



Jersey Financial
Services Commission

CLASSIFICATION GUIDE

JERSEY PRIVATE PLACEMENT FUND GUIDE

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OBJECTIVE

The purpose of this Guide is to set out the eligibility conditions for a Private Placement Fund. A Private Placement Fund which satisfies the eligibility conditions set out in this Guide may be established using a streamlined authorisation process, as described in Section 1 of this Guide. If a proposed investment fund does not fully satisfy such conditions, a request may be made to the Commission for derogations and regulatory consent to be granted on such terms as the Commission may determine. Such derogation applications will be considered on a case-by-case basis and will not be on a fast-track basis.

GLOSSARY OF TERMS

The following table provides a glossary of terms used in this Guide:

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| Associate | <p>means:</p> <ul style="list-style-type: none"> (a) in relation to a company: <ul style="list-style-type: none"> (i) a company that is a subsidiary or a holding body of the first-mentioned company or a subsidiary of any such holding body, (ii) an individual, partnership, limited partnership, separate limited partnership, incorporated limited partnership, limited liability partnership, trust or unincorporated association or company that has direct or indirect control of the first-mentioned company, or (iii) a company that is directly or indirectly controlled by any such individual, partnership, limited partnership, separate limited partnership, incorporated limited partnership, limited liability partnership, trust or unincorporated association; (b) in relation to an individual, partnership, limited partnership, separate limited partnership, incorporated limited partnership, limited liability partnership, trust or unincorporated association, a company directly or indirectly controlled by that individual, partnership, limited partnership, separate limited partnership, incorporated limited partnership, limited liability partnership, trust or unincorporated association. |
| COBO | means the Control of Borrowing (Jersey) Order 1958, as amended. |
| Commission | means the Jersey Financial Services Commission. |
| Company | shall include a cell of a protected cell company or incorporated cell company. |
| Constitutive Documents | <p>means the principal documents constituting the Private Placement Fund, which will include:</p> <ul style="list-style-type: none"> (a) the memorandum and articles of association, where the Private Placement Fund is a Jersey company, or equivalent constitutive document(s) where the Private Placement Fund is a company incorporated in a country or territory outside Jersey and not having a memorandum and articles |

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| | <p>of association;</p> <p>(b) the partnership agreement, where the Private Placement Fund is a limited partnership, separate limited partnership or incorporated limited partnership;</p> <p>(c) the trust instrument, where the Private Placement Fund is a unit trust;</p> <p>(d) the management agreement, if applicable;</p> <p>(e) the investment management agreement or the investment advisory agreement, if applicable; and</p> <p>(f) the administration agreement.</p> |
| Closed-ended Fund | means an investment fund that is not an Open-ended Fund. |
| Designated Service Provider | means an administrator which is registered by the Commission to carry on Fund Services Business as an administrator within the meaning of the Financial Services (Jersey) Law 1998, as amended, and which is not a managed entity within the meaning of the Codes of Practice for Fund Services Business issued by the Commission. |
| Eligible Employee | <p>means an employee of a person who carries on investment business within the meaning of the Financial Services (Jersey) Law 1998, as amended, in relation to the Private Placement Fund and:</p> <p>(a) who is, by virtue of that employee's role, directly engaged in carrying on investment business in relation to the Private Placement Fund; or</p> <p>(b) who acquires Units in the Private Placement Fund by way of remuneration, benefit or reward for acting as an employee of such person and where that person is a company, any director of that company and, where that person is a partnership, any partner of that partnership or a director of a general partner of such partnership.</p> |
| OECD | means the Organisation for Economic Co-Operation and Development. |
| Open-ended Fund | <p>means an investment fund whose Constitutive Documents provide that Unitholders are entitled to have Units repurchased:</p> <p>(a) out of the property of the fund or out of property provided by or at the instigation of the fund;</p> <p>(b) at any time or from time to time; and</p> <p>(c) at a price related to the net value of the property of the fund to which the Units in question relate.</p> |

