



Jersey Financial
Services Commission

Collective Investment Funds (Jersey) Law 1988

**Code of Practice
For Certified Funds**

**Schedule 5
Jersey Eligible Investor Fund Guide**

Effective from: 22 July 2013

Objective

The purpose of this document is to define a Jersey Eligible Investor Fund and to set out the characteristics that such a collective investment fund would usually be expected to have. If a Jersey Eligible Investor Fund does not meet such requirements, variances and approval may be sought from the JFSC on a case-by-case basis.

In all cases, applications for necessary certificates and consents should be accompanied by a completed application form, which can be found at:

<https://www.jerseyfsc.org/industry/forms/>

A Jersey Eligible Investor Fund meeting the criteria set out in this document may be established using a streamlined authorisation process, as described in section 4 of this document.

Glossary of Terms

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

Alternative Investment Fund Manager (AIFM)	Means a legal person whose regular business is managing one or more Alternative Investment Funds (aifs) in accordance with the Directive.
Application Form	Means the application form which can be found at http://www.jerseyfsc.org/industry/forms/
CFPO	Means the Collective Investment Funds (Certified Funds - Prospectuses) (Jersey) Order 2012, as amended.
Closed Fund	Means a collective investment fund which is not an <i>Open Fund</i> .
Codes of Practice	Means such codes of practice as may from time to time be issued by the <i>JFSC</i> and be in force pursuant to one or more of: Article 15 of the <i>Law</i> , Article 19 of the <i>FS(J)L</i> and Regulation 22 of the Alternative Investment Funds (Jersey) Regulations 2012, specifically the <ul style="list-style-type: none"> › Codes of Practice for Certified Funds; › Codes of Practice for Fund Services Business; and › Codes of Practice for Alternative Investment Funds and AIF Services Business.
Collective investment fund	Has the meaning set out in Article 3 of the <i>Law</i> .
Constitutive Documents	Means the principal documents constituting the Jersey Eligible Investor Fund, which may include: <ul style="list-style-type: none"> › The administration agreement; › The Jersey Eligible Investor Fund rules; › The investment advisory agreement; › The investment management agreement; › The limited partnership agreement, where the Jersey Eligible Investor Fund is a limited partnership; › The management agreement, if applicable; › The memorandum and articles of association, where the Jersey Eligible Investor Fund is a company; › The trust deed, where the Jersey Eligible Investor Fund is a unit trust; and › Where the Jersey Eligible Investor Fund has a custodian in Jersey, the agreement appointing such a custodian.
Directive	Means Directive 2011/61/EU of the European Parliament and of the Council of 8 June, 2011 on Alternative Investment Fund Managers.

Eligible Investor	Has the meaning set out in paragraph 3 of Schedule 2 of the <i>CFPO</i> .
EEA State	Means a State which is a <i>Member State</i> or any other State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May, 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993 (currently Iceland, Liechtenstein and Norway) or a state which becomes a contracting party to these arrangements in the future.
European Union/EU	Means 28 sovereign <i>Member States</i> (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and United Kingdom).
FS(J)L	Means the Financial Services (Jersey) Law 1998, as amended
Fund service provider	Has the meaning set out in Article 1 of the <i>Law</i> .
Guide	Means this Jersey Eligible Investor Fund Guide.
Incorporated cell company	Has the meaning set out in Article 1 of the Companies (Jersey) Law 1991, as amended.
Investment Manager	Includes an investment adviser and may be the <i>Manager</i> if no separate investment manager is to be appointed ⁱ .
IOSCO	Means the International Organisation of Securities Commissions.
JFSC	Means the Jersey Financial Services Commission.
Law	Means the Collective Investment Funds (Jersey) Law 1988, as amended.
Level 2 AIFMD Regulation	Means the European Commission Delegated Regulation of 19 December 2012 supplementing Directive with regard to exemptions, general operating conditions, depositaries, leverage, transparency, and supervision.
Manager	Shall, in the case of a limited partnership, include the general partner.
Member State	Means a Member State of the <i>European Union</i> or other <i>EEA State</i> to which the <i>Directive</i> applies.
OECD	Means the Organisation for Economic Co-Operation and Development.
Offer Document	Means any prospectus or other offering document offering <i>Units</i> in a Jersey Eligible Investor Fund for subscription, sale or exchange and includes any listing document.
Open Fund	Means a <i>collective investment fund</i> that is normally open for both subscriptions and redemptions at the option of <i>Unitholders</i> .
Principal Person	Has the same meaning set out in the <i>Law</i> .

