional closing costs such as transfer taxes and title costs.

A disposition strategy that utilizes the sale of shares in holding entities is a common business practice in many European and emerging markets. This author is experienced in both the disposition of a Chinese real estate asset through the a sale of the shares of Cayman Islands holding companies as well as the disposition of a French real estate asset through a sale of the shares of Belgian holding companies. In both instances, significant local capital gains tax savings resulted. However, for some Target Country jurisdictions, a market may not exist for selling shares in Offshore Holding Entities. For example, this disposition strategy is generally not widely used to sell U.S. real estate assets. Furthermore, this strategy is most effective if the purchaser of the shares of the Offshore Holding Entity is not located in the same jurisdiction in which the real estate asset is located. If the purchaser were located in the same jurisdiction as the

real estate asset, she would then have to repatriate income from the Offshore Holding Entity back to the local jurisdiction, where the income would generally then be taxable.

In each instance, efforts must be made to ensure that the local tax authority does not look through this disposition strategy as a scheme to avoid local taxation. An additional concern is that a purchaser of real estate assets will be purchasing an investment structure with a built in capital gain as well as assuming the risks associated with implementing the same disposition strategy in the future, including the risk that the taxation of such transactions is subject to future legislative changes. This may result in having to sell the real estate asset at a discount in order to share the tax savings or compensate the purchaser for assuming additional risk. Importantly, even if a portion of the overall tax savings were shared with the purchaser in the form of a discount on the purchase price, this disposition strategy will still result in a greater net present value ("NPV") for the seller than would other alternative disposition strategies. Therefore, if effectively utilized, this disposition strategy will generally result in a positive NPV for the Cayman Fund.

Cayman Islands Holding & Financing Companies:

The preferred method for structuring real estate investments is to use the Cayman Islands as the jurisdiction for the Offshore Holding and Financing Entities. There are several advantages to using this structure, which include the following:

(1) No withholding tax is levied on dividends sent from a Cayman Islands Financing Company ("Cayman Fin Co") to a Cayman Islands Holding Company ("Cayman Hold Co").

(2) Since the Cayman Islands is a tax neutral jurisdiction, no taxes will be levied on the dividend and interest income of a Cayman Hold Co or a Cayman Fin Co, respectively.

(3) Dividend distributions from a Cayman Islands Hold Co to the Cayman Fund are not subject to withholding tax.

(4) As has been discussed, both a Cayman Hold Co and a Cayman Fin Co will be subject to very limited regulation in the Cayman Islands.

(5) The management of the Cayman Fund will be more efficient if Offshore Holding and Financing Entities are located in the same jurisdiction as the fund is.

In general, if the Offshore Holding Entity is located in another jurisdiction, dividend distributions from the Offshore Holding Entity to the Cayman Fund are subject to withholding tax. Additionally, in general, if the Offshore Financing Company and Offshore Holding Company are located in separate jurisdictions, dividend distributions from the Offshore Financing Company to the Offshore Holding Company are subject to withholding tax.

However, the disadvantages to using this structure include the following:

(1) Interest payments from the Local Operating Entity to a Cayman Fin Co are subject to withholding tax in the local jurisdiction.

(2) Dividend distributions from the Local Operating Entity to a Cayman Hold Co are subject to withholding tax in the local jurisdiction.

(3) The Cayman Islands does not have any double taxation treaties with other nations. Therefore, dividend distributions and interest payments from the Local Operating Entity to the Cayman Islands will be subject to the standard withholding tax rates.

(4) Many nations view the Cayman Islands as a tax haven, and have implemented unfavorable legislation, normally in the form of additional taxation, regarding the use of Cayman Islands entities to structure investments in their local jurisdiction.

Therefore, the advantages of using a Cayman Hold Co and Cayman Fin Co structure, in terms of repatriating income from tier entities to the Cayman Fund, must be weighed with the disadvantages, in terms of repatriating income from the local jurisdiction to the tier entities. This structure will be used unless a more tax efficient method is available through one of the alternative investment structures. For example, if the tax benefits of repatriating income from the local jurisdiction to the tier entities outweigh the additional tax burden of repatriating income from the tier entities to the Cayman Fund, an alternative structure will be used.

EU Parent-Subsidiary Directive:

On June 3, 2003, The Council of the European Union enacted Council Directive 2003/49/EC. This Directive provides that interest and royalty payments made from an entity located in one EU member state to an entity located in another EU member state are exempt from withholding tax, provided that these entities are “associated companies” or “permanent establishments” that meet certain criteria. In the Directive, an entity is defined as an “associated company” of another entity if **(1)** either entity holds 25% or more of the capital or voting rights

of the other entity; or **(2)** a third entity holds 25% or more of the capital or voting rights of both entities. According to the Directive, "The term 'permanent establishment' means a fixed place of business situated in a member state through which the business of a company of another member state is wholly or partly carried on."[9] Additionally, the entity which receives the interest or royalty payments must either have an approved legal format, as listed in the Annex of the Directive, or be subject to any of the tax laws of a member state that are listed in the Directive.

On December 22, 2003, The Council of the European Union enacted Council Directive 2003/123/EC, which amended Directive 90/435/EEC. This Directive provides that dividend distributions made from an entity located in one EU member state to an entity located in another EU member state are exempt from withholding tax, provided that these entities are associated companies or permanent establishments that meet certain criteria. In general, the definition of associated companies and permanent establishments are the same for this Directive as they are for the Directive on interest and royalties. However, for this Directive only a 20% ownership of the capital or voting rights of another entity is required for it to qualify as an associated company. Additionally, this Directive gradually reduces this ownership percentage requirement, first to 15% on January 1, 2007, and then to 10% on January 1, 2009. Again, certain requirements regarding either the legal form of or the tax laws governing the receiving entity apply.

In essence, these Directives allow for tax-exempt dividend distributions and interest payments from a subsidiary which is located in one EU member state to a parent company which

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[9] Tax Consultants International (May 12, 2004). "International tax planning – The EU exemption for interest and royalties (directive)". Retrieved on July 15, 2006. URL: http://www.taxci.nl/read/interest_royalty_directive

is located in another EU member state. This will enable Local Operating Entities that own real estate assets in an EU member state to repatriate operating income via tax-exempt dividend distributions and interest payments to Offshore Holding and Financing Entities that are located in another EU member states (so long as the necessary conditions are met). This will be beneficial when a particular EU member state allows for a more tax efficient means to repatriate income to the Cayman Fund than does the EU member state in which a real estate asset is located.

Danish Holding Companies:

Owning Real Estate Investments – The use of a Danish Holding Company "Danish Hold Co" provides a tax efficient structure with which to either directly own a foreign real estate asset or own the shares of a Local Operating Entity that owns such a real estate asset. For a directly owned foreign real estate asset, both the operating income and capital gains income are exempt from taxation in Denmark. Additionally, dividend income received from a foreign subsidiary (Local Operating Entity) is exempt from corporate tax in Denmark as long as certain requirements are met. One requirement is that the Danish Hold Co must own at least 20% of the shares of the foreign subsidiary for at least 12 months prior to the dividend distribution. An additional requirement is that the foreign subsidiary must not be a Controlled Foreign Corporation ("CFC"). A foreign subsidiary is considered a CFC if it is both located in a "low-tax country" and either more than 1/3 of its assets are considered "financial assets" or more than 1/3 of its income is derived from "financial activities". Currently, real estate is not considered a "financial asset", and income from real estate is not considered a "financial activity". Therefore,

a Danish Hold Co that is incorporated into the Cayman Fund structure, for the purpose of investing in real estate assets, will be exempt from taxation on dividend income in Denmark.

Furthermore, Denmark benefits from both dozens of double taxation treaties as well as from the EU Parent-Subsidiary Directive on dividend distributions. These allow for dividend distributions from a Local Operating Entity to be repatriated to a Danish Hold Co with little or no foreign withholding tax imposed.

Repatriating Income – A Danish Hold Co also provides a tax efficient means to repatriate income offshore. In general, Denmark does not levy a withholding tax on dividend distributions from a Danish Hold Co to a foreign parent entity as long as certain requirements are met. One requirement is that the foreign parent entity must reside in either an EU member state or in a country that has entered into a double taxation treaty with Denmark. An additional requirement is that the foreign parent entity must own at least 20% of the shares of a Danish Hold Co for at least 12 months prior to the dividend distribution. Additionally, Denmark does not levy a withholding tax on interest payments from a Danish Hold Co to an Offshore Financing Company. However, the interest rate on a related party loan is required to be set at an "arm's length" market rate.

Disposition Strategy – A Danish Hold Co also provides a tax efficient means to implement the general disposition strategy of the Cayman Fund which is to sell the shares of the Offshore Holding Entity. Denmark does not impose a capital gains tax on foreign shareholders

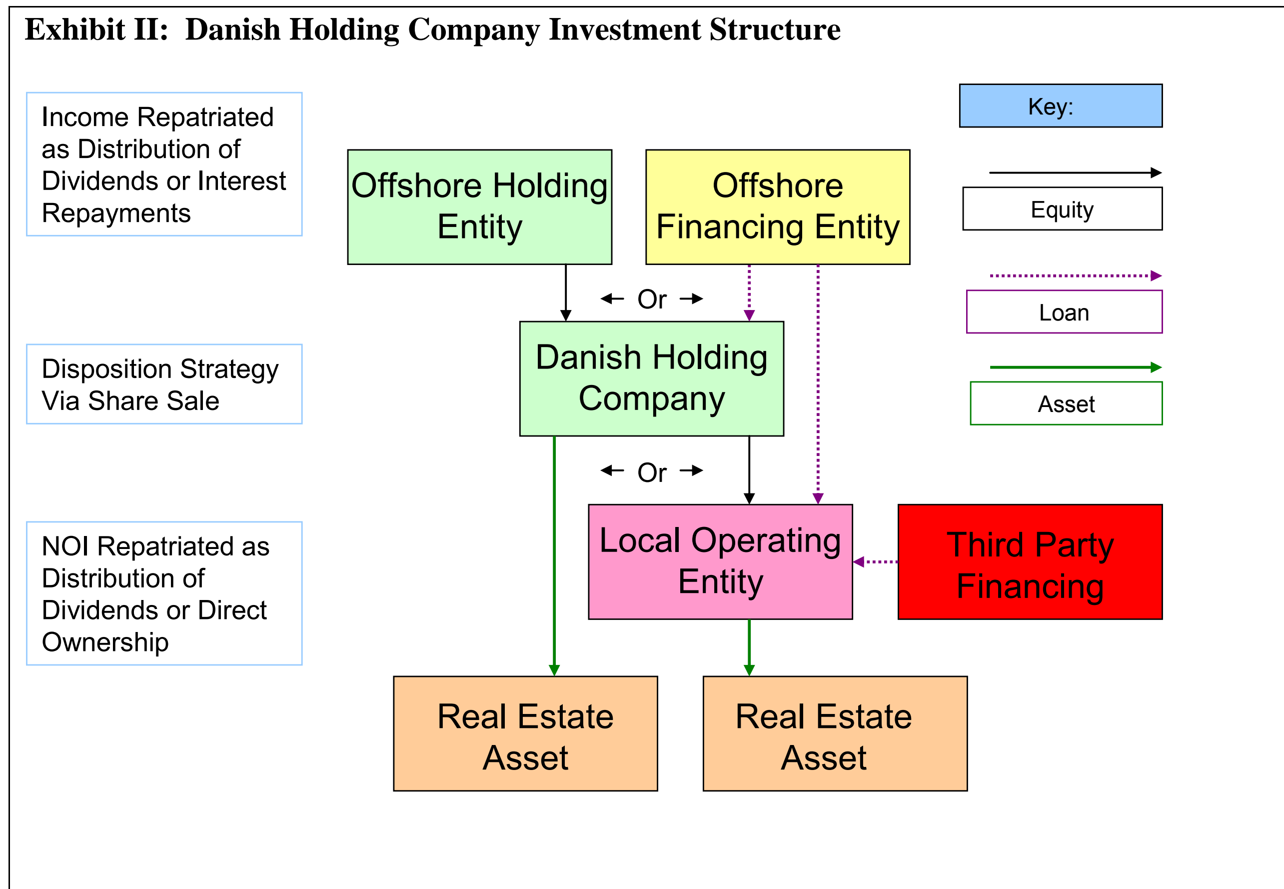
due to the sale or liquidation of the shares of a Danish Hold Co. Additionally, Denmark does not impose a tax on the transfer of shares.

Other Requirements & Tax Considerations – A Danish Hold Co is relatively easy to form or liquidate. Incorporation and registration normally takes a few business days. A minimum share capital requirement of approximately $18,000 must be contributed in full prior to the formation and registration of a Danish Hold Co. No capital duty is incurred upon the formation of a Danish Holding Co, and Denmark does not impose an annual subscription tax on the NAV of the company. An advanced tax ruling can be obtained from the Danish tax authority to ensure that the contemplated financial structure meets the investor's expectations and requirements. Additionally, the accounts of a Danish Hold Co must be audited annually and registered with the Danish tax authority.

Summary – A Danish Holding Company will provide an extremely tax efficient investment vehicle to serve as an Offshore Holding Entity for the Cayman Fund. In general, double taxation treaties or the EU Parent-Subsidiary Directive on dividend distributions can be utilized to ensure that any NOI that is repatriated from a Local Operating Entity to a Danish Hold Co is subject to little or no foreign withholding tax. Once received, the dividend income of the Danish Hold Co is not subject to taxation in Denmark. Plus, in general, Denmark does not impose any withholding tax on the repatriation of this income to an offshore entity, whether in the form of dividend distributions or interest payments. Additionally, the disposition strategy of the Cayman Fund can be executed without being subject to capital gains tax in Denmark – via selling the shares of the Danish Hold Co. Plus, Denmark provides a well established and

sophisticated legal, political, and economic environment. Finally, Denmark imposes very few regulatory requirements on the operations and management of a Danish Hold Co. Possible investment structures for a Danish Hold Co are illustrated in **Exhibit II**, below.

