

# **THE COLLECTIVE INVESTMENT SCHEMES (DESIGNATED PERSONS) RULES 1988**

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## GUERNSEY FINANCIAL SERVICES COMMISSION

# THE COLLECTIVE INVESTMENT SCHEMES (DESIGNATED PERSONS) RULES 1988

The Guernsey Financial Services Commission (the “Commission”), in exercise of the powers conferred on it by sections 12, 14, 15 and 16 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended hereby makes the following rules:

### PART 1- INTRODUCTORY

#### 1.01 Citation, commencement and application

- (1) These rules may be cited as the Collective Investment Schemes (Designated Persons) Rules 1988 (the “DP rules”) and shall come into operation on 15th November, 1988.
- (2) The DP rules apply to a designated person carrying on a restricted activity in connection with a Class A1 or Class A2 Scheme. These DP rules shall only apply to a designated person carrying on a restricted activity in connection with a Class B Scheme where imposed by the Commission as a necessary or desirable condition on or after issuing an authorisation.

#### 1.02 Interpretation

- (1) Unless the context otherwise requires, in the DP rules expressions defined in the Law have the same meanings as they have in the Law, expressions defined in the Collective Investment Schemes Rules 1988 (the “CIS rules”) have the same meanings as they have in the CIS rules and the following expressions have the meanings assigned to them:

**“accounting reference date”** means the date to which a designated person’s accounts are prepared;

**“adjustments”** means:

- (a) deductions for intangible fixed assets, debtors arising from sales to associates, any deficiencies where the liabilities of a subsidiary of a designated person exceed its assets, and any other assets specified in writing by the Commission; and
- (b) additions for creditors arising from purchases from associates, other liabilities and subordinated loans specifically permitted in both cases in writing by the Commission;

**“annual audited expenditure”** means either:

- (a) an estimate of budgeted expenditure for the first 12 months which is submitted to the Commission in the case of a designated manager which has not yet commenced its controlled investment business; or

(b) the annual gross revenue less profit before appropriations of a designated manager and in this case where a loss before appropriations occurs the loss shall be added to the annual gross revenue calculated on the basis of the annual financial statements;

**“annual financial statements”** has the meaning given in rule 3.01;

**“annual gross revenue”** means the total revenue shown by the annual financial statements for the immediately preceding accounting period plus any dealing profit (or less any dealing loss) less a deduction to eliminate commissions and fees payable which are attributable directly to commissions and fees receivable which are included in annual gross revenue;

**“application form”** means the relevant application form prescribed by the Commission for the authorisation of collective investment schemes together with all information submitted therewith or thereafter in connection with the application;

**“client”** means an investor in an authorised scheme; **“client account”** means an account at an approved bank which:

- (a) is in the name of the designated manager, and
- (b) includes in its title the description “client account”, or if the bank is outside Guernsey, such description in an official language of the country in question as is equivalent to this;

**“client money”** means all funds receivable from or payable to investors;

**“contract note”** has the meaning given in rule 13.01;

**“dealing profit or loss”** means gains or losses dealings in respect of trading and gains or losses on dealings in respect of long term investments;

**“designated person”** means a designated manager or a designated trustee or custodian as the case may require;

**“expenditure-based requirement”** means a figure equal to 25% of the designated manager’s annual audited expenditure;

**“financial resources requirement”** has the meaning given in rule 4.02;

**“gross capital”** means total assets less total liabilities after adjustments of the designated person and, at the option of the designated person and with the consent of the Commission, means in addition the value of any undertaking, indemnity, bond, letter of credit, guarantee and assurance in respect of which a certificate has been provided by an approved law firm confirming the legal enforceability of the obligation;

**“profit (or loss) before appropriations”** means the amount that falls to be disclosed as profit (or loss) on ordinary activities before taxation adjusted for the following items:

- (a) all forms of profit share, bonus or appropriation applicable to directors and employees;
- (b) interest paid (if any);
- (c) exceptional items permitted under generally accepted accounting principles which are noted in the annual financial statements;

**“significant complaint”** means a complaint alleging a breach of the CIS rules or the DP rules, the Law, mala fides, malpractice or impropriety, or repetition or recurrence of a matter previously complained of (whether significant or otherwise) and a complaint shall not be treated as significant if it relates to minor mechanical or clerical error;

**“total assets”** means assets of any type, which shall include fixed assets, current assets (including debtors) and contingent assets (with the approval of the Commission);

**“total liabilities”** means liabilities of any type, which shall include creditors and provisions for liabilities and charges; and

**“total revenue”** means revenue of any type, which shall include commissions, investment management fees, advisory fees, interest and dividends.

