



Guernsey Financial
Services Commission

Consultation feedback

The Prospectus Rules



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1. Introduction

This paper provides feedback on the responses received to the Commission’s consultation paper (“CP”) on proposed updates to the Prospectus Rules, which was issued in January 2025.

It explains how we have responded to that feedback, including any changes we have made to the proposals originally put forward and how these have been incorporated in the updated rules which are being issued, the Prospectus Rules and Guidance, 2025.

Who is affected by the updates made to the rules?

The updates will impact persons who have issued, or who are proposing to issue, a prospectus in relation to a Category 2 Controlled Investment which is either:

- i) a Bailiwick registered or incorporated entity, or
- ii) which will be promoted or offered to the public in the Bailiwick.

The updates will also impact persons operating or providing services to a collective investment scheme which is registered under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (“the POI Law”) and which is subject to the Registered Collective Investment Scheme Rules, 2021.

1.2 Background

The CP sought comments on a proposed improved set of rules relating to the issuance of prospectuses both in respect of Category 2 Controlled Investments generally, and also specifically in respect of Collective Investment Schemes which are registered under Section 8 of the POI Law, and which are subject to the Registered Collective Investment Scheme Rules, 2021.

The proposed changes were the result of the Commission’s consideration of several factors, including:

- Requests from individual firms and industry associations representing wider sections of the finance industry, to broaden the scope of exemptions contained within the rules to take account of circumstances which had not been anticipated when the existing rules were first drafted in 2008.
- The outcomes of an internal review by the Commission of the extent to which its regulatory framework continues to meet the relevant core principles established by the International Organization of Securities Commissions (“IOSCO”). IOSCO is the global standard setting body for securities market regulators – meeting its core principles helps ensure that a jurisdiction’s framework is up-to-date and consistent with international standards.
- A review of how the Prospectus Rules and the Registered Collective Investment Scheme Rules work together to form an effective regulatory framework in respect of registered funds.

Other minor changes were proposed to add clarity.

The proposals sought to reduce the administrative burden of regulation in some areas and in others to ensure the Bailiwick continues to apply standards which are comparable with peer jurisdictions.

The Consultation period ran for eight weeks, until 3 March 2025.

During the consultation, the Commission received 7 responses. Those respondents included licensees, legal service providers and industry representative bodies (both local and UK based). All these responses have been taken into account in the final updated rules and are discussed further below.

In considering the feedback we have endeavoured to remain focused on the goals of investor protection, simplification and useability. There may sometimes be tension between simplification and useability in so much that increasing the number of exemptions, whilst increasing useability for some potential and current users, may have the overall effect of increasing complexity and thereby not simplifying as much as we would like. In the amendments to our Prospectus Rules which we are making in response to this consultation, we have listened carefully to industry practitioners on the subject of useability whilst always putting great emphasis on the need to ensure appropriate investor protection.

2. Response

Feedback Summary

Respondents were generally in favour of the Commission's proposed updates. Where specific comments were made, a common theme was to request a wider range of exemptions to be considered, whilst being supportive of those already proposed. The suggested additional exemptions were typically to better align the rules with peer jurisdictions. Other comments largely sought clarity, made practical suggestions for minor changes to some disclosure requirements, and some further amendments to the circumstances in which prospectuses are required to be updated.

The CP asked various questions in respect of the proposed key changes to the 5 main Parts of the rules, and the responses to these are considered in more detail, in order below.

2.1 Part 1 of the Rules – Introduction

The key changes to this Part of the rules proposed in the CP relate to the persons who would be exempted from the application of the rules.

- (a) It was proposed that the exemptions should be extended such that a promotion of a Category 2 Controlled Investment to a "Professional Investor" would not fall within the scope of the rules, the definition of such a Professional Investor drawing on that used in the Private Investment Fund Rules, 2021.

No respondents disagreed with the introduction of this proposed exemption, although there were various requests to extend the range of exemptions to cover other categories of investor (see further below).

Commission response: the proposed exemption for promotion of Category 2 controlled investments to Professional Investors has been included in the revised rules.

- (b) The CP also proposed that the exemptions be extended to cover promotions of Category 2 Controlled investments to an identifiable category of persons, not exceeding 200 in number (up from 50 in the current rules) other than Professional Investors.

No respondents disagreed with the extension of this proposed exemption. However, one respondent sought clarity on whether any Professional Investors should be included or excluded when determining whether the promotion is made to an identifiable category of persons, not exceeding 200. Another respondent sought clarity on whether the Commission would look through any nominee arrangement to the underlying investors to determine whether they are Professional Investors.

Commission response: The proposed extension to the existing exemption has been included in the revised rules.

A Guidance Note has also been included to make clear that when determining the number of persons to whom an offer is being made for the purposes of this particular exemption, any offer to a Professional Investor does not need to be included within that number.

The Guidance Note also makes clear that the Commission will look through any nominee arrangement, to the underlying investors, to determine whether they are Professional Investors (in which case they do not form part of the 200 investor limit) or non-Professional Investors (in which case they do form part of the 200 investor limit).

