



## Guernsey Private Investment Funds

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Private Investment funds are one of the three types of Guernsey funds<sup>1</sup>.

The Protection of Investors (Bailiwick of Guernsey) Law, 2020 (the "POI Law") grants the Guernsey Financial Services Commission (the "GFSC") the ability to develop different classes of funds and determine the rules applicable to such classes.

Private investment funds ("PIFs") are subject to The Private Investment Fund Rules and Guidance, 2021 (the "PIF Rules").

PIFs can be open-ended or closed-ended.

PIFs were first introduced by the GFSC in 2016 as a simple and quick-to-market private Guernsey fund.

A further two classes (or "Routes") were added in 2021.

### The three PIF routes

The different types of PIF available are as follows.

#### Route 1 - POI Licensed Manager PIFs (the original PIF "route")

The "POI Licensed Manager" PIF is suited to fund managers that have a closer relationship with their investors. Its distinguishing features include no requirement for minimum investment, a maximum of 50 legal or natural persons holding an economic interest (with no more than 30 admitted in a 12 month period) and no limit imposed on the number of potential investors to which the fund can be marketed.

<sup>1</sup> The others being registered funds and private investment funds.

A Route 1 PIF must appoint a Guernsey licensed manager, with the manager being responsible at the time of application to make declarations to the GFSC on the investors' ability to suffer loss.

A Route 1 PIF offers a fast track licensing regime if the proposed manager of the Route 1 PIF does not already hold an investment licence under the POI Law.

#### Route 2 - Qualifying Private Investor PIFs

A "Qualifying Private Investor" PIF is available to investors who can evaluate the risks and strategy of investing in a PIF and bear the consequences of investment, including the possibility of any loss arising from the investment (a "Qualifying Professional Investor"). The PIF Rules contain related definitions of "Professional Investor", "Experienced Investor" and "Knowledgeable Employee" as to how an investor can be categorised as a Qualifying Professional Investor.

Qualifying Private Investor PIFs are also subject to a maximum of 50 legal or natural persons holding an economic interest in the fund. Marketing can take place to a maximum of 200 people. Investors must be provided with a disclosure statement which includes all material information (including risk disclosures) that an investor would reasonably require to make an informed judgement about the merits and risks of investing in the PIF, as well as certain prescribed disclosures (which in practice means a shorter document than the prospectus required for registered or authorised funds).

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The administrator must make a declaration to the GFSC that effective procedures are in place to restrict the fund to Qualifying Professional Investors. The administrator should also receive written acknowledgement of receipt of the above mentioned disclosure statement from investors.

### Route 3 – Family Relationship PIFs

A “Family Relationship” PIF is available to investors who share a family relationship or are an employee of the family. The Family Relationship PIF cannot be marketed outside the family group in limited circumstances.

The following table summarises the different PIF Routes.

	Route 1 POI Licensed Manager	Route 2 Qualifying Private Investor PIFs	Route 3 Family Relationship PIFs
<b>Category</b>	Open- or closed-ended	Open- or closed-ended	Open- or closed-ended
<b>Fast track registration</b>	1 business day	1 business day	1 business day
<b>Locally licensed administrator required</b>	Yes	Yes	Yes
<b>Locally licensed manager required</b>	Yes	Optional	Optional
<b>Investor restrictions</b>	50 investors max  30 new investors per year max  Manager must declare investors able to sustain loss (Unlimited in number when marketing)	50 investors max  Marketing to 200 prospective investors max  “Qualifying Private Investors” only (investors and persons marketed to)	50 investors max  Investors must be family members and employees of family
<b>Prescribed prospectus contents</b>	No. Prospectus optional.	Short form disclosure statement required.	No. Prospectus optional.
<b>AIFMD – eligible for marketing through NPP (Article 42)</b>	Yes	Yes	Yes
<b>Must be audited</b>	Yes	Yes	Yes

### The approval process

PIFs funds are regulated by the GFSC. They receive their approval following a representation of suitability from the administrator (a Guernsey body holding a POI Law licence, which scrutinises the fund and its promoter in lieu of the GFSC and takes on the ongoing responsibility for monitoring the fund).

The PIF regime therefore shifts responsibility for compliance with the applicable legislation on to the Guernsey administrator.

The Guernsey administrator warrants to the GFSC in the relevant documentation that the promoter of the fund is suitable and (where applicable) that the fund documentation is appropriate and satisfies regulatory requirements. The GFSC will issue the approval in reliance upon those warranties.

Although it does not scrutinise the fund, the GFSC will scrutinise the entity giving the warranties to ensure that they are correctly made (i.e. backed up by appropriate

documentation). The GFSC attaches great importance to this. It expects there to be documentary evidence to support the warranties being made and for the person making those warranties to be able to produce such evidence immediately at the request of the GFSC. Applicants which cannot substantiate their applications will be excluded from participation in the PIF self-certification programme.

Under the PIF Rules, the Guernsey administrator applies for a fund to be registered with the GFSC by completing a Form PIF (Form PIF Route 1, Form PIF Route 2 and Form PIF Route 3, as applicable).

Each Form PIF contains warranties from the Guernsey administrator that it has performed sufficient due diligence to be satisfied that the promoter is fit and proper.

The Form PIF Route 1 contains additional representations from the manager about the ability of the investors to sustain any losses incurred in connection with the investment.

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The Form PIF Route 2 contains additional representations from the Guernsey administrator that effective procedures are in place to ensure that only Qualifying Private Investors are admitted.

The Form PIF Route 3 contains additional representations from the Guernsey administrator that effective procedures are in place to ensure that only eligible family related investors are admitted.

Upon receipt of the signed Form PIF, together with copies of the constitutive documentation, material agreements and the application fee, the GFSC will approve the fund within one working day.



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#### PLEASE NOTE

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