- (2) The Interpretation (Guernsey) Law, 1948 applies to the interpretation of these rules throughout the Bailiwick of Guernsey.
- (3) A reference in these DP rules to:
  - (a) an enactment is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment; and
  - (b) a document, written notice or written instructions shall be taken to be a reference to a document, notice or instructions given in any legible form provided that a printed copy of the document, notice or instructions can be made.
- (4) References in these DP rules to a numbered rule shall be construed as references to the rule bearing that number in these DP rules.
- (5) References in any of these rules to a numbered paragraph shall, unless the reference is to a paragraph of a specified rule, be construed as references to the paragraph bearing that number in the rule in which it appears.

## **PART 2- FINANCIAL RECORDS**

### **2.01 Accounting records**

- (1) Every designated person shall cause sufficient records in English to be kept to show and explain its transactions.
- (2) Such records shall:
  - (a) be kept up to date;
  - (b) disclose with reasonable accuracy the assets, liabilities, income and expenditure of the designated person at any particular time;
  - (c) enable the designated manager to keep the daily record required under rule 4.04 of the CIS rules;
  - (d) enable the reports to holders to be prepared by each of the designated manager and designated trustee or custodian as required by Part 6 of the CIS rules;
  - (e) enable the designated manager and designated trustee or custodian to demonstrate compliance with the CIS and DP rules at any time.

## **2.02 Client money records**

- (1) A designated manager shall maintain such records as are necessary to explain any dealings with client money and to show, in date order:
  - (a) all money which is paid into or out of a client account;
  - (b) the interest (if any) earned on a client account and the payments made.
- (2) A designated manager shall at least once in every month, reconcile the balance on a client account, maintained with an approved bank other than itself, with its own records.

## **2.03 Scheme property records**

Where a designated person itself or any other person under sub-paragraphs (3), (4) and (5) of rule 4.05 of the CIS rules has custody of scheme property and documents of title or documents evidencing title to scheme property, records shall be maintained to explain in respect of each scheme:

- (a) the location of scheme property and documents of title or documents evidencing title to scheme property; and
- (b) when the designated person took custody of or relinquished custody of the scheme property or documents of title or documents evidencing title; and
- (c) the nature, amount and nominal value of the scheme property or documents of title or documents evidencing title.

## **2.04 Retention of records and form**

- (1) Unless otherwise stated, all records prepared in order to comply with the DP rules shall be retained for six years. For the first two years of this period the records must be maintained in a readily accessible form at the premises of the designated person in Guernsey.
- (2) Matters required to be recorded by designated persons:
  - (a) shall be recorded in English; and
  - (b) may be produced in any form so long as the record can be reproduced in printed form.
- (3) An obligation under this rule to make a record of information contained in a document may be fulfilled by keeping a copy of that document as the record.

# **PART 3- FINANCIAL STATEMENTS RULES**

## **3.01 Preparation**

A designated person shall prepare annual financial statements covering the period from the immediately preceding accounting reference date (or, in the case of a new business from the date of incorporation) to the next following accounting reference date which shall as a minimum include:

- (a) accounts complying with generally accepted accounting principles;
- (b) a statement of financial resources certified by a qualified auditor and confirming that the appropriate financial resource requirement specified in rule 4.02 is satisfied.

### 3.02 Copies

Copies of annual financial statements shall be submitted to the Commission as soon as they have been audited and approved by the directors but in any case within three months after the accounting reference date.

### 3.03 Form and contents

Financial statements shall:

- (a) include corresponding amounts for the preceding financial period;
- (b) include a statement of accounting policies;
- (c) give a true and fair view of the state of affairs and profit or loss of the designated person;
- (d) be prepared in accordance with generally accepted accounting principles;
- (e) in the case of a designated manager only provide details of the aggregate balance of all client accounts; and
- (f) in the case of a designated manager only, show the aggregate value of all scheme property under management as at the relevant accounting reference date, calculated for each scheme in accordance with the rules set out in Part II of schedule 5 of the CIS rules.

