

Setting up an investment manager in Guernsey

GUIDE

Last reviewed: June 2024

Introduction

This guide provides an outline for setting up an investment manager in Guernsey.

What attracts managers to Guernsey?

Guernsey is a leading international finance centre for investment funds, especially private capital. As at 31 December 2023, the total net asset value of Guernsey funds was £290.0 billion.

Guernsey is politically and fiscally autonomous. This means it can quickly introduce laws and regulations which are tailored to the rapidly evolving requirements of an international finance centre. This is evidenced by its modern company and financial services laws.

Its legal system relevant to financial services is based on English law principles, resulting in a predictable judicial system.

Guernsey has a strong track record of international co-operation and adopting high international standards, particularly regarding anti-money laundering. It has adopted Common Reporting Standards (CRS) and entered into bilateral agreements with the US implementing FATCA reporting.

The regulator, the Guernsey Financial Services Commission (**GFSC**), is known for its proportionate approach to regulation which also recognises the needs of the finance services industry. There are guaranteed turnaround times for reviewing certain licences/fund applications and the GFSC has introduced flexible and efficient regulations to simplify the application process and operating requirements of certain smaller, private funds; notably the Private Investment Fund (PIF) rules.

Although the global tax landscape continues to evolve, Guernsey continues to provide a tax-neutral, tax-efficient framework for investment managers and investment funds. Guernsey has economic substance requirements which meet the requirements of the EU Code of Conduct Group (Business Taxation). Funds structured as limited partnerships are tax transparent in Guernsey, and those structured as companies may apply for an annual exemption from income tax. In the absence of an exemption, funds are subject to zero per cent income tax. Income from the provision of investment management services to funds is not taxed locally, and Guernsey does not levy any VAT on management fees or transaction/deal costs incurred by a Guernsey manager. There is also no capital gains tax, no inheritance tax, no stamp/document duty or transfer tax payable in respect of funds.

Guernsey is not a member of the EU and, as such, is not subject to the Alternative Investment Fund Managers Directive (**AIFMD**). However, Guernsey has introduced 'opt-in' AIFMD-equivalent legislation to facilitate access to EU markets, where required. This dual-regulatory regime is particularly attractive to fund managers raising capital from global investors as it enables Guernsey to use the national private placement regime (NPPR) to access capital from EU institutional investors and from outside of the EU without the burden of AIFMD regulations, hence can be particularly attractive to investors from the US, Middle East and Asian investors.

Key benefits of using Guernsey domiciled funds compared to onshore domiciled funds are speed to market and a lower cost base.

How are managers regulated in Guernsey?

The establishment and operation of investment managers in Guernsey is governed by the Protection of Investors (Bailiwick of Guernsey) Law, 2020, as amended (the **POI Law**), together with rules and regulations made thereunder. Applicants must meet the minimum criteria for licensing set out in Schedule 4 to the POI Law, which include requirements around fitness and propriety, solvency, mind and management, track record, risk management and resourcing (staff, premises and systems).

Under the POI Law, persons carrying on by way of business 'controlled investment business' (being 'restricted activities' such as *promotion, dealing, management and advising*, in connection with 'controlled investments' which term includes collective investment schemes and general securities and derivatives) in or from within the Bailiwick of Guernsey, are required to be licensed.

Substance (people, systems and premises etc) may be provided through the services of a licensed administrator and other third-party providers in Guernsey.

Licensing process

Licence applications will only be accepted by the GFSC for entities which have definite plans to conduct controlled investment business. A licence application must include:

- a Form RA/1 enclosing:
 - if an administrator is appointed, a copy of the proposed administration agreement with the chosen Guernsey administrator
 - a three-year business plan, including details of the nature and scale of the business, plans for its development and management, operational structure and details of policies and procedures and internal controls
 - a business risk assessment which meets the requirements of the GFSC's Handbook for Countering Financial Crime and Terrorist Financing (**AML Handbook**)
 - an explanation of how the applicant will be run, staffed and managed (including a staff organogram) and the support systems that will be put in place
 - a group structure/ownership chart, including details of all beneficial owners and controllers of the applicant
 - for a newly incorporated applicant, a budgeted profit and loss statement for the next 12 months and an estimated balance sheet as at the end of that 12-month period. For an existing company, its most recent audited accounts and if these are more than six months old its latest management accounts
 - confirmation of acceptance to act as auditor of the applicant
 - information relating to the applicant's financing, including how it will meet its financial resource requirement (FRR) (see below)
 - details of the applicant's insurance cover
 - details of the applicant's anti-money laundering and countering the financing of terrorism (**AML/CFT**) policies and procedures and its plans and procedures for succession and key man, disaster recovery and business continuity
- a non-refundable fee (currently £2,925)
- confirmation that the applicant has been incorporated or established and
- online personal questionnaires (**OPQ**) and/or online appointments (**OA**) which must be submitted through the GFSC's online portal for key personnel including beneficial owners, controllers, compliance function, officers and managers.

The GFSC aims to respond to applications within 28 business days of receipt of a fully completed application pack. Fast-track licence applications are available to parties seeking to provide management services to qualifying investor funds or registered collective investment schemes.

Ongoing compliance

Once licensed, a manager will need to comply with, among other matters, the rules set out in the Licensees (Conduct of Business) Rules and Guidance 2021 which cover matters including governance, compliance, record keeping and conduct of business, together with the Licensees (Capital Adequacy) Rules and Guidance 2021 which set out the applicable financial resource and liquidity requirements. For a manager whose substance is provided through a third-party administrator, this would be a minimum financial resource requirement of £10,000 and a liquidity requirement the greater of £10,000 or 10 per cent of annual audited expenditure.

Guernsey's AML/CFT legislation (and by extension the AML Handbook) will apply to a manager. The AML Handbook is the primary source of AML/CFT guidance and the areas covered by the AML Handbook include governance and compliance; business risk assessment; policies, procedures and controls and client due diligence (CDD) procedures.

Whilst Guernsey companies law offers flexibility in the composition of a board of a company, the POI Law's 'four eyes' principle must be satisfied by having at least two principal officers of appropriate experience with executive powers who must be physically present to exercise control over the day-to-day operations of the business in Guernsey. Furthermore, if the entity is undertaking management of funds (within the meaning of the POI Law) it will be in scope for the Income Tax (Substance Requirements) (Implementation) Regulations, 2021 and therefore must satisfy the applicable substance test (see our legal guide [here](#)).

Annual fees

A licensed manager is required to pay the GFSC an annual fee (currently £4,190) on or before 31 January each year.

Ancillary activities

Additional licences, authorisations or consents may be needed from the GFSC depending on the nature of the business being undertaken by the manager. Please refer to our legal guide on Investment Funds in Guernsey [here](#).

Contacts

A full list of contacts specialising in investment funds can be found [here](#).

This guide is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this guide, please get in touch with one of your usual contacts. You can find out more about us, and access our legal and regulatory notices at mourant.com. © 2024 MOURANT ALL RIGHTS RESERVED