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| Principal Person | shall bear the meaning ascribed to such term in the Collective Investment Funds (Jersey) Law 1988, as amended. |
| Private Placement Memorandum | means a private placement memorandum, information memorandum, explanatory memorandum or other offering document in relation to an offer for subscription, sale or exchange of Units in a Private Placement Fund. |
| Professional Investor | <p>means:</p> <ul style="list-style-type: none"> (a) a person whose ordinary activities involve the person acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of the person's business or who it is reasonable to expect will acquire, hold, arrange or dispose of investments (as principal or agent) for the purposes of that business; (b) any person who carries on investment business within the meaning of the Financial Services (Jersey) Law 1998, as amended, in relation to the Private Placement Fund; (c) any Eligible Employee; (d) any company which is wholly owned by, or a limited partnership of which all of the limited partners of which are, or a trust established for the benefit only of, one or more persons referred to in paragraph (b) or (c); (e) a Service Provider in relation to the Private Placement Fund or an Associate of such a Service Provider including without limitation, an investment manager if acquiring an interest in a Private Placement Fund directly or indirectly for or on behalf of a non-professional or non-sophisticated investor; (f) a person who: <ul style="list-style-type: none"> (i) is a senior employee, director, partner, member or shareholder of a Private Placement Fund or a senior employee, director, partner, member or shareholder of, or consultant to a Service Provider or Associate thereof, and (ii) in making the relevant subscription, purchase, exchange or acquisition would acquire Units in the Private Placement Fund as remuneration, benefit or reward, either as such a senior employee, director, partner, member, shareholder or consultant or is a person who otherwise participates in a |

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| | <p>carried interest vehicle associated with the Private Placement Fund;</p> <p>(g) a company, partnership, limited partnership, separate limited partnership, incorporated limited partnership, limited liability partnership, trust, or unincorporated association, in relation to which one or both of the following requirements is met:</p> <p>(i) its property (or its property and that of its Associates) has a total market value of not less than US\$10 million (or the equivalent of that amount in another currency);</p> <p>(ii) every shareholder of the company, every partner of the partnership, limited partnership, separate limited partnership, incorporated limited partnership or limited liability partnership, every beneficiary of the trust or every member of the association (as the case requires) would, himself or herself, be a Professional Investor in relation to the Private Placement Fund or is a Sophisticated Investor;</p> <p>(h) a wholly-owned subsidiary of a company that satisfies the conditions set out in paragraph (g);</p> <p>(i) a trustee of a trust established by a Sophisticated Investor or a person who is specified in any of paragraphs (c), (e), (g) and (h) or is a senior employee, director, partner, member, shareholder or consultant specified in paragraph (f)(i);</p> <p>(j) a trustee of a trust established for the benefit of:</p> <p>(i) a person who is a Sophisticated Investor or a person specified in paragraph (f)(i); or</p> <p>(ii) any one or more persons in any of the following classes:</p> <p>(A) the spouse or civil partner of a person specified in sub-paragraph (j)(i),</p> <p>(B) the issue of such a person,</p> <p>(C) the dependants of such a person,</p> <p>(iii) a person specified in sub paragraph (j)(i) and any one or more persons in any one or more of the following classes:</p> <p>(A) his or her spouse or civil partner;</p> <p>(B) his or her issue;</p> <p>(C) his or her dependants; or</p> <p>(k) a person who in making the subscription, purchase, exchange or acquisition is acting as or</p> |
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| | <p>for a public sector body.</p> <p>For the purposes of paragraph (f), a reference to a shareholder of a Service Provider or Associate specified in paragraph (e) is a reference to a shareholder in respect of whom the Service Provider or Associate (as the case requires) has signed a declaration that the investment is suitable for the shareholder and that the shareholder is able to bear the economic consequences of the investment, including the possibility of the loss of the entire investment.</p> |
| Service Provider | <p>means, in relation to a Private Placement Fund, any person in relation to the Private Placement Fund who is:</p> <ul style="list-style-type: none"> (a) a manager, manager of a managed entity, general partner, administrator, registrar, investment manager, investment adviser or other professional advisor; (b) a distributor, promoter, subscription agent, redemption agent, premium receiving agent, policy proceeds paying agent, purchase agent or repurchase agent; (c) a trustee, custodian or depositary; or (d) a member (except a limited partner) of a partnership, including a partnership constituted under the law of a country or territory outside Jersey. |
| Sophisticated Investor | <p>means an investor who makes a minimum initial investment of £250,000 (or currency equivalent) or a minimum initial investment commitment of £250,000 (or currency equivalent) in the Private Placement Fund, whether through the initial offering or subsequent acquisition.</p> |
| Unit | <p>means any material representation of the rights of participants with regard to the assets of a Private Placement Fund whether such rights are represented:</p> <ul style="list-style-type: none"> (a) by securities issued by the Private Placement Fund; (b) by the entry of names of participants in a register kept in relation to the Private Placement Fund; or (c) by any other means. |
| Unitholder | <p>means a person registered as the holder of one or more Units in a Private Placement Fund.</p> |