Exhibit II: Danish Holding Company Investment Structure



Dutch Financing Companies:

Use of a Dutch Financing Company – A Dutch Financing Company ("Dutch Fin Co") is a reliable investment vehicle for providing debt financing to related party entities or subsidiaries. Related party debt is used to maximize the amount of interest expense that a Local Operating Entity can deduct from taxable income (where applicable). A Dutch Fin Co is used to minimize

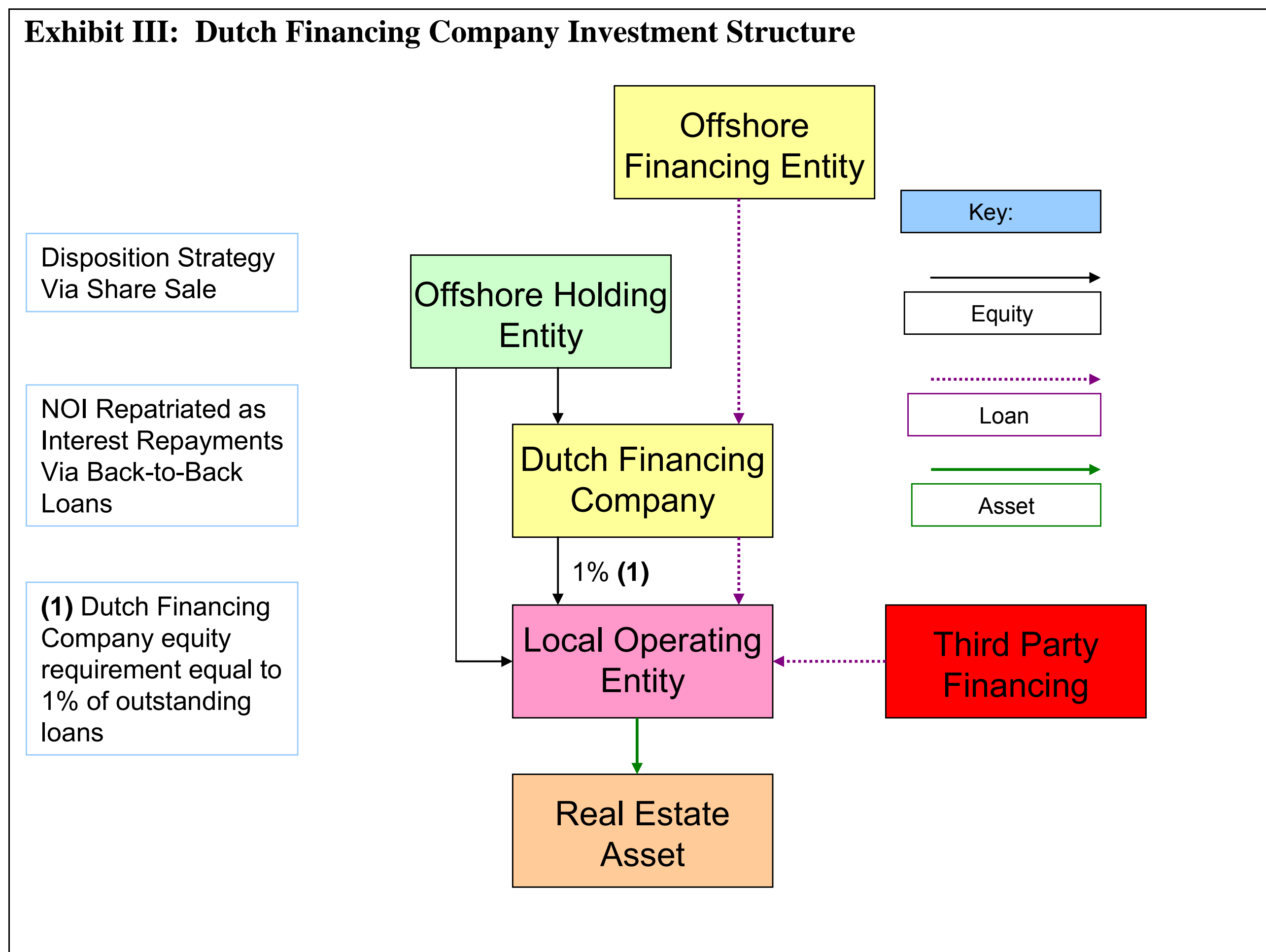
the amount of foreign withholding tax on the repatriation of interest payments. One method in which a Dutch Fin Co structure is commonly used is to make back-to-back group loans. Back-to-back loans are set up such that a related party entity makes a loan to a Dutch Fin Co which in turn makes a loan for the same amount to another related party entity. The Dutch Fin Co acts as a conduit for providing related party loans to subsidiaries.

Benefits of a Dutch Financing Company – There are several reasons for the popularity of using a Dutch Fin Co structure for back-to-back loans. First of all, The Netherlands has favorable taxation on back-to-back loan financing structures. Secondly, very few limitations are imposed with regards to the activities of a Dutch Fin Co. Third, in general, a Dutch Fin Co structure is quite resistant to many foreign anti-abuse provisions regarding the use of purely tax driven financing structures. Fourth, The Netherlands does not have any foreign currency restrictions regarding the repatriation of funds into or out of the country. Fifth, advanced tax rulings can be obtained from the Dutch tax authority to ensure that the contemplated financial structure meets the investor's expectations and requirements. Finally, The Netherlands provides a well established and sophisticated legal, political, financial, and economic environment.

Loans to a Dutch Fin Co – In general, The Netherlands does not levy a withholding tax on interest payments made from a Dutch Fin Co to a related party foreign lender. However, some restrictions apply in order to qualify for this tax-exempt treatment on interest payments. For example, "arm's length" rules require that the interest rate on the loan is set at a market rate. If the interest rate exceeds the market rate, the interest repayment may be deemed a constructive dividend which is subject to a Dutch withholding tax on dividend distributions. Also, interest

payments cannot be made from a Dutch Fin Co to a foreign lender that owns, directly or indirectly, a "substantial interest" in the Dutch Fin Co. Otherwise, the interest repayment may be subject to Dutch corporate income tax. In order to meet these requirements for tax-exempt treatment on interest payments, an Offshore Holding Entity will own the shares of a Dutch Fin Co, and a separate Offshore Financing Entity will provide related party debt financing to the Dutch Fin Co at a market interest rate. The investment structure for a typical Dutch Fin Co is illustrated in **Exhibit III**, below.

Exhibit III: Dutch Financing Company Investment Structure



Loans from a Dutch Fin Co – Traditionally, a Dutch Fin Co structure incorporated a small spread between the two back-to-back loans. The interest rate on the loan from a Dutch Fin Co to a Local Operating Entity was set higher than the interest rate on the loan from an Offshore Holding entity to the Dutch Fin Co. Typically, this interest spread was around 1/8%. Thus, the Dutch Fin Co had more interest income than interest expense. This resulted in a nominal amount of taxable income which was subject to Dutch corporate income tax.

Effective April 2001, The Netherlands has imposed additional "at-risk", "arm's length" and "operational substance" requirements on Dutch Fin Cos. The "at-risk" rules require that a Dutch Fin Co has an equity risk of the lesser of 1% of its outstanding loans or €2 million. The "arm's length" rules require that the interest rates, on loans to and from a Dutch Fin Co, are set at market rates (as opposed to having the traditional fixed spread). Additionally, a Dutch Fin Co is required to charge an annual loan fee to borrowers in an amount that is comparable to what a third-party lender would charge for providing similar loan services. The "operational substance" rules require that a Dutch Fin Co maintain sufficient operations in The Netherlands. For example, 50% of the board members of a Dutch Fin Co must be Dutch residents or a resident "trust office". Additionally, all accounting records must be maintained in The Netherlands.

The Netherlands benefits from both dozens of double taxation treaties as well as from the EU Parent-Subsidiary Directive on interest payments. These allow for interest payments from a foreign related entity borrower to be repatriated to a Dutch Fin Co with little or no foreign withholding tax imposed. Additionally, if any interest payments are subject to foreign withholding tax, a Dutch Fin Co is entitled to a tax credit in The Netherlands. This tax credit

will reduce the tax liability on taxable income from annual loans fees and interest rate spreads. Also, financial services provided by a Dutch Fin Co are exempt from VAT tax in The Netherlands.

Singapore Holding Companies:

General Corporate Taxation – Singapore has enacted a favorable tax regime related to inbound and outbound foreign dividends. Therefore, a Singapore Holding Company ("Singapore Hold Co") will provide a tax efficient conduit in order to repatriate dividend income from either a Local Operating Entity or an Offshore Holding Entity to the Cayman Fund. Singapore has enacted a territorial tax system. In general, this means that tax is levied on either net income derived from a local source in Singapore or net income derived from a foreign source that is remitted to Singapore. The general corporate tax rate in Singapore is a relatively low 20%.

Foreign-Sourced Income Exemption – During 2003, Singapore introduced a Foreign-Sourced Income Exemption ("FSIE") tax regime which allows for a tax exemption on foreign-sourced dividend income as long as certain conditions are met. One objective of this FSIE tax legislation was to allow for a Singapore resident company to benefit from a tax credit for foreign taxes imposed on dividend income that is distributed from a foreign subsidiary. Under the original FSIE tax legislation, foreign-sourced dividend income is generally tax exempt in Singapore if two conditions are met. First of all, the "subject to tax" condition requires that the underlying net income of a foreign subsidiary, which results in a dividend distribution to a Singapore Hold Co, must be subject to tax in that foreign jurisdiction. This foreign taxation can

be in the form of either an income tax on the underlying income or a withholding tax on dividend distributions made to a Singapore Hold Co. Secondly, the highest foreign "headline tax rate" applicable to the foreign subsidiary must be at least 15%. However, the actual foreign tax rate imposed on the foreign subsidiary can be less than the headline tax rate. In order to receive this FSIE tax exemption, the following information must be provided to the Inland Revenue Authority of Singapore ("IRAS"): **(1)** the country from which the dividend income was received; **(2)** the amount of dividend income received; **(3)** the headline tax rate applicable in the foreign country at the time that the dividend was made; and **(4)** the amount of foreign tax that was paid. In general, the Singapore Hold Co must be able to track the source of the dividend income in order to benefit from this tax exemption.

Section 13(12) Ruling – One of the major limitations to the original FSIE tax legislation was that a Local Operating Entity, which incurred the foreign-sourced taxable income, was required to be a directly held subsidiary of a Singapore Hold Co. This requirement did not allow for the taxable income to be distributed to an intermediate Offshore Holding Entity, in which no further taxation was incurred, prior to the income being distributed to a Singapore Hold Co in the form of a dividend. Consider an example where a Singapore Hold Co owns the shares of a Danish Hold Co which owns the shares of a Local Operating Entity. If taxable rental income was distributed from the Local Operating Entity to the Danish Hold Co, and both this dividend income was not subject to income tax in Denmark, and Denmark did not impose a withholding tax on the dividend distribution to the Singapore Hold Co, the dividend income of the Singapore Hold Co would not qualify for tax exemption under the original FSIE tax legislation. In this example, the dividend income in Singapore would be subject to a 20% corporate tax rate.

On May 31, 2006, IRAS released the "Tax Exemption under Section 13(12) for Specified Scenarios and Real Estate Trusts" tax circular ruling ("Circular"). This Circular outlines specific scenarios in which foreign-sourced dividend income will be tax exempt even if the requirements of the original FSIE tax legislation are not met. Importantly, this Circular clarifies that a Singapore Holding Co is no longer required to directly own the Local Operating Entity which is the source of the foreign taxable income. A tax-efficient intermediate Offshore Holding Entity can now be inserted between the Singapore Holding Co and the Local Operating Entity. Under the new requirements outlined in this Circular, the Singapore Holding Co can benefit from a tax exemption on foreign-sourced dividend income even if the income is moved to another foreign jurisdiction, which does not levy tax on the income, prior to the income being distributed to the Singapore Hold Co in the form of a dividend. Additionally, this Circular allows for this tax exemption on foreign-sourced dividend income even if no tax is incurred in the foreign jurisdiction either because the income is from capital gains which are not subject to taxation in the foreign jurisdiction, or the taxable income in the foreign jurisdiction is off-set by tax losses from prior years.

Inbound Dividends – Singapore benefits from dozens of double taxation treaties. These allow for dividend distributions from either a Local Operating Entity or an Offshore Holding Entity to be repatriated to a Singapore Hold Co with little or no foreign withholding tax imposed. In particular, Singapore has entered into a beneficial double taxation treaty with Denmark. As long as a Singapore Hold Co owns 25% or more of the shares of a Danish Hold Co, Denmark will not levy a withholding tax on dividend distributions from the Danish Hold Co to the

Singapore Hold Co. This will allow for tax-free repatriation of income from Denmark to Singapore.

Repatriation of Income & Disposition Strategy – A Singapore Hold Co provides a tax efficient means to repatriate income offshore. In general, Singapore does not levy a withholding tax on dividend distributions from a Singapore Hold Co to a foreign parent entity. Additionally, a Singapore Hold Co also provides a tax efficient means to implement the general disposition strategy of the Cayman Fund which is to sell the shares of the Offshore Holding Entity. Singapore does not impose a capital gains tax on shareholders due to the sale of the shares of a Singapore Hold Co. Plus, these capital gains can be distributed tax-free to a foreign parent entity in the form of a liquidating distribution.

Other Requirements – In order to benefit from this tax exemption on foreign-sourced dividend income, a Singapore Hold Co must be a tax resident of Singapore. In general, in order to qualify for resident status, the central management and control of the operations of a Singapore Hold Co must occur in Singapore. Typically, this requirement can be met if a Singapore Hold Co holds its Board of Directors meetings in Singapore. However, at least one Director must be a resident of Singapore. Additionally, to qualify for this tax exemption benefit, the Singapore Hold Co is not allowed to be a shell company in that it must conduct "substantive business" operations in Singapore. Further research is required in order to determine the qualifications that will meet this substantive business requirement.

Summary – A resident Singapore Hold Co will provide an extremely tax efficient conduit in order to repatriate dividend income from either a Local Operating Entity or an Offshore Holding Entity to the Cayman Fund. In general, various double taxation treaties can be utilized to ensure that any dividend distributions from a foreign jurisdiction to a Singapore Hold Co are subject to little or no foreign withholding tax. In particular, dividends from a Danish Hold Co to a Singapore Hold Co are not subject to withholding tax in Denmark as long as the Singapore Hold Co owns 25% or more of the shares of the Danish Hold Co. Once received, the dividend income of the Singapore Hold Co is tax exempt in Singapore if certain requirements are met. Plus, in general, Singapore does not impose any withholding tax on dividend distributions from a Singapore Hold Co to a foreign parent entity. Additionally, the disposition strategy of the Cayman Fund can be executed without being subject to capital gains tax in Singapore – via selling the shares of the Singapore Hold Co. Finally, Singapore provides a well established and sophisticated legal, political, and economic environment.

Chapter 5: Proposed Investment Structure for the Cayman Fund

Each of the 40 Target Countries for real estate investments has different and distinct laws related to the ownership of local real estate assets. Additionally, each of these jurisdictions has different and distinct tax legislation related to the definition of taxable income, the allowable methods for depreciation, the deductibility of interest expense, the treatment of capital gains, the rules governing related party financing, and the applicable rates of taxation, to name a few. These factors must be considered on a case-by-case basis for each real estate investment. Importantly, consultation with legal and tax professionals will be required in order to give proper consideration to these factors when structuring each investment. As previously mentioned, these complexities can result in numerous ways to structure an individual real estate investment. No standard investment structure exists for a global real estate fund. Alternative structures to those presented in this thesis may ultimately be utilized to structure investments in real estate assets located in particular jurisdictions.

This thesis does not analyze the specific ownership and tax legislation of each Target Country jurisdiction nor does it examine the structuring of real estate assets at the local jurisdiction level. Rather, the focus of this thesis is on tier level and fund level structuring for a global portfolio of real estate assets. The only local jurisdiction level tax consideration that is considered in this thesis is the withholding tax treatment of dividend distributions and interest payments that are remitted to foreign investors.

In **Chapter 4**, several investment structuring methods were presented which the Cayman Fund will implement in order to minimize taxation on the repatriation of operating and disposition income from the local real estate assets, up through the fund structure, to the Cayman Fund. These investment structures will provide the ability to utilize double taxation treaties in an attempt to minimize withholding taxes on the repatriation of dividends or interest payments. The EU Parent-Subsidiary Directives will also be utilized to allow for tax-exempt dividends and interest payments to be sent from a subsidiary entity located in one EU member state to a parent entity located in another member state. Furthermore, these investment structures will provide the ability to utilize local tax legislation which is favorable to real estate investment, offshore holding structures, or offshore financing structures, in an attempt to minimize taxation on tier level income. Finally, a general disposition strategy, which is to sell the shares of Offshore Holding Entities, will be utilized to minimize taxation on capital gains from the disposition of real estate investments.

When combined, these structuring methods and strategies will create an efficient overall investment structure for the Cayman Fund. This investment structure will allow the Cayman Fund to feasibly invest in the majority of the 40 Target Countries for real estate investment. Additionally, this investment structure will successfully achieve many of the market, tax and regulatory objectives of the Cayman Fund.

In general, the Cayman Fund will utilize three different types of Offshore Holding Entities that will own the shares of Local Operating Entities – a Cayman Islands Holding Company, a Danish Holding Company and a Singapore Holding Company. In general, the

Cayman Fund will utilize two different types of Offshore Financing Entities that will provide related party debt financing to Local Operating Entities in order to maximize interest expense deductions from taxable income at the local jurisdiction level – a Cayman Islands Financing Company and a Dutch Financing Company. The following six tier level investment structures ("Tier Structures") are a result of the combination of one of these Holding Companies with one of these Financing Companies:

I. Cayman Hold Co and a Cayman Fin Co

II. Danish Hold Co and a Cayman Fin Co

III. Singapore Hold Co and a Cayman Fin Co

IV. Cayman Hold Co and a Dutch Fin Co

V. Danish Hold Co and a Dutch Fin Co

VI. Singapore Hold Co and a Dutch Fin Co

Except for Tier Structure I, additional layers of Offshore Holding and Financing Entities will be incorporated into these Tier Structures in order to minimize taxation on the repatriation of dividend and interest income to the Cayman Fund. These six Tier Structures are listed in **Table IV**, below.

