



Jersey Financial
Services Commission

Collective Investment Funds (Jersey) Law 1988

Code of Practice

For Certified Funds

**Schedule 4:
Guide to Jersey Open-Ended Unclassified
Collective Investment Funds offered to the
general public
(OCIF Guide)**

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Glossary of Terms

The following table sets out a glossary of terms used in this guide. The definitions contained in this glossary are not necessarily applicable other than to the use of the terms in this guide.

Approved Bank	<p>Means any corporate body or un-incorporate partnership or association being a deposit-taking institution which:</p> <ul style="list-style-type: none"> i) Has capital which is shareholders' funds of an amount, as most recently quoted in "The Banker" magazine published by Financial Times Information Limited of US\$ 300,000,000 or more; ii) Whose bills are eligible for discount at the central bank of the country where the principal place of business of such body is situate and which is a member of the <i>OECD</i>; or, <p>Which is registered under the Banking Business (Jersey) Law 1991, as amended; or</p> <p>Which is a subsidiary as defined in the <i>Law</i> of any body which fulfils the conditions in (i) or (ii) above.</p>
Cancellation price	<p>Means the amount in the base currency of the <i>OCIF</i> paid out of the property of the <i>OCIF</i> as a result of the redemption by the <i>OCIF</i> of one <i>Unit</i>.</p>
Capital market scheme	<p>Means an <i>OCIF</i>, the primary objective of which is to invest in <i>debt securities</i> which have a remaining term to maturity of one year or more.</p>
Connected person	<p>In relation to a company means:</p> <ul style="list-style-type: none"> i) Any person or company beneficially owning, directly or indirectly, 20 per cent or more of the ordinary share capital of that company or able to exercise, directly or indirectly, 20 per cent or more of the total votes in that company; ii) Any person or company controlled by a person who or which meets one or both of the descriptions given in (i); iii) Any member of the group of which that company forms part; or iv) Any director or officer of that company or of any of its connected persons as defined in (i), (ii) or (iii).
Constitutive Documents	<p>Means the principal documents governing the formation of the <i>OCIF</i>, and includes the trust deed in the case of a <i>Unit</i> trust and the Articles of Association, of a <i>Fund company</i>, the Fund Rules (if any), and all material agreements and other documents.</p>

Creation price	Means the amount in the base currency of the <i>OCIF</i> added to the property of the <i>OCIF</i> as a result of one <i>Unit</i> of the <i>OCIF</i> being created or issued and sold to a <i>Holder</i> .
Debt securities	Includes but is not limited to treasury bills, certificates of deposit, bankers acceptances, promissory notes, loan stocks, bonds (including bonds convertible into shares), commercial paper and negotiable instruments.
Derivative Transactions	Includes forward foreign exchange contracts, futures contracts, contracts for difference, warrants and put or call options whether written or purchased.
Fund company	Means an <i>OCIF</i> which is constituted as a corporate entity in accordance with the Companies (Jersey) Law 1991, as amended.
Government and other public securities	<p>Means an investment issued by, or the payment of principal and interest on which is guaranteed by, the government of any member state of the <i>OECD</i> or any fixed interest investment issued in any <i>OECD</i> country by a public or local authority or nationalised industry of any <i>OECD</i> country or anywhere in the world by any other body which is in the opinion of the <i>trustee/custodian</i> of similar standing.</p> <p><i>Note: Government and other public securities shall be regarded as being of a different issue if notwithstanding that they are issued by the same person, they are issued on different terms whether as to repayment dates, interest rates, the identity of the guarantor, or otherwise.</i></p>
Holder	In relation to a <i>Unit</i> in an <i>OCIF</i> means the person who is entered in the register as the Holder of that <i>Unit</i> or the bearer of a bearer certificate representing that <i>Unit</i> .
JFSC	Means the Jersey Financial Services Commission.
Law	Means the Collective Investment Funds (Jersey) Law 1988, as amended.
Net asset value or NAV	Means the aggregate value of the assets of the <i>OCIF</i> , including accrued income, less accrued expenditure. The NAV will not include any allowance for brokerage or other dealing charges, nor the initial or redemption charges, if any, payable by an investor, nor any equalisation payments.
OCIF	Means an Open-ended collective investment fund in respect of which any fund service provider is required to hold a certificate pursuant to the <i>Law</i> , other than a collective investment fund which is included in any class designated under the <i>Law</i> .

Glossary of Terms

OECD	Means the Organisation for Economic Co-operation and Development.
Open-ended	Means a collective investment fund that is normally open for both subscriptions and redemptions at the option of Unitholders.
Prospectus Order	Means the Collective Investment Funds (Certified Funds - Prospectuses) (Jersey) Order 2012.
Recognised Market	Means any stock exchange, over the counter market or other organized securities market that operates regularly and is open to the international public and on which such securities are regularly traded.
Redemption price	<p>Means the amount in the base currency of the <i>OCIF</i> which a <i>Holder</i> receives on the sale of one <i>Unit</i> to the <i>OCIF</i>, the manager or an agent of either.</p> <p><i>Note: the redemption price may also be referred to as the bid price or the repurchase price.</i></p>
Selling price	<p>Means the amount in the base currency of the <i>OCIF</i> payable to the <i>OCIF</i>, the manager or an agent of either when one <i>Unit</i> is purchased.</p> <p><i>Note: the selling price may also be referred to as the offer price or the issue price</i></p>
Single pricing	Means a system of valuation and pricing such that a common price is determined for both the <i>creation price</i> and the <i>cancellation price</i> and therefore the <i>selling price</i> is the same as the <i>redemption price</i> .
Trustee/custodian	Means, in the case of an <i>OCIF</i> which takes the form of an unit trust, the trustee and in the case of any other <i>OCIF</i> , the custodian.
Unit	Means any material representation of the rights of participants with regard to the assets of an <i>OCIF</i> .

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Section 1

1 Introduction

Applicability

- 1.1 This guide is applicable to the structure, operation and documentation of an *OCIF* in respect of which a certificate under the *Law* is to be issued.

Scope

- 1.2 This guide seeks to define a set of notionally ideal characteristics for an *OCIF* which is to be marketed to members of the general public who might be regarded as inexperienced in matters of investment and least able to bear the consequences of any loss of their investments.

Note: This guide does not purport to be a comprehensive statement of all the criteria the JFSC would expect to see met in every case. Each application will be considered on its merits. In some cases additional criteria might be applied, in others, less.

Purpose

- 1.3 The purposes of this guide are to:
- 1.3.1 Explain the review process of applications for a certificate;
 - 1.3.2 Facilitate the review process by enabling variations from the notionally ideal characteristics to be more easily identified so that, in aggregate, they may be considered on their merits; and
 - 1.3.3 Provide to promoters of a certified fund, an aide memoire of the features and characteristics to be considered.

Requirement of the Law

- 1.4 Article 8B(7) of the *Law* sets out the matters to be considered by the *JFSC*, when considering an application for a certificate.
- 1.5 These include:
- 1.5.1 The nature of the collective investment fund to which the applicant's role relates;
 - 1.5.2 The role to be performed by the applicant in relation to the collective investment fund;
 - 1.5.3 The reputation of the applicant;
 - 1.5.4 Any other fund service providers there are or may be in respect of the collective investment fund to which the application relates;
 - 1.5.5 For the protection of the public or of existing or potential participants in the collective investment fund, whether the applicant should not be granted a certificate;

- 1.5.6 The protection of the reputation and integrity of Jersey in financial and commercial matters; and
- 1.5.7 Whether it is in the best economic interests of Jersey that the applicant should not be granted a certificate.