### 3.04 Expenditure-based requirement

In addition, a designated manager which is subject to an expenditure-based requirement shall, if required by the Commission, prepare within one month of the month end and hold for inspection a statement of financial resources in respect of each month.

### 3.05 Changes

Any change in the accounting reference date of a designated person must immediately be notified to the Commission.

## **PART 4- FINANCIAL RESOURCES RULES**

### 4.01 Compliance

A designated person shall comply at all times with the appropriate financial resources requirement.

### 4.02 Financial resources requirement

The financial resources requirement shall be as follows:

- (a) for the designated trustee or custodian of an authorised collective investment scheme, gross capital of £4,000,000;
- (b) for the designated manager of an authorised collective investment scheme, gross capital of £100,000, or gross capital equal to the expenditure-based requirement as shown by the latest annual financial statements submitted to the Commission, whichever is the greater.



## **PART 5- AUDIT RULES**

### **5.01 General rule**

Every designated person shall have a qualified auditor and shall upon the request of the Commission procure that the qualified auditor satisfies the Commission that he is so qualified.

### **5.02 Change of auditor**

A designated person shall give the Commission written notice of a change of its qualified auditor within 14 days of the decision to make such a change.

## **PART 6- FINANCIAL NOTIFICATION RULES**

### **6.01 General rule**

A designated person shall notify the Commission forthwith where the designated person has reason to believe that it is in breach of the financial resources rules. Such notice shall specify the steps which the designated person is taking, or has taken to remedy the breach and shall be confirmed in writing.

### **6.02 Written notice**

A designated person shall give written notice and details forthwith to the Commission where it has reason to believe that:

- (a) it will be unable to comply with, or be unable to demonstrate compliance with the requirements of the DP rules;
- (b) a director or employee has been engaged in activities involving fraud or other dishonesty in relation to the designated person's controlled investment business in Guernsey;
- (c) the designated person's auditor may qualify the accounts;
- (d) the liabilities of a subsidiary of the designated person exceed its assets.

## **PART 7- BEST EXECUTION ON ACCOUNT OF AN AUTHORISED SCHEME**

### **7.01 Best execution**

In effecting a transaction for the account of an authorised scheme a designated manager shall take all reasonable steps to ensure that the counterparty is reliable and that the terms of the transaction are the best available on the relevant market at the time for transactions of the same size and nature with a reliable counterparty; and in so considering the terms shall have regard to:

- (a) the price to be paid or received; and
- (b) all charges to be incurred as a result of the transaction; and
- (c) any other terms of the transaction, and any advantage likely to enure directly or indirectly to the scheme as a result of either the transaction or other transactions likely to be effected by the designated person for the scheme.

## **7.02 Money market fund**

In the case of a money market fund, this rule shall apply to the person effecting the transaction whether that person is the designated manager or the designated trustee.

## **PART 8- ARRANGEMENTS FOR INDIRECT PAYMENT FOR SERVICES**

### **8. General rule**

The designated manager shall procure that the scheme particulars contain a statement of any arrangement the designated manager has with another person whereby that person will from time to time provide to, or procure for, the designated manager services or other benefits the nature of which are such that their provision results or is designed to result, in an improvement of the designated manager's performance in providing its service and for which the designated manager makes no direct payment but instead undertakes to place business with that person, or if there are no such arrangements, an appropriate negative statement.

## **PART 9- PRODUCT BIAS**

### **9. General rule**

The designated manager shall ensure that rates of commission and their frequency of payment and other inducements provided by the designated manager in relation to different units in authorised collective investment schemes are such that no person who will benefit from those inducements will be likely to be so influenced by them as to recommend to anyone:

- (a) the acquisition of units which he would not otherwise have recommended, or
- (b) the undertaking of any transaction in breach of the CIS or DP rules (or a rule in any other jurisdiction which the designated manager knows to be binding on that person).

