



ICLG

The International Comparative Legal Guide to:

Alternative Investment Funds 2013

1st Edition

A practical cross-border insight into Alternative Investment Funds work

Published by Global Legal Group, with contributions from:

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Email: info@glgroup.co.uk
URL: www.glgroup.co.uk

GLG Cover Design

F&F Studio Design

GLG Cover Image Source

Global Legal Group

Printed by

Ashford Colour Press Ltd
May 2013

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ISBN 978-1-908070-63-0

ISSN 2051-9613

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Guernsey

Bedell Cristin

Kate Ovenden



1 Regulatory Framework

1.1 What legislation governs the establishment and operation of Alternative Investment Funds?

The establishment and operation of Alternative Investment Funds (or “AIFs”, which for the purposes of this chapter means collective investment schemes established in Guernsey and authorised or registered in Guernsey by the Guernsey regulator) is primarily governed by the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended (the “POI Law”). In addition, there are various rules promulgated under the POI Law, the application of which will depend on the type of AIF:

- Registered Collective Investment Scheme Rules 2008 (the “Registered CIS Rules”) (apply to open-ended and closed-ended registered funds);
- Authorised Closed-ended Investment Schemes Rules 2008 (the “Authorised Closed-Ended CIS Rules”) (apply to authorised closed-ended funds);
- Authorised Collective Investment Schemes (Class A) Rules 2008 (the “Class A Rules”) (apply to authorised class A open-ended funds);
- Collective Investment Schemes (Class B) Rules 1990 (the “Class B Rules”) (apply to authorised class B open-ended funds);
- Collective Investment Schemes (Qualifying Professional Investor Funds) (Class Q) Rules 1998 (the “Class Q Rules”) (apply to authorised class Q open-ended funds); and
- Prospectus Rules 2008 (the “Prospectus Rules”).

1.2 Are managers or advisers to Alternative Investment Funds required to be licensed, authorised or regulated by a regulatory body?

In general terms, a person who provides services in Guernsey to a closed-ended or open-ended AIF must hold a licence under the POI Law (a “POI Licence”) from the Guernsey regulator, the Guernsey Financial Services Commission (“GFSC”) and accordingly this requirement applies to fund administrators and custodians. It also means that, for example, an investment adviser providing services in Guernsey to a Guernsey AIF, or the general partner of a Guernsey AIF structured as a Guernsey limited partnership, must be licensed under the POI Law.

Often, however, the investment adviser to a Guernsey AIF will be regulated in another jurisdiction, such as the UK. Provided that no activities are being conducted by that adviser in or from within Guernsey, it should not need a licence from the GFSC.

Notably, property is not a controlled investment under the POI Law and accordingly the provision of services in connection with property does not require a licence under the POI Law.

The obtaining of a POI Licence by a manager/custodian/adviser is a different regulatory process from obtaining authorisation or registration of the AIF itself. Traditionally, the obtaining of a POI Licence could take around four to six weeks. However, a fast-track process exists under which the GFSC will consider an application for a POI Licence within ten business days of the receipt by it of a fully completed application, together with warranties from the designated manager of the scheme that it has conducted due diligence on the beneficial owners of the applicant and that the application is complete in all respects. Notably, the fast-track process for obtaining a POI Licence only applies to applicants who are seeking to provide services to qualifying investor funds (“QIFs”) or registered closed-ended investment funds.

Guernsey has long been recognised as a premier jurisdiction for private equity funds, but it is also a domicile of choice for many hedge funds. To address the fact that in some respects hedge funds require a different regulatory approach, the GFSC has adopted a flexible approach to hedge fund authorisation in certain key areas, including in relation to custodians and prime brokers. For institutional and expert investor hedge funds, the GFSC will be prepared to waive the requirement for a locally licensed custodian and will be prepared to designate as a custodian a prime broker regulated in an acceptable jurisdiction and having substantial net worth. In addition, the GFSC would not require a prime broker to offer physical segregation of fund assets from its own assets. For hedge funds targeted at retail and less sophisticated investors, the GFSC would normally require a traditional custodian, although it will be prepared to waive the requirement that the custodian takes control of the fund’s property, provided that the property is held by a prime broker regulated in an acceptable jurisdiction and having substantial net worth. The GFSC would normally expect a custodian to be a licensed Guernsey institution, but will be prepared to consider requests to designate custodians from another jurisdiction, provided it can be satisfied that the custodian’s role in overseeing the fund manager will be subject to monitoring by the custodian’s regulatory authority. For funds of this type, the prime broker would be expected to provide clear segregation from its own assets of all fund assets exceeding the amount required for collateral against credit extended by the prime broker.

