

Guernsey Green Fund Consultation Paper Response

We asked

We asked for feedback on the proposal to introduce a new designation of collective investment scheme called a Guernsey Green Fund including views on the draft rules, notification process, certification and criteria.

Responses were received from a number of fund administrators as well as individuals on and off Island.

Overall the consultation highlighted significant support for the proposal of a Guernsey Green Fund with some clarification on the roles of the service providers to the fund and suggestions for future expansion of the product being suggested.

You Said

Almost every respondent indicating support for the initiative and seeing this as an excellent opportunity for Guernsey. In the main the comments centred on the role of the designated administrator, manager and governing body of the fund in both the ongoing monitoring of the fund and the certification.

Some respondents felt that the role of the designated administrator extended beyond that normally expected in respect of the ongoing oversight of investments. Whilst the Commission agreed with respondents that ultimate responsibility for the fund's investments rests with the governing body of the fund the existing rule framework to which all authorised or registered schemes are subject imposes a duty on the designated administrator to administer the scheme in accordance with the principal documents, rules and prospectus.

The rule requirements will be reconsidered as legislative changes evolve however to clarify, the role of a designated administrator of a Guernsey Green Fund will be to make reasonable efforts to oversee the fund and its regulatory requirements and to report on those to stakeholders, including the Commission. Some reliance on the investment manager and third party experts is to be expected providing the designated administrator can demonstrate that it undertakes sense checks and provides challenge where appropriate to the information it is provided.

Two respondents went further and suggested that there should be a requirement for the manager of a Guernsey Green Fund to be domiciled and regulated in Guernsey. The Commission feels this would put the product at a competitive disadvantage.

One respondent requested more clarity on the role of the custodian. The role of the custodian will be as set out in the relevant rules applicable to the scheme, e.g. the Class B Rules, Registered Rules etc, there are no additional requirements.

Some respondents suggested that designated administrators did not have the necessary expertise and would not be willing to take the risk of certifying the green status of a Guernsey Green Fund and suggested that this option (Route 2) be removed. We felt however, that this should remain a choice for funds with a straightforward investment remit and where a designated administrator has assessed its ability to provide that certification. Otherwise the third party certification route (Route 1) may be utilised.

We noted that there was some confusion over the origin of the green criteria. For the avoidance of doubt the first set of criteria, which were included in the draft rules, were developed by the joint finance group of multilateral development banks (the African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the Inter-American Development Bank, the International Finance Corporation, World Bank from the World Bank Group and the International Development Finance Club) chosen for being an internationally recognised set of green criteria standards. The Commission had no role in drafting the criteria. The Schedule of green criteria may be added to at any time, subject to due process and review by the Commission. The Commission would be happy to consider proposals to add to the list of acceptable green criteria.

Whilst respondents acknowledged that the requirement to incorporate the investment criteria in the memorandum of association, limited partnership agreement and/or trust deed would strengthen the overarching obligations of the fund we noted there would be resistance to this requirement.

One respondent requested further detail on the nature of the ongoing reporting to investors. In light of the wide variety of investment types that may constitute a Guernsey Green Fund the Commission is not proposing to be prescriptive on this point. Content and frequency of reporting should take into account the nature and complexity of the scheme and the scheme's investors.

Finally, a number of respondents suggested widening the product further in respect of Environmental, Social and Governance ("ESG") Principles and/or allowing other Guernsey collective investment schemes to adopt ESG principles more formally. At this stage it is our intention to keep the Guernsey Green Fund focussed on the mitigation of damage to the environment but recognising the significant interest in ESG investing the Commission will consider this aspect further.

We did

- Clarified some of the rules and guidance around the roles of the service providers and amended the declaration to reflect this;
- Retained the option for a designated administrator to provide a certification, however, the Level 1 and Level 2 certifications have been renamed Route 1 and Route 2;
- Removed the obligation to incorporate the investment criteria in the memorandum of association, limited partnership agreement or trust deed of a scheme;
- The circumstances in which a Guernsey Green Fund designation can be removed have been expanded to include the winding up of the scheme;
- We have clarified the final rules so that it is now clearer that Schedule 2 of the rules can contain more than one set of international standards/taxonomy and that, subject to proper scrutiny, additional criteria can be added to the rules in the future;
- References to "application" have been amended to refer to "notification" in accordance with the POI Law;
- As set out in the consultation paper a logo for the Guernsey Green Fund has been developed which can be used by any scheme that has been designated as a Guernsey Green Fund. Restrictions on the use of the logo have been incorporated into Schedule 4 of the Rules.

We would like to thank everyone who responded to the Consultation Paper. The feedback has been very useful in shaping the nature of the product and the associated rules.

Next Steps

The Guernsey Green Fund will be launched on 9 July 2018 whereby any new or existing Guernsey collective investment schemes will be able to apply for a Guernsey Green Fund designation. During the first year the notification required to apply for a Guernsey Green Fund designation will be free of charge. Subject to consultation a nominal £500 charge will be introduced on 1 July 2019.