Policy on Regulation of ocifs under the Law

- 1.6 When considering any application for a certificate under the *Law* the *JFSC* seeks to ensure that the responsibilities and obligations of the *Law*, including those mentioned above, are fulfilled by examination of the detail of the structure of the fund to which the certificate relates.
- 1.7 It is a requirement of the *JFSC* that *ocifs* are regulated to an extent and in a manner commensurate with their nature.
- 1.8 For an *OCIF* being established in Jersey, this involves negotiation with the promoter and/or their professional adviser, following scrutiny of all the documentation and other information associated with the *OCIF*.
- 1.9 In particular, the investment restrictions and borrowing powers given for each of the different fund types are prescribed for guidance purposes. Variations may be accepted, even where these give rise to an increase of investment risk, providing an explanation of the risks and health warnings are given in the offering documentation, commensurate with the perceived level of experience of the prospective investors.
- 1.10 These requirements have been maintained and developed over the years in order to facilitate innovation by the finance industry in Jersey and to enable the *JFSC* to be responsive to it whilst still protecting the Island's reputation as an international finance centre.

Review Procedures

- 1.11 The nature and extent of the review process prior to the granting of a certificate depends upon a number of variables, including whether the *OCIF* is, or is to be, established in Jersey or in some other jurisdiction. The following paragraphs give a general indication of the stages involved.

OCIF which is to be established in Jersey

- 1.12 Preliminary - the *JFSC* welcomes promoters or their professional advisers who wish to discuss informally proposals for a new fund. During such discussions it is usually possible to give an indication of whether or not the proposals may be acceptable. This can be particularly helpful where there are novel features or significant variations from the characteristics presented in this guide.
- 1.13 Initial Review - at this stage a written submission is made to the *JFSC*. The Initial Review Checklist for Funds, which is to be submitted, requires information regarding the promoter(s) and the fund service providers and an outline of the key features of the *OCIF*. At the conclusion of this stage, the *JFSC* will indicate in writing whether or not it is thought likely that formal application(s) will result in the necessary consents and certificate being issued. This provisional indication will always be subject to the *JFSC* being satisfied with the detail of the structure and documentation of the *OCIF* when it is submitted.

- 1.14 Document Review - this stage commences with the submission to the *JFSC* of a package of documents, comprising:
- 1.14.1 A CIF/UCF Application Form, completed by or on behalf of any fund service provider who is required to hold a certificate, together with the fee prescribed by the CIF Fees Notice;
 - 1.14.2 Draft copies of all *Constitutive Documents*, the prospectus and any other information specified in the *JFSC*'s response to the Initial Review; and
 - 1.14.3 A completed pro forma, available on request, which is based on this guide and which is designed to highlight areas where the characteristics of the *OCIF* are different from those contained in this guide.

Once these have been considered, any comments the *JFSC* may have are discussed with the promoter or their representative.

- 1.15 Formal Licensing - this stage involves the issue of the relevant consents and certificate. During this stage certified true copies of each of the *Constitutive Documents* must be lodged with the *JFSC*, together with a lawyer's certificate/confirmation that each is substantially the same as the corresponding latest draft previously agreed with the *JFSC*.
- 1.16 On the granting of a certificate, the certificate holder will also become liable for payment of a further fee, and will so be liable on an annual basis for as long as the certificate is held.
- 1.17 When issued, a certificate may be subject to one or more conditions appropriate to the particular fund.

Section 2

2 Structure of an OCIF

The Promoter(s)

- 2.1 In order to determine the acceptability of any promoter of an *OCIF* consideration will be given to the following:
 - 2.1.1 The track record and relevant experience of the promoting group;
 - 2.1.2 The reputation of the promoting group;
 - 2.1.3 The financial resources of the promoting group;
 - 2.1.4 The spread of ultimate ownership of the promoting group; and
 - 2.1.5 The type of investor to whom the fund/scheme will be offered.
- 2.2 There is no particular significance in the sequence in which the above aspects are listed. The final decision of the *JFSC* will take into account the appropriate balance of all aspects. If there is a deficiency against any one aspect, it may be that this could be compensated for by strengths in relation to another. In general, it will be for the applicant to show why the promoter should be regarded as acceptable and to furnish documentary evidence in support. The *JFSC* may also seek such evidence independently.
- 2.3 The *JFSC's* Policy Statement on Promoters of Public and Private Collective Investment Funds includes information on how it is determined, who is the promoter and also explains the practical application of the policy.

Appointment of a Manager and Trustee/Custodian.

- 2.4 Every *OCIF* shall appoint a *trustee/custodian* acceptable to the *JFSC*.
- 2.5 Every *OCIF* shall appoint a manager acceptable to the *JFSC*.
- 2.6 The *trustee/custodian* and manager must be persons who are independent of each other.
- 2.7 Notwithstanding the generality of paragraph 2.6, if the *trustee/custodian* and the manager are bodies corporate having the same ultimate holding company, they are deemed to be independent of each other if:
 - 2.7.1 Neither is a subsidiary of the other, except where each is either the holding company or one of its subsidiaries in a very substantial banking or insurance group of companies;
 - 2.7.2 No person is a director of both; and
 - 2.7.3 The *JFSC* is satisfied that there is adequate functional separation.

In addition, the *JFSC* may require either or both, or the ultimate parent company, to provide an undertaking that they will act independently of each other in their dealings with the *OCIF*.
- 2.8 No person who is a director of the *trustee/custodian* shall be a director of the *Fund company*.

Note: For other matters concerning the trustee/custodian and the manager, see Sections 3 and 4 of this guide respectively.

The Name of the OCIF

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

The Fund Company

- 2.10 A body corporate shall be prohibited from being a director of a *Fund company*.
- 2.11 If the *Fund company* is or is to be established in Jersey, at least two directors must be Jersey residents, acceptable to the *JFSC*.
- 2.12 The fees paid to directors of a *Fund company*, either individually or collectively, shall be determined by the *Holders* at a general meeting.
- 2.13 Fees paid to directors in connection with appointments held as the direct result of investments made by the *Fund company* shall be the subject of account to the *Fund company* and *Holders* unless suitable disclosure arrangements have been made.
- 2.14 The directors of a *Fund company* shall be subject to removal by a simple majority vote of the *Holders*.

The Investment Adviser/Investment Manager

- 2.15 If an investment adviser or investment manager is appointed, the *JFSC* may require evidence that it is appropriately qualified for the performance of its function.

The Administrator

- 2.16 The appointment of an administrator shall be subject to the approval of the *JFSC*.
- 2.17 An administrator shall have the same qualifications as are prescribed in Section 4 for a manager and, to the extent that the functions of the manager are subcontracted to the administrator under the terms of its appointment, it shall fulfil all the obligations of a manager set out in this guide.
- 2.18 If an administrator is appointed to perform some or all of a manager's administrative functions in respect of an *OCIF*, the *trustee/custodian* and the administrator must be persons who are independent of each other.
- 2.19 Notwithstanding the generality of paragraph 2.18, the provisions of paragraph 2.7 above apply mutatis mutandis to determining independence between the *trustee/custodian* and any administrator if both are bodies corporate having the same ultimate holding company.