## **PART 10 - GIFTS, BENEFITS IN KIND AND RECIPROCAL ARRANGEMENTS**

### **10.01 Provision**

The designated manager shall not act so as to confer (whether by the provision of gifts or in any other way) any benefit on any person who carries on investment business of any kind (in Guernsey or elsewhere) which involves recommending or advising customers to place business with others carrying on investment business of any kind:

- (a) if that benefit is of such value or frequency as might reasonably be expected to induce the recipient to place business with the designated manager, in a manner which would or might conflict with the recipient's duties to its customers; and/or
- (b) by placing or offering to place business with that person (or his nominee or associate) to an extent which might reasonably be expected to induce the recipient to place business with the designated manager in a manner which would or might conflict with that person's duties to his customers.

#### **10.02 Acceptance**

The designated manager shall not itself accept any payment or benefit which would be contrary to this provision.

### **PART 11- ALLOCATION OF TRANSACTIONS AMONGST AUTHORISED SCHEMES AND OTHER CLIENTS NOT BEING INVESTORS AND FOR ITSELF**

#### **11.01 Allocations to be made as soon as practicable**

Where a designated manager has acted in a transaction collectively for an authorised scheme, for other clients not being investors and itself or any combination thereof ("the interested parties") the designated manager shall:-

- (a) as soon as practicable after the transaction is effected, record the intended basis of allocation and initiate the procedures for formal allocation of the transaction amongst the interested parties; and
- (b) take all reasonable steps to complete the allocation as soon as possible; but nothing in this rule shall prevent a designated manager, upon discovering a genuine error in either the intended basis of an allocation or the formal allocation, from recommencing the allocation upon a different and correct basis provided that a written record of the reason for the re-allocation is made and all other provisions of this rule are observed.

#### **11.02 Allocations of transactions between interested parties**

Where the interested parties cannot all be satisfied in full, then the transaction shall be allocated between the interested parties so as-

- (a) to be fair and reasonable between each of them; and
- (b) not to conflict with any limitations an interested party may have given the designated manager.

#### **11.03 Restrictions on allocations to officers and employees**

In making allocations under 11.02, no allocation may be made to the personal account of any employee or officer of the designated manager unless:

- (a) he is wholly unconnected with the transaction or any prior decision to undertake it; or

- (b) his allocation arises solely because of a prior recorded decision by the designated manager that a prescribed block of the transaction should be reserved for allocation to employees of the designated manager and the designated manager shall take all reasonable steps to ensure that it is a term of the contract of employment of each employee and to ensure that it is drawn explicitly to the attention of each employee that he may not make an arrangement with any other person whereby that person participates in any collective transaction on his behalf or in expectation of any reciprocal benefit on another occasion.

#### **11.04 Price at which allocations are to be effected**

In any allocation of transactions to which the provisions of this rule apply, the price at which such allocation is made to interested parties shall (save as mentioned in rule 11.05 below) be the price per unit of the total transaction (account being taken of fees and commissions).

#### **11.05 Series of transactions treated as one**

Where a designated manager effects a series of transactions during any one period of 24 hours (commencing with the first transaction in that series) or any one or more subsequent successive periods of 24 hours to achieve one investment decision or objective, then the designated manager may ascribe a uniform price to the transactions effected during each such period of 24 hours, calculated as the weighted average of the various prices of the transactions effected during the relevant 24 hour period.

#### **11.06 Application of uniform standards**

A designated manager shall ensure that each allocation made in pursuance of this rule is made in accordance with standards and procedures which are uniform for all such allocations made and that such standards and procedures are set out in written instructions which are brought to the notice of all persons responsible for making such allocations.

#### **11.07 Money market fund**

In the case of a money market fund, this rule shall apply to the person effecting the allocation whether that person is the designated manager or the designated trustee.

## **PART 12- RECORDS RELATING TO TRANSACTIONS**

#### **12.01 In respect of investors**

On the receipt of instructions from an investor to effect a transaction in the units of an authorised scheme, a designated manager shall make a record of:

- (a) the name of the authorised scheme and the number of units or the subscription monies the subject of the instructions; and
- (b) the nature of the proposed transaction; and
- (c) the date and time the relevant instructions were received; and
- (d) any other information necessary to complete this transaction;

and it shall be sufficient compliance with this rule if the record is made in an audio tape recording which also records, second by second, the time at which what is spoken is recorded.

