

## Fast track application process for specified Licensees

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On 3 October 2008, the Guernsey Financial Services Commission (the "Commission") introduced a fast track application process for licensees associated with Qualifying Investor Funds or Registered Closed-ended Investment Funds.

Application for the authorisation of collective investment schemes in Guernsey is made through one of three methods:

- i. the three stage detailed application process for open-ended and closed-ended investment schemes;
- ii. the Qualifying Investor Fund ("QIF") regime for funds aimed at professional, experienced and knowledgeable investors introduced in February 2005; or
- iii. the Registered closed-ended investment fund ("REG") regime introduced in February 2007.

Under the QIF and the REG system, an appropriately licensed Guernsey administrator must certify to the Commission that they have performed sufficient due diligence on the promoter and the procedures for offering the scheme and that the requisite disclosures are made in the offering document of the scheme. By placing much of the due diligence burden on the administrator, the Commission has been able to reduce substantially its period for processing such applications. Once all requisite documentation and the above certification have been submitted, the Commission has a guaranteed response time of three working days.

However, although under the REG and QIF regimes the fund itself can get out of the gate in three days, until now there was no equivalent fast-track process for getting the requisite licence for the general partner of a fund set up as a limited partnership, or where a corporate fund had a separate manager. Licence applications under the Protection of

Investors (Bailiwick of Guernsey) Law, 1987 (the "POI Law") for service providers to undertake restricted activities in respect of such funds have traditionally taken four to six weeks; a discrepancy born of the Commission's increased statutory obligations when considering POI Law licensing applications. Such discrepancies have proved frustrating to promoters who have had all of their paperwork for a fund and manager lined up at the same time. Under the new fast-track licensee application process the Commission will process the application - again with some reliance on the administrator's certification - and put it before the Licensing Committee within ten business days of receipt.

### Application Process

The documentation to be submitted to the Commission is the same as under the existing POI Law licensing regime, but must now include certification by the proposed administrator that it has performed sufficient due diligence to be satisfied that the beneficial owners or controllers of the management company are "fit and proper" (as defined in Schedule 4 of the POI Law) and that the application documentation submitted to the Commission is complete and accurate. In determining whether a person is "fit and proper" to be a licensee, the POI Law requires that regard be had to such matters as a person's experience, qualifications, knowledge and understanding of his obligations and responsibilities and his KYC and AML procedures.

In addition to the above certification, the application submission must include:

- a Form FTL completed by the administrator confirming its due diligence on the licensee to the Commission;
- a completed Form RA/1 which gives information about the entity to be

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## BRIEFING

licensed, its proposed activities, its management and control, the structure of which it is part, its and its group's most recent accounts (or where newly incorporated, a 12 month projected balance sheet and profit and loss statement), its auditors, details of its professional indemnity insurance, and its AML and disaster recovery procedures, together with all supporting documentation;

- completed Forms PQ or Forms PD which give personal information about, and the experience of, the beneficial owner(s) and controllers (holding more than 15% of the shares of the applicant), and the directors;
- confirmation that the applicant has been incorporated or established;
- documentary evidence that the applicant's paid up share capital and professional indemnity insurance meets its financial resource requirements; and
- the application fee of £2,800.

Although there remains a variance between the authorisation of the scheme and the licensing of a service provider, the new framework significantly reduces the timescale needed to obtain a licence for a manager, general partner or other service provider and has been eagerly anticipated by promoters. With Guernsey's new streamlined company formation process, this heralds the start of a new era where a fund and manager can be incorporated, passed by the Commission and running within a two week period.