



Guernsey registered funds

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Registered funds are one of the three types of Guernsey funds¹.

The Protection of Investors (Bailiwick of Guernsey) Law, 2020 (the “POI Law”) grants the Guernsey Financial Services Commission (the “GFSC”) the ability to develop different classes of funds and determine the rules applicable to such classes.

Registered funds are subject to The Registered Collective Investment Schemes Rules 2021 (“RCIS Rules”).

Registered funds can be open-ended or closed-ended.

The registration process

Registered funds are registered with the GFSC. They receive their registration following a representation of suitability from the administrator (a Guernsey body holding a POI Law licence, which scrutinises the fund and its promoter in lieu of the GFSC and takes on the ongoing responsibility for monitoring the fund).

The registered fund regime therefore shifts responsibility for compliance with the applicable legislation on to the Guernsey Administrator.

The Guernsey Administrator warrants to the GFSC in the relevant registration document that the promoter of the fund is suitable and (where applicable) that the fund documentation is appropriate and satisfies regulatory requirements. The GFSC will issue the registration in reliance upon those warranties.

Although it does not scrutinise the fund, the GFSC will scrutinise the entity giving the warranties to ensure that they are correctly made (i.e. backed up by appropriate documentation). The GFSC attaches great importance to this. It expects there to be documentary evidence to support the warranties being made and for the person making those warranties to be able to produce such evidence immediately at the request of the GFSC. Applicants which cannot substantiate their applications will be excluded from participation in the registered funds self-certification programme.

Under the RCIS Rules, the Guernsey administrator applies for a fund to be registered with the GFSC by completing a Form REG.

The Form REG contains warranties that the Guernsey administrator has performed sufficient due diligence to be satisfied that the promoter and associated parties are fit and proper, and confirmation that the administrator is content that the disclosures in the fund’s prospectus and offering document meet the requirements set out in the Prospectus Rules 2021 and include the GFSC’s standard legends.

The Guernsey administrator is encouraged to liaise with the GFSC in advance if it has any concerns about the promoter or the fund to avoid any potential delays in the three working day consent.

Upon receipt of the signed Form REG, together with copies of the constitutive documentation, material agreements and the application fee, the GFSC will register the fund within three working days.

¹ The others being authorised funds and private investment funds.

OFFSHORE LAW SPECIALISTS



FIND US

Carey Olsen (Guernsey) LLP
PO Box 98
Carey House
Les Banques
St Peter Port
Guernsey GY1 4BZ
Channel Islands

T +44 (0)1481 727272

E guernsey@careyolsen.com



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Visit our investment funds team
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PLEASE NOTE

Please note that this briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such.
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