

Guernsey authorised funds

Service area / [Investment Funds](#)

Location / [Guernsey](#)

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Authorised funds are one of the two types of Guernsey funds¹.

The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended (the "POI Law") grants the Guernsey Financial Services Commission (the "GFSC") the ability to develop different classes of authorised funds and determine the rules applicable to such classes.

Classes of authorised funds

There are four classes of authorised fund:

- funds authorised under The Authorised Collective Investment Schemes (Class A) Rules 2008 (a "Class A Fund"; the "Class A Rules");
- funds authorised under The Authorised Collective Investment Schemes (Class B) Rules 2013 (a "Class B Fund"; the "Class B Rules");
- funds authorised under The Collective Investment Schemes (Qualifying Professional Investor Funds) (Class Q) Rules 1998 (a "Class Q Fund"; the "Class Q Rules"); and
- funds authorised under The Authorised Closed-Ended Investment Schemes Rules 2008 (an "Authorised Closed-ended Fund"; the "ACIS Rules").

Class A Funds, Class B Funds and Class Q Funds are open-ended. Authorised Closed-ended Funds are (as the name would suggest) closed-ended.

There are restrictions on the type of investors who are able to invest in Class Q Funds ("qualifying professional investors" only). Class B Funds and Class Q Funds which elect to be classified as Qualifying Investor Funds ("QIFs") also have

¹ The other being registered funds

restrictions on the types of investors who are able to invest ("qualified investors").

There is no limit to the number of people to whom authorised funds may be marketed, and no limit to the number of investors in authorised funds.

The authorisation process

Authorised funds are authorised by the GFSC. The GFSC conducts the review of the promoter and the fund materials itself, granting authorisation once it is satisfied that the promoter of the fund is suitable and that the fund documentation is appropriate and satisfies regulatory requirements.

The procedure for obtaining approval for all authorised funds (unless fast-tracked as a QIF) involves three stages. The process typically takes between four and six weeks.

Stage 1 – outline authorisation

The first stage is an application for approval in principle. A Form GFA – detailing the nature and purpose of the scheme, the proposed administrator, the custodian/trustee and the fees – is submitted to the GFSC.

Once the GFSC is satisfied that the promoter is acceptable, and the fund is acceptable in principle, an "outline authorisation" is issued. The GFSC aims to issue this within 28 business days of receipt.

Stage 2 – interim authorisation

Stage two is an application for interim consent accompanied by a copy of the near final form prospectus.

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Once the GFSC is satisfied that the documents comply with certain criteria, an 'interim authorisation' is issued. The GFSC aims to issue this within 10 business days of receipt.

Stage 3 – final authorisation

When all the documents are in final form and any queries raised have been dealt with to the GFSC's satisfaction, the application for final consent is made, together with certified / final copies of all material documents.

Once the GFSC has received these documents to its satisfaction, a 'final authorisation' is issued. The GFSC aims to issue this within 7 business days of receipt.

Qualifying Investor Funds

A three-day approval process is available for authorised funds established as a QIF. QIFs are only available for subscription by "Qualified Investors" A "Qualified Investor" is defined in the GFSC's guidance note on Qualifying Investor Funds dated May 2007².

This fast track approval process is available to all authorised funds, whether open or closed-ended, other than Class A Schemes (which target retail investors).

Like registered funds, the QIF regime relies upon the administrator scrutinising the promoter, ensuring that only Qualified Investors can access the QIF, and verifying compliance with the relevant rules. Again, the GFSC attaches great importance to this. Authorisation will be given by the GFSC on the basis of the administrator's certification. The administrator will have an ongoing responsibility to monitor compliance with the matters it has certified and to ensure its rationale for the certification is clearly documented.

Class A funds

Class A Funds must comply with the Class A Rules: a detailed rulebook which enables them to be recognised under the UK Financial Services and Markets Act 2000 so that they can be promoted to the public in the UK in the same way as if they were UK-authorized unit trusts.

It is not possible, given the prescriptive nature of the Class A Rules, for a hedge fund to be established as a Class A Scheme.

Class B funds

Class B Funds are usually, but not necessarily, marketed on a restricted basis to institutional or professional investors. The Class B Rules lay down requirements as to the information which must be contained in the principal documents but do not impose specific restrictions on investment and borrowing powers and are generally designed to be flexible whilst at the same time reflecting best practice. The overriding requirement is that the assets of a Class B Fund must be invested with the aim of spreading risk.

Class Q funds

Class Q Funds may only be marketed to qualifying professional investors and consequently are subject to a relatively short set of rules. The Class Q Rules prescribe much simpler requirements than the Class B Rules as to the information which must be made available to prospective investors in a scheme's principal documents. As with Class B Funds, the property of a Class Q Fund must be invested to provide a spread of risk and in accordance with the limits or restrictions disclosed in the information particulars.

A "qualifying professional investor" is defined in the Class Q Rules³.

² This can be found [here](#). It is important to remember the distinction between a "Qualified Investor", which relates to the fast-track approval process for all authorised funds, and a "Qualifying Professional Investor", which relates to Class Q Funds. A Class Q Fund is not per se a QIF, notwithstanding that it is open only to a limited range of sophisticated investors.

³ This can be found [here](#).



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PLEASE NOTE

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