Protected cell company	Has the meaning set out in Article 1 of the Companies (Jersey) Law 1991, as amended.
Umbrella	In relation to a <i>collective investment fund</i> , means there is more than one class of redeemable shares or <i>Units</i> and where the assets are held as a single pool.
Unit	Has the same meaning as in the <i>Law</i> .
Unitholder	Means a person registered as the holder of a <i>Unit</i> in a Jersey Eligible Investor Fund.

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Section 1

1 Jersey Eligible Investor Funds and Eligible Investors

- 1.1 A Jersey Eligible Investor Fund is an Alternative Investment Fund (AIF) as defined by the Alternative Investment Funds (Jersey) Regulations 2012 and is a collective investment fund that falls within Article 3 of the *Law* and which is established in Jersey.
- 1.2 The units of a Jersey Eligible Investor Fund are available for subscription, purchase, or exchange, otherwise than by trade on a stock exchange or stock market, and which may be acquired by subscription, purchase, or exchange only if:
- 1.2.1 The acquisition is by an *Eligible Investor* (as defined at paragraph 3 of Schedule 2 of the *CFPO*);
 - 1.2.2 The *Eligible Investor* signs a declaration that he or she has received the warning set out in paragraph 5 of Schedule 2 of the *CFPO* and understands and accepts its terms in relation to the subscription, purchase or exchange; and
 - 1.2.3 The declaration referred to in paragraph 1.2.2 is given to the certificate holder of the fund under the *Law* before the subscription, purchase or exchange is completed.
- 1.3 An *Eligible Investor* is deemed able:
- 1.3.1 To evaluate the financial risks of investing in the Jersey Eligible Investor Fund; and
 - 1.3.2 To bear the economic consequences of investment in the Jersey Eligible Investor Fund including any possibility of the loss of the entire investment.
- In view of the above, an *Eligible Investor* is deemed to require only limited regulatory protection in relation to the manner in which the Jersey Eligible Investor Fund is structured.
- 1.4 In the case where units in the Jersey Eligible Investor Fund are traded on a stock exchange or stock market the units may be acquired pursuant to that trade only if:
- 1.4.1 No market makers have been appointed by a fund company or by another person on behalf of the Jersey Eligible Investor Fund;
 - 1.4.2 The certificate holder of the fund under the *Law*, so far as reasonably possible, restricts transfers of the units in order to ensure that no person other than an *Eligible Investor* can acquire units in the Jersey Eligible Investor Fund through that trade;
 - 1.4.3 A person who acquires units in the Jersey Eligible Investor Fund on the stock exchange or stock market signs a declaration that he or she has received the warning set out in paragraph 5 of Schedule 2 of the *CFPO* and understands and accepts its terms in relation to his or her acquisition of the units;
 - 1.4.4 The declaration is given to the certificate holder of the fund under the *Law* before the subscription, purchase, or exchange, is completed; and
 - 1.4.5 The stock exchange or stock market is conducted in such a way as not to prevent the restriction referred to in 1.4.2 from operating.

1.5 In paragraph 1.4:

“market maker” means a person who:

- (a) holds himself or herself out at all normal times in compliance with the rules of a securities market as willing to acquire or dispose of securities; and
- (b) is recognized as doing so under those rules.

In this paragraph:

“securities” has the same meaning as in the Companies (Jersey) Law 1991;

“securities market” means any securities market that is established by or under, or is regulated by or under, a legislative instrument made by the country or territory, or the part of a country or territory, that hosts the securities market.