## 12.02 In respect of scheme property

### (1) On transmission of instructions

Where a designated manager in arranging a transaction on account of an authorised scheme gives instructions to another person to effect it, the designated manager shall simultaneously with the giving of the instructions make a record of:

- (a) the name of the other person so instructed;
- (b) the terms of the instructions; and
- (c) the date and time on which the instructions were so given;

and it shall be sufficient compliance with this rule if the record is made in an audio tape recording which also records, second by second, the time at which what is spoken is recorded.

### (2) On execution

Where a transaction is effected by a designated manager, the designated manager shall make a record of:

- (a) the name of the scheme and the property the subject of the transaction; and
- (b) the dealing day, the price and other terms on which the transaction was effected including, where any conversion between the currencies involved, the rate of exchange; and
- (c) the brokers to the transaction; and
- (d) where the designated manager effected the transaction in the capacity of both buyer and seller, that fact;

and it shall be sufficient compliance with this rule if the record is made in an audio tape recording which also records, second by second, the time at which what is spoken is recorded.

### (3) Record keeping of allocation of transactions

Where a designated manager has effected a transaction to which rule 11.01 applies it shall allocate the transaction between the interested parties as soon as practicable after the transaction has been effected and, upon such allocation, shall keep or procure the keeping of records of:

- (a) the date and time of the allocation; and
- (b) the investments the subject of the allocation; and
- (c) the identity of the interested parties and the designation of any relevant account of the interested parties.

### (4) In the case of a money market fund, this rule shall apply to the person effecting the transaction whether that person is the designated manager or the designated trustee.

## 12.03 Retention of records

Each record made by a designated person pursuant to this rule shall be kept for at least six months from the date when it is made.

## **PART 13- CONTRACT NOTES SENT TO INVESTORS**

### **13.01 General**

A designated manager shall, after a transaction has been effected with or on behalf of an investor, deliver or send or arrange for there to be delivered or sent to the investor (or to a person nominated by the investor for the purpose) a statement relating to the transaction (a “contract note”).

### **13.02 Contents and other requirements**

- (1) The contract note shall contain:
  - (a) the address of the designated manager, and
  - (b) the investor’s name or other designation and account number; and
  - (c) the dealing day and the time of pricing in respect of the transaction; and
  - (d) the name of the scheme and the number of units the subject of the transaction; and
  - (e) whether the transaction is one of sale, purchase or conversion and, as the case may be, the sale, purchase or conversion price of the units; and
  - (f) the total consideration payable at the settlement date and the amount thereof; and
  - (g) where the transaction involves the conversion of one currency into another the rate of exchange obtained in effecting that conversion; and
  - (h) the amount or percentage and type of any charges whether included in the price or otherwise made; and
  - (i) whether any commission is or will be payable in connection with the transaction by or on behalf of the designated manager or an associate and, if so, to whom; and
  - (j) the settlement date.

- (2) Other requirements

The contract note shall be sent before the close of business on the second business day following the day on which the transaction was effected but for this purpose:

- (a) a transaction effected after the close of business on any business day but before the end of that business day shall be treated as having been effected before the close of business on the next following business day; and
- (b) where a series of transactions is treated as one transaction in pursuance of rule 11.05 above, the end of the relevant period of 24 hours shall be treated as the time at which the transaction was effected; and
- (c) where a transaction falls to be allocated in accordance with rule 11 above, the transaction shall be treated as having been effected on the day on which the allocation is made.

## **PART 14- RIGHTS TO INSPECTION OF RECORDS**

### **14. General rule**

A designated person shall allow an investor during business hours, as soon as practicable, but not more than seven days after receiving a request, to carry out an inspection, either personally or by his agent, of any entry in a record kept by the designated person of matters relating exclusively to him.