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1 Structure

- 1.1 A Private Placement Fund is an investment fund established in Jersey as a Closed-ended Fund or established in a country or territory outside Jersey as a Closed-ended Fund but managed in Jersey, the Units of which are offered to not more than 50 potential investors in Jersey or elsewhere, each of whom is a Professional Investor or a Sophisticated Investor. A Private Placement Fund will be required, as appropriate, to obtain consent in accordance with the provisions of COBO¹ for the issue of shares, units or securities or for the creation of partnership interests or for the raising of money in Jersey for the circulation of a Private Placement Memorandum. A Private Placement Fund may not be a collective investment fund within the meaning of the Collective Investment Funds (Jersey) Law 1988, as amended.
- 1.2 A Private Placement Fund established in Jersey shall take the form of a company incorporated under the laws of Jersey (including a protected cell company, an incorporated cell company or any cell thereof) or one or more partnerships (including limited partnerships, limited liability partnerships, separate limited partnerships or incorporated limited partnerships) or a unit trust constituted under the laws of Jersey and a Private Placement Fund established in a country or territory outside Jersey shall be incorporated or constituted, as applicable, in such equivalent form as is permitted under the laws of such country or territory.
- 1.3 If a Private Placement Fund is established as a protected cell of a protected cell company, the requisite COBO consent to issue units in the Private Placement Fund shall be issued in respect of such protected cell to the protected cell company.
- 1.4 If a Private Placement Fund is established as a company incorporated under the laws of Jersey, not less than two Jersey resident directors with appropriate experience must be appointed to the board of the fund. If a Private Placement Fund is a company incorporated under the laws of a country or territory outside Jersey, either (a) not less than two Jersey resident directors with appropriate experience must be appointed to the board of the fund; or (b) a company incorporated under the laws of Jersey, having not less than two Jersey resident directors with appropriate experience appointed to its board, must be appointed as manager of the fund.
- 1.5 If a Private Placement Fund is established as one or more limited partnerships, separate limited partnerships or incorporated limited partnerships constituted under the laws of Jersey or a country or territory outside Jersey, it must have at least one general partner which is either (a) a company incorporated under the laws of Jersey and which has not less than two Jersey resident directors with appropriate experience appointed to the board of that company or (b) itself a limited partnership, separate limited partnership or incorporated limited partnership that has at least one general partner which is a company incorporated under the laws of Jersey and which has not less than two Jersey resident directors with appropriate experience appointed to the board of that company.