1.6 Investment manager who invests in a Jersey Eligible Investor Fund on behalf of investors who are not *Eligible Investors*:

1.6.1 This paragraph applies in the case where a person:

- 1.6.1.1 Applies for the subscription, purchase, or exchange, of units in the Jersey Eligible Investor Fund as an investment that is, directly or indirectly, for or on behalf of investors who are not *Eligible Investors*; or
- 1.6.1.2 Acquires units in the Jersey Eligible Investor Fund on a stock exchange or stock market as an investment that is, directly or indirectly, for or on behalf of investors who are not *Eligible Investors*.

1.6.2 In that case, a declaration referred to in paragraph 1.2.2 in relation to the subscription, purchase or exchange, or a declaration referred to in paragraph 1.4.3 in relation to the acquisition, being a declaration that is signed by the person referred to in paragraph 1.6.1, is not complete unless it contains an additional declaration signed by the person that he or she is satisfied:

- 1.6.2.1 That the investment is suitable for the investors referred to in paragraph 1.6.1.1 or 1.6.1.2, as the case requires; and
- 1.6.2.2 That they are able to bear the economic consequences of the investment, including the possibility of the loss of the entire investment.

1.7 The *JFSC* believes that those involved in establishing and providing services to a Jersey Eligible Investor Fund who wish to invest in that fund should be encouraged to do so. Accordingly, any application made to the *JFSC* to extend the definition of *Eligible Investor* in respect of any other types of “carried interest” investors is likely to be treated sympathetically.

1.8 The *JFSC* expects any discretionary investment manager acquiring an interest in the Jersey Eligible Investor Fund, directly or indirectly, for or on behalf of investors who are not *Eligible Investors* 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 Jersey Eligible Investor Fund, including the possibility of the loss of the entire investment.ⁱⁱ

Section 2

2 The Structure of the Jersey Eligible Investor Fund

The Jersey Eligible Investor Fund

- 2.1 A Jersey Eligible Investor Fund may take any form recognised under the laws of Jersey. It will be issued with a certificate under the *Law*.
- 2.2 A Jersey Eligible Investor Fund may be an *Open Fund* or a *Closed Fund*.
- 2.3 If the Jersey Eligible Investor Fund is established as a fund company in Jersey, at least two Jersey resident directors with appropriate experience should be appointed to the board.
- 2.4 If the Jersey Eligible Investor Fund is established as a limited partnership, a Jersey entity with at least two Jersey resident directors with appropriate experience should act as the general partner.
- 2.5 If the Jersey Eligible Investor Fund is established as a unit trust, a Jersey entity with at least two Jersey resident directors with appropriate experience should act as the trustee.
- 2.6 The board of directors of a fund company, or the general partner of a limited partnership, or the trustee or *Manager* of a unit trust, as appropriate, is ultimately responsible for the management and control of the Jersey Eligible Investor Fund in accordance with and subject to the *Constitutive Documents* and applicable law and this ultimate responsibility cannot be delegated.

Investment Manager

- 2.7 The *Investment Manager* should be of good standing and in particular should:
 - 2.7.1 Have had no regulatory or disciplinary sanctions imposed on it by any supervisory authority or professional body in the previous five years;
 - 2.7.2 Have no convictions for any offence under the legislation of any country or territory 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;
 - 2.7.3 Have no convictions for any offence under the anti-money laundering or combating financial terrorism legislation of any country or territory, or be the parent, subsidiary or an associated company of any company which has such a conviction;
 - 2.7.4 Be able to pay its debts as they fall due;
 - 2.7.5 Be established in an *OECD* member state or any other state or jurisdiction in relation to which the *JFSC* has entered into a Memorandum of Understanding (or equivalent) on investment business and *collective investment funds*ⁱⁱⁱ, and is either:
 - 2.7.5.1 Regulated in that state or jurisdiction; or
 - 2.7.5.2 Possesses amongst its *Principal Persons* relevant experience in relation to managing or advising on investors' funds using similar investment strategies to those to be adopted by the Jersey Eligible Investor Fund.