Table IV: Offshore Holding and Financing Entities Used in the 6 Tier Structures

	Cayman Islands Financing Company	Dutch Financing Company
Cayman Islands Holding Company	**Tier Structure I**	**Tier Structure IV**
Danish Holding Company	**Tier Structure II**	**Tier Structure V**
Singapore Holding Company	**Tier Structure III**	**Tier Structure VI**

Tier Structure I – Cayman Hold Co and Cayman Fin Co:

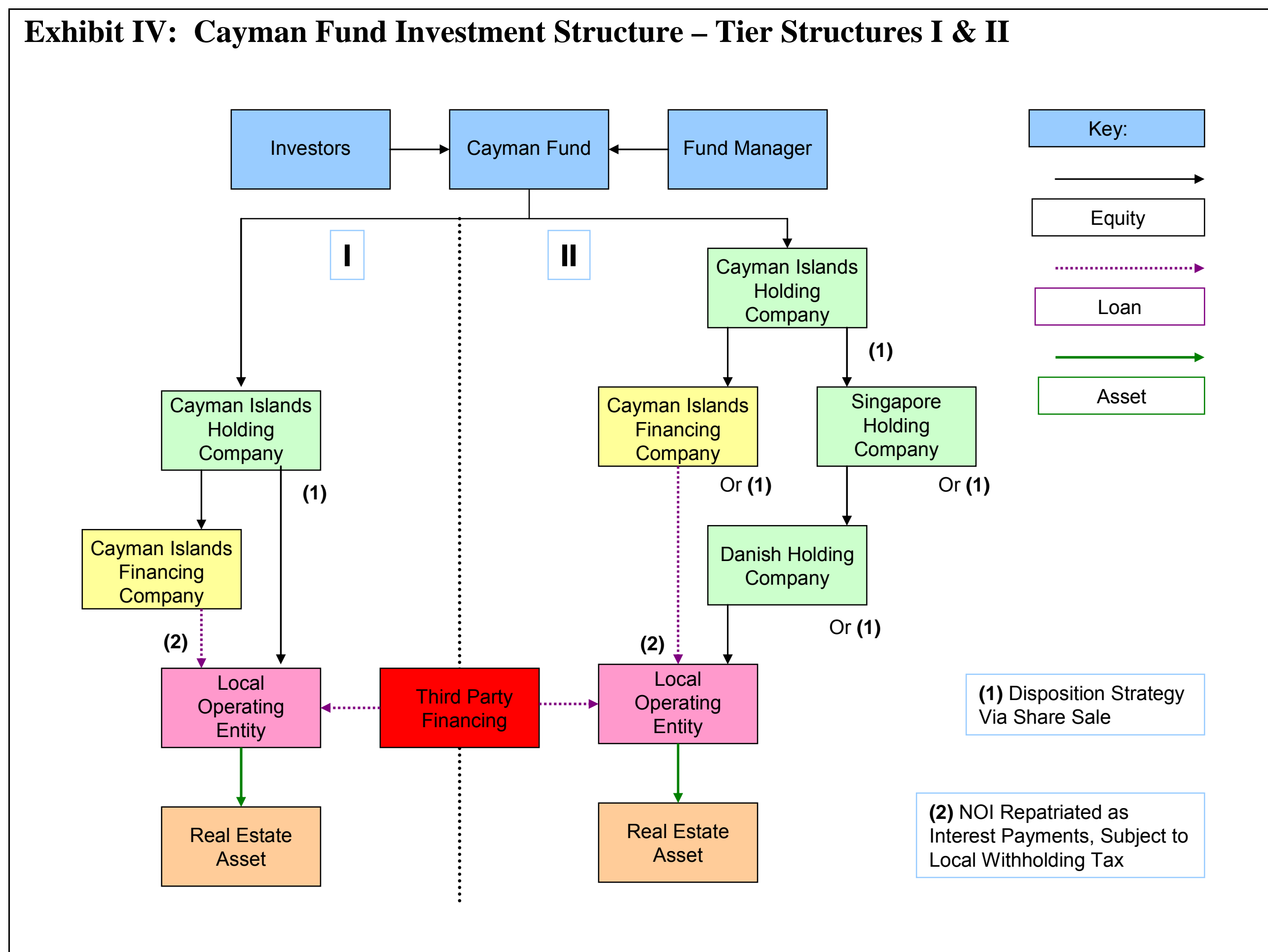
Tier Structure I is the preferred method for the structuring of investments in real estate assets. This investment structure is comprised of a Cayman Hold Co and a Cayman Fin Co. The Cayman Fund owns the shares of the Cayman Hold Co, which in turn owns the shares of both the Cayman Fin Co and the Local Operating Entity. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from the Cayman Hold Co; **(2)** related party debt financing from the Cayman Fin Co; and **(3)** third-party debt financing.

After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Cayman Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to the Cayman Hold Co in the form of dividends. These interest payments and dividends will be subject to withholding tax at the standard tax rates applicable in the local jurisdiction. Next, the Cayman Fin Co will repatriate interest income to the Cayman Hold Co in the form of dividends. Finally, the Cayman Hold Co will remit dividend income to the Cayman Fund in the form of additional dividends.

The interest income of the Cayman Fin Co and the dividend income of the Cayman Hold Co are not considered taxable income in the Cayman Islands. Additionally, intra-country dividends are not subject to withholding tax in the Cayman Islands. The disposition strategy will

involve the sale of the shares of the Cayman Hold Co. This disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands. In general, the Cayman Fund will only incur the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; and **(2)** the withholding tax on the repatriation of interest and dividends from the Local Operating Entity to the Cayman Fin Co and Cayman Hold Co, respectively. The Tier Structure I investment structure is illustrated in **Exhibit IV**, below.

Exhibit IV: Cayman Fund Investment Structure – Tier Structures I & II



Tier Structure II – Danish Hold Co and Cayman Fin Co:

Tier Structure II is comprised of a Danish Hold Co and a Cayman Fin Co. The shares of the Local Operating Entity are owned by the Danish Hold Co. The shares of the Danish Hold Co are owned by a Singapore Hold Co. The Cayman Fund owns the shares of a Cayman Hold Co, which in turn owns the shares of both the Singapore Hold Co and the Cayman Fin Co. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from the Danish Hold Co; **(2)** related party debt financing from the Cayman Fin Co; and **(3)** third-party debt financing.

After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Cayman Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to the Danish Hold Co in the form of dividends. These interest payments will be subject to withholding tax at the standard tax rates applicable in the local jurisdiction. These dividends will also be subject to withholding tax in the local jurisdiction. However, double taxation treaties or the EU Parent-Subsidiary Directive on dividends will be utilized to minimize this withholding tax, where applicable.

The Cayman Fin Co will repatriate interest income to the Cayman Hold Co in the form of dividends. At the same time, the Danish Hold Co will repatriate dividend income to the Singapore Hold Co in the form of additional dividends. Next, the Singapore Hold Co will

repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Finally the Cayman Hold Co will remit dividend income to the Cayman Fund in the form of additional dividends.

The interest income of the Cayman Fin Co and the dividend income of the Cayman Hold Co are not considered taxable income in the Cayman Islands. If the necessary requirements are met, the dividend income of both the Danish Hold Co and the Singapore Hold Co will not be considered taxable income in Denmark or Singapore, respectively. Additionally, dividends sent from the Danish Hold Co to the Singapore Hold Co, and dividends sent from the Singapore Hold Co to the Cayman Hold Co, are not subject to withholding tax in Denmark or Singapore, respectively. Plus, intra-country dividends are not subject to withholding tax in the Cayman Islands.

The disposition strategy will involve the sale of the shares of either **(1)** the Cayman Hold Co; **(2)** the Cayman Fin Co and the Singapore Hold Co; or **(3)** the Cayman Fin Co and the Danish Hold Co. These three disposition scenarios will create flexibility for a potential purchaser to select the most tax beneficial of these three offshore holding company jurisdictions. In any case, the disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands, Singapore, or Denmark. In general, the Cayman Fund will be subject to the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** withholding tax on interest payments from the Local Operating Entity to the Cayman Fin Co; and **(3)** withholding tax on dividends from the Local Operating Entity to the Danish Hold Co, which may be

minimized via double taxation treaties or the EU Parent-Subsidiary Directive. The Tier Structure II investment structure is illustrated in **Exhibit IV**, on page 65.

Tier Structure III – Singapore Hold Co and Cayman Fin Co:

Tier Structure III is comprised of a Singapore Hold Co and a Cayman Fin Co. The Cayman Fund owns the shares of a Cayman Hold Co, which in turn owns the shares of both the Singapore Hold Co and the Cayman Fin Co. The Singapore Hold Co owns the shares of the Local Operating Entity. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from the Singapore Hold Co; **(2)** related party debt financing from the Cayman Fin Co; and **(3)** third-party debt financing.

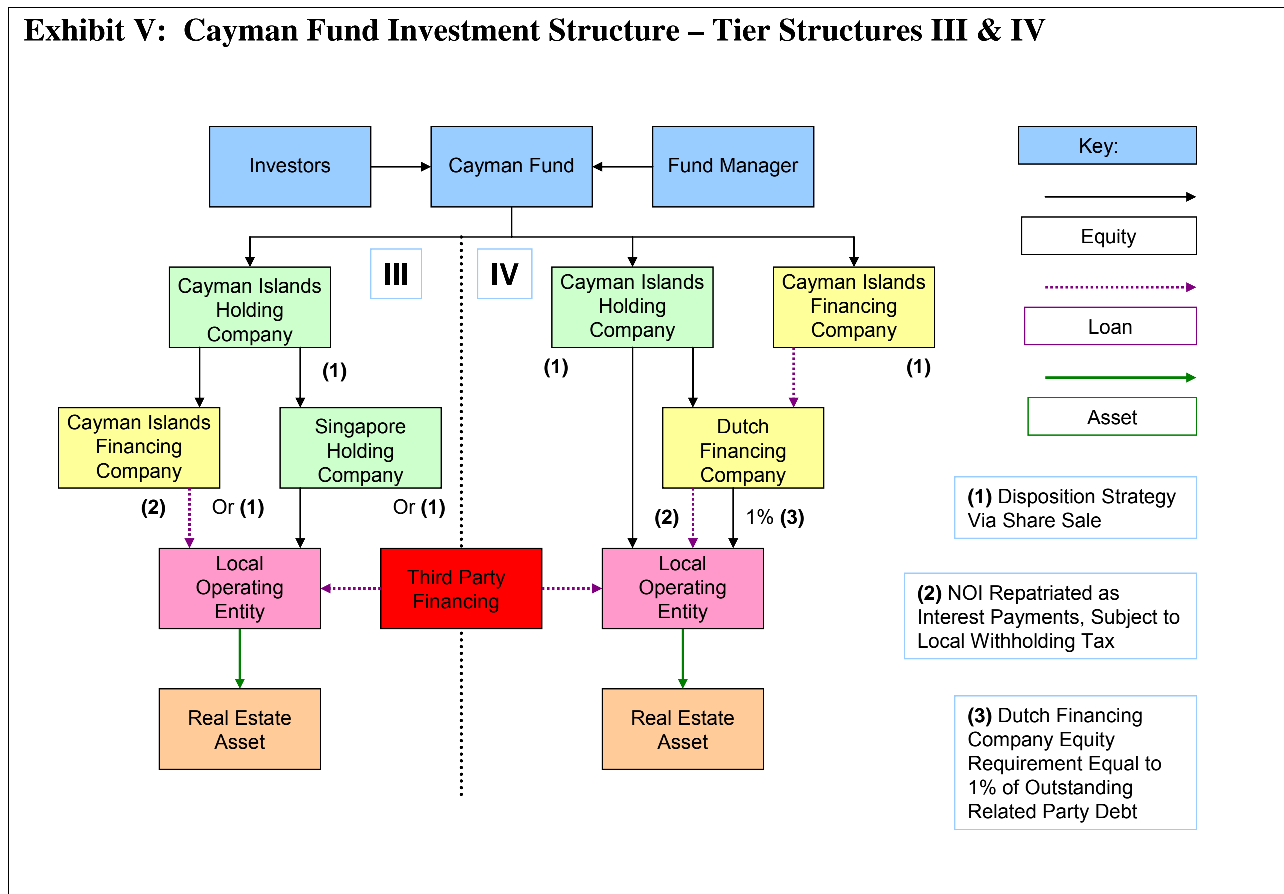
After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Cayman Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to the Singapore Hold Co in the form of dividends. These interest payments will be subject to withholding tax at the standard tax rates applicable in the local jurisdiction. These dividends will also be subject to withholding tax in the local jurisdiction. However, double taxation treaties will be utilized to minimize this withholding tax, where applicable.

The Cayman Fin Co will repatriate interest income to the Cayman Hold Co in the form of dividends. At the same time, the Singapore Hold Co will repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Next, the Cayman Hold Co will remit dividend income to the Cayman Fund in the form of additional dividends.

The interest income of the Cayman Fin Co and the dividend income of the Cayman Hold Co are not considered taxable income in the Cayman Islands. If the necessary requirements are met, the dividend income of the Singapore Hold Co will not be considered taxable income in Singapore. Additionally, dividends sent from the Singapore Hold Co to the Cayman Hold Co are not subject to withholding tax in Singapore. Plus, intra-country dividends are not subject to withholding tax in the Cayman Islands.

The disposition strategy will involve the sale of the shares of either **(1)** the Cayman Hold Co, or **(2)** both the Cayman Fin Co and the Singapore Hold Co. These two disposition scenarios will create flexibility for a potential purchaser to select the most tax beneficial of these two offshore holding company jurisdictions. In either case, the disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands or Singapore. In general, the Cayman Fund will be subject to the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** withholding tax on interest payments from the Local Operating Entity to the Cayman Fin Co; and **(3)** withholding tax on dividends from the Local Operating Entity to the Singapore Hold Co, which may be minimized via double taxation treaties. The Tier Structure III investment structure is illustrated in **Exhibit V**, on page 70.

Exhibit V: Cayman Fund Investment Structure – Tier Structures III & IV



Tier Structure IV – Cayman Hold Co and Dutch Fin Co:

Tier Structure IV is comprised of a Cayman Hold Co and a Dutch Fin Co. The Cayman Fund owns the shares of the Cayman Hold Co, which in turn owns the shares of both the Dutch Fin Co and the majority of the Local Operating Entity. The Dutch Fin Co is required to have an equity interest in the Local Operating Entity equal to at least 1% of the principal amount of the related party debt financing. Additionally, the Cayman Fund owns the shares of a Cayman Fin Co. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from the

Cayman Hold Co and Dutch Fin Co; **(2)** back-to-back related party debt financing from the Dutch Fin Co, via the Cayman Fin Co; and **(3)** third-party debt financing.

After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Dutch Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to the both Cayman Hold Co and the Dutch Fin Co in the form of dividends. Dividends to the Cayman Hold Co will be subject to withholding tax at the standard tax rates applicable in the local jurisdiction. Interest payments and dividends to the Dutch Fin Co will also be subject to withholding tax in the local jurisdiction. However, double taxation treaties or the EU Parent-Subsidiary Directives on interest and dividends will be utilized to minimize the withholding taxes, where applicable.

The Dutch Fin Co will repatriate interest income to the Cayman Fin Co in the form of interest payments, and at the same time repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Next, the Cayman Hold Co and the Cayman Fin Co will remit dividend income and interest income, respectively, to the Cayman Fund in the form of dividends.