¹ Control of Borrowing (Jersey) Order 1958, as amended

- 1.6 If a Private Placement Fund is established as a unit trust constituted under the laws of Jersey or a country or territory outside Jersey, each of the trustee and the manager (or the managing trustee) of the Private Placement Fund must be a company incorporated under the laws of Jersey and which has not less than two Jersey resident directors with appropriate experience appointed to its board.
- 1.7 A Private Placement Fund must be administered by an administrator which is a Designated Service Provider. In the case of a Private Placement Fund which takes the form of a company incorporated under the laws of Jersey or limited partnership constituted under the laws of Jersey, the Designated Service Provider must provide the registered office to the company or limited partnership. In the case of a Private Placement Fund which takes the form of a unit trust constituted under the laws of Jersey, the Designated Service Provider must provide the registered office either to the trustee or to the manager (or to the managing trustee, as the case may be). In the case of a Private Placement Fund established in a country or territory outside Jersey, the Designated Service Provider must provide the registered office of the relevant Service Provider to the Private Placement Fund in Jersey. In addition to the above, the Designated Service Provider must provide support to the Private Placement Fund in relation to its anti-money laundering obligations where required under Section 3.3 of this Guide.
- 1.8 The board of directors of a company, the Jersey general partner of any limited partnership, separate limited partnership or incorporated limited partnership and the trustee or manager (or managing trustee) of a unit trust, which constitutes a Private Placement Fund (as the case may be), is responsible for the management and control of the Private Placement Fund in accordance with and subject to the Constitutive Documents, the Private Placement Memorandum, this Guide and applicable law. In the case of a Private Placement Fund which is established under the laws of a country or territory outside Jersey, the directors of the company, general partner, trustee and manager (or managing trustee) as the case may be and the Jersey manager of the Private Placement Fund are responsible for the management and control of the Private Placement Fund in accordance with and subject to the Constitutive Documents, the Private Placement Memorandum, this Guide and applicable law.
- 1.9 Only Professional Investors, Sophisticated Investors and/or investment managers if acquiring an interest in a Private Placement Fund directly or indirectly for or on behalf of non-professional or non-sophisticated investors, each of whom has received an investment warning substantially in the form set out in Section 4.2 of this Guide may invest in a Private Placement Fund. The investment warning must be contained in the Private Placement Memorandum and in its application or subscription form or agreement of adherence and such form, agreement (or an alternative written instrument of acknowledgement of such warning) must be signed by or on behalf of the Professional Investor or Sophisticated Investor (as the case may be) or signed by an investment manager if acquiring an interest in the Private Placement Fund directly or indirectly, for or on behalf of non-professional or non-sophisticated investors. By subscribing for or acquiring Units in a Private Placement Fund, the holder of such Units or person acquiring such Units shall have represented to the Private Placement Fund that such holder or such acquirer is a Professional Investor or Sophisticated Investor (as the case may be). The board of directors, general partner, trustee, manager or managing trustee (as the case may be) shall be entitled to rely upon such representation for these purposes.

- 1.10 Professional Investors and Sophisticated Investors are deemed to be able to evaluate the financial risks of a Private Placement Fund and to bear the economic consequences of investment in a Private Placement Fund, including the possibility of loss of the entire investment. The requirements of this Guide shall not be satisfied if an investment fund (for the purposes of this section, an “**Applicant Fund**”) has, without the consent of the Commission, associated with it any ancillary scheme or arrangement (for the purposes of this section, a “**Feeder Fund**”) whose sole or exclusive purpose is to invest in the Applicant Fund and the Feeder Fund has any investors who are not Professional Investors or Sophisticated Investors.
- 1.11 On the basis that Units in a Private Placement Fund may be offered only to Professional Investors and Sophisticated Investors in accordance with the provisions of this Guide, the Commission will not apply the Commission's Promoter Policy in relation to an application for consent under COBO for a Private Placement Fund, provided that the promoter of the Private Placement Fund is able to satisfy the suitability requirements set out in Sections 1.12 and 1.13.
- 1.12 The promoter of a Private Placement Fund should be of good standing and in particular should:
- 1.12.1 have had no disciplinary sanctions imposed on it by any supervisory authority or professional body in the previous five years;
 - 1.12.2 have no convictions for any offence under the legislation of any country relating to the conduct of financial services business or involving fraud or dishonesty or be the parent, subsidiary or an associated company of any company which has such a conviction;
 - 1.12.3 have no convictions for any offence under the anti-money laundering or combating financial terrorism legislation of any country or be the parent, subsidiary or an associated company of any company which has such a conviction;
 - 1.12.4 be able to pay its debts as they fall due; and
 - 1.12.5 be established in an OECD member state or any other state or jurisdiction with which the Commission has entered into a Memorandum of Understanding (or equivalent) on investment business and investment funds; and either
 - 1.12.5.1 be regulated in that state or jurisdiction; or
 - 1.12.5.2 possess amongst its Principal Persons relevant experience in relation to promoting, managing or advising on institutional, professional or sophisticated investors' investments using similar strategies to those to be adopted by the Private Placement Fund.
- 1.13 No Principal Person of the promoter shall:
- 1.13.1 have had any disciplinary sanctions imposed on him by any supervisory authority or professional body in the previous five years;