The Auditor

- 2.20 An auditor is to be appointed for the *OCIF*.
- 2.21 The auditor must be independent of the manager, the *trustee/custodian*, the administrator and, in the case of an *OCIF* which is a corporate body, the directors.

Section 2: Structure of an OCIF

- 2.22 The auditor must have the same qualifications as are required under the Companies (Jersey) Law 1991, as amended, unless an officer of the *JFSC* agrees in writing to the appointment of an auditor with different qualifications.
- 2.23 The *Constitutive Documents* shall provide for the directors of the *Fund company* or of the manager to ensure that the annual accounts of the *OCIF* are to be prepared in accordance with the accounting standards described in paragraph 3.7 of the Codes of Practice for Certified Funds as amended from time to time.

Note: Reference may be made to Appendix A for guidance on the information to be included in the annual report and accounts of an OCIF.

All Fund Service Providers

- 2.24 If any duties of a Jersey resident fund service provider of an *OCIF* are to be delegated to a person or body who is not a fund service provider registered by the *JFSC* to conduct fund services business (the Agent), the terms of such delegation must provide that information, papers, records, accounts, as necessary, are available in Jersey and maintained so as to:
- 2.24.1 Enable the fund service provider to fulfil its obligations to monitor the performance of the functions delegated;
 - 2.24.2 Enable the fund service provider to continue its function in the event that the Agent ceases or communication between the fund service provider and the Agent is interrupted; and
 - 2.24.3 Permit the *JFSC* or its agents at any time to supervise the operation of the *OCIF* and the functions performed in relation to it by the fund service provider.

Section 3

3 Concerning the Trustee/Custodian

Qualifications

- 3.1 A trustee/custodian shall be:
 - 3.1.1 A company which is a member of a major banking or insurance group of companies; or
 - 3.1.2 Any other institution which is acceptable to the JFSC.
- 3.2 If the OCIF is or is to be established in Jersey, the *trustee/custodian* shall be a company incorporated and resident in Jersey and with an established place of business in the Island, or the Jersey branch of a non-Jersey bank.
- 3.3 A *trustee/custodian* must be independently audited and be in compliance with the financial resource requirements of the Codes of Practice for Fund Services Business published by the JFSC.

Custodial Duties

- 3.4 The *trustee/custodian* shall take into its custody or under its control all the property of the OCIF and hold it in trust for the *Holders*.
- 3.5 The *Constitutive Documents* may authorise the *trustee/custodian* to appoint any entity (other than the manager or a *connected person* of the manager) as a sub-custodian to perform any of the functions of the custodian, including the safe keeping of the property of the OCIF.
- 3.6 If the *trustee/custodian* delegates any function to any sub-custodian which is not a branch or *connected person*, the relevant agreement may provide that the *trustee/custodian* shall not be responsible for any act or omission of the sub-custodian, provided that the *trustee/custodian* is able to show:
 - 3.6.1 That it was reasonable for the sub-custodian to be employed for the function in question;
 - 3.6.2 That it was reasonable for the *trustee/custodian* to believe that the sub-custodian was and remained competent to undertake the function in question; and
 - 3.6.3 That the *trustee/custodian* had taken reasonable care to ensure that the function in question was undertaken by the sub-custodian in a competent manner.
- 3.7 If the *trustee/custodian* delegates any function to any branch or *connected person*, the *trustee/custodian* shall remain responsible for all acts and omissions of the sub-custodian as if they were the acts or omissions of the *trustee/custodian*, whether or not the *trustee/custodian* is able to satisfy all of the conditions in paragraph 3.6.
- 3.8 The *trustee/custodian* and any sub-custodian may deposit securities with, and hold securities in any securities depository on such terms as it customarily operates.

Duties to Monitor Management Functions

- 3.9 The *trustee/custodian* shall take reasonable care to ensure that the methods adopted by the manager for the creation, cancellation, sale, and redemption of *Units* effected by an *OCIF* are carried out in accordance with the provisions of the *Constitutive Documents*.
- 3.10 The *trustee/custodian* shall take reasonable care to ensure that the methods adopted by the manager in determining the value of assets of the *OCIF* and of the prices at which transactions in the *Units* are conducted by or on behalf of the *OCIF* are adequate to ensure that the calculations are made in accordance with the provisions of the *Constitutive Documents*.
- 3.11 The *trustee/custodian* should have the right (but may be not obliged) to be satisfied that the investment and borrowing limitations set out in the *Constitutive Documents* and the prospectus are complied with. In the absence of reasonable cause for believing that instructions in respect of the investments will give rise to non-compliance, the *trustee/custodian* may be required to carry out all such instructions.

Duties in Representing Investors

- 3.12 The *trustee/custodian* must have the right to call for a meeting of *Holders* to consider any matter which it considers appropriate and also to speak at any meeting of *Holders*.
- 3.13 The *Constitutive Documents* must provide that no printed matter issued to prospective buyers (e.g. Prospectus, application forms, sales literature) and no announcements addressed to the general body of *Holders* or to the public or to the press shall be issued or published without the *trustee/custodian* having received a copy of it.

Removal and Retirement

- 3.14 The trustee of an *OCIF* which is an unit trust must not be able to retire unless a new trustee takes up office at the same time and the trustee shall have power to wind up the fund if no replacement can be found.
- 3.15 In the case of an *OCIF* which is not an unit trust, the *Constitutive Documents* shall specify the arrangements applicable to the removal or replacement of the *trustee/custodian* which inter alia shall provide for:
- 3.15.1 The circumstances under which the *trustee/custodian* may retire or be removed without notice;
 - 3.15.2 Removal or retirement under notice to be subject to the prior appointment of a replacement;
 - 3.15.3 The responsibility for finding and appointing a replacement *trustee/custodian* within a specified period; and
 - 3.15.4 Safe custody of the assets if at any time there is no replacement available, and pending a decision being taken by *Holders* in a general meeting to wind up the *OCIF*.

Section 4

4 Concerning the Manager

Qualifications

- 4.1 A manager shall:
- 4.1.1 Be engaged primarily in the business of fund management; and
 - 4.1.2 Have sufficient financial resources at its disposal to enable it to conduct its business effectively and meet its liabilities; in particular, it must be in compliance with the financial resource requirements of the Codes of Practice for Fund Services Business published by the *JFSC*.
- 4.2 If the *OCIF* is or is to be established in Jersey, the manager shall be a company incorporated and resident in Jersey. It is not, however, essential for the manager to have staff and premises in the Island if a Jersey incorporated company which does have staff and premises in the Island is appointed as administrator.

Delegation of Management Functions

- 4.3 In the case of an *OCIF* which is, or is to be, established in Jersey, any outsourcing of management functions must have regard to the requirement for the *OCIF* to be managed in Jersey. To this end, control over all aspects of the *OCIF* must be exercised from Jersey and decisions concerning the policy and direction of the *OCIF* must be taken by those responsible for the *OCIF* and be effected from Jersey. In addition to the requirements of paragraph 2.24, consideration should be given to the *JFSC*'s policy on outsourcing as may be updated from time to time.

