

Feedback Statement

Registered Funds

Registered Collective Investment Schemes Rules 2015



Guernsey Financial
Services Commission

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1. Overview

- 1.1 Following amendments to The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended (“the POI Law”) in 2008, collective investment schemes could be either authorised or registered under the POI Law. The key difference between an authorised and registered scheme, is that in respect of registered schemes, the Commission would not undertake detailed due diligence into the parties associated with the scheme, and detailed prospectus reviews, as it would rely on the certifications provided by designated managers licensed under the POI Law. As this was a sea change The Registered Collective Investment Scheme Rules 2008 could not be offered directly to the public in Guernsey.
- 1.2 The Commission has identified from its post-facto monitoring of licensees that in overall terms the standard of due diligence is good, and therefore, it is considered that the certification process has been a success. Accordingly, the Commission considers that it is no longer appropriate to prohibit the direct offering of registered schemes to the public in Guernsey.
- 1.3 The Commission recently consulted on a proposal that The Registered Collective Investment Scheme Rules 2008 be repealed and replaced by The Registered Collective Investment Schemes Rules 2015 (“the 2015 Rules”). In the 2015 Rules the Commission had removed references to the prohibition on direct offering of registered schemes to the public in Guernsey and also corrected various typographical errors.

2. Consultation Responses

- 2.1 The fund industry supported the key proposal to remove the references to the prohibition on direct offering of Registered Collective Investment Schemes to the public in Guernsey.
- 2.2 The term “designated manager” had been used, whereas this was replaced by the term “designated administrator” when The Authorised Collective Investment Schemes (Class B) Rules 2013 were introduced. The Commission was advised that the term “designated administrator” more accurately reflects the role of that party and reduces confusion for those external parties less familiar with the terminology used within Guernsey’s regulatory framework. The Commission concurs with the above and therefore has amended the 2015 Rules appropriately.

- 2.3 It was considered that the current wording in Rule 3.02 gave an inaccurate description of the role of the designated manager (administrator), as it states that the “scheme property is managed by the designated manager.” Rather, it was suggested that an accurate description would be to replace this wording with “the scheme is administered by the designated administrator in accordance with the information particulars.” The Commission concurs that the existing wording is misleading and therefore has amended the 2015 Rules appropriately.
- 2.4 A few additional typographical errors were highlighted to the Commission which have been corrected in the amended 2015 Rules.
- 2.5 A number of suggestions were made on how to improve the registered scheme regime, however, at this time, the Commission is not in a position to take these forward. As detailed in the consultation paper, the Commission is currently liaising with the Guernsey Investment Fund Association regarding Guernsey’s regulatory framework, and therefore, further changes are likely to be made to the registered scheme regime in the near future.

3. Conclusion

- 2.5 Thank you to those of you who took the time to respond to the Commission’s consultation on the 2015 Rules.
- 2.6 The 2015 Rules have been approved by the Commissioners and take effect from 1 April 2015.