1.3 Are Alternative Investment Funds themselves required to be licensed, authorised or regulated by a regulatory body?

The POI Law creates two categories of Guernsey AIF:

- authorised collective investment schemes, which require authorisation by the GFSC under the POI Law; and
- registered collective investment schemes, which require registration by the GFSC under the POI Law.

Any AIF established in Guernsey will require either authorisation or registration by the GFSC. Authorisation and registration require different application processes (see below).

1.4 Does the regulatory regime distinguish between open-ended and closed-ended Alternative Investment Funds (or otherwise differentiate between different types of funds) and if so how?

As well as distinguishing between authorised and registered AIFs (the difference being in the regulatory process and the level of ongoing supervision by the GFSC – see below), the regulatory regime also makes a fundamental distinction between open-ended and closed-ended AIFs.

Open-ended AIFs are those in which the investors are entitled under the terms of the scheme to have their units redeemed or repurchased by the AIF or to sell their units on an investment exchange at a price related to the value of the property to which they relate. In a closed-ended AIF, there is no *right* to have shares redeemed, although, usually, a closed-ended AIF will have a predetermined life.

A Guernsey closed-ended AIF is not required to appoint a local custodian or a local fund manager or adviser. An open-ended AIF generally must appoint a Guernsey-licensed custodian to hold its assets on trust. Both open-ended and closed-ended AIFs are required to appoint a locally licensed administrator (referred to as a “designated manager” in the relevant legislation and rules). Previously, every open-ended AIF also had to appoint a Guernsey-licensed principal manager. This requirement has been removed, but some promoters are continuing to use principal managers within their structures.

Open-ended AIFs may be authorised or registered. Authorised open-ended AIFs may be:

- class A: eligible for marketing to the general public in the UK and certain other jurisdictions. There are comprehensive rules which regulate the contents of documents by which a class A scheme is established, the general administration of the scheme and the investment parameters;
- class B: not usually for sale to the general public and typically established for marketing to institutions and high net worth/sophisticated investors. The rules applying to these schemes are less comprehensive than those applying to class A schemes; and
- class Q: restricted to qualifying professional investors. The rules governing such schemes are less prescriptive than those for class A and class B schemes.

Closed-ended AIFs may be authorised or registered.

1.5 What does the authorisation process involve?

In order to obtain a POI Licence, the applicant must satisfy minimum criteria for licensing, as set out in the POI Law. Such minimum criteria include satisfying the GFSC that the applicant for the POI Licence and its related parties are “fit and proper” persons and have due integrity and skill to carry on the relevant business.

The business must be directed by at least two individuals of appropriate standing and experience, who are sufficiently independent of each other. Generally, the GFSC would expect to see at least two Guernsey resident directors, although the GFSC may accept only one Guernsey resident director where the applicant is itself administered by another licensee in the Bailiwick of Guernsey. The GFSC would need to be satisfied that the business of the applicant is conducted in a prudent manner, which would include being satisfied as to financial resources requirements and professional indemnity cover. Financial resources requirements vary according to the nature and scale of the activities of the applicant. For example, a local custodian of an open-ended collective investment scheme is required to have net assets of £4,000,000 and a local designated manager of a collective investment scheme is required to have minimum net assets of £100,000, whereas a licensee with no physical presence (staff and premises) in the Bailiwick of Guernsey is required to have net assets of at least £10,000.