Retirement, Removal and Dismissal

- 4.4 The *Constitutive Documents* shall include provisions for the removal of the manager from office. Such provisions shall include:
- 4.4.1 Removal without notice if the manager goes into liquidation, becomes bankrupt, is subject to a *désastre* declaration or has a receiver appointed over its assets;
 - 4.4.2 Removal subject to notice, if *Holders* representing at least two-thirds by value of the *Units* outstanding request it in an appropriate manner (e.g. In the case of a *Fund company*, by passing a resolution); and
 - 4.4.3 Removal subject to notice, if the manager is in breach of any agreement, trust deed, etc., and, if capable of being remedied, the manager fails to do so within a specified period.
- 4.5 Upon the retirement, removal or dismissal of the manager, a new manager shall be appointed as soon as possible. The appointment, which is subject to the approval of an officer of the *JFSC*, may, in the case of a *Fund company*, be made by the directors and in all other cases by the *trustee/custodian*.
- 4.6 In the case of a *Fund company*, the appointment of a new manager shall be subject to ratification by *Holders* unless:
- 4.6.1 The terms do not differ materially from those previously applicable; and

- 4.6.2 The *Fund company*, the manager and the *trustee/custodian* confirm in writing to the *JFSC* that the interests of the *Holders* are not adversely affected.

Section 5

5 OCIF Documents

Marketing and the Prospectus

- 5.1 The prospectus must contain all the information necessary for investors to be able to make an informed judgement about the merits of, and the extent of the risks associated with participating in the *OCIF*.
- 5.2 To the extent that the *Prospectus Order* applies to the *OCIF*, the prospectus must comply with all the provisions of that Order. When the *JFSC*'s approval is required (e.g. Under a condition of a certificate), for the circulation of any other prospectus, the review leading to the grant of such approval will be based upon the requirements of the Schedule to the *Prospectus Order*.

Constitutive Documents

- 5.3 Provision may be made in the *Constitutive Documents* for the *Fund company*, the *trustee/custodian* or the manager of an *OCIF* or the directors of any of them (the executives), to be exempted from any liability to *Holders*, howsoever caused, other than:
 - 5.3.1 Any liability which would be imposed by any law applicable to the *OCIF* or to the executive (an **applicable law**); and
 - 5.3.2 A liability arising from fraud, negligence or a breach of duty or trust by the executive or the failure of the executive to exercise due care and diligence.
- 5.4 In the case of an *OCIF* which is or is to be established in Jersey, all the contracts and agreements should be expressed to be subject to Jersey law. The parties to the contracts and agreements must be subject to the non-exclusive jurisdiction of the Jersey courts and, if not resident in Jersey, should appoint a Jersey agent for the serving of process.
- 5.5 Nothing in any of the *OCIF* documentation may exclude the jurisdiction of the courts of Jersey to entertain an action concerning the *OCIF*.
- 5.6 The *Constitutive Documents* may, subject to the requirements of law and any relevant certificate condition, be altered by the manager and *trustee/custodian* without consulting *Holders*, provided that the *trustee/custodian* certifies in writing that in its opinion the proposed alteration:
 - 5.6.1 Is necessary to make possible compliance with fiscal or other statutory or official requirements;
 - 5.6.2 Does not materially prejudice *Holders'* interests, does not to any material extent release the *trustee/custodian*, manager or any other person from any liability to *Holders* and does not increase the costs and charges payable from the *OCIF* property; or
 - 5.6.3 Is necessary to correct a manifest error.In all other cases no alteration may be made except by a special or extraordinary resolution of *Holders*.

Section 6

6 Pricing, Issue and Redemption of Units

Valuation & Pricing

- 6.1 The *Constitutive Documents* shall state the methods to be used to determine the value of each of the different kinds of assets held by the *OCIF* in order to calculate the *net asset value* of the *OCIF*, including:
- 6.1.1 Securities listed on a recognised market; whether the values are to be determined on the basis of published offer price, bid price, mid-market price or some other and, if sometimes one and sometimes another, the applicable circumstances;
 - 6.1.2 Options written by the *OCIF* on the property of the *OCIF*;
 - 6.1.3 Options, warrants, futures and any other derivative contract;
 - 6.1.4 *Units* in another *OCIF*; and
 - 6.1.5 Investments not listed or quoted on a recognised market.
- 6.2 The value of investments not listed or quoted on a recognised market shall be determined on a regular basis by a professional person or firm approved by the *trustee/custodian* as qualified to value such investments. Such professional person may, with the approval of the *trustee/custodian*, be the manager or any *connected person* of the manager, or the directors of the *Fund company*.
- 6.3 Other than in the case of an initial or fixed price offer (see paragraph 6.12), the *creation price*, *cancellation price*, *selling price* and *redemption price* of *Units* of an *OCIF* should be calculated on the basis of the *NAV* of the *OCIF* divided by the number of *Units* in issue or deemed to be in issue.
- 6.4 In the case of an *OCIF* which has, or has provision for, class funds, a reduction in the *NAV* of any class fund must not materially affect the *NAV* of any other class fund.

Single Pricing

- 6.5 The *Constitutive Documents* of an *OCIF* which operates or is permitted to operate a system of *single pricing* shall provide:
- 6.5.1 That a dilution levy may be imposed to the extent necessary to avoid any dilution of the *NAV* of the *OCIF* as a consequence of *single pricing*; and
 - 6.5.2 For the amount of any such levy to be determined so that, so far as practicable, it is fair to all *Holders* and potential *Holders*.

Note: Under single pricing, the NAV of the OCIF might be diluted, for example, when there are a significant number of net redemptions or net purchases of Units in the OCIF on a dealing day; or as a result of the combined effect of the bid/offer spread on underlying investments and the costs associated with trading by the OCIF in underlying investments.

- 6.6 The manager of an *OCIF* which operates or is permitted to operate a system of *single pricing* shall have the power under the *Constitutive Documents* to require either or both:
- 6.6.1 The payment of a dilution levy in respect of the creation or sale of *Units* or any class of *Units*; and
 - 6.6.2 The deduction of a dilution levy in respect of the redemption or cancellation of *Units* or any class of *Units*.
- The benefit of any such dilution levy is to be added to the property of the *OCIF*.
- 6.7 When an *OCIF* is operating a system of *single pricing*, any asset of the *OCIF* for which different prices are quoted, according to whether that asset is being bought or sold, shall be valued at its mid-market price for the purpose of determining the *NAV* of the *OCIF*.
- 6.8 The ability for a dilution levy to be imposed must be disclosed in the prospectus, together with appropriate explanations of the circumstances when it may be levied and the manner in which it will be determined.

Issue and Creation of Units

- 6.9 *Units* should not be created or sold by or on behalf of the *OCIF* until the *trustee/custodian* has confirmed receipt of the purchase price in cleared funds.
- 6.10 An *OCIF* may not issue warrants, rights or options entitling *Holders* to purchase *Units* in the *Fund company*.
- 6.11 Where there are provisions enabling the issue of *Units* in exchange for assets other than cash, the following safeguards shall be applied:
- 6.11.1 The assets to be exchanged for *Units* in the *OCIF* are to be valued on the same basis as if they comprised part of the property of the *OCIF*; and
 - 6.11.2 Only assets which are consistent with the investment objectives and restrictions of the *OCIF* may be exchanged for *Units* and then only to the extent that none of the limits for investment is breached.