The Dutch Fin Co will have a nominal amount of taxable income generated from both the spread in the interest rates of the back-to-back loans as well as the annual loan fees. The nominal dividend distribution from the Dutch Fin Co to the Cayman Hold Co will be subject to a 25% withholding tax. The interest income of the Cayman Fin Co and the dividend income of the

Cayman Hold Co are not considered taxable income in the Cayman Islands. Additionally, intra-country dividends are not subject to withholding tax in the Cayman Islands.

The disposition strategy will involve the sale of the shares of both the Cayman Hold Co and the Cayman Fin Co. This disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands. In general, the Cayman Fund will be subject to the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** withholding tax on interest payments from the Local Operating Entity to the Dutch Fin Co; **(3)** withholding tax on dividends from the Local Operating Entity to both the Cayman Hold Co and the Dutch Fin Co; **(4)** a nominal amount of taxable income of the Dutch Fin Co; and **(5)** a nominal amount of withholding tax on dividends from the Dutch Fin Co to the Cayman Hold Co. The withholding taxes on interest payments and dividends to the Dutch Fin Co may be minimized via double taxation treaties or the EU Parent-Subsidiary Directive. The Tier Structure IV investment structure is illustrated in **Exhibit V**, on page 70.

Tier Structure V – Danish Hold Co and Dutch Fin Co:

Tier Structure V is comprised of a Danish Hold Co and a Dutch Fin Co. The Danish Hold Co owns the majority of the shares of the Local Operating Entity. The Dutch Fin Co is required to have an equity interest in the Local Operating Entity equal to at least 1% of the principal amount of the related party debt financing. A Singapore Hold Co owns the shares of the Danish Hold Co. The Cayman Fund owns the shares of a Cayman Hold Co, which in turn

owns the shares of both the Singapore Hold Co and the Dutch Fin Co. Additionally, the Cayman Fund owns the shares of a Cayman Fin Co. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from both the Danish Hold Co and Dutch Fin Co; **(2)** back-to-back related party debt financing from the Dutch Fin Co, via the Cayman Fin Co; and **(3)** third-party debt financing.

After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Dutch Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to both the Danish Hold Co and the Dutch Fin Co in the form of dividends. These interest payments and dividends will also be subject to withholding tax in the local jurisdiction. However, double taxation treaties or the EU Parent-Subsidiary Directives will be utilized to minimize this withholding tax, where applicable.

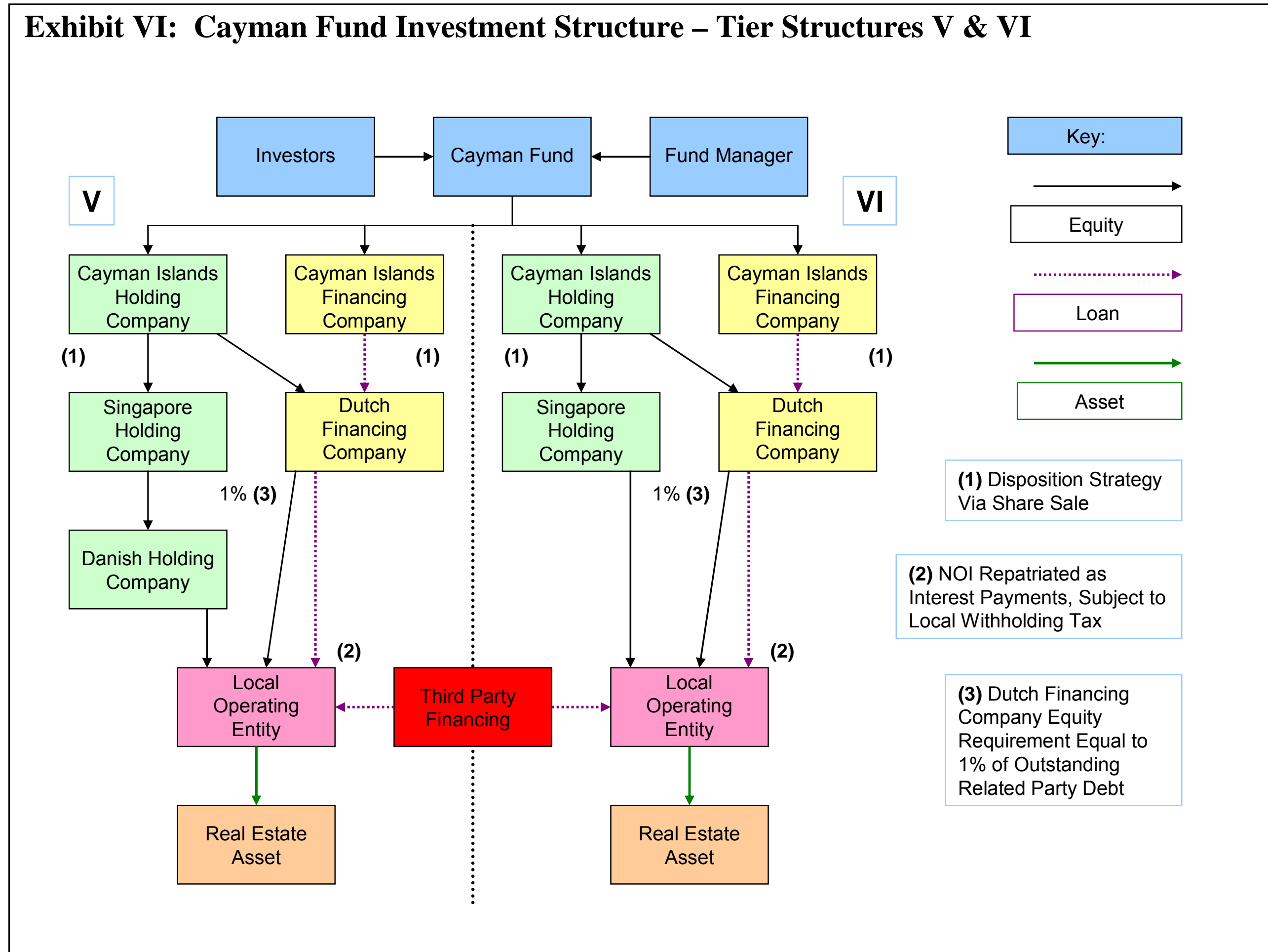
The Dutch Fin Co will repatriate interest income to the Cayman Fin Co in the form of interest payments, and at the same time repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Simultaneously, the Danish Hold Co will repatriate dividend income to the Singapore Hold Co in the form of additional dividends. Next, the Singapore Hold Co will repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Finally, the Cayman Hold Co and the Cayman Fin Co will remit dividend income and interest income, respectively, to the Cayman Fund in the form of dividends.

The Dutch Fin Co will have a nominal amount of taxable income generated from both the spread in the interest rates of the back-to-back loans as well as the annual loan fees. The nominal dividend distribution from the Dutch Fin Co to the Cayman Hold Co will be subject to a 25% withholding tax. If the necessary requirements are met, the dividend income of both the Danish Hold Co and the Singapore Hold Co will not be considered taxable income in Denmark or Singapore, respectively. The interest income of the Cayman Fin Co and the dividend income of the Cayman Hold Co are not considered taxable income in the Cayman Islands. Additionally, dividends sent from the Danish Hold Co to the Singapore Hold Co, and dividends sent from the Singapore Hold Co to the Cayman Hold Co, are not subject to withholding tax in Denmark or Singapore, respectively. Plus, intra-country dividends are not subject to withholding tax in the Cayman Islands.

The disposition strategy will involve the sale of the shares of both the Cayman Hold Co and the Cayman Fin Co. This disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands. In general, the Cayman Fund will be subject to the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** withholding tax on interest payments from the Local Operating Entity to the Dutch Fin Co; **(3)** withholding tax on dividends from the Local Operating Entity to both the Danish Hold Co and the Dutch Fin Co; **(4)** a nominal amount of taxable income of the Dutch Fin Co; and **(5)** a nominal amount of withholding tax on dividends from the Dutch Fin Co to the Cayman Hold Co. The withholding taxes on interest payments and dividends, to both the Dutch Fin Co and the Danish Hold Co,

may be minimized via double taxation treaties or the EU Parent-Subsidiary Directive. The Tier Structure V investment structure is illustrated in **Exhibit VI**, below.

Exhibit VI: Cayman Fund Investment Structure – Tier Structures V & VI



<u>Tier Structure VI – Singapore Hold Co and Dutch Fin Co:</u>

Tier Structure VI is comprised of a Singapore Hold Co and a Dutch Fin Co. The Singapore Hold Co owns the majority of the shares of the Local Operating Entity. The Dutch Fin Co is required to have an equity interest in the Local Operating Entity equal to at least 1% of the principal amount of the related party debt financing. The Cayman Fund owns the shares of a

Cayman Hold Co, which in turn owns the shares of both the Singapore Hold Co and the Dutch Fin Co. Additionally, the Cayman Fund owns the shares of a Cayman Fin Co. In general, a Local Operating Entity will own a real estate investment that is located in one of the 40 Target Country jurisdictions. The acquisition or development costs of the Local Operating Entity will be financed through a combination of: **(1)** equity contributions from both the Singapore Hold Co and Dutch Fin Co; **(2)** back-to-back related party debt financing from the Dutch Fin Co, via the Cayman Fin Co; and **(3)** third-party debt financing.

After servicing third-party debt obligations, the after-tax NOI of the Local Operating Entity will be repatriated in two forms. First of all, the Local Operating Entity will make interest payments to the Dutch Fin Co. Secondly, the Local Operating Entity will repatriate any excess NOI to both the Singapore Hold Co and the Dutch Fin Co in the form of dividends. These interest payments and dividends will also be subject to withholding tax in the local jurisdiction. However, double taxation treaties will be utilized to minimize this withholding tax, where applicable. Additionally, the EU Parent-Subsidiary Directives will be utilized to minimize the withholding tax on both interest payments and dividends to the Dutch Fin Co, where applicable.

The Dutch Fin Co will repatriate interest income to the Cayman Fin Co in the form of interest payments, and at the same time repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Simultaneously, the Singapore Hold Co will repatriate dividend income to the Cayman Hold Co in the form of additional dividends. Next, the Cayman Hold Co and the Cayman Fin Co will remit dividend income and interest income, respectively, to the Cayman Fund in the form of dividends.

The Dutch Fin Co will have a nominal amount of taxable income generated from both the spread in the interest rates of the back-to-back loans as well as the annual loan fees. The nominal dividend distribution from the Dutch Fin Co to the Cayman Hold Co will be subject to a 25% withholding tax. If the necessary requirements are met, the dividend income of the Singapore Hold Co will not be considered taxable income in Singapore. The interest income of the Cayman Fin Co and the dividend income of the Cayman Hold Co are not considered taxable income in the Cayman Islands. Additionally, dividends sent from the Singapore Hold Co to the Cayman Hold Co, are not subject to withholding tax in Singapore. Plus, intra-country dividends are not subject to withholding tax in the Cayman Islands.

The disposition strategy will involve the sale of the shares of both the Cayman Hold Co and the Cayman Fin Co. This disposition strategy will not be subject to capital gains tax or other taxation in the Cayman Islands. In general, the Cayman Fund will be subject to the following tax liabilities through the implementation of this investment structure: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** withholding tax on interest payments from the Local Operating Entity to the Dutch Fin Co; **(3)** withholding tax on dividends from the Local Operating Entity to both the Singapore Hold Co and the Dutch Fin Co; **(4)** a nominal amount of taxable income of the Dutch Fin Co; and **(5)** a nominal amount of withholding tax on dividends from the Dutch Fin Co to the Cayman Hold Co. The withholding taxes on interest payments and dividends, to both the Dutch Fin Co and the Singapore Hold Co, may be minimized via double taxation treaties. The Tier Structure VI investment structure is illustrated in **Exhibit VI**, on page 75.

Selecting the Appropriate Tier Structure for Each Real Estate Investment:

The primary difference between the six Tier Structures is the location of the lowest tier of Offshore Holding and Financing Entities. In order to select the most appropriate Tier Structure for a real estate investment located in any of the 40 Target Countries, one must consider the applicable withholding tax rates levied on the repatriation of interest payments and dividend distributions from the Local Operating Entity to this lowest tier of Offshore Holding and Financing Entities. The appropriate Tier Structure is selected by choosing a combination of Offshore Holding and Financing Entities that will minimize the withholding tax levied on such repatriation. It is important to note that if different Tier Structures result in similar tax benefits, the least complex Tier Structure should be selected due to its lower operational costs. Additionally, the Dutch Fin Co structure has some additional tier level tax liabilities that do not exist in the Cayman Fin Co structure. Therefore, a Cayman Fin Co structure may actually be more cost effective even if a Dutch Fin Co structure offers a slightly lower withholding tax rate on the repatriation of interest payments.

Table V, on page 79, lists the withholding tax rates applicable under various double taxation treaties that are levied by each Target Country on interest payments or dividends repatriated to Denmark, The Netherlands, and Singapore. The standard withholding tax rates applicable for non-treaty recipient countries such as the Cayman Islands are also listed in this table. No data is included in this table for the Target Countries of Azerbaijan, Kazakhstan and Romania. Further research is required in order to determine the applicable withholding tax rates for these three jurisdictions. Additionally, if the requirements of the EU Parent-Subsidiary

Directives are met, no withholding tax is levied on interest payments and dividends repatriated from an EU member state to Denmark or The Netherlands. This fact is illustrated in **Table VI**, on page 80. The applicable withholding tax rates, listed in **Table V** and **Table VI**, will be used to select the most tax-efficient Tier Structure for each Target Country for real estate investments.

Table V: Dividend and Interest Withholding Tax Rates under Double Taxation Treaties

Target Country Sending Div. or Interest	Recipient Country of Dividend Distribution or Interest Payment								Footnote	Date of Data
	Denmark		Netherlands		Singapore		Cayman Islands (Non-Treaty)			
	Dividend	Interest	Dividend	Interest	Dividend	Interest	Dividend	Interest		
U.S.	5%	0%	5%	0%	N/A	N/A	30%	30%		May-06
Japan	10%	10%	5%	10%	5%	10%	20%	20%		Aug-05
U.K.	0%	0%	0%	0%	0%	10%	0%	20%		Oct-05
Germany	0%	0%	0%	0%	10%	10%	25%	35/25/0%		Sep-05
France	0%	0%	0/5/15%	0/10%	10/15%	0/10%	25%	15%	**2**	Jun-05
Italy	15%	15%	5/10/15%	10%	10%	12.5%	27%	?		Jan-06
Canada	5/15%	10%	5/15%	10%	15%	15%	25%	25%	**3**	Oct-05
Spain	0/15%	10%	5/15%	10%	N/A	N/A	15%	25%	**4**	Feb-06
South Korea	15%	15%	10/15%	10/15%	10/15%	10%	27.5%	27.5%		Jul-05
Hong Kong	0%	0%	0%	0%	0%	0%	0%	0%		Oct-05
Australia	15%	10%	15%	10%	0/15%	10%	?	10%	**5**	Jul-05
Taiwan	N/A	N/A	10%	10%	40%	0%	20%	20%		Dec-05
Netherlands	0/15%	0%	XXX	XXX	0/15%	0%	25%	0%	**6**	Dec-05
Singapore	0%	10%	0%	10%	XXX	XXX	0%	15%	**7**	Jun-05
Belgium	0/15%	15%	5/15%	0/10%	15%	10%	15%	15%	**8**	May-06
Sweden	0/15%	0%	0/15%	0%	10/15%	0/5%	30%	0%	**9,10**	Feb-06
Austria	10%	0%	5/15%	0%	N/A	N/A	25%	0%	**11,12**	Aug-01
Switzerland	0%	0%	0/15%	5%	10/15%	10%	35%	0%	**13**	Oct-05
Greece	0%	8%	0%	10%	N/A	N/A	0%	35%	**14**	Nov-05
Norway	0/15%	0%	0/15%	0%	5/15%	0%	50%	0%	**15,16**	Jun-05
Denmark	XXX	XXX	15%	0%	0/10%	0%	28%	0%	**17,18**	Feb-02
Portugal	10/15%	15%	10%	10%	10%	10%	25%	20%		Aug-02
Ireland	0%	0%	0-15%	0%	N/A	N/A	22%	22%		Dec-01
Finland	5/15%	0%	0%	0%	5/15%	10%	29%	0%	**19,20,21,22**	Nov-01
Czech Republic	15%	0%	10%	0%	5%	0%	15%	?		Dec-05
New Zealand	15%	10%	15%	10%	15%	15%	30%	15%	**23**	May-06
China	10%	10%	10%	10%	7/12%	7/10%	0%	10%	**24,25**	Mar-06
Brazil	0%	15%	0%	15%	N/A	N/A	0%	15/20%	**26**	Aug-05
Mexico	15%	15%	15%	15%	0%	15%	0%	35%	**27**	Sep-05
Poland	0/5/15%	5%	5/15%	5%	0/10%	10%	19%	20%	**28,29**	Apr-06
Russia	10%	0%	5/15%	0%	N/A	N/A	15%	20%	**30,31**	Nov-05
Chile	15%	5/15%	N/A	N/A	N/A	N/A	35%	35%	**32**	Feb-06
India	15/25%	10/15%	15%	10/15%	10/15%	10/15%	14.02%	20%		Nov-05
Malaysia	N/A	N/A	10%		15%		10%	15%		May-06
Hungary	0/5/15%	0%	0/5/15%	0%	5/10%	0%	20%	0%	**33,34**	Aug-05
Argentina	10/15%	12%	10/15%	12%	N/A	N/A	0%	15.05%	**35,36**	Jun-05
Turkey	N/A	N/A	N/A	N/A	N/A	N/A	10%	?		Jun-05