## **PART 15- CLIENT MONEY**

### **15.01 Client accounts**

- (1) A designated manager which receives or holds client money shall open one or more client accounts.
- (2) All money which is client money and which is received by the designated manager and all money payable by the designated manager which becomes client money shall be held in a client account with an approved bank.
- (3) On opening a client account a designated manager shall give written notice to the bank concerned:
  - (a) that all money standing to the credit of that account is client money and that the bank is not entitled to combine the account with any other account or to exercise any right of set-off or counterclaim against money in that account in respect of any sum owed to it on any other account of the designated manager;
  - (b) that interest payable (if any) in respect of sums credited to the account shall be credited to that account; and
  - (c) requiring the bank to acknowledge in writing that it accepts the terms of the notice.
- (4) If, in the case of a client account with an approved bank outside Guernsey, the bank declines to give the acknowledgement required in sub-paragraph (c) above or if the designated manager has any other ground for believing that client money will not be protected as effectively as it would be if held in a client account in Guernsey, the designated manager shall not pay client money into that account or transfer client money to that account.

### **15.02 Payment into a client account**

- (1) Client money held or received by a designated manager shall be paid either into a client account or to the client concerned. Money held or received by a designated manager in the form of a cheque, draft or electronic transfer drawn in favour of the designated manager which includes client money shall be paid into a client account unless it represents money payable to one client only in which case it may be endorsed over or paid to the client concerned or as the client shall so direct.
- (2) Subject to sub-paragraph (c), a designated manager which is liable to pay money to a client, either.

- (a) in respect of a transaction entered into with or for that client in the course of the designated manager's business; or
- (b) by way of interest (if any) on client money;

shall forthwith upon the same becoming due and payable ensure that such money is held for that client in a client account unless the designated manager's debt is discharged by paying such money directly to the client.

- (c) No money, other than money required by paragraph 1 or sub-paragraph (a) or (b) to be paid into a client account, shall be paid into such an account unless:
  - (i) the money is the designated manager's own money and it is required to be so paid for the purpose of opening or maintaining the account and the amount is the minimum amount required for the purpose; or
  - (ii) the money is the designated manager's own money and it is so paid in order to restore in whole or in part any money paid out of the account in contravention of the DP rules.

### **15.03 Withdrawal from a client account**

- (1) The following items may be withdrawn from a client account:
  - (a) money, not being client money, paid into the account for the purpose of opening or maintaining the account;
  - (b) money paid into the account in contravention of the DP rules;
  - (c) money properly required for a payment to or on behalf of a client;
  - (d) money properly required for or towards payment for the purchase of units or of a debt due to the designated manager from a client otherwise than in respect of fees or commission;
  - (e) subject to paragraph (2), money properly required for or towards payment of fees or commissions payable to the designated manager and specified in a statement delivered to the client showing how those fees and commissions have been calculated;
  - (f) money drawn on a client's authority or in conformity with any contract between the designated manager and the client;
  - (g) money which may be properly transferred into another client account;
  - (h) if a cheque or draft is paid into a client account and that cheque or draft includes money which is not client money, that money which is not client money shall be withdrawn from the account as soon as cleared funds are credited to the account in respect of that cheque or draft.
- (2) Money shall not be withdrawn from a client account for or towards payment of fees or commissions payable to the designated manager unless the fees or commissions have been calculated in accordance with the formula disclosed in the principal documents and/or the scheme particulars.
- (3) Money which may be withdrawn in accordance with paragraph (1) by way of payment from a client to the designated manager shall be withdrawn immediately the designated manager becomes entitled to withdraw it.



#### **15.04 Interest**

Where interest is payable on a client account, the designated person shall notify clients as to whom the interest is payable.

## **PART 16- COMPLIANCE ARRANGEMENTS**

#### **16.01 Compliance arrangements**

- (1) A designated person shall institute and maintain effective arrangements for ensuring compliance with the DP rules and any other rules or regulations made under the Law and the Commission may require written undertakings in respect of the operation of client accounts in accordance with the DP rules.
- (2) A designated person shall provide the Commission with written details of such arrangements (the “arrangements”) and the arrangements shall include the name of the person responsible for compliance.
- (3) The arrangements shall be set out in a written document a copy of which shall be kept at the principal office in Guernsey at which the designated person carries on controlled investment business.
- (4) The Commission may require changes to the arrangements and the designated person shall implement and comply with any such requirements and the designated person shall notify the Commission of any changes to the arrangements promptly and in full.

