

New promoters in Guernsey

Service area / [Investment Funds](#)

Location / [Guernsey](#)

Date / [January 2019](#)

A central tenet of the GFSC's approach to the regulation of funds is that the administrator of a Guernsey fund is required to satisfy itself that the promoter of the scheme is "fit and proper" by carrying out appropriate due diligence.

In the case of registered funds, the administrator is required to certify at the time of the application that it has undertaken due diligence on the promoter. In the case of authorised funds, whilst the administrator must conduct due diligence on the promoter, it is not required to provide warranties to the GFSC (who conducts its own due diligence on the promoter as part of the authorisation process).

To facilitate the licensing, authorisation or registration process (as applicable), it is important that anyone who is not already known to the GFSC and who:

- is a principal of the promoter; or
- intends to sit on the board of the fund, the general partner, the manager or the adviser

submits a "Form PQ" to the GFSC in a timely manner to enable the GFSC to determine the suitability of each such person and determine whether to grant the licence, authorisation or registration (as applicable).

Who or what is the "promoter"?

The "promoter" is not specifically defined in the legislation (indeed it is not even mentioned in some of the rules). So who is the "promoter"?

The GFSC's "New Promoter Checklist" and the GFSC's web page addressing the Fund Promoter Assessment both state that the GFSC "regard[s] the "Promoter" of a fund as the party *ultimately responsible for its success.*"

In our experience a number of factors can be considered when identifying the promoter of a fund:

- Who is "putting their name to" the fund and "sponsoring" it?
- Who is managing and/or providing investment advice to the fund (i.e. who is deciding the investments the fund will make)?
- Who is responsible for distribution and fundraising activities?
- Who is ultimately responsible for the fund's establishment, regulation and continued operations?

The GFSC's approach to new promoters

The GFSC expressly states that it “welcomes approaches from high calibre promoters who have a favourable track record in the establishment and/or management of investment funds” but, as regards new promoters, advises that they should “submit a New Promoter’s Introductory Checklist to [the GFSC] in advance of making a formal fund application [in the case of authorised funds]. The information provided will be used by us to carry out necessary due diligence checks in advance of a formal application being submitted which should enable a reduction in application processing time.”

For registered funds, the administrator will require the New Promoter’s Introductory Checklist to be completed to enable it to warrant to the GFSC as regards the suitability of the promoter (it is part of the due diligence materials which the GFSC may demand from the administrator to ensure that the warranties are being appropriately given).

Normally, a demonstrable track record in the promotion and management of funds is required and the authorisation of intended promoters by regulatory authorities in other jurisdictions is not in itself generally sufficient.

Promoters do not receive a regulatory permit for being promoter per se. A license under the POI Law is only required if the promoter is conducting controlled investment business.



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2019