The application for a POI Licence is made by completing form RA/1. Forms PQ (personal questionnaires) will generally have to be completed for any proposed director or controller of the prospective licensee. As stated above, traditionally, the obtaining of a POI Licence could take around four to six weeks, although a fast-track process, allowing approval to be obtained within ten working days, is available for applicants who are seeking to provide services to qualifying investor funds (“QIFs”) or registered closed-ended investment funds.

As mentioned above, both open-ended and closed-ended AIFs may be either authorised or registered.

Under the registered fund regime, responsibility for ensuring that the promoter of the AIF is fit and proper and that the fund documentation complies with the relevant regulatory requirements lies with the designated manager of the AIF. The designated manager must provide warranties to the GFSC verifying those matters and, in reliance on those warranties, the GFSC will issue the necessary registration within three working days.

For authorised funds, the above fast-track process is not available (save in relation to QIFs – see below) and a traditional three-stage approval process must be followed:

- outline consent: this involves providing detailed information in connection with the promoter of the AIF and some general information in relation to the proposed AIF; followed by
- interim consent: once the promoter has obtained outline consent, draft documentation relating to the AIF structure itself is submitted to the GFSC for review. If successful, this application will result in notification that the GFSC will be minded to grant final approval upon receipt of final certified documentation; and
- final consent: final signed/certified documentation is lodged and the GFSC’s consent is issued within 48 hours.

The overall timing for this process is usually in the region of six weeks.

A fast-track approval process is also available for QIFs, which are authorised funds limited to qualified investors (namely professional investors, experienced investors and/or knowledgeable employees). An individual investor investing USD 100,000 or more is a qualified investor. In making the application for approval, the fund’s Guernsey administrator must give warranties to the GFSC that the requirements for a QIF have been satisfied.

The most significant advantage that registered funds therefore have over authorised funds is the fast-track three working day approval process and a fast-track ten working day approval process for service providers (see above). Authorised funds are generally subject to a lengthier approval process, save for QIFs.

1.6 Are there local residence or other local qualification requirements?

No Guernsey licensed entity can provide services to a collective investment scheme established in Guernsey, unless such collective investment scheme has been registered or authorised by the GFSC.

Generally, all Guernsey domiciled AIFs must be administered by a locally-licensed administrator and open-ended funds must also have a locally-licensed custodian. Closed-ended schemes are not required to have a custodian, but where they elect to appoint one, the GFSC is willing to consider the appointment of a custodian domiciled outside Guernsey.

Any locally-licensed service provider will need to satisfy the minimum criteria for licensing set out in the POI Law (see above). In addition, generally, the GFSC would expect to see at least two Guernsey resident directors, although the GFSC may accept only one Guernsey resident director where the applicant is itself administered by another licensee in the Bailiwick of Guernsey.

POI Licensees must comply with the Licensees (Conduct of Business) Rules 2009, which deal with matters such as corporate governance, general conduct of business, record keeping and dealing with client assets. Further, all POI Licensees and all authorised or registered AIFs must comply with the GFSC's Code of Corporate Governance for the Finance Sector (the "Code"). Non-compliance with the principles set out in the Code does not automatically result in sanctions or proceedings, but the GFSC will require an assurance statement confirming that the directors have considered the effectiveness of their corporate governance practices and are satisfied with their degree of compliance, in the context of the nature, scale and complexity of their business. Companies should prepare a self-assessment in order to assist the board in its consideration of the Code and the Code should be considered periodically at a board meeting and the discussion minuted.

It is possible for the holder of a POI Licence, such as a fund administrator, to outsource certain of its functions to an entity outside Guernsey. However, such delegation must be done in compliance with outsourcing guidelines issued by the GFSC. The POI Licensee must retain sufficient expertise to oversee delegated functions. It is common for advisers to be appointed in other jurisdictions, for example, an investment adviser to the AIF. Provided that no activities are being conducted by that adviser in or from within Guernsey, it should not need a licence from the GFSC.