Appendix D, on page 114, includes the footnotes related to **Table V**

Table VI: Dividend and Interest Withholding Tax Rates under EU Directives

Target Country Sending Div. or Interest	Recipient Country			
	Denmark		Netherlands	
	Dividend	Interest	Dividend	Interest
U.K.	0%	0%	0%	0%
Germany	0%	0%	0%	0%
France	0%	0%	0%	0%
Italy	0%	0%	0%	0%
Spain	0%	0%	0%	0%
Netherlands	0%	0%	XXX	XXX
Belgium	0%	0%	0%	0%
Sweden	0%	0%	0%	0%
Austria	0%	0%	0%	0%
Greece	0%	0%	0%	0%
Denmark	XXX	XXX	0%	0%
Portugal	0%	0%	0%	0%
Ireland	0%	0%	0%	0%
Finland	0%	0%	0%	0%
Czech Republic	0%	0%	0%	0%
Poland	0%	0%	0%	0%
Hungary	0%	0%	0%	0%

(1) For the new EU member states of Czech Republic, Poland, and Hungary, the EU Parent-Subsidiary Directives on dividends and interest are phased into effect over a number of years.

Using Tier Structure I (Cayman Hold Co & Cayman Fin Co) – Based on a preliminary analysis of the six Tier Structures as well as the applicable withholding tax rates on interest and dividends, Tier Structure I appears to be the most tax-efficient investment structure for investments in real estate that are located in the following jurisdictions: Argentina, Brazil, China, Hong Kong, Malaysia, Singapore, and Turkey. Tier Structure I appears to be the most tax-efficient investment structure for the following reasons:

(1) Hong Kong does not impose a withholding tax on the repatriation of dividends or interest. Therefore, the preferred Tier Structure I can be utilized for Hong Kong as effectively as the other Tier Structures.

(2) China and Malaysia do not impose a withholding tax on dividends. Therefore, the least complex holding structure, using a Cayman Hold Co, can be utilized as effectively as the other holding structures. Additionally, these two jurisdictions impose the same rate of withholding tax on interest payments repatriated to either the Cayman Islands or The Netherlands. Therefore, a Cayman Fin Co structure is the most cost effective financing structure for these two jurisdictions.

(3) Argentina, Brazil and Singapore do not impose a withholding tax on dividends. Therefore, the least complex holding structure, using a Cayman Hold Co, can be utilized as effectively as the other holding structures. Additionally, even though these three jurisdictions impose a slightly lower rate of withholding tax on interest payments repatriated to The Netherlands than on interest payments repatriated to the Cayman Islands, the withholding tax savings of using a Dutch Fin Co do not offset the additional costs of this structure. Therefore, a Cayman Fin Co structure is the most cost effective financing structure for these three jurisdictions.

(4) Turkey does not have any double taxation treaties with Denmark, The Netherlands, or Singapore. Therefore, the preferred Tier Structure I can be utilized for Turkey as effectively as the other Tier Structures.

Using Tier Structure II (Danish Hold Co & Cayman Fin Co) – Based on the aforementioned preliminary analysis, Tier Structure II appears to be the most tax-efficient

investment structure for investments in real estate that are located in the following jurisdictions: Austria, Chile, Finland, Hungary, The Netherlands, Norway, Sweden and Switzerland. Tier Structure II appears to be the most tax-efficient investment structure for the following reasons:

(1) The EU Parent-Subsidiary Directives can be used to eliminate the withholding tax on dividends from The Netherlands to Denmark. Therefore, a Danish Hold Co structure is most cost effective holding structure for The Netherlands. Additionally, a Dutch Fin Co structure cannot be used for a real estate asset located in The Netherlands.

(2) The EU Parent-Subsidiary Directives can be used to eliminate the withholding tax on dividends from Austria, Finland or Sweden to Denmark. Therefore, a Danish Hold Co structure is the most cost effective holding structure for these three jurisdictions. Additionally, these three jurisdictions do not impose a withholding tax on interest. Therefore, a Cayman Fin Co structure is the most cost effective financing structure for these three jurisdictions.

(3) Double taxation treaties can be used to minimize the withholding tax on dividends from Hungary, Norway or Switzerland to Denmark. Therefore, a Danish Hold Co structure is the most cost effective holding structure for these three jurisdictions. Additionally, these three jurisdictions do not impose a withholding tax on interest. Therefore, a Cayman Fin Co structure is most cost effective financing structure for these three jurisdictions.

(4) Double taxation treaties can be used to minimize the withholding tax on dividends from Chile to Denmark. Therefore, a Danish Hold Co structure is most cost effective holding structure for Chile. Additionally, Chile does not have any double taxation treaties with The Netherlands. Therefore, a Cayman Fin Co structure is most cost effective financing structure for Chile.

Using Tier Structure III (Singapore Hold Co & Cayman Fin Co) – Based on the aforementioned preliminary analysis, Tier Structure III appears to be the most tax-efficient investment structure for investments in real estate that are located in the following jurisdictions: Australia, Denmark and New Zealand. Tier Structure III appears to be the most tax-efficient investment structure for the following reasons:

(1) Double taxation treaties can be used to minimize the withholding tax on dividends from Australia or New Zealand to Singapore. Therefore, a Singapore Hold Co structure is the most cost effective holding structure for these two jurisdictions. Additionally, these two jurisdictions impose the same rate of withholding tax on interest payments repatriated to either the Cayman Islands or The Netherlands. Therefore, a Cayman Fin Co structure is the most cost effective financing structure for these two jurisdictions.

(2) Double taxation treaties can be used to minimize the withholding tax on dividends from Denmark to Singapore. Therefore, a Singapore Hold Co structure is most cost effective holding structure for Denmark. Additionally, Denmark does not impose a withholding tax on interest. Therefore, a Cayman Fin Co structure is most cost effective financing structure for Denmark.

Using Tier Structure IV (Cayman Hold Co & Dutch Fin Co) – Based on the aforementioned preliminary analysis, Tier Structure IV appears to be the most tax-efficient investment structure for investments in real estate that are located in the following jurisdictions: Greece, Mexico, Russia, Taiwan and the U.K. Tier Structure IV appears to be the most tax-efficient investment structure for the following reasons:

(1) Greece and the U.K. do not impose a withholding tax on dividends. Therefore, the least complex holding structure, using a Cayman Hold Co, can be utilized as effectively as the other holding structures. Additionally, the EU Parent-Subsidiary Directives can be used to eliminate the withholding tax on interest from Greece or the U.K. to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for these two jurisdictions.

(2) Mexico and Taiwan do not have any double taxation treaties with Denmark or Singapore. Therefore, the least complex holding structure, using a Cayman Hold Co, can be utilized as effectively as the other holding structures. Additionally, double taxation treaties can be used to minimize the withholding tax on interest from these two jurisdictions to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for these two jurisdictions.

(3) Russia does not impose a withholding tax on dividends (if a branch office is utilized in Russia). Therefore, the least complex holding structure, using a Cayman Hold Co, can be utilized as effectively as the other holding structures. Additionally, double taxation treaties can be used to minimize the withholding tax on interest from Russia to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for Russia.

Using Tier Structure V (Danish Hold Co & Dutch Fin Co) – Based on the aforementioned preliminary analysis, Tier Structure V appears to be the most tax-efficient investment structure for investments in real estate that are located in the following jurisdictions:

Belgium, Canada, France, Germany, Ireland, Italy, Portugal, Spain and the U.S. Tier Structure V appears to be the most tax-efficient investment structure for the following reasons:

(1) Double taxation treaties can be used to minimize the withholding tax on dividends from Canada or the U.S. to Denmark. Therefore, a Danish Hold Co structure is the most cost effective holding structure for these two jurisdictions. Additionally, double taxation treaties can be used to minimize the withholding tax on interest from Canada or the U.S. to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for these two jurisdictions. However, further research is required for the U.S. in order to incorporate an investment structure that will alleviate the 30% FIRPTA withholding tax which is imposed on foreign owners of real estate assets located in the U.S.

(2) The EU Parent-Subsidiary Directives can be used to eliminate the withholding tax on dividends from Belgium, France, Germany, Ireland, Italy, Portugal, or Spain to Denmark. Therefore, a Danish Hold Co structure is the most cost effective holding structure for these seven jurisdictions. Additionally, the EU Parent-Subsidiary Directives can be used to eliminate the withholding tax on interest from any of these seven jurisdictions to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for these seven jurisdictions.

Using Tier Structure VI (Singapore Hold Co & Dutch Fin Co) – Based on the aforementioned preliminary analysis, Tier Structure VI appears to be the most tax-efficient investment structure for investments in real estate that are located in the following jurisdictions:

the Czech Republic, India, Japan, Poland and South Korea. Tier Structure VI appears to be the most tax-efficient investment structure for the following reasons:

(1) Double taxation treaties can be used to minimize the withholding tax on dividends from the Czech Republic, India, Japan, Poland or South Korea to Singapore. Therefore, a Singapore Hold Co structure is the most cost effective holding structure for these five jurisdictions. Additionally, double taxation treaties can be used to minimize the withholding tax on interest from any of these five jurisdictions to The Netherlands. Therefore, a Dutch Fin Co structure is the most cost effective financing structure for these five jurisdictions.

The recommended Tier Structures for each of the 37 Target Countries for real estate investments, (those for which withholding tax data was available) are listed in **Table VII**, below.

Table VII: Recommended Tier Structure for Each of the 37 Target Countries

Structure I	Structure II	Structure III	Structure IV	Structure V	Structure VI
Argentina	Austria	Australia	Greece	Belgium	Czech Rep.
Brazil	Chile	Denmark	Mexico	Canada	India
China	Finland	New Zealand	Russia	France	Japan
Hong Kong	Hungary		Taiwan	Germany	Poland
Malaysia	Netherlands		U.K.	Ireland	South Korea
Singapore	Norway			Italy	
Turkey	Sweden			Portugal	
	Switzerland			Spain	
				U.S.	

Chapter 6: Market Transparency, Listing Requirements & Reputation of Fund Manager

Market Transparency – One of the primary regulatory objectives of the Cayman Fund is to provide an adequate level of market transparency regarding the activities of the Cayman Fund in order to meet the financial expectations and objectives of investors. This is particularly important because the Cayman Fund will not be a closely held private equity fund with a limited number of investors – rather it will be a publicly traded enterprise which will be marketed to a broad range of investors. Plus, as was previously discussed, the Cayman Islands imposes very few regulatory requirements on the structure, organization, management, and operations of the Cayman Fund. Ceteris paribus, investors will always prefer to invest in a regulated investment vehicle rather than in an unregulated offshore investment vehicle such as the Cayman Fund.

Benefits of Being Publicly Traded – One of the benefits of the publicly traded, closed-end fund structure of the Cayman Fund is that this investment structure will inherently provide an adequate level of market transparency. As a publicly traded company, the Cayman Fund will have to comply with certain regulatory and reporting requirements. These requirements will be imposed by the stock exchange on which the Cayman Fund is listed as well as by the applicable local legislation in the jurisdiction where the stock exchange is located. For example, if the Cayman Fund is listed on a U.S. licensed stock exchange, the fund will have to comply not only with the regulations of the Securities and Exchange Commission but also with applicable U.S. legislation, such as the Securities Act of 1933, the Securities Exchange Act of 1934, and the Sarbanes-Oxley Act of 2002. These regulatory requirements would provide a level of market

transparency for the Cayman Fund that is similar to that of any other publicly traded company that is listed on a U.S. licensed stock exchange.

Listing Requirements – Listing a Cayman Islands company on a stock exchange is a relatively common business practice. For example, the Cayman Islands companies of Fresh Del Monte Produce Inc., GlobalSantaFe Corporation, and Herbalife Ltd. are all listed on the New York Stock Exchange. CIMA imposes a very broad requirement in regards to the approved stock exchanges on which a Cayman Islands company can be listed. This list includes the following: **(1)** the Cayman Islands Stock Exchange; **(2)** any stock exchange which is licensed in the U.S., EU, or Canada; and **(3)** certain approved stock exchanges which are members of the World Federation of Exchanges.

Each of these approved stock exchanges has different and distinct requirements in order to be approved for listing. For example, in order to be listed on the American Stock Exchange, ("AMEX"), foreign applicant companies must have at least 800 "round-lot" public shareholders, at least 1 million publicly held shares, and the market value of the shares of outside shareholders must be at least $3 million. Additionally, AMEX evaluates such factors as a company's earnings history and earnings potential, a company's overall financial strength, and the anticipated market value and price per share of the initial public offering. Further research is required in order to determine the appropriate stock exchange on which to list the Cayman Fund. Additionally, further research is required in order to evaluate the listing requirements for, and regulatory requirements related to, various CIMA approved stock exchanges.

Quality of Fund Manager – Another general investor requirement is that the manager of the Cayman Fund must have both a strong reputation as well as a solid performance history operating in the real estate industry. Moreover, the real estate industry is generally still considered a local business. Local market knowledge and strong local management are both imperative to successful operations in any real estate market. The business acumen of the fund manager is particularly important for the success of the Cayman Fund because the fund is targeting potential real estate investments in 40 Target Countries. The Cayman Fund will have to be managed by a real estate company that has substantial international real estate experience, a strong performance record, a widely recognized name within the real estate industry, and a reputation for ethical business conduct. In order to attract and retain investors, the Cayman Fund will have to provide management expertise in addition to market transparency. This author, while sophisticated, does not provide the necessary level of international real estate expertise. Therefore, in order to successfully launch the Cayman Fund, a partnership must be formed with a real estate company that meets these enumerated criteria.

Chapter 7: Conclusions:

This thesis examines the feasibility of creating a synthetic REIT-type Cayman Fund, that is domiciled in the Cayman Islands, for the purpose of direct and indirect investment in a portfolio of high-quality, international real estate assets. Many benefits of global real estate investments have been described. Also, several primary investment, tax, and regulatory objectives have been defined for the Cayman Fund. Additionally, fund level and tier level investment structures have been designed with these objectives in mind. In this section, the overall feasibility of the Cayman Fund will be analyzed based on how successfully the fund's structure achieves these primary investment, tax, and regulatory objectives.