- 2.8 In addition, no Principal Person of the Investment Manager shall:
- 2.8.1 Have had any regulatory or disciplinary sanctions imposed on him by any supervisory authority or professional body in the previous five years; or
 - 2.8.2 Have been convicted for any offence under the legislation of any country or territory relating to the conduct of financial services business or involving fraud or dishonesty; or
 - 2.8.3 Have been convicted for any offence under the anti-money laundering or combating financial terrorism legislation of any country or territory.
- 2.9 As part of the application process for establishing a Jersey Eligible Investor Fund, the *Investment Manager* should confirm in writing to the *JFSC* that it satisfies the requirements set out in paragraphs 2.7 and 2.8, and provide documentary evidence in relation to the requirement at paragraph 2.7.5.1. In addition, the administrator, *Manager* or trustee^{iv} (as applicable) must counter-sign such confirmation, stating that it has carried out its own general due diligence against the *Investment Manager* and has no reason to believe that the statement of the *Investment Manager* is incorrect^v. The administrator, *Manager* or trustee^{iv} (as applicable) is required to retain in Jersey documents relating to such due diligence enquiries and to make such documents available to the *JFSC* upon request.
- 2.10 Where the administrator, *Manager* or trustee (as applicable) becomes aware of any other issue, in addition to those mentioned in paragraphs 2.7 and 2.8, which might cast doubt on the good standing of the *Investment Manager* (or any of its *Principal Persons*), they should bring the matter to the attention of the *JFSC*. Relevant issues might, for example, include knowledge that the *Investment Manager* (or any of its *Principal Persons*) has been the subject of a formal investigation by a supervisory authority or professional body, even if this did not result in a disciplinary sanction.

Note:

- 1 *If a distributor of a Jersey Eligible Investor Fund is not the Investment Manager or one of its associates (has the same meaning as provided by Companies (Jersey) Law 1991), and it falls within one of the following definitions, the provisions of paragraphs 2.7 – 2.9 inclusive (with the exception of paragraph 2.7.5.2) shall apply to the distributor as if it were an Investment Manager:*
- a. *The distributor is the driving force behind the Jersey Eligible Investor Fund such that, if the distributor were to withdraw from the proposal, the Jersey Eligible Investor Fund would not go ahead. Evidence of this would be, for example, the name of the Jersey Eligible Investor Fund being linked with the distributor.*
 - b. *The majority of investors going into the Jersey Eligible Investor Fund are put into the Jersey Eligible Investor Fund by the distributor or its agents.*

Administration/Management

- 2.11 Every Jersey Eligible Investor Fund shall appoint:
- 2.11.1 An administrator; or
 - 2.11.2 A *Manager*; and/or,

2.11.3 In relation to a *Closed Fund* that is a unit trust^{iv}, a trustee

Which has at least two Jersey resident directors with appropriate experience together with staff and a physical presence in the Island.

2.12 Any outsourcing by the administrator, *Manager* or trustee (as applicable) must comply with the *JFSC's* policy on outsourcing as may be updated from time to time.

Monitoring of the Investment Manager

2.13 The responsibility of the administrator, *Manager* or trustee (as applicable) in relation to the actions of the *Investment Manager* shall be to take reasonable measures to satisfy itself that such actions do not breach the investment and borrowing restrictions applicable to the Jersey Eligible Investor Fund, as set out in the *Offer Document* and the *Constitutive Documents*, and to promptly notify the entity that appointed the *Investment Manager* of any concerns it has in that regard so that appropriate action may be taken.

2.14 The administrator, *Manager* or trustee (as applicable) must maintain in Jersey sufficient records (in electronic or documentary form) to enable it to fulfil its monitoring functions, and should be able to obtain other relevant records on demand.

Note:

- 1 *It may be possible to establish a Jersey Eligible Investor Fund with the responsibility set out in paragraphs 2.13 and 2.14 being assumed by an entity other than an administrator, Manager or trustee: for example, a general partner or the fund company itself. In such circumstances, the JFSC should be approached in advance on a case by case basis.*

Custody Arrangements

2.15 Every Jersey Eligible Investor Fund shall have adequate arrangements for the safe custody of the property of the fund including, if applicable, prime brokerage arrangements. Such arrangements should be fully disclosed in the *Offer Document*.