1.7 What service providers are required?

As set out above, each AIF must be administered by a locally-licensed administrator and open-ended funds must also have a locally-licensed custodian. Closed-ended schemes are not required to have a custodian, but, where they elect to appoint one, the GFSC is willing to consider the appointment of a custodian domiciled outside Guernsey.

In addition, some promoters are continuing to use principal managers within their open-ended structures, although these are not required by law/regulation. The GFSC adopts a flexible approach to authorisation of hedge funds and in relation to the appointment of prime brokers (as set out above).

Generally, there will need to be at least two Guernsey resident directors of the AIF (see above). In addition, typically, the AIF would appoint its own local counsel and accountants/auditors, as well as overseas advisers in relevant jurisdictions.

2 Fund Structures

2.1 What are the principal legal structures used for Alternative Investment Funds?

AIFs may be structured in a number of ways, as non-cellular companies, cellular companies, limited partnerships, unit trusts, or other entities. Most commonly used structures in practice are closed-ended and open-ended companies and closed-ended limited partnerships. The type of vehicle used for a fund will often be driven by investor requirements, whether in terms of investor familiarity with a particular fund vehicle or fiscal requirements of a particular investor base. Generally, structuring aims to achieve tax neutrality for the investor.

Private equity funds are often structured as limited partnerships, which are generally treated as tax transparent in most jurisdictions and allow great flexibility in terms of structuring, whereas listed AIFs are generally corporate in form. The protected cell company has long been a vehicle of choice for mutual funds, whereas UK retail investors are familiar with the unit trust as a fund structure.

2.2 Please describe the limited liability of investors.

The liability of shareholders in a Guernsey company limited by shares is limited to the amount, if any, unpaid on the shares held by them. The liability of members of a company limited by guarantee is limited to the guaranteed amount. The liability of a limited partner in a limited partnership is, in general terms, limited to the amount contributed, or agreed to be contributed, by him to the capital of the partnership. The liability of unit holders in a unit trust is limited to the amount payable in respect of their units.

2.3 What are the principal legal structures used for managers and advisers of Alternative Investment Funds?

The structure of managers and advisers will often depend on requirements such as limited liability and fiscal efficiency. Where limited liability is paramount, we would often expect to see the manager/adviser structured as a body corporate. Locally-licensed designated managers and custodians tend to be structured as bodies corporate. Within a classic private equity fund structured as a limited partnership, the general partner may be a body corporate, or may itself be a limited partnership with a corporate general partner. Much will depend on the required taxation treatment of the structure in jurisdictions other than Guernsey.

2.4 Are there any limits on the manager's ability to restrict redemptions in open-ended funds or transfers in open-ended or closed-ended funds?

Open-ended AIFs are those in which the investors are entitled under the terms of the scheme to have their units redeemed or repurchased by the AIF or to sell their units on an investment exchange at a price related to the value of the property to which they relate. In a closed-ended AIF, there is no *right* to have shares redeemed, although, usually, a closed-ended AIF will have a predetermined life.

In the case of AIFs that are listed, it is usual for the relevant listing authority to require that the shares/interests/units in the AIF are freely transferable. It is common for the constitutional documents and information particulars of the AIF to set out circumstances in which the manager would be able to restrict transfers or redemptions – for example, requirements for minimum holdings,

ability to suspend pricing/transfer, ability to refuse to register transfers in certain circumstances.

2.5 Are there any legislative restrictions on transfers of investors' interests in Alternative Investment Funds?

Interests in QIFs may only be transferred to qualified investors. Any transferee of any interest in an AIF would have to satisfy Guernsey's anti-money laundering requirements, in terms of provision of client due diligence information. A member of a Guernsey company is not recognised as such until his name is written up in the register of members of the company. Assignment of a limited partnership interest is not valid unless the assignee is entered in the register of limited partners of the partnership. The constitutional documents of the AIF may contain further restrictions permitted by relevant legislation.