Investment Objective #1 – The first investment objective of the Cayman Fund is to maximize the number of countries from which investors will be able to invest in shares of the Cayman Fund. 44 Target Countries for potential fund investors have been selected. These Target Countries are listed in **Table I**, on page 24. The publicly traded, closed-end fund structure for the Cayman Fund will generally allow for investors from these 44 Target Countries to invest in shares of the Cayman Fund. Therefore, in general, this first investment objective of the Cayman Fund has been achieved. However, further research is required in order to determine if there are any local restrictions imposed on investors from any of these Target Countries in regards to purchasing shares of the Cayman Fund that are listed on a particular secondary market stock exchange. An appropriate stock exchange will have to be selected for the Cayman Fund in conjunction with assessing this determination.

Investment Objective #2 – The second investment objective of the Cayman Fund is to allow for a broad range of investors, such as individual, institutional, corporate and retail investors, to be able to invest in shares of the Cayman Fund. The publicly traded, closed-end fund structure for the Cayman Fund will generally allow for this broad range of investors to own shares of the Cayman Fund. Additionally, the Cayman Fund will be available to a broader range of potential investors than international private equity real estate funds are available to.

Furthermore, because publicly traded companies generally do not incorporate separate investment structures, above the corporate level, for each of their potential investors, this structure will circumvent the need to incorporate a complex network of feeder funds into the Cayman Fund investment structure. While this does not alleviate the need for different investment structures above the Cayman Fund in order to accommodate the individual tax and regulatory considerations of the various investors, it transfers that requirement from the fund level to the investor level. As with any publicly traded company, individual investors will be responsible for structuring their own investments in shares of the Cayman Fund in order to meet their individual needs. Therefore, in general, not only has this second investment objective of the Cayman Fund been achieved, but the Cayman Fund will have a competitive operational advantage over international private equity real estate funds, in regards to this objective.

Investment Objective #3 – The third investment objective of the Cayman Fund is to maximize the market liquidity of investments in the Cayman Fund – a fund that invests in the inherently illiquid asset class of real estate. The publicly traded, closed-end fund structure for the Cayman Fund will maximize the market liquidity of fund shares. Furthermore, the Cayman

Fund will provide more market liquidity to its shareholders than international private equity real estate funds provide to their investors. Therefore, not only has this third investment objective of the Cayman Fund been achieved, but the Cayman Fund will have a competitive advantage over international private equity real estate funds, in regards to this objective.

Investment Objective #4 – The fourth investment objective of the Cayman Fund is to maximize the number of countries in which the Cayman Fund will be able to invest, directly or indirectly, in high-quality real estate assets. 40 Target Countries for real estate investments have been selected. These Target Countries are listed in **Table II**, on page 28. Six tier level investment structures, or Tier Structures, have been created in order to facilitate an investment in a real estate asset located in any of these Target Countries.

Based on preliminary analysis, these six Tier Structures will allow for the feasible investment in a real estate asset that is located in 37 of these 40 Target Countries. Further research is required regarding an investment in a real estate asset located in the Target Countries of Azerbaijan, Kazakhstan and Romania. However, this thesis does not analyze the specific ownership and tax legislation of each Target Country jurisdiction nor does it examine the structuring of real estate investments at the local jurisdiction level. Further research will be required, on a case-by-case basis, for the structuring of real estate investments at the local jurisdiction level. Furthermore, consultation with legal and tax professionals will be required in order to give proper consideration to these factors when structuring each investment. In general, this fourth investment objective of the Cayman Fund has been achieved at both the fund level and the tier levels, but it has not been achieved at the local jurisdiction level. Additionally,

alternative tier structures to those presented in this thesis may ultimately be utilized to structure investments in real estate assets located in certain jurisdictions.

Investment Objective #5 – The fifth, and final, investment objective of the Cayman Fund is to allow for investment in both development and operating real estate assets as well as in core, value-added and opportunistic real estate investments. While the structuring of real estate investments at the local jurisdiction level will be determined on a case-by-case basis, there are no readily apparent reasons to believe that any of these real estate investment options cannot be pursued in any of the 37 Target Countries for which data was available.

Additionally, the Cayman Fund will have a competitive operational advantage over many international REIT structures, in regards to this objective. International REITs must comply with various organizational, asset, income, long-term debt, distribution, and foreign ownership rules. For some international REITs, these rules prohibit the ownership of foreign real estate assets. Also, for some international REITs, these rules prohibit the ownership of development or operating real estate assets. Additionally, for some international REITs, these rules impose requirements on the types of assets that can be owned, the types of income that can be earned, and the amount of leverage that can be utilized. The Cayman Fund has no such restrictions or requirements.

Furthermore, only a limited number of international REITs and REOCs have implemented a large-scale multi-country strategy for investment in real estate assets. Therefore, the global investment strategy of the Cayman Fund is a relatively novel investment strategy

when compared to the general investment strategies of most international REITs and REOCs. In general, the Cayman Fund will have a competitive advantage over international REITs and REOCs due to the portfolio diversification benefits of global real estate investments. Therefore, in general, not only has this fifth investment objective of the Cayman Fund been achieved, but the Cayman Fund will have a competitive operational advantage over many international REITs and REOCs, in regards to this objective.

Tax Objective #1 – The first tax objective of the Cayman Fund is to minimize local, foreign taxation on the repatriation of operating and disposition income from real estate investments, up through the fund structure, to the Cayman Fund. Six Tier Structures have been created which the Cayman Fund will implement in order to achieve this objective. These Tier Structures incorporate the use of Cayman Islands Financing Companies, Cayman Islands Holding Companies, Danish Holding Companies, Dutch Financing Companies, and Singapore Holding Companies. These Tier Structures will provide the ability to utilize double taxation treaties in an attempt to minimize withholding tax on the repatriation of dividends or interest payments. The EU Parent-Subsidiary Directives will also be utilized to allow for tax-exempt dividends and interest payments to be sent from a subsidiary entity located in one EU member state to a parent entity located in another member state. Furthermore, these Tier Structures will provide the ability to utilize local tax legislation which is favorable to real estate investment, offshore holding structures, or offshore financing structures, in an attempt to minimize taxation on tier level income. Plus, a general disposition strategy, which is to sell the shares of Offshore Holding Entities, will be utilized to minimize taxation on capital gains from the disposition of real estate investments.

In general, the Cayman Fund will only incur the following tax liabilities through the implementation of these Tier Structures: **(1)** the taxable operating income of the Local Operating Entity and other local tax liabilities; **(2)** the withholding tax on the repatriation of interest and dividends from the Local Operating Entity to the lowest tier of Offshore Financing Entities and Offshore Holding Entities, respectively; and **(3)** the nominal additional tax liabilities associated with the implementation of a Dutch Financing Company, where applicable.

However, this thesis does not analyze the specific ownership and tax legislation of each Target Country jurisdiction nor does it examine the structuring of real estate investments at the local jurisdiction level. Further research will be required, on a case-by-case basis, for the structuring of real estate investments at the local jurisdiction level. Furthermore, consultation with legal and tax professionals will be required in order to give proper consideration to these factors when structuring each investment. In general, this first tax objective of the Cayman Fund has been achieved at both the fund level and the tier levels, but it has not been achieved at the local jurisdiction level. Additionally, alternative tier structures to those presented in this thesis may ultimately be utilized to structure investments in real estate assets located certain jurisdictions.

Tax Objective #2 – The second tax objective of the Cayman Fund is to minimize taxation on fund level income. The Cayman Islands is a tax neutral jurisdiction. Therefore, no taxes will be levied on fund level income. Additionally, many international REITs impose some taxation on REIT level income, particularly if certain requirements are not met. Since no such taxation will be imposed on the Cayman Fund, in general, it will be a more tax-efficient investment

vehicle than many of the international REIT structures are. Therefore, not only has this second tax objective of the Cayman Fund been achieved, but the Cayman Fund will have a competitive operational advantage over many international REITs, in regards to this objective.

Tax Objective #3 – The third, and final, tax objective of the Cayman Fund is to minimize taxation on dividend distributions sent from the Cayman Fund to shareholders. The Cayman Islands is a tax neutral jurisdiction. Therefore, no taxes will be levied on dividend distributions to fund shareholders. Additionally, many international REITs impose a withholding tax on dividend distributions to foreign investors. Since no such taxation will be imposed on the Cayman Fund, in general, it will be a more tax-efficient investment vehicle than many of the international REIT structures are. Therefore, not only has this third tax objective of the Cayman Fund been achieved, but the Cayman Fund will have a competitive advantage over many international REITs, in regards to this objective.

Regulatory Objective #1 – The first regulatory objective of the Cayman Fund is to minimize legal and regulatory requirements related to the structure, organization, management, and operations of the fund. The Cayman Islands imposes very few regulatory requirements on the operations and management of the Cayman Fund. From a regulatory stand point, there are several benefits to domiciling the Cayman Fund in the Cayman Islands. First of all, no restrictions are imposed on the investment strategy or objectives of a Cayman Islands mutual fund. Thus, the market objectives of allowing for core, value-added or opportunistic investment in development and operating real estate assets, which are located in any of the 40 Target Countries for real estate investments, can be readily achieved. Secondly, there are no

requirements for local administrators, managers, or directors of the Cayman Fund. This will allow for the offshore management of the Cayman Fund from the U.S. or any other jurisdiction. Third, closed-end funds are exempt from regulation by CIMA. Fourth, the Cayman Islands has a well established and sophisticated legal, political and economic environment. Finally, high quality professional service providers are readily available in the Cayman Islands.

The Cayman Islands imposes very few regulatory requirements on the operations and management of either a Cayman Hold Co or a Cayman Fin Co. Also, Denmark imposes very few regulatory requirements on the operations and management of a Danish Hold Co. The Netherlands imposes some "arm's length" and "at risk" rules on a Dutch Fin Co in relation to the financing structure of back-to-back loans. Additionally, The Netherlands imposes some "operational substance" rules on the management of a Dutch Fin Co. However, the tax efficiency benefits of a Dutch Fin Co back-to-back loan structure generally outweigh these regulatory burdens. Also, Singapore imposes some tax resident, management, and "substantive business" requirements on a Singapore Hold Co in order to receive a tax exemption on foreign-sourced dividend income. Again, the tax efficiency benefits of a Singapore Hold Co generally outweigh these regulatory burdens.

Furthermore, the Cayman Fund will have a competitive operational advantage over many international REIT structures, in regards to this objective. International REITs must comply with various organizational, asset, income, long-term debt, distribution, and foreign ownership rules in order to achieve a tax beneficial or tax-exempt status. The Cayman Fund has no such regulatory requirements at the fund level. Therefore, not only has this first regulatory objective

of the Cayman Fund been achieved, but the Cayman Fund will have a competitive operational advantage over international REITs, in regards to this objective.

Regulatory Objective #2 – The second, and final, regulatory objective of the Cayman Fund is to provide an adequate level of market transparency regarding the activities of the Cayman Fund in order to meet the financial expectations and objectives of investors. Due to the publicly traded, closed-end fund structure, the Cayman Fund will have to comply with certain regulatory and reporting requirements that are imposed on the fund by both the stock exchange and the applicable laws pertaining to publicly traded companies. In general, this will provide an adequate level of market transparency for shareholders. However, further research is required in order to determine the appropriate stock exchange on which to list the shares of the Cayman Fund. Additionally, the Cayman Fund will have to be managed by a real estate company that has substantial international real estate experience, a widely recognized name within the real estate industry, and a reputation for ethical business conduct. In order to attract and retain investors, the Cayman Fund will have to provide both market transparency as well as management expertise.

In Conclusion – The proposed investment structure for the Cayman Fund will achieve a majority of the primary investment, tax, and regulatory objectives of the fund. However, further research is required is some areas, particularly in regards to the structuring of real estate investments at the local jurisdiction level, as well as to selecting the appropriate stock exchange to list the shares of the Cayman Fund on. The Cayman Fund will incorporate a relatively novel investment strategy that is not widely used by Cayman Islands investment funds. Additionally,

the global investment strategy of the Cayman Fund is a relatively novel investment strategy when compared to the general investment strategies of most international REITs and REOCs. Furthermore, not only have the majority of the primary objectives been achieved, but the Cayman Fund will have a competitive operational advantage over many international REITs, private equity real estate funds, and REOCs, in regards to these objectives.

Appendix A: Methodology for Selecting 44 Target Countries for Potential Cayman Fund Investors

The following methodology was used in order to select a list of 44 Target Countries in which individual, institutional, corporate, and retail investors would ideally be able to invest, directly or indirectly, in shares of the Cayman Fund.

Step 1:

First, the 55 countries with high-income economies, as classified by the World Bank, were selected as Target Countries for the Cayman Fund. The World Bank currently classifies a country as being high-income if it had an estimated Gross National Income per capita in excess of $10,065 during 2004.[10] **Table VIII**, on page 102, details these 55 high-income countries.

These 55 Target Countries include the following: Andorra, Aruba, Australia, Austria, Bahamas, Bahrain, Belgium, Bermuda, Brunei, Canada, Cayman Islands, Channel Islands, Cyprus, Denmark, Faeroe Islands, Finland, France, French Polynesia, Germany, Greece, Greenland, Guam, Hong Kong, Iceland, Ireland, Isle of Man, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Macao, Malta, Monaco, Netherlands, Netherlands Antilles, New Caledonia, New Zealand, Norway, Portugal, Puerto Rico, Qatar, San Marino, Saudi Arabia, Singapore, Slovenia, South Korea, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom, United States, and U.S. Virgin Islands.

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[10] The World Bank (2006). "Data & Statistics: Country Groups – High-income economies". Retrieved on July 8, 2006. URL: http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html#High_income

Step 2:

Secondly, the 16 countries from **Step 1** with a population of less than 275,000 individuals were excluded from the list of Target Countries for the Cayman Fund. Population data is from the CIA World FactBook, and estimated as of July 2006.[11] **Table VIII**, on page 102, details these 16 countries with a population of less than 275,000.

These 16 countries excluded from the list of Target Countries include the following: Andorra, Aruba, Bermuda, Cayman Islands, Channel Islands, Faeroe Islands, French Polynesia, Greenland, Guam, Isle of Man, Liechtenstein, Monaco, Netherlands Antilles, New Caledonia, San Marino, and U.S. Virgin Islands.

Step 3:

Next, the 6 countries which are among the 15 countries with the largest GDP, and which were not included in the above list of high-income countries, were added to the list of Target Countries for the Cayman Fund. GDP data is from the CIA World FactBook, and estimated for the year 2005.[12] **Table VIII**, on page 102, details these 6 countries, which include the following: China, India, Brazil, Russia, Mexico and Indonesia.

Step 4:

Finally, Puerto Rico was excluded from the list of Target Countries for the Cayman Fund because it is a United States territory, and the United States is already included on the list.