- (c) Other exemptions proposed in the CP relate to offers in respect of certain court sanctioned schemes, offers which are subject to the Takeover Code, and offers of Category 2 Controlled Investments which are in the process of being listed on certain stock exchanges (which builds on the current exemption for such entities which are already listed).

No respondents disagreed with the principle of these proposed additional exemptions. However, requests were received to consider a broader range of jurisdictions in respect of the proposed exemption relating to court sanctioned schemes, and to amend the proposed wording of this exemption to add clarity.

Likewise, changes were suggested to add clarity to the proposed exemption relating to schemes which are subject to the Takeover Code.

Commission response: These proposed exemptions have been included in the revised rules and amended where relevant to add further clarity. In the case of the exemption relating to certain court sanctioned schemes, rather than extending the range of jurisdictions, the additional wording "...or in such other jurisdiction as the Commission may, upon application, approve for the purposes of this rule" has been added. The Commission will then be prepared to consider the application of the exemption in any cases where the jurisdiction of the court for such court sanctioned schemes (outside of Guernsey, Jersey or the UK), on a case by case basis.

- (d) Respondents also suggested further categories of offers or promotions which should be exempt from the application of the Prospectus Rules. These included:

- (i) The introduction of an exemption for registered collective investment schemes listed or traded on the London Stock Exchange (“LSE”), on the basis that currently, for such listed schemes, they are required to comply with two different, but similar, sets of prospectus disclosure requirements.

Commission response: The Commission understands the rationale for this suggestion and to ease administrative burden for such schemes has introduced an exemption from the disclosure requirements (Part 2) of the rules where such schemes are listed or traded on any of the markets of the LSE. However, from a regulatory and supervisory perspective, the Commission considers that the application of the other sections of the rules remains valid and relevant to the Commission in fulfilling its statutory duties in respect of registered collective investment schemes. The Commission has therefore not introduced an exemption from the entirety of the rules for such schemes, but just from Part 2 as explained above.

- (ii) Extending the current and proposed exemptions in respect of certain categories of Category 2 controlled investments to cover all controlled investments.

Commission response: this suggestion would have the effect of opening up the relevant exemptions to cover not only Category 2 controlled investments, but also registered collective investment schemes. Whilst, the Commission has relaxed the disclosure requirements applicable to such registered collective investment schemes which are listed or traded on the LSE (as explained above), it is not in favour of further exempting what is a regulated product, from the wider requirements of the Prospectus Rules. The Private Investment Fund framework might be more appropriate for schemes which would be excluded from the Prospectus Rules if the range of exemptions were further extended. This suggestion has therefore not been adopted in the revised rules.

- (iii) The introduction of exemptions for offers “to other such investors or class of investors as may be agreed with the Commission”.

Commission response: The range of applicable exemptions has already been considerably expanded. The Commission is of the view that any specific one-off cases where there is a valid reason why the Prospectus Rules should not apply, and which are not already covered by the previous or newly introduced exemptions, could be dealt with by a suitable request to derogate from the rules. Any such request would be considered on a case by case basis which the Commission would evaluate on its merits, taking into account the need to preserve investor protections.

- (iv) The introduction of exemptions for certain employee share offers.

Commission response: The Commission is supportive of this suggestion and has included a relevant exemption in the revised rules.

- (v) The introduction of exemptions for certain corporate actions, such as scrip dividends and rights issues.

Commission response: The Commission is supportive of this suggestion and has included a relevant exemption in the revised rules.

- (vi) The introduction of exemptions for offers of a Category 2 Controlled Investment where the minimum consideration which may be paid or given by a person for the investment to be acquired by that person is at least £100,000.

Commission response: The Commission is supportive of this suggestion and has included a relevant exemption in the revised rules.

- (vii) The introduction of exemptions for offers of a Category 2 Controlled Investment where the investment to be acquired or applied for is denominated in amounts of at least £100,000 (or an equivalent amount in another currency).

Commission response: The Commission is of the view that the introduction of the exemption discussed at point (vi) above would capture the circumstances suggested by this proposal and has therefore not included it within the revised rules.

- (viii) The introduction of exemptions for promotion of a Category 2 controlled investment directly communicated to qualified investors as defined in Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market EU Qualified Investors.

Commission response: The Commission is supportive of this suggestion and has included a relevant exemption in the revised rules.

2.2 Part 2 of the Rules – Information to be Specified in the Prospectus

The key changes to this section proposed in the CP relate to the disclosures required in a prospectus.

The CP proposed that new requirements be introduced for registered collective investment schemes to disclose valuation methodology (including the publication and / or availability of prices / NAV); the clear disclosure of fees, charges, and expenses; the arrangements for the issue and redemption of units in a scheme; and details of the investment manager and any investment advisor.

The CP also proposed a requirement for the disclosure of any borrowing limits or restrictions for any prospectus.