Initial and other Fixed Price Offers

- 6.12 If an initial offer is made, there shall be a prohibition on any of the proceeds being invested by the *OCIF* until the conclusion of the offer period.
- 6.13 The *Constitutive Documents* may allow that at any time after the initial offer, *Units* may be sold at a fixed price for a period not exceeding 30 days (including the date on which the offer opens), providing:
- 6.13.1 If at any time the *net asset value* of the *OCIF* exceeds or falls short by more than 2.5 per cent, the value of the assets at the time when the fixed price was determined, the manager shall defer dealing and calculate a new price as soon as possible;
 - 6.13.2 No member of the promoting group is permitted to purchase or redeem *Units* during the fixed price period; and
 - 6.13.3 Where the manager is permitted to make a market in *Units* of the *OCIF*, it shall be prohibited from purchasing from or redeeming *Units* to the *OCIF* for its own account during the fixed price period.

Redemptions

- 6.14 Except whilst a suspension of dealings is in force (see paragraph 6.23), the *Holder* shall have the right to require the *OCIF* to redeem any *Units* he holds.
- 6.15 The *Constitutive Documents* may include provision for compulsory redemption of *Units*:
- 6.15.1 If all but not some of the *Units* are to be compulsorily redeemed; or
- 6.15.2 If by being the *Holder*, a *Holder* causes the *OCIF* to be in breach of any law or to suffer fiscal or other penalties.
- 6.16 Redemption charges will not usually be permitted if the *Units* were subject to an initial charge when issued.
- 6.17 Payment of redemption proceeds must be made in cash, except:
- 6.17.1 Where each *Holder* agrees to payment in specie for the *Units* he is redeeming; and
- 6.17.2 In the case of a scheme of amalgamation involving an exchange of *Units* in the *OCIF* for *Units* in another.
- 6.18 If payment is to be made in any currency other than that in which the *OCIF* (or class, as the case may be) is denominated, the *OCIF* (or class, as the case may be) shall not bear any of the costs associated with the currency exchange.
- 6.19 The interval between the relevant dealing day and the payment of the redemption proceeds should not normally exceed one calendar week, providing that the *Holder* has complied with all the stated conditions of the redemption procedure (e.g. Submission of any certificate).

Frequency of Dealing

- 6.20 There must be at least one regular dealing day per month. The dealing price(s) quoted or published must be the *selling price* and/or the *redemption price* together with a clear indication of which price(s) is given.
- 6.21 A permanent change in the method, frequency or timing of dealing may only be made after notice has been given to *Holders*. The period of notice should be not less than one month or such as would allow for two dealing days, whichever is the greater.
- 6.22 A temporary change may only be made:
- 6.22.1 In exceptional circumstances, having regard to the interests of *Holders*;
- 6.22.2 If the possibility of a change and the circumstances in which it can be made have been fully disclosed in the prospectus; and
- 6.22.3 With the approval of the *trustee/custodian*.

Suspension and Deferral of Dealing

- 6.23 Suspension of dealings may be provided for only in exceptional circumstances, having regard to the interests of *Holders*.
- 6.24 The manager must immediately notify the *JFSC* if dealing in *Units* ceases or is suspended. The fact that dealing is suspended must be published immediately following such decision and at

least once per month during the period of suspension, in the newspaper in which the *OCIF's* prices are normally published.

Manager's Box

- 6.25 If the manager is permitted to make a market in the *Units* of the *OCIF*, it shall not sell *Units* at higher than the current *selling price* or purchase *Units* at lower than the current *redemption price*.
- 6.26 The manager shall keep a daily record of *Units* held by it, including the class of such *Units*, which have been acquired or disposed of, and of the balance of any acquisitions and disposals.
- 6.27 The manager shall make the daily record of *Units* available for inspection by the *trustee/custodian* free of charge at all times during ordinary office hours and shall supply the *trustee/custodian* with a copy of the record or any part of it on request free of charge.

Minimum Holding

- 6.28 If there is provision in the *Constitutive Documents* for the minimum holding to be altered then such provisions must ensure that any change does not adversely affect any *Holders* registered prior to the change becoming effective, for as long as that *Holder* does not alter the level of his holding.

Meetings

- 6.29 The arrangements for convening and conducting meetings of *Holders* (including class meetings) shall be prescribed by the *Constitutive Documents* and shall include provision for:
 - 6.29.1 The period and form of notice;
 - 6.29.2 The ability of *Holders* to appoint proxies;
 - 6.29.3 The quorum for meetings (including class meetings and adjourned meetings);
 - 6.29.4 The adjournment of a meeting;
 - 6.29.5 How voting is to be conducted, including what voting rights a *Holder* will have for each method which may be used: on a poll, the votes of a *Holder* should be proportionate to the number of *Units* held or, where there are accumulation *Units*, to the value of *Units* held.
 - 6.29.6 The proportion of votes cast which must be in favour of the resolution for it to be adopted: this proportion should be not less than two thirds of the votes cast by those present in person or by proxy if the resolution is:
 - 6.29.6.1 To modify, alter or add to the *Constitutive Documents*, except as provided in paragraph 5.6;
 - 6.29.6.2 To terminate the *OCIF*, unless the means of termination of the *OCIF* are stipulated in the *Constitutive Documents*;
 - 6.29.6.3 To increase the maximum fees paid to the manager, *trustee/custodian* or directors of the *Fund company*; or
 - 6.29.6.4 For the *OCIF* to accept liability for any fees or charges not disclosed in the prospectus; otherwise, the decision may be determined by a simple majority of the votes cast.

The rights of the *trustee/custodian* to require a meeting to be convened and to speak at any meeting (see paragraph 3.12).

- 6.30 Where bearer *Units* are in issue, proper provision must be made for notification to bearer *Holders* of the timing and agenda of forthcoming meetings and voting arrangements.
- 6.31 The directors of the *Fund company*, the *trustee/custodian*, the manager, investment adviser and their *connected persons* should be prohibited from voting their beneficially owned shares at, or counted in the quorum for, a meeting at which they have a material interest in the business to be contracted.

Register of Holders

- 6.32 A register of *Holders* is to be maintained for each *OCIF*.

Reporting Requirements

- 6.33 At least two reports must be published and distributed to *Holders* in respect of each financial year, although only the accounts prepared as at the end of the financial year must be audited (see paragraph 2.23).
- 6.34 Notification to *Holders* must be made in respect of any changes to the offering or *Constitutive Documents*, unless the *trustee/custodian* certifies in writing that in its opinion the changes will not prejudice the *Holders'* interests. A copy of any such certification shall be filed with the *JFSC*.
- 6.35 The latest available *selling and redemption prices* or *net asset value* must be available to all *Holders*.

Charges and Fees Payable by an OCIF

- 6.36 The level of all fees and charges (including management fees, *trustee/custodian* fees and start-up expenses), payable from the property of the *OCIF* must be clearly stated, with percentages expressed on a per annum basis. In the case of indeterminable fees and charges, the basis of calculation or the estimated ranges should be disclosed.
- 6.37 If a performance fee is levied, the fee should only be payable no more frequently than annually and only if the *net asset value* per *Unit* exceeds the *net asset value* per *Unit* on which the performance fee was last calculated and paid.
- 6.38 In respect of any increase of the management fee up to the maximum permitted level, at least three months prior notice must be given to all *Holders*.

Investment Limits and Borrowing Powers

- 6.39 Investment limits and borrowing powers shall be established for each *OCIF* and shall be:
- 6.39.1 Defined in the *Constitutive Documents* or by a resolution of the board of directors of the *Fund company* or of the manager;
 - 6.39.2 Agreed with the *JFSC*;
 - 6.39.3 Fully disclosed in the Prospectus which must also contain a full clear and prominent statement of the investment risks with appropriate explanations and health warnings; and
 - 6.39.4 Subsequently changed only with the prior approval of the *JFSC* and after notice has been given to *Holders*.