#### **16.02 Records as to compliance with the CIS and the DP rules**

- (1) A designated person shall keep, for a period of three years from their occurrence, a record of occurrences which have, or in the opinion of the person responsible for compliance or any client may have, involved an alleged breach of the CIS or the DP rules and of the steps taken with a view to ensuring that such occurrences do not occur or recur.
- (2) A designated person shall keep, and properly maintain, records relating to its controlled investment business and any other activities affecting its controlled investment business, in a form capable of being checked or audited and in such form and in such a manner and for such a period as is required by the DP rules or as the Commission may from time to time require, so as to demonstrate compliance with the CIS or the DP rules.
- (3) A designated person shall make such records available at any time to the Commission, its employees and any persons authorised by it for any purpose whatsoever.

#### **16.03 Destruction of records or files**

Without limiting any other obligation under the CIS or the DP rules or under the laws of Guernsey, a designated person shall ensure that it and its employees, directors, officers and other persons to the extent that they are under its power and control shall not, without the express consent in writing of the Commission amend, destroy, and make further entries in, or erase, any record or file (whether in documentary or electronic form) which is, or may be, relevant to any matter which is the subject of any kind of investigation, disciplinary or other process, or appeal under the CIS or the DP rules or the Law.

#### **16.04 Access and inspections**

The designated person shall co-operate to the fullest possible degree with any inspection carried out by the Commission in respect of the conduct of any part of the designated person's activities inside Guernsey relating to or affecting its controlled investment business.

#### **16.05 Disciplinary action**

- (1) A record shall be maintained of the names of any employees disciplined by a designated person in connection with any breach of the CIS and the DPrules or with any other conduct which may reasonably be expected to affect the conduct of the designated person's controlled investment business including particulars of:
  - (a) the offence for which the employee was disciplined; and (b) steps taken to discipline the employee.
- (2) Details of the particulars required to be recorded under (a) and (b) above shall be submitted to the Commission within seven days of the employee being so disciplined.
- (3) Any record made for the purposes of this rule shall be kept until six years have expired from the date on which disciplinary steps were taken.

## **PART 17- COMPLAINTS**

#### **17. Complaints procedure**

- (1) Every designated person shall have in operation, and shall ensure compliance with, a written procedure (the "procedure") for the effective consideration and proper handling of significant complaints.
- (2) The designated person shall ensure that each of its officers and employees responsible for dealing with clients is at all times aware of the procedure and of the obligation to follow it.
- (3) The designated person shall notify the procedure in full to the Commission and shall notify the Commission of any changes to the procedure promptly and in full.
- (4) The designated person shall submit to the Commission, at the same time as it submits copies of the annual financial statements, an annual summary detailing:
  - (a) the number of significant complaints received during the year,
  - (b) the number of significant complaints settled during that year,
  - (c) the number of significant complaints that have remained unsettled three months after receipt.
- (5) For the purposes of this rule, where a designated person has given a substantive response in relation to a complaint, unless and until the designated person has received an indication from the complainant that it is not satisfied with such a response the designated person shall be entitled after the expiry of four weeks from the date of the response to treat the complaint as settled and resolved.

- (6) If a significant complaint remains unsettled for three months or longer, the designated person shall inform the Commission and shall also advise the complainant that he may inform the Commission directly of his complaint.

## **PART 18- NOTIFICATION RULES**

### **18.01 Annual Notifications**

- (1) In addition to any other obligations contained in these DP rules, a designated manager must notify the Commission in writing each year of any change in respect of the information contained in the application form for authorisation of a collective investment scheme.
- (2) The first such notification must be submitted to the Commission within 12 months of the date on which a declaration of authorisation was issued and thereafter at intervals of not more than 12 months.

### **18.02 Advance notifications**

A designated manager must give written notice forthwith to the Commission in respect of an authorised collective investment scheme of:

- (a) a proposed change of any of the following:
- (i) designated manager,
  - (ii) principal manager,
  - (iii) designated trustee;
  - (iv) designated custodian;
  - (v) investment adviser,
  - (vi) secretary;
  - (vii) registrar;
  - (viii) directors (in the case of a company scheme); and
- (b) a proposed change of ownership of any of the parties listed in (a) above.