- 1.13.2 have any convictions for any offence under the legislation of any country relating to the conduct of financial services business or involving fraud or dishonesty; or
 - 1.13.3 have any convictions for any offence under the anti-money laundering or combating financial terrorism legislation of any country.
- 1.14 Consent(s) to the issue of Units in a Private Placement Fund under COBO will be issued by the Commission on a fast-track, self-certification procedure relying upon receipt of each of the following:
- 1.14.1 A written statement from the promoter to the Commission confirming that it satisfies the requirements set out in Sections 1.12 and 1.13 counter-signed by the Designated Service Provider certifying that such Designated Service Provider has carried out its own general due diligence in relation to the promoter and has no reason to believe that the promoter's statement is incorrect. The Designated Service Provider is required to retain in Jersey documents relating to such due diligence enquiries and to make such documents available to the Commission upon request.
 - 1.14.2 A written certificate of the Private Placement Fund's Designated Service Provider certifying that in the opinion of such person having completed appropriate enquiries that the Private Placement Fund's Private Placement Memorandum complies with the content requirements set out in Section 2 of this Guide.
 - 1.14.3 A draft copy of the Private Placement Fund's proposed Private Placement Memorandum. In the event that a Private Placement Memorandum is to be issued in a language other than English, an English language version of the document together with the non-English language version must be lodged with the Commission. Confirmation should be provided to the Designated Service Provider by the translator that the non-English language version of the document lodged with the Commission is a true and accurate translation of the English language version. A statement should be included in both documents stating which language version will take precedence in the event of a dispute, failing which (or in the event of a conflict in construction) it shall be presumed that the English language was intended to prevail.
 - 1.14.4 Details (full name, date of birth and residential address) of all of the Principal Persons of the promoter, including those named in the Private Placement Memorandum.
 - 1.14.5 A completed Application Form.
- 1.15 The Commission will use its best endeavours to authorise the Private Placement Fund and issue the requisite COBO consent within 3 working days from receipt of a correctly completed Application Form. It is acknowledged that a Designated Service Provider's due diligence enquiries in relation to a promoter can only extend to sources of enquiry available to it and not those beyond its reach. In the event that the promoter is not able to satisfy fully these criteria prior clearance should be sought from the Commission. A promoter that has previously established a Private Placement Fund may, in satisfaction of the above requirements, submit a confirmation in writing to the Commission counter-

signed by the Designated Service Provider referred to in Section 1.14.1 that the Designated Service Provider has reviewed the due diligence information that it holds on the promoter and that there have been no material changes to the information most recently provided to the Commission in that regard.

- 1.16 The Commission would expect the Designated Service Provider to take reasonable steps to satisfy itself that the promoter of the Private Placement Fund meets the requirements set out in Sections 1.12 and 1.13.
- 1.17 The Commission will carry out its own regulatory checks in relation to the promoter and its Principal Persons following the issue of the requisite COBO consent and, should such checks give rise to a concern, the Commission may undertake any (depending on the nature of the concern) of the following:
 - 1.17.1 request further information in relation to the promoter;
 - 1.17.2 require the replacement of any Service Provider including the promoter or any one or more of the Principal Persons, officers or employees of the promoter;
 - 1.17.3 revoke such COBO consent; or
 - 1.17.4 take such other action as it deems appropriate in the circumstances in its absolute discretion.
- 1.18 Depending on the nature of its concern, the Commission may not be able to disclose the nature of its concerns to the Private Placement Fund's Designated Service Provider or investors but the Commission will consider the best interests of the investors in exercising its discretion and, where appropriate, will seek investor representations before acting. The Commission may refuse to accept future certificates and applications under this Guide from a Designated Service Provider where certificates or applications have been found to have been defective or made without an appropriate level of due diligence in the relevant circumstances.
- 1.19 The Designated Service Provider of a Private Placement Fund will be responsible for submitting to the Commission statistics in relation to the Private Placement Fund in accordance with the Commission's requirements from time to time.
- 1.20 A Private Placement Fund is required to keep accounting records and to prepare accounts in accordance with any generally accepted accounting principles. A Private Placement Fund should provide its registered investors with a copy of its annual accounts together with an auditors report within the time period prescribed in the Fund's Private Placement Memorandum, Constitutive Documents or otherwise as required by statute or regulation.
- 1.21 Nothing in any of the Constitutive Documents of a Private Placement Fund shall exclude the jurisdiction of the courts of Jersey to hear an action concerning the Private Placement Fund, save to the extent that investors in the Private Placement Fund agree in its Constitutive Documents that disputes arising out of, or in connection with, the Constitutive Documents may be finally settled under specified rules of arbitration.

