

Guernsey Registered Closed-Ended Funds (72 hour approval for all closed-ended funds)

FAST TRACK

The Guernsey Financial Services Commission (GFSC) has issued a consultation paper which proposes the introduction of a 72 hour approval process for all closed-ended funds, which is good news in particular for the numerous Guernsey listed closed-ended funds and private equity funds to be established in Guernsey. The proposals will take effect from 1 February 2007. There will be no requirement that the fund be restricted to “qualifying investors”. This is a new “Registered Fund” regime which fast-tracks all closed-ended fund approvals. The draft proposals are described in the GFSC’s “Registered Closed-Ended Investment Funds Guidance Document”, details of which are available on the GFSC’s website (www.gfsc.gg).

BACKGROUND TO CHANGE

The move towards a “Registered Fund” regime makes Guernsey a more attractive jurisdiction to launch a wide variety of closed-ended funds. Plans are being made to introduce a similar registered fund regime for open-ended funds this year.

TYPES OF VEHICLE

Registered Funds can be established as single or multi-class unit trusts, investment companies, protected cell companies or limited partnerships, whether listed or unlisted. The only investor restriction is that the fund must not be offered directly to the public in Guernsey,

although the fund can still be listed on a stock exchange.

ADMINISTRATION SIGN-OFF

The prospectus will need to include the disclosures listed in the GFSC’s form APC and the proposed Guernsey fund administrator is required to confirm that the promoter/investment manager is “fit and proper”. “Fit and proper” is referred to in the GFSC’s Guidance Document as meeting certain standards of integrity, competence and solvency. The GFSC Guidance Document describes how these standards can be met. For newly established promoters/investment managers the fund administrator is required to look at the relevant experience of the individuals behind the promoter/investment manager.

GFSC APPROVAL

The fund’s approval is obtained by lodging all of the relevant GFSC application forms and the application fee, together with the prospectus and the fund’s constitutional documents, with all of the relevant third party service provider and other material documents and the form giving the fund administrator’s sign-off.

The fund’s legends will need to include a statement that the GFSC has not reviewed the prospectus and has instead relied on the specific warranties provided by the Guernsey fund administrator.



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IMMEDIATE EFFECT

The new registered closed-ended fund regime is effective from 1 February 2007. Anyone in the process of establishing a Guernsey fund should therefore consider whether to switch to the new application process. The clear advantage of the new process is the certainty of the fund's launch within 72 hours.

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

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