3 Marketing

3.1 What legislation governs the production and offering of marketing materials?

Promotion of Guernsey AIFs will be governed by the POI Law. In addition, the following will apply in relation to the production and offering of marketing materials:

- Prospectus Rules: apply to registered funds;
- Registered CIS Rules: apply to registered funds;
- Authorised Closed-ended CIS Rules: apply to authorised closed-ended funds;
- Class A Rules: apply to authorised open-ended class A funds;
- Class B Rules: apply to authorised open-ended class B funds; and
- Class Q Rules: apply to authorised open-ended class Q funds.

In addition, the GFSC has issued guidance on financial promotions (guidance dated November 2000 and reissued April 2001 and further guidance dated 3 April 2001).

All relevant legislation, rules and guidance can be found on the GFSC's website at www.gfsc.gg.

3.2 What are the key content requirements for marketing materials, whether due to legal requirements or customary practice?

The prescribed content of the marketing materials will be set out in the rules applicable to the particular type of AIF (see above). In general terms, any information memorandum should also set out any material information an investor would reasonably require to enable him to make an informed judgment. Under the POI Law, it is an offence to issue documentation which is misleading, false or deceptive in a material particular or dishonestly conceal facts, therefore care should be taken that all statements in marketing documentation can be, or have been, verified.

3.3 Do the marketing or legal documents need to be registered with or approved by the local regulator?

Under the Prospectus Rules, no person shall circulate a prospectus relating to a registered fund unless it has been registered with the GFSC. Information or scheme particulars in relation to authorised closed-ended and open-ended funds would also first have to be approved by the GFSC before the fund could be launched.

3.4 What restrictions are there on marketing Alternative Investment Funds?

Marketing a collective investment scheme in, or from within, the Bailiwick of Guernsey is *prima facie* a licensable activity under the POI Law. "Passive" promotion (for example, where a promoter is responding to an approach from a prospective investor, or where there has been a generic advertising campaign) would not be considered by the GFSC to be a licensable activity. Save as set out below, and subject to restrictions in other jurisdictions, a person holding a POI Licence is able to market Guernsey AIFs in, or from within, the Bailiwick of Guernsey. A person not holding a POI Licence can only promote Guernsey AIFs in Guernsey to a person holding a licence from the GFSC, provided that it is made clear that the information is not for distribution to private investors and invitations to promotional seminars must not be directed to private members.

Registered closed-ended AIFs must not be offered directly to the public in Guernsey, although they can be offered to regulated entities in Guernsey or to the public in Guernsey by entities licensed under the POI Law. QIFs can only be marketed to qualified investors.

3.5 Can Alternative Investment Funds be marketed to retail investors?

See comments above.

Class A open-ended schemes are eligible for marketing to the general public in the United Kingdom (by virtue of Guernsey's designation under section 270 of the Financial Services and Markets Act 2000). Class A schemes may also be marketed, subject to certain requirements, to the general public in the Republic of Ireland, Japan, Australia, Belgium, the Isle of Man, Jersey, Hong Kong, South Africa, Sweden, Switzerland and the Netherlands.

Class B and class Q schemes are not generally for sale to the general public in the United Kingdom, but may be offered to sophisticated investors subject to the relevant United Kingdom legislation.

3.6 What qualification requirements must be carried out in relation to prospective investors?

Prospective investors must provide the local administrator of the AIF with all due diligence information required for the purposes of Guernsey's anti-money laundering legislation, prior to being admitted as an investor. For class Q funds and for QIFs, the administrator will need to be satisfied that the investor meets the requirements for a qualifying professional investor or a qualified investor (respectively). In general terms, the administrator will need to satisfy itself that the investor is not an excluded investor for the purposes of the fund (for example, for the purposes of US securities laws or equivalent laws in other jurisdictions).

3.7 Are there additional restrictions on marketing to public bodies such as government pension funds?

None from a Guernsey law perspective.

3.8 Are there any restrictions on the use of intermediaries to assist in the fundraising process?

None from a Guernsey law perspective, save that any intermediary may need to have a POI Licence, depending on its involvement (see above).

3.9 Are there any restrictions on the participation by financial institutions in Alternative Investments Funds (whether as sponsors or investors) arising from the 2008 financial crisis?