The CP further proposed an amendment in respect of registered collective investment schemes to the requirement for the disclosure of persons with a significant beneficial ownership in certain service providers to a scheme, such that a disclosure will only be required where that holding constitutes a potential or actual conflict of interest.

Other minor changes were also proposed, largely to add clarity.

Subject to minor amendments and clarifications, which the Commission largely accepts and has incorporated in the rules, no respondents disagreed with these proposed amendments.

One respondent highlighted that the requirement for a registered closed ended collective investment scheme to disclose the provisions for the publication of its NAV should only be applicable where such an NAV is available and published. The Commission accepts this point and has incorporated the relevant provision in the rules.

Commission response: The Commission has made the amendments to the disclosures required by Part 2 of the rules, as proposed in the CP, albeit subject to certain minor amendments resulting from respondents' comments, as discussed above.

2.3 Part 3 of the Rules – Statements to be included as set out in the Schedules

The CP proposed that Schedule 2 to the rules (which sets out the text of the mandatory disclosure regarding the risk that the prices and income from investments can go down as well as up), would be amalgamated with Schedule 1 (which sets out other mandatory statements to be included in a prospectus). It was further proposed that the existing wording of Schedule 1 would be amended to better align with the Registered Collective Investment Scheme Rules. Part 3 of the rules would then be amended to reflect the amalgamation of Schedules 1 and 2.

No respondents disagreed with this proposal. However, one response suggested that reference to the required disclosures should be in the plural to make clear that the text of the statements in the schedule do not necessarily need to appear in a prospectus as one continuous statement.

Commission response: The Commission is in agreement with this suggestion and the wording has been amended accordingly. However, in making this change the Commission wishes to emphasise its expectation that the required disclosures are all clearly set out in a readily visible manner in the prospectus.

The respondent also requested that the rule be amended such that statements “with equivalent effect” could be used, in order that they can be drafted to meet the requirements of multiple jurisdictions, but without losing their effect or meaning.

Commission response: The Commission has not included this within the amended rules to avoid any potential misinterpretation of “equivalent”. However, the Commission would be prepared to consider the use of suitable alternative wording on a case by case basis.

2.4 Part 4 of the Rules - Circulation

The CP proposed minor changes to this section of the rules, to add clarity to the steps required before a prospectus may be circulated. These included: a clarification that the application fee relates to prospectuses for Category 2 Controlled Investments (for registered collective investment schemes the fee forms part of the overall application fee for the scheme); and a clarification that circulation of a prospectus in respect of a new registered collective investment scheme requires the Commission to have first issued its declaration of registration in respect of that scheme.

Five respondents agreed to these proposals, and none disagreed.

The Commission has therefore included the proposed amendments in the new rules.

2.5 Part 5 of the Rules – Information to be Provided to Investors

The CP set out a proposal to extend the range of specific prospectus disclosures which need to be immediately notified to investors and the Commission, if amended.

In this respect, there are certain matters that are required to be disclosed under the current rules, which if changed, would normally be notified to investors, but for which there is no formal requirement to do so in the current rules. The proposed amendments sought to address this, and thereby ensure that investors and the Commission are kept up to date with key information.

In addition to the matters which currently require notification, the proposed amendments extend such notification requirements to include changes to the offeror's:

- valuation methodology and provision of pricing / NAV information;
- fees and charges;
- issue and redemption procedures; and
- manager or investment adviser

where the prospectus relates to a registered collective investment scheme, and

- investment strategy and any investment restrictions;
- borrowing and hedging powers and restrictions; and
- voting and other rights.

for all prospectuses.

Again, no respondents disagreed with the proposals. However, acknowledging the comments made by one respondent regarding the intentions of these proposed changes specifically in respect of investment restrictions and borrowing and hedging powers / restrictions, the Commission has amended the rules relating to the actual disclosure of these matters in Part 2 of the rules. This is to help make clear that in part 5, it is only *changes* to investment strategy / objectives / restrictions and *changes* to borrowing or hedging powers / limits / restrictions which are the subject of the relevant notification requirements, and not for example changes to the investments themselves, or the levels of borrowing.

2.6 Other suggestions arising from the consultation process

Other, minor changes to provide consistency throughout the rules and to correct minor typographical errors were suggested by respondents and adopted by the Commission in the revised rules.

3. Next steps/Conclusion

The revised rules, in the form of the Prospectus Rules and Guidance, 2025 have been issued, and come into force on 1st July 2025. The Prospectus Rules and Guidance, 2021 are revoked with effect from that date. Any prospectus registered under the 2021 (or previous) Rules will be considered to be registered under the revised 2025 Rules, and are not required to be updated simply because of the introduction of the 2025 Rules. However, any changes to those prospectuses and any new or replacement prospectuses must meet the requirements of the Prospectus Rules and Guidance, 2025.

A clean copy of the Prospectus Rules and Guidance, 2025 may be found on the Commission's website. ([link](#))