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[11] Central Intelligence Agency (June 29, 2006). "Rank Order – Population", The World FactBook. Retrieved on July 8, 2006. URL: http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.html
[12] Central Intelligence Agency (June 29, 2006). "Rank Order – GDP (purchasing power parity)", The World FactBook. Retrieved on July 8, 2006. URL: http://www.cia.gov/cia/publications/factbook/rankorder/2001rank.html

Table VIII: 55 High Income Countries, Country Populations Less Than 275,000, & the 15 Countries with the Highest GDP

Target Country Number	Country	High Income Country (1)	Population Less Than 275,000 (2)	Top 15 GDP Rank (3)	GDP (USD billions) (3)
	Andorra	Yes	71,201		
	Aruba	Yes	71,891		
1	Australia	Yes	No		
2	Austria	Yes	No		
3	The Bahamas	Yes	No		
4	Bahrain	Yes	No		
5	Belgium	Yes	No		
	Bermuda	Yes	65,773		
6	Brunei	Yes	No		
7	Canada	Yes	No	11	1,080
	Cayman Islands	Yes	45,436		
	Channel Islands	Yes	232,654		
8	Cyprus	Yes	No		
9	Denmark	Yes	No		
	Faeroe Islands	Yes	47,246		
10	Finland	Yes	No		
11	France	Yes	No	7	1,822
	French Polynesia	Yes	274,578		
12	Germany	Yes	No	5	2,454
13	Greece	Yes	No		
	Greenland	Yes	56,361		
	Guam	Yes	171,019		
14	Hong Kong, China	Yes	No		
15	Iceland	Yes	No		
16	Ireland	Yes	No		
	Isle of Man	Yes	75,441		
17	Israel	Yes	No		
18	Italy	Yes	No	8	1,651
19	Japan	Yes	No	3	3,914
20	South Korea	Yes	No	14	965
21	Kuwait	Yes	No		
	Liechtenstein	Yes	33,987		
22	Luxembourg	Yes	No		
23	Macao, China	Yes	No		
24	Malta	Yes	No		
	Monaco	Yes	32,543		
25	Netherlands	Yes	No		
	Netherlands Antilles	Yes	221,736		
	New Caledonia	Yes	219,246		
26	New Zealand	Yes	No		
27	Norway	Yes	No		
28	Portugal	Yes	No		
	Puerto Rico **(4)**	Yes	No		
29	Qatar	Yes	No		
	San Marino	Yes	29,251		
30	Saudi Arabia	Yes	No		
31	Singapore	Yes	No		
32	Slovenia	Yes	No		
33	Spain	Yes	No	13	1,017
34	Sweden	Yes	No		
35	Switzerland	Yes	No		
36	United Arab Emirates	Yes	No		
37	United Kingdom	Yes	No	6	1,869
38	United States	Yes	No	1	12,410
	Virgin Islands (U.S.)	Yes	108,605		
39	China	No	No	2	8,182
40	India	No	No	4	3,699
41	Brazil	No	No	9	1,568
42	Russia	No	No	10	1,539
43	Mexico	No	No	12	1,068
44	Indonesia	No	No	15	902

Notes: Table VIII

(1) Source: The World Bank (2006). “Data & Statistics: Country Groups – High-income economies”. Retrieved on July 8, 2006. URL: http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html#High_income

(2) Source: Central Intelligence Agency (June 29, 2006). “Rank Order – Population”, The World FactBook. Retrieved on July 8, 2006. URL: http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.html
Data was estimated as of July 2006.

(3) Source: Central Intelligence Agency (June 29, 2006). “Rank Order – GDP (purchasing power parity)”, The World FactBook. Retrieved on July 8, 2006. URL: http://www.cia.gov/cia/publications/factbook/rankorder/2001rank.html
Data was estimated for 2005.

(4) Puerto Rico is excluded from the list of 44 Target Countries because it is a United States territory, and the United States is already included on the list.

Appendix B: Methodology for Selecting 40 Target Countries for Potential Real Estate Investments

The following methodology was used in order to select a list of 40 Target Countries in which the Cayman Fund would ideally be allowed to favorably invest, directly or indirectly, in real estate assets.

Step 1:

First, the 26 countries selected by UBS as having favorable characteristics for international investors to invest in core real estate assets were selected as Target Countries for the Cayman Fund. UBS has "selected a list of countries that have a sufficient level of economic development and stability to warrant consideration to property investment by institutional investors."[13] The primary selection criteria used by UBS in selecting these countries included the following: **(1)** size of GDP, **(2)** GDP per capita, **(3)** the existence of a stabilized economy, and **(4)** geopolitical stability. **Table IX**, on page 106, details UBS' estimate of the quantity of the investable real estate universe, for each of these 26 countries, in billions of USD, and estimated as of December 31, 2004. UBS' "definition of the investable real estate universe includes both property owned by institutions and property in which institutions would consider investing (including owner-occupied properties of high quality)."[14]

These 26 Target Countries, ranked by the estimated size of investable real estate, include the following: United States, Japan, United Kingdom, Germany, France, Italy, Canada, Spain, South Korea, Hong Kong, Australia, Taiwan, Netherlands, Singapore, Belgium, Sweden,

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[13] Chen Lijian and Thomas Mills, Global Real Estate Investment Going Mainstream, 13.
[14] Chen Lijian and Thomas Mills, Global Real Estate Investment Going Mainstream, 15.

Austria, Switzerland, Greece, Norway, Denmark, Portugal, Ireland, Finland, Czech Republic, and New Zealand.

Step 2:

Secondly, in order to allow for value-added or opportunistic investment strategies in other selected developing countries, the 16 countries with the highest level of FDI, and which were not included in the above UBS list, were selected as Target Countries for the Cayman Fund. Estimated 2004 FDI net inflows were used to select these 16 countries.[15] **Table IX**, on page 106, details the estimated 2004 FDI net inflows, for each of these 16 countries, in billions of USD.

These 16 Target Countries, ranked by the estimated level of FDI net inflows, include the following: Luxembourg, China, Brazil, Mexico, Poland, Russia, Chile, Romania, India, Malaysia, Hungary, Kazakhstan, Argentina, Azerbaijan, Columbia, and Turkey.

Step 3:

Next, due to its small population size of less than 500,000 individuals, Luxembourg was excluded from the list of Target Countries for the Cayman Fund.

Step 4:

Finally, due to geopolitical uncertainty and potential economic instability, Columbia was excluded from the list of Target Countries for the Cayman Fund.

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[15] The World Bank (2006). "Foreign Direct Investment". Retrieved on July 8, 2006. URL: http://rru.worldbank.org/Themes/ForeignDirectInvestment/

Table IX: Total Size of Investable Real Estate and Foreign Direct Investment for Target Countries for Potential Real Estate Investment

Target Country Rank	Country	Investable Real Estate Universe (USD billions) (1)	Investable Real Estate Universe Rank (1)	Foreign Direct Investment (USD billions) (2)	Foreign Direct Investment Rank (2)	FDI Rank Not in Investable RE Universe
1	United States	$ 2,612	1	$ 106.8	1	
2	Japan	752	2	7.8	18	
3	United Kingdom	481	3	72.6	3	
4	Germany	453	4	-	169	
5	France	360	5	24.5	8	
6	Italy	306	6	16.8	11	
7	Canada	219	7	6.3	20	
8	Spain	188	8	16.6	12	
9	South Korea	182	9	8.2	17	
10	Hong Kong	150	10	34.0	7	
11	Australia	124	11	42.5	5	
12	Taiwan	116	12	**(3)**	**(3)**	
13	Netherlands	98	13	0.4	80	
14	Singapore	94	14	16.0	13	
15	Belgium	63	15	40.1	6	
16	Sweden	53	16	-	166	
17	Austria	51	17	4.0	28	
18	Switzerland	50	18	-	167	
19	Greece	41	19	1.4	45	
20	Norway	39	20	0.5	72	
21	Denmark	34	21	-	168	
22	Portugal	34	22	0.8	59	
23	Ireland	31	23	11.0	16	
24	Finland	30	24	3.1	30	
25	Czech Republic	29	25	4.5	25	
26	New Zealand	19	26	2.3	33	
	Luxembourg **(4)**	**(3)**	**(3)**	78.7	2	1
27	China	**(3)**	**(3)**	54.9	4	2
28	Brazil	**(3)**	**(3)**	18.2	9	3
29	Mexico	**(3)**	**(3)**	17.4	10	4
30	Poland	**(3)**	**(3)**	12.6	14	5
31	Russia	**(3)**	**(3)**	12.5	15	6
32	Chile	**(3)**	**(3)**	7.6	19	7
33	Romania	**(3)**	**(3)**	5.4	21	8
34	India	**(3)**	**(3)**	5.3	22	9
35	Malaysia	**(3)**	**(3)**	4.6	23	10
36	Hungary	**(3)**	**(3)**	4.6	24	11
37	Kazakhstan	**(3)**	**(3)**	4.1	26	12
38	Argentina	**(3)**	**(3)**	4.1	27	13
39	Azerbaijan	**(3)**	**(3)**	3.6	29	14
	Colombia **(5)**	**(3)**	**(3)**	3.1	31	15
40	Turkey	**(3)**	**(3)**	2.7	32	16

(1) Source: Chen, Lijian and Thomas Mills. Global real estate investment - vol. II: The world is becoming flatter (Hartford: UBS Global Asset Management Real Estate Research, 2006): 16. Data estimated as of December 31, 2004.
(2) Source: www.worldbank.org/. Foreign direct investment, net inflows estimated for 2004.
(3) Not ranked.
(4) Luxembourg is excluded from the list of 40 target countries due to its small population size of less than 500,000 individuals.
(5) Columbia is excluded from the list of 40 target countries due to political instability and economic uncertainty.

Appendix C: Tax Treatment of International REIT Type Vehicles

The tables in this appendix compare the general characteristics of international REITs and REIT-type vehicles. Except for the Cayman Fund, all information was provided by Ernst & Young.[16]

Country	Structure	Organizational Rules
Cayman Fund	Exempted company closed-end fund	N/A (Will be listed on exchange)
Australia	ALPT (Australian Listed Property Trust)	- Passive Real Estate Portfolio - Listed Stapled Security
Belgium	SICAFI (Société d'Investissement á Capital Fixe Immobiliére)	30% of shares w/ voting rights must be offered to the public
Brazil	FII (Fundos de Investimento Imobiliáro)	Investment portfolios, real estate assets or other financial interests
Canada	REIT (Real Estate Investment Trust)	- Cannot be primarily for the benefit of non-Canadian residents - Must have 150+ shareholders
Costa Rica	Fondos de Inversión Immobiliaros	Must be listed on the Costa Rican stock exchange
France	SIIC (Sociétés d' Investissements Immobiliers Cotées)	Must be listed on the French stock exchange
Germany	KAG Fund	Fund units must be redeemable any time at the option of the shareholder
Greece	REMF (Real Estate Mutual Fund)	Has no legal personality
Greece	REIC (Real Estate Investment Company)	Must be listed on Greek or EU stock exchange
Hong Kong	REIT (Real Estate Investment Trust)	Must be listed on the Hong Kong stock exchange
Israel	REIF (Real Estate Investment Fund)	Must be listed on the Tel Aviv stock exchange
Italy	REIF (Real Estate Investment Fund)	Limited requirements
Japan	J-REIT (Japanese Real Estate Investment Trust)	Must be publicly offered or have at least 50 shareholders
Luxembourg	FCP / SICAV / SICAF (Investment Funds)	FCP has no separate legal personality
Luxembourg	SICAR	Lightly regulated by CSSF
Malaysia	REIT (Real Estate Property Trust)	Maximum 49% foreign equity
Mexico	REIT (Fideicomiso Inmobiliario)	Business activities must be real estate related
Netherlands	FBI (Fiscale Beleggingsinstelling)	Restrictions on shareholder ownership
Puerto Rico	REIT (Real Estate Investment Trust)	At least 50 shareholders
Russia	CEMF (Closed-End Mutual Fund)	Has no separate legal personality
Russia	JSIF (Joint-Stock Investment Fund)	Minimum shareholder requirements
Singapore	REIT (Real Estate Investment Trust)	Must be listed on Singapore stock exchange
South Africa	South African Trust	Must be listed on the JSE exchange
South Korea	REIT (Real Estate Investment Trust)	30% of shares must be offered to the public
Spain	REIF (Real Estate Investment Fund)	Significant shareholder requirements
Spain	REIC (Real Estate Investment Company)	Significant shareholder requirements
Taiwan	REIT (Real Estate Investment Trust)	Must have at least 50 shareholders
Turkey	REIT (Real Estate Investment Trust)	Must be listed on Turkish exchange
United Kingdom	UK-REIT (Real Estate Investment Trust)	Must be listed on UK stock exchange
United States	REIT (Real Estate Investment Trust)	100+ shareholders / 5 or fewer rule

[16] Ernst & Young, LLP, (2005). "Tax Treatment of REITS", Ernst & Young LLP.

Country	Income Rules	Asset Rules
Cayman Fund	N/A	N/A
Australia – ALPT	Must not directly carry on a "trading business" (i.e. eligible investment business only)	Must invest in operating real estate assets
Belgium – SICAFI	Income must be derived from qualifying investments (see Asset Rules)	- Investment in non-real estate assets must be secondary or temporary - Individual assets 20% max of total assets
Brazil – FII	Income must be derived from qualifying investments (see Asset Rules)	- 75%+ of assets must be invested in real estate / non-real estate assets limited to fixed income securities
Canada – REIT	At least 95% of income must be derived from qualified investments	- Permitted to invest in securities - Canadian real estate assets only - Permitted to invest in oil / minerals
Costa Rica – FII	Income must be derived from qualifying investments (see Asset Rules)	- 80% of assets must be passive real estate investments located in Costa Rica - development not permitted
France – SIIC	Income must be derived from qualifying investments (see Asset Rules)	80% of assets must be related to real estate
Germany – KAG	Income must be derived from qualifying investments (see Asset Rules)	- Must only own real estate or investment in real estate property companies - Individual assets 15% max of total assets
Greece – REMF	Income must be derived from qualifying investments (see Asset Rules)	- 90% of assets must be invested in real estate or liquid assets - Individual assets 15% max of total assets
Greece – REIC	Individual assets 15% max of total assets	- 80% of assets must be invested in real estate or liquid assets - 10% investment in marketable securities permitted
Hong Kong – REIT	90% of income must be from operating real estate assets	- Must invest in operating real estate assets - Overseas real estate investment allowed
Israel – REIF	Income must be derived from qualifying investment which is not "Prohibited Income"	- 95% of assets must be real estate or liquid assets - 75% of assets must be operating R.E. - 75% of assets must be located in Israel
Italy – REIF	Income must be derived from qualifying investments (see Asset Rules)	- 67% of assets must be real estate related
Japan – J-REIT	Income must be derived from qualifying investments (see Asset Rules)	- 50% of assets must be operating real estate - 75% real estate assets required for stock exchange listing
Luxembourg – FCP / SICAV / SICAF	Income must be derived from qualifying investments (see Asset Rules)	Individual real estate assets 20% max of total assets
Luxembourg – SICAR		- Must have operational and revenue model of a private equity fund - Must invest in development of R.E.