- 6.40 The investment limits and borrowing powers of an *OCIF* shall be determined in relation to the stated investment objective and policies, with a view to:
 - 6.40.1 Identifying the type of investments to be made by the *OCIF*;
 - 6.40.2 Ensuring an adequate spread of investment in terms of type of security, geographical sector, technology sector, etc.;
 - 6.40.3 Safeguarding against investments being used for other purposes (e.g. To acquire an influential stake in a corporate body);
 - 6.40.4 Establishing the limits of investment risk associated with the *OCIF*;
 - 6.40.5 The purposes for which borrowings are to be used; and
 - 6.40.6 The nature and extent of the use of efficient portfolio management techniques.
- 6.41 If any of the limits regarding investment and borrowing is breached, the manager should take as a priority objective all steps as are necessary within a reasonable time to remedy the situation, taking due account of the interests of the *Holders*.
- 6.42 An example is given in Appendix 1 of investment restrictions and borrowing powers which the *JFSC* considers might be applied to an *OCIF* which is a General Securities Fund, seeking to offer a low investment risk profile. Separate examples of investment restrictions and borrowing powers, together with other special provisions are given in Appendices 2 to 9 inclusive for certain particular fund types, each designated on the basis of its primary investment objective.
- 6.43 The specific fund types covered by Appendices 2 to 9 are:
 - 6.43.1 **Fund of Funds** - an *OCIF* which invests all of its assets in other collective investment schemes, although it may hold cash for ancillary purposes and enter into financial futures contracts for hedging purposes or efficient portfolio management.
 - 6.43.2 **Feeder Fund** - an *OCIF* which invests all of its assets in a single, specified, collective investment scheme, or one constituent part of an umbrella fund, although it may hold cash for ancillary purposes and enter into financial futures contracts for hedging purposes or efficient portfolio management.
 - 6.43.3 **Money Market Fund** - an *OCIF*, the sole objective of which is to invest in short-term deposits and *debt securities*.
 - 6.43.4 **Warrant Fund** - an *OCIF*, the principal objective of which is investment in warrants.
 - 6.43.5 **Real Property Fund** - an *OCIF*, the principle objective of which is to invest directly or indirectly in to real property.
 - 6.43.6 **Futures and Options Fund** - an *OCIF*, principal objective of which is investments in futures contracts (including commodities and financial futures) and/or options.
 - 6.43.7 **Guaranteed Fund** - an *OCIF* which has a structure which includes security arrangements intended to ensure that investors will receive payments totalling a stated proportion of the amount invested.
 - 6.43.8 **Leveraged Fund** - an *OCIF* which utilizes a borrowing capacity or other form of leverage greater than that permitted by Appendix 1 or, in the case of one of the other specific fund types, the corresponding schedule.

Note: The investment restrictions and borrowing powers given in each of the Schedules are for guidance purposes ONLY. They do not set requirements to be met by any particular OCIF; rather they provide an artificial baseline against which each OCIF may be compared to assess whether:

- a. The requirements of Article 8(B)7 of the Law will be satisfied (see paragraph 1.4);*
- b. An adequately comprehensive set of limits has been declared; and*
- c. The nature and extent of risk explanations and health warnings commensurate with the perceived experience of the prospective investors have been provided in the offer documentation.*

Transactions with connected persons

- 6.44 No person shall be allowed to enter on behalf of the *OCIF* into underwriting or sub-underwriting contracts without the prior consent of the *trustee/custodian* and unless the *OCIF* or the manager provides in writing that all commissions and fees payable to the manager under such contracts and all investments acquired pursuant to such contracts shall form part of the assets of the *OCIF*.
- 6.45 If cash forming part of the assets of the *OCIF* is deposited with the *trustee/custodian*, the manager, the investment adviser or with any connected company of either (being an institution licensed to accept deposits), interest must be received on the deposit at a rate not lower than the prevailing commercial rate for a deposit of that size and term.
- 6.46 All transactions carried out by or on behalf of the *OCIF* must be at arm's length. In particular, any transactions between the *OCIF* and the manager, investment manager, investment adviser, the directors of the *Fund company* or any of their *connected persons* as principal may only be made with the prior written consent of the *trustee/custodian*. All such transactions must be disclosed in the annual report of the *OCIF*.

Appendix 1

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

1 General Securities Fund

Applicability of restrictions to Umbrella Funds

- 1.1 Unless the contrary is provided, the provisions of this Appendix shall not apply to an umbrella fund as if it were a single *OCIF*, but shall apply to each sub-fund of the umbrella as if each such separate part were a single *OCIF*. An exception to this rule is 1.3 of this Appendix, where the combined investment by all the sub-funds of an umbrella fund in any class of security issued by any one issuer shall not exceed 10 per cent of that class.

Spread of Investments

- 1.2 The value of an *OCIF*'s holding of securities issued by any single issuer may not exceed 10 per cent of its total *net asset value*.
- 1.3 An *OCIF* may not hold more than 10 per cent of any class of security issued by any single issuer.

Unlisted Securities

- 1.4 The value of an *OCIF*'s holding of securities not listed or quoted on a recognised market may not exceed 15 per cent of its total *net asset value*.

Government and other public securities

- 1.5 Notwithstanding 1.2 and 1.3 of this Appendix up to 30 per cent of the total *net asset value* of the *OCIF* may be invested in *government and other public securities* of the same issue.
- 1.6 Subject to 1.5 of this Appendix, an *OCIF* may invest all of its assets in *government and other public securities* in at least six different issues.

Debentures

- 1.7 The investment limits set by the *OCIF* for debentures should include a clear statement of any credit rating of the issuer(s) and the maturity of the instruments.

Bank Deposits

- 1.8 Not more than 10 per cent of the *NAV*, or US\$1,000,000, or the equivalent in the base currency of the *OCIF*, whichever is the greater, should be kept on deposit with or on loan to any one person, or any connected company of that person unless that person is an *Approved Bank*, in which case the maximum may be 20 per cent of the *NAV* of the *OCIF*.

Derivative Transactions

- 1.9 An OCIF may enter into any *Derivative Transactions* without limit for the purposes of hedging the currency and price of investments or to close out other *Derivative Transactions*.
- 1.10 *Derivative Transactions* utilised other than for hedging purposes should be only those which are traded on or under the rules of a recognised market and have been so traded for a period of not less than six months.
- 1.11 For the purposes of this Appendix, the percentages referred to in 1.15 and 1.16 of this Appendix shall include the total of all cash or other property transferred or deposited by way of premium or initial margin and all other acquisition costs of any *Derivative Transaction* together with the amount liable to be paid or, as the case may be, the value of the securities which must be sold or surrendered, on the expiry or completion of the contract, whichever is the greater.
- 1.12 For the purposes of this Appendix:
- 1.12.1 Cover for *Derivative Transactions* under which the OCIF is or may be liable to deliver property may comprise property, or rights or obligations to acquire property of the same kind, which is sufficient to enable the discharge of the obligation under the contract.
 - 1.12.2 Cover for *Derivative Transactions* under which the OCIF is or may be liable to acquire property may comprise cash or near cash which is not to be taken into account for any other purpose and which is sufficient to discharge the obligation, or rights or obligations to dispose of property, should the obligation to acquire it arise.
- 1.13 Cover for *Derivative Transaction* which is a contract for differences may comprise property or rights to acquire property which is reasonably considered to be sufficiently similar to that which is the basis for determining amounts payable under the contract to enable any obligation to be discharged.
- 1.14 If an OCIF enters into any *Derivative Transaction* under which additional premia or margin payments may arise, its assets should include cash or near cash which is not taken onto account for other purposes and which is sufficient to meet all such payments.
- 1.15 The value of all *Derivative Transactions* entered into by the OCIF should not exceed 25 per cent of the *net asset value* of the OCIF. Within this limit, the OCIF shall not invest in warrants or options, the aggregate value of which is more than 15 per cent of the *net asset value* of the OCIF.
- 1.16 An OCIF may write call options on portfolio investments or put options, providing that:
- 1.16.1 The total value of all such options does not exceed 25 per cent of the *net asset value* of the OCIF;
 - 1.16.2 Cover is maintained throughout the period of the contract; and
 - 1.16.3 In the case of put options, the property which the OCIF is obliged to purchase if the option is exercised may be acquired without contravening the investment limits of the OCIF.
- 1.17 The writing of uncovered options is to be prohibited.