None from a Guernsey law perspective. All promoters of Guernsey funds or controllers of Guernsey funds will need to satisfy the GFSC that they are fit and proper so to act.

4 Investments

4.1 Are there any restrictions on the types of activities that can be performed by Alternative Investment Funds?

The Class A Rules are far more prescriptive in terms of investment restrictions than the rules governing other types of AIF. Restrictions on types of activity may be set out in the constitutional documents or scheme particulars of the AIF.

4.2 Are there any limitations on the types of investments that can be included in an Alternative Investment Fund's portfolio whether for diversification reasons or otherwise?

In relation to registered funds, authorised closed-ended funds, class B funds and class Q funds, investment restrictions are as set out in the AIF's constitutional documents or scheme particulars. In relation to class A funds, the Class A Rules set out additional prescribed investment restrictions.

4.3 Are there any restrictions on borrowing by the Alternative Investment Fund?

Borrowings for class A funds are restricted to 10 per cent of the value of the scheme property on any business day and, in the case of a property fund, the borrowing must not exceed 10 per cent of the value of that part of the fund that does not, at that time, consist of immovables.

In relation to other types of AIF, there may be restrictions on borrowing set out in the AIF's constitutional documents or scheme particulars.

5 Disclosure of Information

5.1 What public disclosure must the Alternative Investment Fund make?

Registers of investors in Guernsey companies, limited partnerships or unit trusts are not public documents in Guernsey. Similarly, there is no requirement to file accounts at the Guernsey registry. If the AIF is listed, the rules of the relevant exchange may require the accounts of the AIF to be made public.

Guernsey companies are required under the Companies (Guernsey) Law, 2008, as amended (the "Companies Law"), to file an annual validation, which will include details of directors and the number of issued shares (although not details of the shareholders). Guernsey limited partnerships are also required to file an annual validation, which will include details of the general partner, but not limited partner investors.

5.2 What are the reporting requirements in relation to Alternative Investment Funds?

Registered funds are required to make an annual notification to the GFSC, either detailing any changes in the information supplied with the application for registration, or confirming that there have been no changes. In addition, the designated manager of a registered scheme must file copies of the audited annual report and accounts with the GFSC within six months of the financial year end and submit a statistical return relevant to the scheme for each quarter.

For authorised closed-ended funds, the designated manager of a registered scheme must file copies of the audited annual report and accounts with the GFSC within six months of the financial year end and submit a quarterly statistical return relevant to the scheme.

A manager of a class B scheme shall prepare an annual report and accounts, which must be sent to each investor, must be made available for public inspection and also be sent to the GFSC. Any interim report and accounts must also be provided to the GFSC. There is a similar duty in relation to annual report and accounts on a manager of a class Q scheme. In relation to class A schemes, there is a requirement for annual and half-yearly reports to be sent to investors, be made available for inspection by the public and sent to the GFSC.

5.3 Is the use of side letters restricted?

The use of side letters is commonplace, particularly in relation to private equity funds structured as limited partnerships.

6 Taxation

6.1 What is the tax treatment of the principal forms of Alternative Investment Funds?

Guernsey does not levy any form of capital gains tax, inheritance tax or value added tax in respect of fund vehicles or investors.

All Guernsey resident companies (other than exempt companies) are taxed at 0 per cent on their profits, except where they carry out certain specified activities. Income from limited banking activities, fiduciary business, domestic insurance business, insurance manager and insurance intermediary business is taxed at a rate of 10 per cent. Activities regulated by the Office of Utility Regulation and income from ownership of land and buildings in Guernsey is taxed at 20 per cent. Funds structured as Guernsey companies may therefore be taxed at a rate of 0 per cent or may elect to apply for tax-exempt status, which would mean that the company is exempt from Guernsey taxation in respect of its non-Guernsey source income. Exemption must be applied for annually and a fee is payable (currently £600). Exempt companies do not have to file tax returns in Guernsey. Funds structured as unit trusts can also apply to be exempt from income tax, provided that they meet certain eligibility criteria.

A limited partnership is transparent for Guernsey tax purposes and the individual limited partners will be taxed in Guernsey according to their personal circumstances (see below).