2 Private Placement Memorandum Content Requirements

2.1 A Private Placement Memorandum issued by a Private Placement Fund shall contain all such material information which:

2.1.1 investors and their professional advisers (if any) would reasonably require, and would reasonably expect to find and to have brought fairly to their attention in the Private Placement Memorandum for the purpose of making an informed judgement about:

2.1.1.1 the merits of purchasing Units in the Private Placement Fund; and

2.1.1.2 the nature and levels of the risks accepted by making such a purchase; and

2.1.2 is within the knowledge of the persons responsible for issuing the Private Placement Memorandum or which would have been within the knowledge of such persons by the making of reasonable enquiries.

2.2 Without limitation to the foregoing, a Private Placement Fund shall contain the following information:

2.3 Details relating to the offer:

2.3.1 There shall be stated:

2.3.1.1 the name of the Private Placement Fund;

2.3.1.2 a description of the structure of the Private Placement Fund, including information on jurisdiction, applicable law and brief particulars of its Constitutive Documents together with details of how to obtain complete copies of such documents;

2.3.1.3 a description of the investment strategy and objectives of the Private Placement Fund, a description of the types of assets in which the Private Placement Fund may invest, the investment techniques it may employ and all associated material risks, any applicable investment restrictions, the circumstances in which the Private Placement Fund may use leverage, the types and sources of leverage permitted and the associated material risks, any restrictions on the use of leverage and any collateral and asset re-use arrangements and the maximum level of leverage which the Private Placement Fund may employ together with a description of the procedures by which the Private Placement Fund may change its investment strategy or investment policy, or both;

2.3.1.4 the terms applicable to the subscription of Units of the Private Placement Fund; and

2.3.1.5 a description of the methodology and basis upon which the value of the Private Placement Fund is to be calculated.

2.4 Capital

2.4.1 There shall be stated:

2.4.1.1 in the case of a par value company, particulars of the nominal, issued and paid up share capital of the company;

2.4.1.2 in the case of a no par value company, particulars of the stated capital;

2.4.1.3 in the case of an invitation to become a guarantor member of a company, particulars of the amount of the guarantee; and

2.4.1.4 in the case of an offer of Units, particulars of the Units that are the subject of the offer, together with details of any existing issued Units that do not form part of the offer.

2.5 Voting

2.5.1 There shall be stated:

2.5.1.1 the manner in which meetings of Unitholders are to be convened and managed generally; and

2.5.1.2 a description of the manner in which votes to be held by Unitholders are conducted

2.6 Fees and Expenses

2.6.1 There shall be stated a description of the fees, charges and expenses payable from the property of the Private Placement Fund.

2.7 Contracts

2.7.1 There shall be stated the dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the Private Placement Fund including, without limitation, any material contract between the Private Placement Fund and its manager, investment manager, investment adviser, custodian, trustee, general partner or administrator, as applicable.

2.8 Conflicts of Interest

2.8.1 There shall be stated particulars that may exist in relation to the Private Placement Fund which may give rise to a material conflict of interest.

2.9 Registered Office and Register of Members of a Private Placement Fund

2.9.1 In the case of a company, there shall be stated the address of the company's registered office and (if different) the address at which its register of members is kept.

2.9.2 In the case of a limited partnership, separate limited partnership or incorporated limited partnership there shall be stated the address of its registered office and (if different) the address at which its register of limited partners is kept.

2.9.3 In the case of a unit trust, there shall be stated the address of the registered office of the trustee and the manager (or managing trustee) and (if different) the address at which its register of Unitholders is kept.

2.10 Directors

2.10.1 There shall be stated the names, business background and addresses of the directors or proposed directors of the company, general partner of the limited partnership, separate limited partnership or incorporated limited partnership and trustee and manager (or managing trustee) of the unit trust, as applicable, which is to constitute the Private Placement Fund.

2.11 Advisers

2.11.1 There shall be stated:

2.11.1.1 the name and address of the Private Placement Fund's auditors;

2.11.1.2 the names and addresses of the Private Placement Fund's legal advisers; and

2.11.1.3 the name and address of any other principal adviser to the Private Placement Fund.

2.12 Custody Arrangements

2.12.1 There shall be stated particulars of the custody arrangements for the property of the Private Placement Fund including disclosure, if applicable, of prime broker arrangements.