Investment in other schemes

- 1.18 The value of an *OCIF*'s holding of *Units* or shares in other collective investment schemes may not in aggregate exceed 10 per cent of its total *net asset value*. In addition, the objective of such collective investment schemes may not be to invest primarily in any investment prohibited by this Appendix and where such scheme's objective is to invest primarily in investments restricted by this Appendix, such holdings may not be in contravention of the relevant limitation.
- 1.19 Where an *OCIF* invests in any collective scheme managed by the manager or any connected company, the following provisions shall apply:
- 1.19.1 Initial charges should not be levied on both investment in the *OCIF* and on investments made by the *OCIF* in the underlying scheme;
 - 1.19.2 The *Constitutive Documents* of the *OCIF* shall prohibit any other collective investment scheme, or any person as nominee of such a scheme, being the *Holder* of *Units* in the *OCIF*; and
 - 1.19.3 The potential conflict of interest of the manager must be declared to the *trustee/custodian* who shall approve the use of any voting power which results from the underlying investment in the scheme concerned.

Real Estate Investments

- 1.20 An *OCIF* which is not a Real Property Fund (see Appendix 6), may not invest in any type of real estate (including buildings) or interests in real estate (including options or rights but excluding shares in real estate companies).

Commodities

- 1.21 Investment in commodities must be limited to gold, silver, platinum or other bullion and the value of an *OCIF*'s holding of such physical commodities and commodity based investments (other than shares in companies engaged in producing, processing or trading in commodities), may not exceed 20 per cent of the total *net asset value* of the *OCIF*.

Short Selling

- 1.22 No short sale or purchases on margin may be made except for hedging purposes.

Unlimited Liability Investments

- 1.23 An *OCIF* may not acquire any asset which involves the assumption of any liability which is unlimited.

Investment in Securities in which Directors/Officers have interests

- 1.24 An *OCIF* may not invest in any security of any class in any company or body if any director or officer of the manager owns more than 0.5 per cent of the total nominal amount of all the issued securities of that class, or, collectively the directors and officers of the manager own more than 5 per cent of those securities.

Investment in Nil-Paid/Partly Paid Securities

- 1.25 The portfolio of an *OCIF* may not include any security where a call is to be made for any sum unpaid on that security unless that call could be met in full out of cash or near cash by the



OCIF's portfolio, the amount of which has not already been taken into account for the purposes of providing cover for any financial instrument.

Making Loans

- 1.26 An *OCIF* may not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for, or in connection with, any obligation or indebtedness of any persons without the prior written consent of the *trustee/custodian*.

Limitations on Borrowing

- 1.27 The maximum borrowing of an *OCIF* must not exceed 25 per cent of its total *net asset value*. For the purposes of this requirement, back-to-back loans may be not counted as borrowing.

Appendix 2

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

2 Fund of Funds

Definition

- 2.1 A Fund of Funds (FF) is an *OCIF* which invests all of its assets in other collective investment schemes or in the various constituent parts of an umbrella fund. A FF may hold cash for ancillary purposes and enter into financial futures contracts for the purposes of hedging or efficient portfolio management.

Investment and Borrowing Limits

- 2.2 A FF may not invest more than a total of 10 per cent of its *net asset value* in collective investment schemes which are not *OCIF* or recognised jurisdiction schemes or otherwise approved by the *JFSC*.
- 2.3 Notwithstanding 2.2 of this Appendix, no investment may be made in any scheme whose objective is to invest primarily in any investment prohibited by Appendix 1, and, in the case of investments limited by Appendix 1, such holdings may not be in contravention of the relevant limitation.
- 2.4 A FF must invest in at least five schemes, and not more than 35 per cent of its total *net asset value* may be invested in any one scheme.
- 2.5 A FF may not invest in another FF or into a Feeder Fund.
- 2.6 A FF should not hold more than 10 per cent of any class of security issued by any single issuer.
- 2.7 A FF should not invest more than 5 per cent of its total *net asset value* in a warrant fund, a leveraged fund, a futures and options fund, a geared futures and options fund or a real property fund, unless:
- 2.7.1 Its primary objective, as disclosed in the prospectus, is to invest in any such fund (an **underlying fund**);
 - 2.7.2 The prospectus clearly explains the nature of investments of the underlying fund and the risks to which the underlying fund will be exposed; and
 - 2.7.3 The prospectus and any advertising material includes appropriate warnings, of the potential consequences to investors with particular regard to price volatility, redemption restrictions and loss of capital.
- 2.8 No short sale may be made.

Appendix 2: Provisions Applicable to Specific Funds Types

- 2.9 A FF may not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person without the prior written consent of the *trustee/custodian*.
- 2.10 A FF may not acquire any asset which involves the assumption of any liability which is unlimited.
- 2.11 A FF may borrow up to 10 per cent of its total *net asset value* but only on a temporary basis for the purposes of meeting redemption requests or defraying operating expenses.
- 2.12 Where a FF invests in any collective scheme managed by the manager or any connected company, the following provisions shall apply:
- 2.12.1 Initial charges not be levied on both investment in the FF and on investments made by the FF in the underlying scheme; and
 - 2.12.2 The *Constitutive Documents* of the FF shall prohibit any other collective investment scheme, or any person as nominee of such a scheme, being the *Holder of Units* in the FF; and
 - 2.12.3 The potential conflict of interest of the manager must be declared to the *trustee/custodian* who shall approve the use of any voting power which results from the underlying investment in the scheme concerned.
- 2.13 The manager of a FF may obtain a rebate on any fees or charges levied by an underlying scheme or its manager provided such rebates are paid into the fund.

Appendix 3

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

3 Feeder Fund

Definition

- 3.1 A Feeder Fund (fef) is an OCIF which invests all of its assets in a single, specified, collective investment scheme or in one constituent part of an umbrella fund. A fef may hold cash for ancillary purposes and enter into financial futures contracts for the purposes of hedging or efficient portfolio management.