2.16 Where the Jersey Eligible Investor Fund is an *Open Fund*, custody arrangements must be sourced from a separate custodian/trustee with staff and a physical presence in the Island that is subject to any applicable *Codes of Practice*. Prior clearance for any deviation from this requirement should be obtained from the *JFSC* unless the Jersey Eligible Investor Fund satisfies paragraph 2.17. Where the Jersey Eligible Investor Fund has an *EU/EEA AIFM* in accordance with the *Directive*, no prior clearance is required for the appointment of a depository in the home *Member State* of the relevant *EU/EEA AIFM*, where such depository is subject to the requirements of the *Directive*.

2.17 If the Jersey Eligible Investor Fund is a hedge fund, the requirement for a custodian will be waived provided a prime broker that is part of a group with a minimum credit rating of A1/P1 or long term equivalent is appointed. Prior clearance will only be required for any prime broker with a rating below this level.

2.18 If in doubt, application should be made to the *JFSC* on a case-by-case basis.

The Name of the Jersey Eligible Investor Fund

- 2.19 The name of the Jersey Eligible Investor Fund must not be undesirable or misleading. If the name of the Jersey Eligible Investor Fund indicates a particular objective, geographic region or market, this should be reflected in its investment policy and in the manner in which the Jersey Eligible Investor Fund maintains the majority of its non-cash assets.

The External Auditor

- 2.20 An external auditor is to be appointed for a Jersey Eligible Investor Fund.
- 2.21 The external auditor is qualified to conduct an audit under the Companies (Jersey) Law 1991, as amended.

Fund service providers

- 2.22 Any Jersey entity acting as a *fund service provider* to a Jersey Eligible Investor Fund must be registered as a fund services business under the *FS(J)L* to conduct fund services business and be managed and operated in accordance with any applicable *Codes of Practice*.

Borrowing and Gearing

- 2.23 There are no restrictions imposed upon the level of borrowing or gearing adopted by a Jersey Eligible Investor Fund, provided that the approach to borrowing or gearing is clearly disclosed in the *Offer Document*.

Section 3

3 The Offer Document of the Jersey Eligible Investor Fund

General

- 3.1 The *Offer Document* issued by a Jersey Eligible Investor Fund must comply with the legislation applicable to such document. In particular the disclosure requirements of the *Directive*, its *Level 2 AIFMD Regulation* and any applicable *Codes of Practice* published by the *JFSC*.
- 3.2 The *Offer Document* must contain any other material information that investors would reasonably require to enable investors to make an informed judgement about: (i) the merits of participating in the Jersey Eligible Investor Fund; and (ii) the nature and levels of the risk accepted by making such a purchase. The *JFSC* considers the following additional information to be material:
- 3.2.1 The structure of the Jersey Eligible Investor Fund, including brief particulars of all documents constituting the Jersey Eligible Investor Fund and details of how to obtain complete copies of such documents;
 - 3.2.2 The names, business background and addresses of the directors or proposed directors of the certificate holder of the Jersey Eligible Investor Fund under the *Law*;
 - 3.2.3 The *fund service providers* to the Jersey Eligible Investor Fund, including details such as their registered office, place and date of incorporation, details of share capital and the manner in which *fund service providers* may be appointed and replaced;
 - 3.2.4 The name and address of the external auditor of the Jersey Eligible Investor Fund and the legal adviser(s) to the Jersey Eligible Investor Fund;
 - 3.2.5 Any conflicts of interest that may exist in relation to the Jersey Eligible Investor Fund;
 - 3.2.6 The investment objective and investment management strategies to be employed by the Jersey Eligible Investor Fund (including the Jersey Eligible Investor Fund's approach to borrowing and gearing) and any investment or borrowing restrictions applicable to the Jersey Eligible Investor Fund;
 - 3.2.7 The manner in which changes likely to have a material effect on investors may be made to the Jersey Eligible Investor Fund (noting that any changes that would be contrary to the terms of this *Guide* or contrary to any of the *JFSC's* published policies applicable to Jersey Eligible Investor Funds will require the prior consent of the *JFSC*);
 - 3.2.8 The basis upon which dealing in the Jersey Eligible Investor Fund is to take place, if applicable;
 - 3.2.9 In the case of a *Closed Fund*, the basis upon which any subsequent offerings in the Jersey Eligible Investor Fund may be made;
 - 3.2.10 The basis upon which the value of the Jersey Eligible Investor Fund is to be calculated and (in the case of an *Open Fund*) how the value of *Units* in the Jersey Eligible Investor Fund is to be determined;

