

UPDATE

Guernsey Financial Services Commission issues discussion paper on Guernsey funds framework

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The Guernsey Financial Services Commission (**GFSC**) has issued a discussion paper on certain aspects of Guernsey's funds framework, which is an initial stage of a wider consultation expected later this year, intended to help create opportunity for growth in the funds sector.

Funds Growth Omnibus

Earlier this month the GFSC issued a discussion paper entitled 'Funds Growth Omnibus', inviting comments on proposals to amend Guernsey's funds framework (the **Consultation**). Responses to the Consultation will be considered by the GFSC with a view to issuing a more detailed consultation later this year with the overall intention of creating opportunity for growth in the funds sector.

Private Investment Funds

Currently, a private investment fund (**PIF**) requires a manager licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 (the **POI Law**) (a **Manco**) to be responsible for a PIF's management and the GFSC relies on declarations made by the Manco as to the suitability of investors as part of the PIF application process. Where a Manco is established solely for the purpose of compliance with the PIF regime (typically a PIF is established as a corporate vehicle), the costs associated with the Manco are considered to be a disincentive. Accordingly, the Consultation offers three potential routes as an alternative to the Manco requirement:

1. relying on declarations made by the PIF's directors that the Manco would otherwise make;
2. relying on declarations made by an associated fiduciary licensee that the Manco would otherwise make; or
3. prescribing the nature and type of investors permitted to invest in a PIF by seeking to define a 'qualifying private investor' alongside the administrator confirming it has effective procedures in place to ensure the PIF is restricted to qualifying private investors.

Other proposed amendments to the PIF regime include:

1. as part of the application process, requiring the relevant party to retain evidence of the assessment process leading to the declaration it makes to the GFSC;
2. issuing further guidance on how administrators should ensure that sufficient due diligence is conducted on a promoter without changing the streamlined application process; and
3. the creation of a standardised application form for additional classes, sub-funds and cells.

Exemption from licensing for general partners of Guernsey funds structured as limited partnerships

The Consultation proposes a new category of exempt persons under section 29 of the POI Law in structures where a Manco is appointed to assume the primary management role for the fund, leaving the fund's general partner with minimal responsibilities such that it should be exempt from the requirement for licensing under the POI Law. The Consultation indicates that the Manco and general partner would need

to share common ownership. In addition to the cost savings of not duplicating licensing requirements, further efficiencies could be brought to bear where a Manco acts for a number of funds.

Removal of prior approval for Non-Guernsey Schemes (NGS)

The Consultation proposes the removal of prior approval of the GFSC under The Licensees (Conduct of Business and Notification) (Non- Guernsey Schemes) Rules 1994 (**NGS Rules**) in order to provide the restricted activities of management, custody or administration by a POI licensee to an open-ended NGS and replacement with a notification only.

Guernsey Green Fund

The Consultation sets out proposals to reflect the EU Sustainable Finance Taxonomy in the Guernsey Green Fund regime.

Green Verifier

It is proposed that in order to streamline the certification and verification of green financing products, a 'one-stop service' be introduced for licensees to verify green transactions and that in doing so a new restricted activity of 'Verifying Green Transactions' be introduced under the POI Law.

The full consultation discussion paper can be found [here](#) and remains open until 2 September 2020 and responses are welcomed by the GFSC and are to be submitted [here](#).

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