6.2 What is the tax treatment of the principal forms of investment manager / adviser?

Guernsey resident managers or advisers structured as companies would be taxed at a rate of 0 per cent on their activities, unless they

were also conducting activities falling within any of the 10 per cent or 20 per cent bands as set out above. A company is resident in Guernsey if it is incorporated in Guernsey or controlled in Guernsey by virtue of shareholding and voting rights.

6.3 Are there any establishment or transfer taxes levied in connection with an investor's participation in an Alternative Investment Fund or the transfer of the investor's interest?

Guernsey does not levy any form of capital duty, stamp duty, capital acquisitions tax, inheritance/estate tax or net wealth/net worth tax.

6.4 What is the tax treatment of (a) resident and (b) non-resident investors in Alternative Investment Funds?

Solely and principally, Guernsey resident individuals are generally taxed in Guernsey on their worldwide income. Resident-only individuals are taxable on their worldwide income or can elect to pay a standard charge, plus tax on any Guernsey source income. Non-resident individuals are taxable on Guernsey source income only (other than bank interest).

No withholding tax is payable in respect of dividends paid to a non-resident shareholder. Companies paying dividends to a Guernsey resident individual will be required to deduct Guernsey income tax and account to local income tax authorities for the same. Exempt companies may pay actual dividends to a Guernsey resident individual gross, without deduction, although details must be provided to the local income tax authority. The former deemed distribution regime applying to Guernsey companies has been abolished.

6.5 Is it necessary or advisable to obtain a tax ruling from the tax or regulatory authorities prior to establishing an Alternative Investment Fund?

Any application for exempt status ideally should be made to the Guernsey income tax authorities prior to obtaining authorisation or registration of the AIF.

6.6 Are there any other material tax issues?

Guernsey has entered into several double taxation agreements, including with the United Kingdom, Jersey, Malta, the Isle of Man and Singapore. It has also signed up to tax information exchange agreements with numerous countries, including the United Kingdom and the USA.

7 Reforms

7.1 What reforms (if any) are proposed?

Guernsey is planning to have two parallel regulatory regimes for investment funds, in order to meet client needs, when the EU's Alternative Investment Fund Managers Directive ("AIFMD") comes into force. It will operate a fully AIFMD equivalent regime for EU investors and managers who require it, as well as a parallel regime for EU investors who are able to take advantage of the national private placement regime or those who fall outside the scope of AIFMD.

In addition, it is anticipated that clarificatory amendments to the Companies Law will shortly be made and reforms to the Limited Partnerships (Guernsey) Law, 1995, as amended, are also anticipated. The Class B Rules are currently under review.



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Expertise: Kate joined Bedell Cristin in 2006, after 10 years as a corporate and financial services lawyer at leading City firm, Withers LLP. Prior to that, she gained extensive experience as a trust and company administrator in Guernsey.

Kate acts for local fiduciaries, licensees and banks, as well as multinational companies, intermediaries, private owner-managed businesses and high net worth individuals. She specialises in advising on the establishment and administration of all types of funds, financial services, banking, finance and regulatory issues, as well as having a significant corporate/commercial practice.

The *Chambers* 2013 directory notes that Kate is “*very strong and commercial in her approach*” and is “*responsive and knowledgeable*” and *Chambers Global* 2011 reports that: “*Ovenden impresses with the quality of her private equity, funds, M&A and protected and incorporated cell companies expertise*”. The *Legal 500* 2011/12 directory say that Kate is “*developing fast*” and *PLC Which Lawyer?* 2011 recommends Kate in investment funds.

Kate is currently Secretary of the Guernsey Bar.

Professional: Advocate - Guernsey, Solicitor* - England & Wales.

*Non-practising.

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Our funds practice provides expert legal advice for all types of investment structures, including private equity funds, property funds, hedge funds and numerous hybrid structures. We act for promoters, fund managers, administrators, banks and investors in all aspects of investment fund work - from formations to reorganisations and investments to exits and liquidations.

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