

# What Guernsey funds can offer...

By Jason Romer, Partner, Collas Day

Jason Romer examines Guernsey's burgeoning funds sector

**A**t the end of March 2009 the overall value of funds under management and administration in Guernsey stood at more than £175.9 billion and despite challenging recent economic conditions Guernsey has seen steady increases from fund launches generally, and specifically those focused on the Indian market.

Guernsey has specific expertise in private equity and listed closed-ended structures and is ideally placed to access European markets and investor bases in a tax efficient manner. Typically, the Guernsey fund would have intermediate companies located in either Mauritius or Singapore.

## Why have funds chosen to locate in Guernsey?

Guernsey has a well-established reputation for attracting high-profile fund business and this is attributable to the following factors:

1. **Experience:** Guernsey has a world-class company registry, an excellent international reputation, a new modern and flexible company law and a well-established business infrastructure.
2. **Location:** Guernsey is an offshore location but is conveniently situated less than an hour from, and within the same time zone as, London. It is English-speaking, uses the British pound Sterling (GBP) and has good transport links to markets in continental Europe.
3. **Tax efficiency:** Guernsey funds are generally tax exempt, or are otherwise subject to Guernsey tax at 0%. Income earned from Guernsey-based funds, where that income is not sourced within the island, is also exempt from taxation where paid to a non-Guernsey resident shareholder.
4. **Reputation:** On 2 April 2009 the Organisation for Economic Cooperation and Development (OECD) declared Guernsey to be a 'white list' jurisdiction i.e. one which has substantially implemented internationally agreed tax standards.

5. **Flexibility:** A wide range of regulatory approaches is available in Guernsey and the application process established by the Guernsey Financial Services Commission (GFSC) is well known for being quick and efficient (see below). The GFSC is pragmatic, well established and proactive in assisting with the launch of new funds and innovative structures.
6. **Listing:** Guernsey funds have been listed on various international stock exchanges including the Channel Island Stock Exchange (see below), the London Stock Exchange, the Irish Stock Exchange, the London Alternative Investment Market (AIM) and the NYSE Euronext Amsterdam, among others.

## Structure of Guernsey funds

Guernsey funds may be either authorised or registered, and either open- or closed-ended. Open-ended schemes offer units for sale without limitation or allow investors to redeem on demand subject to any applicable notice period. Closed-ended schemes normally have a fixed capital and investors have no absolute entitlement to redemption.

Authorised open-ended schemes may be established as Class A, B or Q funds:

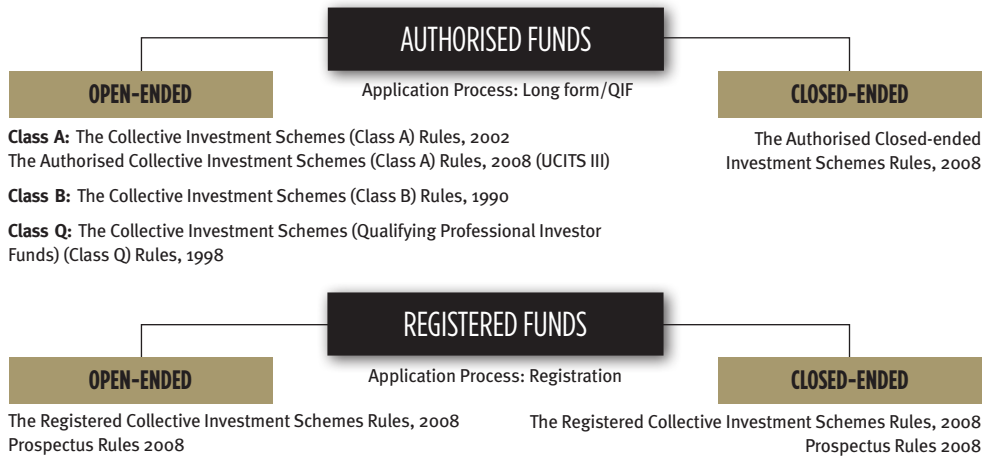
**Class A** funds can be offered for sale to the public in the United Kingdom provided they meet the requirements of the GFSC's Collective Investment Schemes Rules 2002 (or the 2008 rules once designated by HM Treasury) and are therefore recognised by the UK Financial Services Authority.

**Class B** funds are more flexible and the rules governing them reflect the fact that they are very wide-ranging (Class B funds are often targeted at innovative products). The rules governing them do not, therefore, include specific investment, borrowing and hedging restrictions.

## Applying for a Guernsey Fund

At a glance...

### What rules apply and what is the application process?



**Class Q** funds are aimed at institutional investors and the rules governing them therefore place emphasis on disclosure of risks inherent in the investment vehicle, simplified document requirements and timely processing of applications. There is no prescribed minimum subscription requirement for class Q funds.

The rules by which authorised closed-ended funds are governed are very flexible and reflect the fact that Guernsey closed-ended funds cover a diverse range of investment opportunities using a wide variety of structures.

Registered open-ended and closed-ended funds are subject to a lower level of regulation than their authorised counterparts. Reflecting this, registered funds applications are fast-tracked by the GFSC (see above).

### Investment structures in Guernsey

Guernsey offers choice and flexibility and there are five main types of entity which may be used to constitute a Guernsey fund:

- Limited company:** in this case the liability of shareholders is limited to the amount (if any) unpaid on their shares.
- Limited partnership:** the liability of the partners is limited to their contribution, with the exception of the general partner who is the manager of the partnership and has unlimited liability.
- Incorporated cell company:** this is a limited liability

company with cells which are separately incorporated entities and have their own legal personality.

- Protected cell company:** the liability of the shareholders of the company is limited to the amount (if any) unpaid on their shares and the company may segregate pools of its assets in separate 'cells'. This enables the company to limit the recourse of any creditors of an individual cell to the assets of that cell only, and not those of the company itself or other cells.
- Unit trust:** the trust requires a separate trustee and the liability of unit holders is limited to the amount payable in respect of the unit.

### What is so good about Guernsey?: a summary

- > Good choice of regulation and investment vehicles
- > Excellent reputation
- > Access to European markets
- > Pragmatic, proactive regulator
- > Opportunity to list on a reputable international stock exchange
- > Quality of advisers and service providers

Collas Day is well placed to advise on all aspects of setting up and listing a fund in Guernsey.



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