Country	Income Rules	Asset Rules
Cayman Fund	N/A	N/A
Malaysia – REIT	Income must be derived from qualifying investments (see Asset Rules)	- 70% of assets must be real estate related - 10% of assets must be liquid assets
Mexico – REIT	Income must be derived from qualifying investments (see Asset Rules)	- 70% of assets must be real estate related
Netherlands – FBI	Must be passive investment income (i.e. no development)	Can invest in any type of passive investments
Puerto Rico – REIT	95% of income must be derived from dividends, interest, or real estate related investments	- 75% of assets must be real estate or liquid assets - Real estate assets must be located in Puerto Rico
Russia – CEMF	Income must be derived from qualifying investments (see Asset Rules)	Permitted to invest in securities as well as real estate
Russia – JSIF	Income must be derived from qualifying investments (see Asset Rules)	Permitted to invest in securities as well as real estate
Singapore – REIT	- Income must be derived from qualifying investments (see Asset Rules) - Development not permitted	- 70% of assets must be real estate related - Permitted to invest in real estate outside of Singapore
South Africa – SAT	Capital gains must be reinvested and cannot be distributed to unit holders	Must invest in real estate assets or property companies
South Korea – REIT	Income must be derived from qualifying investments (see Asset Rules)	70% of assets must be real estate
Spain – REIF	Income must be derived from qualifying investments (see Asset Rules)	- 70% of assets must be real estate - Individual assets 35% max of total assets
Spain – REIC	Income must be derived from qualifying investments (see Asset Rules)	- 90% of assets must be real estate - Individual assets 35% max of total assets
Taiwan – REIT	Income must be derived from qualifying investments (see Asset Rules)	Asset restrictions for non-real estate related assets
Turkey – REIT	Income must be derived from qualifying investments (see Asset Rules)	- 50% of assets must be real estate related - 10% of assets permitted to be foreign real estate
UK – REIT	- 75% of income must be from qualifying property investment - Development not permitted	- 75% of assets must be real estate related - Permitted to invest in overseas real estate related assets
US – REIT	- 75% of income must come from real estate related sources - 95% of income must be R.E or passive	- 75% of assets must be real estate or liquid assets - Asset restrictions on subsidiaries

Country	Distribution Rules	Long-Term Debt Restrictions
Cayman Fund	N/A	N/A
Australia – ALPT	- No minimum distribution requirement - Non-distributed income is taxable	Thin capitalization rules apply if foreign controlled, reducing permissible debt to equity ratio to 3:1
Belgium – SICAFI	- At least 80% of income must be distributed annually - Realized capital gains may be retained	Maximum debt to equity ration is 1:1
Brazil – FII	- At least 95% of realized profits must be distributed every six months - Brazilian investors subject to 20% withholding tax	N/A
Canada – REIT	- REIT taxed on undistributed income	N/A
Costa Rica – FII	Set by the fund's organizational documents	Loans limited to 35% of the book value of gross assets
France – SIIC	- 85% of rental income must be distributed annually - 50% of capital gains within two years	N/A
Germany – KAG	Set by the fund's organizational documents	Maximum of 50% third party debt on an overall basis
Greece – REMF	- No minimum distribution requirement	Financing (either loans or credits) must not exceed 33.33% of total investment in real estate
Greece – REIC	Generally should distribute at least 35% of annual net profits	
Hong Kong – REIT	Must distribute at least 90% of net income as dividends	Debt limited to 45% of gross asset value
Israel – REIF	Must distributed 90% of accounting profits	Thin capitalization limitation of 60% (3:2)
Italy – REIF	- 12.5% withholding tax generally applies on profits - Set by fund's organizational documents	Financing up to 60% of the aggregate value of real estate and 20% of the aggregate value of other assets
Japan – J-REIT	- 90% of profits must be paid as dividends to satisfy the dividends paid deduction requirements	Loans must be extended from qualified institutional investors
Luxembourg – FCP / SICAV / SICAF	Net assets after distribution must exceed €1.25 million	Total borrowings may not exceed 50% of the market value of all properties (CSSF may grant an increase up to 70%)
Luxembourg – SICAR	Net assets after distribution must exceed €1.25 million	N/A

Country	Distribution Rules	Long-Term Debt Restrictions
Cayman Fund	N/A	N/A
Malaysia – REIT	- The amount distributed is taxable in the hands of units holders - Undistributed income taxed at 28%	N/A
Mexico – REIT	N/A	N/A
Netherlands – FBI	100% of annual taxable profit must be distributed	Financing up to 60% of the book value of real property and 20% for other investments
Puerto Rico – REIT	At least 90% of net income must be distributed annually as taxable dividends	N/A
Russia – CEMF	No distribution requirements	No debt can be taken out
Russia – JSIF	No distribution requirements	No debt can be taken out
Singapore – REIT	At least 90% of income must be distributed annually - Income not distributed taxed at 20%	Maximum leverage is 35% of the fair market value of real estate assets
South Africa – SAT	- No distributions requirements - Income not distributed taxed within the trust	Debt permitted up to 30% of the value of underlying assets
South Korea – REIT	90% of disposable earnings must be paid out in dividends to receive a deemed dividend paid deduction	Debt allowed for certain purposes
Spain – REIF	N/A	
Spain – REIC	N/A	Debt financing cannot exceed 10% of the assets of the company
Taiwan – REIT	Investment income and profit must be distributed	N/A
Turkey – REIT	Must distribute 20% of profits as dividends	N/A
UK – REIT	95% of income from qualifying assets must be distributed	
US – REIT	- 90% of taxable income must be distributed annually - 4% excise tax on undistributed income	N/A

Country	Foreign Considerations	Other Tax Considerations
Cayman Fund	N/A	N/A – Tax neutral jurisdiction
Australia – ALPT	Foreign unit holders are taxed on Australian sourced income	Trust income taxed on a flow through basis retains its character in the hands of unit holders
Belgium – SICAFI	15% withholding tax on foreign distributions (but exemptions and reductions may apply)	- Annual tax of 0.06% on net book value of shares
Brazil – FII	15% withholding tax on foreign distribution of earnings (20% for low tax jurisdictions)	Not subject to PIS, COFINS, ISS, CPMF and Corporate Income Tax
Canada – REIT	25% withholding tax on foreign distributions. Reduced rates may apply under tax treaties	Losses cannot be allocated to unit holders
Costa Rica – FII	N/A – no withholding tax applies	Gross ordinary income and capital gains subject to a 5% tax
France – SIIC	25% withholding tax on foreign distributions. Reduced rates may apply under tax treaties. No E.U. exemption.	
Germany – KAG	20% withholding tax on distributed and undistributed real estate income. Reduced rates may apply under tax treaties.	Income from foreign investment exempt from German taxation
Greece – REMF	Income generated from foreign securities is subject to a 20% rate upon repatriation	
Greece – REIC	Income generated from foreign securities is subject to a 20% rate upon repatriation	
Hong Kong – REIT	N/A – No withholding tax imposed on dividend income	N/A
Israel – REIF	- Treaty country's pension and mutual funds retain tax exempt status - Tax withheld at standard investors' rates	Undistributed income subject to corporate tax by the fund
Italy – REIF	Full withholding tax exemption for residents of countries with tax treaties with Italy & for foreign institutional investors	Full exemption from 33% corporate income tax (IRE) and 4.25% Regional Income Tax (IRAP)
Japan – J-REIT	- 7% to 20% withholding tax on foreign distributions, depending on ownership %. - Reduced rates may apply under treaties	N/A
Luxembourg – FCP / SICAV / SICAF	N/A – no withholding tax applies on distributions	Annual subscription tax of 0.05% of total net asset value
Luxembourg – SICAR	N/A – no withholding tax applies on distributions	

Country	Foreign Considerations	Other Tax Considerations
Cayman Fund	N/A	N/A – Tax neutral jurisdiction
Malaysia – REIT	Distributions to non-resident unit holders are subject to a 28% withholding tax	Gains on disposals of properties may be subject to Real Property Gains Tax if held for less than 5 years
Mexico – REIT	Legislation unclear on withholding tax on dividends to foreign beneficiaries	
Netherlands – FBI	- 25% dividend withholding tax on ordinary dividend distributions to foreign shareholders. - Reduced rates may apply under treaties.	Does not qualify for the E.U. parent-subsidiary directive
Puerto Rico – REIT	17% withholding on taxable dividends	
Russia – CEMF	No withholding tax applies on the disposal of a unit by a foreign unit holder	
Russia – JSIF	Dividends to foreign shareholders are subject to a 15% withholding tax. Reduced rates may apply under treaties.	Pays profit tax on its income at rates applicable to regular Russian companies
Singapore – REIT	10% withholding tax on foreign distributions	
South Africa – SAT	N/A	
South Korea – REIT	27.5% withholding tax on foreign distributions. Reduced rates may apply under tax treaties.	Taxed at corporate level and not treated as a flow through entity
Spain – REIF	- 15% withholding tax on foreign distributions. Reduced rates may apply under tax treaties. - 35% capital gains tax for foreign investors	1% corporate tax rate
Spain – REIC	Same rules as for Spanish REIF	1% corporate tax rate
Taiwan – REIT	A 6% withholding tax applies to all distributions	
Turkey – REIT	N/A	Exempt from corporate tax
UK – REIT	A 22% withholding tax applies to all distributions	Aims to align after-tax returns from holding real estate indirectly more closely with holding real estate directly
US – REIT	- 30% withholding tax on foreign distributions. Reduced rates may apply under tax treaties. - 35% withholding tax on capital gains	- Partially or wholly owned taxable subsidiaries permitted

Appendix D: Dividend and Interest Withholding Tax Rates under Double Taxation Treaties

Table V: Dividend and Interest Withholding Tax Rates under Double Taxation Treaties

Target Country Sending Div. or Interest	Recipient Country of Dividend Distribution or Interest Payment: Denmark		Netherlands		Singapore		Cayman Islands (Non-Treaty)		Footnote	Date of Data
	Dividend	Interest	Dividend	Interest	Dividend	Interest	Dividend	Interest		
U.S.	5%	0%	5%	0%	N/A	N/A	30%	30%		May-06
Japan	10%	10%	5%	10%	5%	10%	20%	20%		Aug-05
U.K.	0%	0%	0%	0%	0%	10%	0%	20%		Oct-05
Germany	0%	0%	0%	0%	10%	10%	25%	35/25/0%		Sep-05
France	0%	0%	0/5/15%	0/10%	10/15%	0/10%	25%	15%	2	Jun-05
Italy	15%	15%	5/10/15%	10%	10%	12.5%	27%	?		Jan-06
Canada	5/15%	10%	5/15%	10%	15%	15%	25%	25%	3	Oct-05
Spain	0/15%	10%	5/15%	10%	N/A	N/A	15%	25%	4	Feb-06
South Korea	15%	15%	10/15%	10/15%	10/15%	10%	27.5%	27.5%		Jul-05
Hong Kong	0%	0%	0%	0%	0%	0%	0%	0%		Oct-05
Australia	15%	10%	15%	10%	0/15%	10%	?	10%	5	Jul-05
Taiwan	N/A	N/A	10%	10%	40%	0%	20%	20%		Dec-05
Netherlands	0/15%	0%	XXX	XXX	0/15%	0%	25%	0%	6	Dec-05
Singapore	0%	10%	0%	10%	XXX	XXX	0%	15%	7	Jun-05
Belgium	0/15%	15%	5/15%	0/10%	15%	10%	15%	15%	8	May-06
Sweden	0/15%	0%	0/15%	0%	10/15%	0/5%	30%	0%	9,10	Feb-06
Austria	10%	0%	5/15%	0%	N/A	N/A	25%	0%	11,12	Aug-01
Switzerland	0%	0%	0/15%	5%	10/15%	10%	35%	0%	13	Oct-05
Greece	0%	8%	0%	10%	N/A	N/A	0%	35%	14	Nov-05
Norway	0/15%	0%	0/15%	0%	5/15%	0%	50%	0%	15,16	Jun-05
Denmark	XXX	XXX	15%	0%	0/10%	0%	28%	0%	17,18	Feb-02
Portugal	10/15%	15%	10%	10%	10%	10%	25%	20%		Aug-02
Ireland	0%	0%	0-15%	0%	N/A	N/A	22%	22%		Dec-01
Finland	5/15%	0%	0%	0%	5/15%	10%	29%	0%	19,20,21,22	Nov-01
Czech Republic	15%	0%	10%	0%	5%	0%	15%	?		Dec-05
New Zealand	15%	10%	15%	10%	15%	15%	30%	15%	23	May-06
China	10%	10%	10%	10%	7/12%	7/10%	0%	10%	24,25	Mar-06
Brazil	0%	15%	0%	15%	N/A	N/A	0%	15/20%	26	Aug-05
Mexico	15%	15%	15%	15%	0%	15%	0%	35%	27	Sep-05
Poland	0/5/15%	5%	5/15%	5%	0/10%	10%	19%	20%	28,29	Apr-06
Russia	10%	0%	5/15%	0%	N/A	N/A	15%	20%	30,31	Nov-05
Chile	15%	5/15%	N/A	N/A	N/A	N/A	35%	35%	32	Feb-06
India	15/25%	10/15%	15%	10/15%	10/15%	10/15%	14.02%	20%		Nov-05
Malaysia	N/A	N/A	10%		15%		10%	15%		May-06
Hungary	0/5/15%	0%	0/5/15%	0%	5/10%	0%	20%	0%	33,34	Aug-05
Argentina	10/15%	12%	10/15%	12%	N/A	N/A	0%	15.05%	35,36	Jun-05
Turkey	N/A	N/A	N/A	N/A	N/A	N/A	10%	?		Jun-05

Notes: Table V

(1) Source: The Economist Intelligence Unit, Country Commerce reports. See **Bibliography** for reference to applicable report for each country.

(2) In France, generally, no withholding tax is levied interest payments except on interest on shareholders' loan accounts.

(3) In Canada, for dividend distributions, different rates might apply depending on the percentage ownership of the company by the beneficial owner.

(4) In Spain, the lower rate for withholding tax on dividends to Denmark applies if the recipient holds at least 50% of the Spanish Company.

(5) In Australia, withholding tax on dividends applies to the unfranked (untaxed profits) portion of dividends only.

(6) In The Netherlands, no withholding tax applies to interest whether made locally or to a foreign party.

(7) No withholding tax is levied on dividends paid by companies resident in Singapore.

(8) In Belgium, the lower rate of dividend withholding tax normally applies when the remitting company is an affiliate in which the recipient company holds at least a 25% stake, but the threshold is sometimes lower - typically 10%.

(9) In Sweden, the reduced rate for withholding tax on dividends applies if the recipient owns a minimum percentage of the paying firm (minimum varies by treaty).

(10) In Sweden, interest payments to domestic or foreign lenders (including parent companies) are not taxed at source in Sweden.

(11) In Austria, interest payments to non-resident corporate tax payers are not subject to withholding tax.

(12) In Austria, the lower rate of withholding tax on dividends to The Netherlands applies if the recipient holds at least 50% of the shares of the Austrian country for a period of two-years.

(13) In Switzerland, the lower rate for withholding tax on dividends to The Netherlands or Singapore applies if the recipient holds at least 25% of the Swiss Company.

(14) In Greece, there is no withholding tax on dividends, since taxes are paid on income prior to distribution.

(15) Norway has no withholding tax on interest payments to foreign recipients.

(16) In Norway, the reduced rate applies to withholding tax on dividends if recipient owns a minimum percentage of the paying firm (minimum varies by treaty).

(17) Denmark does not withhold taxes on interest transferred to other countries.

(18) In Denmark, the lower rate of 0% for withholding tax on dividends to Singapore applies where recipient company owns 25% or more of the shares in a Danish company.

(19) In Finland, there is no withholding tax deducted from interest payments to non-resident companies or to financial or other institutions.

(20) In Finland, the withholding tax rate on dividends to The Netherlands is 0% if payer is more than 25% owned by recipient.

(21) In Finland, the withholding tax rate on dividends to Singapore is 5% if more than 10% owned by the recipient.

(22) In Finland, the withholding tax rate on dividends to Denmark is 5% if more than 25% owned by the recipient.

(23) In New Zealand, exemption for withholding tax on interest for intra-company debt.

(24) In China, dividends are tax-exempt. These include dividends paid to foreign investors from profits in a foreign-invested enterprise, whether it is a wholly owned enterprise or a joint venture.

(25) In China, the lower rate for withholding tax on dividends to Singapore applies if the recipient company holds at least 25% of the shares of the Chinese company.

(26) In Brazil, interest remitted abroad is subject to a 15% withholding tax unless it is to a low-tax jurisdiction, in which case it is 20%.

(27) In Mexico, dividends to non-residents are no longer subject to withholding tax if paid out of net (after tax) income.

(28) In Poland, withholding tax on interest to qualified EU companies is taxed at 10% through 6/30/09; 5% through 6/30/13; 0% thereafter.

(29) In Poland, the different dividend withholding tax rates for treaties depend on levels of ownership. Refer individual treaties.

(30) In Russia, a branch office is considered part of a foreign parent, so repatriation of branch profits is not a dividend distribution. There is no branch-remittance tax in Russia.

(31) In Russia, different withholding tax rates on dividends to The Netherlands apply to different levels of share ownership.

(32) In Chile, the lower withholding tax rate on dividends to Denmark applies if the recipient company owns 25% directly or indirectly.

(33) In Hungary, for Denmark and The Netherlands, the withholding tax on dividends is (1) 0% if the recipient company is a resident in the EU holding at least 20% of the distributed company for 2 years; (2) 5% if holding 25% of company; (3) 15% otherwise.

(34) In Hungary, for Singapore, lesser withholding tax on dividends of 5% applies if recipient owns 25% of the Hungarian company.

(35) In Argentina, no tax on paid out dividends, unless it exceeds net income of the previous year.

(36) In Argentina, the reduced rate for withholding tax on dividends applies if the recipient owns a minimum percentage of the paying firm (minimum varies by treaty).

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