- 3.2.11 The manner in which *Units* in the Jersey Eligible Investor Fund are to be created, issued and paid for and (in the case of an *Open Fund*) cancelled and redeemed;
 - 3.2.12 The manner in which votes to be held by *Unitholders* are conducted, and the manner in which meetings of *Unitholders* are to be convened and managed generally;
 - 3.2.13 The fees, charges and expenses payable from the property of the Jersey Eligible Investor Fund;
 - 3.2.14 The address at which the most recent audited annual report and accounts of the Jersey Eligible Investor Fund may be inspected;
 - 3.2.15 The address, if any, where the register of *Unitholders* can be inspected;
 - 3.2.16 The manner in which any voting rights in underlying assets held by the Jersey Eligible Investor Fund will be exercised;
 - 3.2.17 The safe custody arrangements for the property of the Jersey Eligible Investor Fund including disclosure, if applicable, of prime broker arrangements;
 - 3.2.18 In the case of *Umbrella* structures, details of the “ring-fencing” of assets within sub-funds, or, if there is no such arrangement, a statement to the effect that “in the event of the Jersey Eligible Investor Fund being unable to meet liabilities attributable to any particular sub-fund out of the assets attributable to such sub-fund, the excess liabilities may be met out of the assets attributable to the other sub-funds” and an explanation of the manner in which such liabilities may be apportioned; and
 - 3.2.19 A statement to the effect that:

“Further information in relation to the regulatory treatment of Jersey Eligible Investor Funds in Jersey may be found on the website of the Jersey Financial Services Commission at www.jerseyfsc.org”.
- 3.3 A statement to the following effect shall be included in the *Offer Document*:
- “The [directors of the company/general partner/manager/trustee] have/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 fact or of opinion. The [directors/general partner/manager/trustee] accept responsibility accordingly.”*
- 3.4 Nothing in any of the *Constitutive Documents* of a Jersey Eligible Investor Fund may exclude the jurisdiction of the courts of Jersey to entertain an action concerning the Jersey Eligible Investor Fund.
- 3.5 In the event that an *Offer Document* is issued in a language other than English, a copy of an English language version of the document must be lodged with the *JFSC*. A statement should be included in both the original *Offer Document* and the translation stating which version will take precedence in the event of a dispute.

Investment Warning

- 3.6 All Jersey Eligible Investor Funds must contain an investment warning in a prominent position in the *Offer Document* in substantially the terms of paragraph 5 of Schedule 2 of the *CFPO*:

“This fund has been established in Jersey as a Jersey eligible investor fund. It is only open to eligible investors who fall within the definition of “eligible investor” within the meaning of paragraph 3 of Schedule 2 of the Collective Investment Funds (Certified Funds-Prospectuses) (Jersey) Order 2012.

This fund is only suitable for professional or experienced investors, or those who have taken professional advice. Regulatory requirements, which may be seen as necessary for the protection of retail investors or those who are not eligible investors, do not apply to Jersey eligible investor funds.

By declaring that you have received this warning and understood and accepted its terms you are expressly agreeing that you are an eligible investor within the meaning of paragraph 3 of Schedule 2 of the Collective Investment Funds (Certified Funds-Prospectuses) (Jersey) Order 2012. You are also expressly agreeing that you accept the risks in the investment accordingly.

If you are an investment manager acquiring an interest in this fund as an investment that is, directly or indirectly, for or on behalf of persons who are not eligible investors within the meaning of paragraph 3 of Schedule 2 of the Collective Investment Funds (Certified Funds-Prospectuses) (Jersey) Order 2012, by additionally declaring that you are satisfied that the investment is suitable for those investors and that they are able to bear the economic consequences of investment, including the possibility of the loss of the entire investment, you are declaring that you have sufficient information in order to be satisfied as to the truth of that statement.

