

**Third International Annual Conference**  
**“Practice of maritime business: Sharing experience.”**  
**Odessa 2007**

**Models of port management and investments**  
**Odessa 2007, Ukraine**  
**31st May 2007**

***‘The Port Development Investment Fund’***

*by*

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**How can this investment  
vehicle be used to raise capital  
for the development of  
Ports in the Ukraine?**

- Such funds have been used successfully in many different fields including property and particularly shipping to raise capital.
- We are currently involved in the setting up of a Shipping Fund in Cyprus and we are drawing from our experience in applying this model to that of a Port Fund which forms the subject matter of our presentation today.

**What’s the basic concept behind such a Fund?**

- In this case a Port Investment Fund will be set up whereby professional investors will be targeted to buy shares or Investment Units in a Fund.
- The Fund will invest exclusively in Ukrainian Ports.
- The money paid by the Investors will be applied to the development of the Ports and maximize the income earning capacity of the Ports thereby increasing the yields for the Investors.
- In this case a Closed End Fund would be more appropriate and a 5 year duration for the Fund would be advisable.
- It may also be worth considering a Mixed Portfolio Fund of port and ship operation investment as this may make it even more attractive to investors

**What is the difference between a closed end and an open ended fund?**

- **OPEN ENDED FUND**
  - An Open Ended Fund is the fund where the investors can trade their Investment Units at any time. This could cause liquidity problems as capital could potentially be drawn out of the Fund at any time but arguably it is easier to attract investors to this type of Fund.

## **What is the difference between a closed end and an open ended fund? Cont...**

### **● CLOSED END FUND**

- With a Closed End Fund, the investors are not allowed to trade their Investment Units during the lifetime of the Fund and are locked in for the duration of the Fund, except that the Directors of the Fund may wish to retain the right to exercise discretion in exceptional circumstances to allow early redemption.
- Usually such a discretion will only be exercised on the basis that the Investment Units will be redeemed on the basis of a 20% discount of the net asset value of the Fund.
- In any event if the Fund is doing well the Directors of the Fund may elect to periodically make dividend payouts to the investors.

## **What will investors be looking for?**

1. A guarantee of return of their initial investment.
2. An annual yield/return of about 8% per annum
3. A tax efficient vehicle so they pay as little tax as possible.

As long as the fund is properly constituted, structured, administered and operated all of the above objectives are attainable.

## **What is needed to set up a Fund?**

- **A venue for the Fund needs to be found.**
- **We would suggest either BVI or Cayman Islands**
- **Why?**
  1. Both jurisdictions have many years experience of fund operation and can offer all the necessary legal, financial and accounting expertise required for the set up of such a Fund
  2. There are no adverse tax implications in setting up the Funds in these jurisdictions
  3. As long as the Fund is "Closed End" there are no licensing requirements and no bureaucratic impediments to the administration of the Fund

## **What is needed to set up a Fund? Cont...**

- The key document in promoting the Fund and bringing in investors is the Prospectus/Offering Memorandum
- What should be included in this document?
  1. The Product; a description of the investment itself and the estimated annual yield of the investment
  2. Tenor; the duration of the Fund, in this case we are perhaps looking at a duration of five years
  3. Investment Units; the price per unit and the total price of the investment units
  4. The underlying investment; Ukrainian Ports
  5. Pre-mature redemption; is this allowed and on what conditions?
  6. Fees; arrangement fees and structuring fees; typically 1%
  7. Investment Manager; this could be a law firm, accountancy practice, a financial advisor or a combination of some or all of these bodies. The investment manager will be responsible for the accounting, reporting, distribution, monitoring and management of the Fund as well as the marketing of the Fund. In return for these services the Manager will receive management and incentive fees (which will be tied in with the performance of the Fund).

- The Fund Distributor; this could be a professional Fund Management Company which would have a client base of potential Investors who would be interested in such projects or an Investment Bank that has “Fund” experience.
- Product Description; this describes, how the Funds will be applied to the Ports in order to increase the profitability of the Ports and what will form the basis for the return to the investors.
- Investment strengths and considerations including risk factors; Details of why the Fund anticipates that the Investors will receive a worthwhile return on their investment by highlighting the strengths and considerations of the Fund. If there are any guarantors involved these should be mentioned under strengths together with the factors which will determine whether the Fund will be successful (e.g. increase in volume of calls calling at Ukrainian Ports following the investment and corresponding increase in income/ profits). What are the risk factors involved? Statistical analysis of fund investment and valuation together with the expected financial performance of the Fund should also be provided.
- Other Provisions:
  - Details of:
    - Financial Structure of the Transactions
    - Tax considerations
    - The offer and application; i.e. the terms of the offer, the closing date, how an offer should be made to subscribe for investment units and how it will be accepted
    - Application Fees
    - Governing Law
- Schedules to Prospectus:
  - Auditors Report

## **CONCLUSION**

As I hope we have illustrated in our presentation the concept of a Fund is global and it can be used in many different commercial fields including Port Development.

However, if it is to be used successfully for Port Development in the Ukraine a local Law Firm who has both expert knowledge as to the relevant regulations and rules concerning Ports in the Ukraine and who can also follow the “international issues” involved must participate in such a project.

For this reason we would strongly advise the engagement of a combination of International Law offices of the Ukraine and Economides, Dionysiou & Co. of Cyprus to set up and run a “Port Development Fund” in the Ukraine.