QIF's one year on

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The Guernsey Financial Services Commission has unveiled changes to the Qualifying Investor Funds regime, which was introduced on February 7 last year. Henceforth, any individual investing at least $100,000 or its equivalent in a fund will qualify as a professional investor, alongside experienced investors and knowledgeable employees, the other categories to which investment in QIFs is restricted.

A minimum investment criterion was considered for the QIF regime during initial discussions in August 2004, according to Carl Rosumek, deputy director of investment business at the GFSC, but at that time an industry working party comprising representatives of the fund sector and the regulator decided not to adopt it.

However, in a review earlier this year, various participants requested that the position was reconsidered, and the working party agreed to its inclusion. 'It is too soon to say whether the additional criterion will broaden the appeal of QIF funds,' Rosumek says. 'It is perhaps a test that is simpler for fund operators to assess, whereas the other qualifying criteria involve a certain element of judgement.'

Between February 7, 2005 and April 7 this year the GFSC approved 43 Qualifying Investor Funds, comprising 14 authorised open-ended collective investment schemes, 20 closed-ended investment funds and nine non-Guernsey domiciled open-ended schemes for which the commission's approval is required.

While hedge funds and funds of hedge funds constitute the largest single category of funds approved under the regime with 14, it has also attracted considerable interest from administrators of venture capital/private equity and property funds looking to take advantage of the fast-track application process. During the 14-month period the commission approved a total (including the QIF applications) of 53 open-ended collective investment schemes, 90 closed-ended investment funds and 53 non-Guernsey schemes. Approval also was given for the creation of 231 new classes of open-ended umbrella or multi-class funds.

Rosumek notes that while the QIF regime requires licensed service providers to conduct due diligence and certify to the regulator that the promoter and associated parties are 'fit and proper', the commission expects licensees to have conducted due diligence on promoter clients before commencing to act for them in any fund application.

'The major difference is that under the QIF regime the licensee specifically has to certify to the commission that it has performed the relevant due diligence and has considered all of the issues set out in the guidance document,' Rosumek says. 'The monitoring of licensees' procedures and controls relating to the taking on of new business forms part of the commission's routine oversight of regulated firms.'

The GFSC has made a point of reemphasising the due diligence obligations incumbent on licensed service providers. Says Rosumek: 'Commission staff assess licensees' application due diligence as part of their post-facto monitoring of licensees, and at the conclusion of each specific fund review, feedback is provided to the licensee.

'Having experience of the regime going back over a year, the commission considered it appropriate to re-emphasise the due diligence obligations which licensees undertake to ensure that tandards do not fall and that the jurisdiction is not exposed unnecessarily. The concept of licensees, service providers and fund promoters being fit and proper will remain paramount, defined as a requirement for integrity (or honesty), competence and solvency.'

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The working party that drew up the QIF regime is also responsible for examining potential future changes. The commission currently has no plans for further amendments, but it is ready to raise any requests from licensed service providers or other industry participants for consideration.

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