You are wholly responsible for ensuring that all aspects of this fund are acceptable to you (and to any persons referred to in the preceding paragraph). Investment in a Jersey eligible investor fund may involve special risks that could lead to a loss of all or a substantial portion of that investment. Unless you (and those persons, if any) fully understand and accept the nature of this fund and the risks inherent in investing in this fund you should not invest in this fund.”

On-going Requirements

- 3.7 All material changes to information provided to the JFSC in connection with a Jersey Eligible Investor Fund should be notified to the JFSC as soon as possible and, in any event, within 28 calendar days of such change taking place.
- 3.8 Any change to a Jersey Eligible Investor Fund that would not meet the criteria set out in this *Guide* or that would breach any certificate condition applicable to that Jersey Eligible Investor Fund will require the prior consent of a duly authorised officer of the JFSC.

Section 4

4 Authorisation of the Jersey Eligible Investor Fund

- 4.1 In order to authorise a Jersey Eligible Investor Fund, the *JFSC* must receive a completed copy of the *Application Form*.
- 4.2 The administrator, *Manager* or trustee (as applicable) shall:
- 4.2.1 Complete and sign a copy of the *Application Form*;
 - 4.2.2 Arrange for such form to be countersigned on behalf of the board of the fund company, the general partner of a limited partnership or the *Manager* or trustee of a unit trust, as applicable;
 - 4.2.3 Forward a copy of the completed *Application Form* and the stated supporting documentation to the *JFSC*;
 - 4.2.4 Forward a written certificate signed on behalf of the board of the fund company, the general partner of a limited partnership or the *Manager* or trustee of a unit trust, as applicable certifying that in the opinion of such person having completed appropriate enquiries that the Jersey Eligible Investor Fund's *Offer Document* complies with the content requirements set out in Section 3 of this *Guide*; and
 - 4.2.5 Provide details (full name, date of birth and residential address) of all of the *Principal Persons* of the *Investment Manager*, including those named in the *Offer Document*.
- 4.3 Upon receipt of a completed *Application Form*, the *JFSC* will take steps to authorise the Jersey Eligible Investor Fund and/or its *fund service providers* as the case requires. In the event that the *Application Form* states that the Jersey Eligible Investor Fund complies with the terms of this *Guide*, or that any deviation from the terms of this *Guide* has previously been agreed in writing by a duly authorised officer of the *JFSC*, the *JFSC* will authorise the Jersey Eligible Investor Fund in reliance upon the *Application Form*. In other cases the *JFSC* will discuss with the applicant those deviations that have not been previously agreed.
- 4.4 The relevant certificate application forms and fees shall be submitted at the time the application is made and prior to the issue of any certificate and other consents.
- 4.5 For an *Umbrella* fund, an *incorporated cell company*, or a *protected cell company*, which has already been granted a certificate under the *Law*, a sub-fund, incorporated cell or protected cell certificate application and fee will need to be submitted for each additional sub-fund, incorporated cell or protected cell that is added prior to an amended certificate being issued. In the case of an *incorporated cell company*, the incorporated cell certificate application form is to be used.

ⁱ In a fund of funds, the investment managers of the underlying funds will not be considered *Investment Managers* for the purpose of this *Guide*.

ⁱⁱ For the avoidance of doubt, it is not intended that the Jersey based monitoring fund service provider referred to in paragraph 2.13 should procure compliance with this paragraph.

ⁱⁱⁱ A list of the *OECD* member states and those states or jurisdictions in relation to which the *Commission* has entered into a Memorandum of Understanding (either on a bilateral basis or through the *IOSCO* Multilateral Memorandum of Understanding) covering investment business and collective investment funds

may be obtained on the Commission's website, www.jerseyfsc.org, from the International Co-operation section.

^{iv} In relation to a *Closed Fund* that is a unit trust, there is no requirement for a separate administrator or Manager, provided that the trustee carries out the administration or management role, including the monitoring function described in paragraphs 2.13 and 2.14.

^v In the *Commission's view*, it is implicit that an administrator's/Manager's/trustee's due diligence enquiries can only extend to sources of enquiry available to it, and not to those beyond its reach.