2.13 Term

2.13.1 There shall be stated particulars of the term of the Private Placement Fund and, if applicable, the process by which it may be extended.

2.14 Date of issue

2.14.1 The date of issue of the Private Placement Memorandum shall be stated.

3 Ongoing Requirements and Subsequent Changes

- 3.1 A Private Placement Fund must deliver to the Commission a copy of the accounts of the Private Placement Fund where the auditor's report on the accounts is qualified and details of such qualification must be brought to the Commission's attention immediately. If a Private Placement Fund fails to provide accounts together with an auditors report to its registered investors within the time period referred to in Section 1.20, the Designated Service Provider is required to notify the Commission to that effect.
- 3.2 Any material changes to the information submitted to the Commission in connection with a Private Placement Fund should be notified to the Commission as soon as possible and, in any event, within 28 days of such change taking place, provided that any proposed change that would not meet the criteria set out in this Guide will require the prior written consent of an officer of the Commission.
- 3.3 A Private Placement Fund must appoint a Money Laundering Reporting Officer and a Money Laundering Compliance Officer in accordance with the requirements of the Money Laundering (Jersey) Order 2008, as amended. In this regard the 23 September 2008 Dear CEO letter "COBO-only funds and Schedule 2 to the Proceeds of Crime Law" published on the Commission Website² is relevant. The Designated Service Provider referred to in Section 1.7 will be expected to provide the services of a Money Laundering Reporting Officer and a Money Laundering Compliance Officer in relation to the Private Placement Fund.

² The 23 September 2008 Dear CEO letter can be found in the Guidance section of the following Commission Website page: http://www.jerseyfsc.org/anti-money_laundering/legislation.asp.

4 Disclosure Statements and Investment Warning

4.1 The Private Placement Memorandum of a Private Placement Fund must include appropriate disclosure statements and an investment warning in substantially the following terms:

4.2 Disclosure Statements

4.2.1 *"The Jersey Financial Services Commission has given, and has not withdrawn, its consent under Article [●] of the Control of Borrowing (Jersey) Order 1958 to the issue of Units in this Private Placement Fund."*

4.2.2 *"It must be distinctly understood that, in giving these consents, the Jersey Financial Services Commission does not take any responsibility for the financial soundness of this Private Placement Fund or for the correctness of any statements made, or opinions expressed, with regard to it."*

4.2.3 *"[The directors of the company have] [the general partner/manager or trustee (or managing trustee) has] taken all reasonable care to ensure that the facts stated in this document are true and accurate in all material respects, and that there are no other facts the omission of which would make misleading any statement in the document, whether of facts or of opinion. The [directors accept] [the general partner/manager or trustee (or managing trustee) accepts] responsibility accordingly."*

4.3 Investment Warning

4.3.1 *"[The Fund] has been established in Jersey as a Private Placement Fund. It is only suitable for those who fall within the definition of "Professional Investor" or "Sophisticated Investor" as such terms are defined in the Jersey Private Placement Fund Guide published by the Jersey Financial Services Commission. By acknowledging this statement you are expressly agreeing that you fall within the definition of a "Professional Investor" or "Sophisticated Investor" and accept the reduced requirements accordingly."*

4.3.2 *If you are an investment manager acquiring an interest in [the Fund], directly or indirectly, for or on behalf of non-professional or non-sophisticated investors, the Commission expects you to be satisfied that the investment is suitable for the underlying investors and that the underlying investors are able to bear the economic consequences of investment in [the Fund], including the possibility of loss of the entire investment."*

4.3.3 *You are wholly responsible for ensuring that all aspects of the Private Placement Fund are acceptable to you. Investment in a Private Placement Fund may involve special risks that could lead to a loss of all or a substantial portion of such investment. Unless you fully understand and accept the nature of this Private Placement Fund and the potential risks inherent in this Private Placement Fund you should not invest in this Private Placement Fund. The investor or his duly authorised agent must acknowledge in writing that he has received and accepted this investment warning. By signing the acknowledgement it is accepted that an investment in this Private Placement Fund may involve special risks that could lead to a loss of all such investment and that the Commission is protected by the Control of Borrowing (Jersey) Law 1947, as amended, against liability arising from the discharge of its functions under that Law."*