Investment and Borrowing Limits

- 3.2 The scheme into which a fef invests should be one whose objective and investment limits are generally consistent with one of the Appendices to this guide.
- 3.3 A fef may not invest in another fef or into a FF.
- 3.4 If the underlying fund into which the fef invests is a warrant fund, a leveraged fund, a futures and options fund, a geared futures and options fund or a real property fund, the following provisions will apply:
- 3.4.1 The prospectus must clearly explain the nature of investments of the underlying fund and give a detailed description of the risks inherent in such investments to which the underlying fund will be exposed; and
 - 3.4.2 The prospectus and any advertising material must include appropriate warnings, of the potential consequences to investors with particular regard to price volatility, redemption restrictions and loss of capital.
- 3.5 No short sale may be made.
- 3.6 A fef may not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person without the prior written consent of the *trustee/custodian*.
- 3.7 A fef may not acquire any asset which involves the assumption of any liability which is unlimited.
- 3.8 A fef may borrow up to 10 per cent of its total *net asset value* but only on a temporary basis for the purposes of meeting redemption requests or defraying operating expenses.
- 3.9 Where a fef invests in any collective scheme managed by the manager or any connected company, the following provisions shall apply:
- 3.9.1 Initial charges not be levied on both investment in the fef and on investments made by the fef in the underlying scheme;

- 3.9.2 The *Constitutive Documents* of the fef shall prohibit any other collective investment scheme, or any person as nominee of such a scheme, being the *Holder of Units* in the fef; and
- 3.9.3 The potential conflict of interest of the manager must be declared to the *trustee/custodian* who shall approve the use of any voting power which results from the underlying investment in the scheme concerned.
- 3.10 The manager of a fef may obtain a rebate on any fees or charges levied by an underlying scheme or its manager provided such rebates are paid into the fund.

Disclosure

- 3.11 The prospectus must provide all the material information regarding the scheme into which the fef invests which a prudent investor and their professional adviser (if any) would reasonably expect to find and to have brought fairly to their attention for the purposes of making an informed judgement about the merits of participating and the extent of the risks accepted by so participating. If this requirement is met by appending a copy of the prospectus for the underlying scheme to the prospectus for the fef, then there must be a clear and prominent notice of that fact included in the prospectus for the fef. If the requirement above is met by reproducing any part of the prospectus for the underlying scheme or any summary of such information then the manager of the fef and, if applicable, the directors of the *Fund company* shall acknowledge that they accept responsibility for the selection of such information and for its reproduction or the summary, as appropriate

Appendix 4

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

4 Money Market Fund

Definition

- 4.1 A Money Market Fund (MMF) is an *OCIF*, the sole objective of which is to invest in short-term deposits and *debt securities*.

Prospectus and Advertising

- 4.2 The prospectus and all advertising material must clearly highlight that the purchase of a Unit in the MMF is not the same as placing funds on deposit with a bank, and that the manager has no obligation to redeem *Units* at the offer value.

Name of Scheme

- 4.3 The name of the MMF must not appear to draw a parallel between the MMF and the placement of cash on deposit.

Investment limitations

- 4.4 Subject to the provisions below, a MMF may only invest in deposits and *debt securities*.
- 4.5 A MMF should maintain an average portfolio maturity not exceeding 90 days and must not purchase an instrument with a remaining maturity of more than one year, or two years in the case of *government and other public securities*.
- 4.6 The value of a MMF's holding of instruments issued by a single issuer, together with any deposits held with that same issuer may not exceed 10 per cent of the total *net asset value* of the MMF and may not exceed 10 per cent of the issuer's issued capital and published reserves. The first of these limits may be increased to 20 per cent of the *net asset value* of the MMF if the issuer is an *Approved Bank*.
- 4.7 Notwithstanding the provisions of 4.6 of this Appendix, up to 30 per cent of the total *net asset value* of the *OCIF* may be invested in *government and other public securities* of the same issue.
- 4.8 The provisions of 4.6 of this Appendix above shall not apply in respect of any deposit of up to US Dollars 1,000,000 or its equivalent in the base currency of the MMF.
- 4.9 The value of MMF's holding of securities not listed or quoted on a recognised market may not exceed 15 per cent of its total *net asset value*.
- 4.10 No short sale may be made.

- 4.11 A MMF may enter into financial futures contracts and forward currency contracts for hedging purposes and for efficient portfolio management.

Limitations on Borrowing

- 4.12 The MMF may borrow up to 10 per cent of its total *net asset value* but only on a temporary basis for the purpose of meeting redemption requests or defraying operating expenses

Appendix 5

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

5 Warrant Fund

Definition

5.1 A Warrant Fund (WF) is an *OCIF*, the principal objective of which is investment in warrants.

Investment and Borrowing Limits

- 5.2 Not less than 90 per cent of warrants held by the WF must carry the right to acquire securities listed on a recognised market.
- 5.3 Investment in options, forward currency contracts and financial futures contracts is permissible for hedging purposes only and for efficient portfolio management
- 5.4 Investment in physical commodities, including bullion, options on commodities and commodity based investments (other than shares in companies engaged in producing, processing or trading in commodities) is prohibited.
- 5.5 The value of a WF's holding of securities issued by a single issuer may not exceed 10 per cent of its total *net asset value* at the time of purchase.
- 5.6 A WF may not hold more than 10 per cent of any class of security issued by any single issuer.
- 5.7 Notwithstanding 5.5 and 5.6 of this Appendix, up to 30 per cent of a WF's total *net asset value* may be invested in *government and other public securities* of the same issue.
- 5.8 Subject to 5.7 of this Appendix, an *OCIF* may invest all of its assets in *government and other public securities* in at least six different issues.
- 5.9 The writing of uncovered options is prohibited.
- 5.10 The writing of call options on portfolio investments may not exceed 25 per cent of a WF's total *net asset value* in terms of exercise price.
- 5.11 The value of a WF's holding of *Units* or shares in other collective investment schemes may not in aggregate exceed 10 per cent of its total *net asset value*. In addition, the objectives and investment limits of such collective investment schemes should be consistent with those of this Appendix.
- 5.12 Where a WF invests in any collective scheme managed by the manager or any connected company, the following provisions shall apply:
- 5.12.1 Initial charges should not be levied on both investment in the WF and on investments made by the WF in the underlying scheme;

- 5.12.2 The *Constitutive Documents* of the WF shall prohibit any other collective investment scheme, or any person as nominee of such a scheme, being the *Holder of Units* in the WF; and
- 5.12.3 The potential conflict of interest of the manager must be declared to the *trustee/custodian* who shall approve the use of any voting power which results from the underlying investment in the scheme concerned.

Real Estate Investments

- 5.13 A WF may not invest in any type of real estate (including buildings) or interests in real estate (including options or rights but excluding shares in real estate companies).

Short Selling

- 5.14 No short sale may be made except for hedging purposes.

Making Loans

- 5.15 A WF may not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person without the prior written consent of the *trustee/custodian*.

Unlimited Liability

- 5.16 A WF may not acquire any asset which involves the assumption of any liability which is unlimited.

Investments in Securities in which Directors/Officers have Interest

- 5.17 A WF may not invest in any security of any class in any company or body if any director or officer of the manager owns more than 0.5 per cent of the total nominal amount of all the issued securities of that class, or, collectively the directors and officers of the manager own more than 5 per cent of those securities.

Nil-Paid/Partly Paid Securities

- 5.18 The portfolio of a WF may not include any security where a call is to be made for any sum unpaid on that security unless that call could be met in full out of cash or near cash by the WF's portfolio, the amount of which has not already been taken into account for the purposes of providing cover for any financial instrument.

Limitations on Borrowing

- 5.19 A WF may borrow up to 10 per cent of its total NAV but only on a temporary basis for the purpose of meeting redemption requests or defraying operating expenses.

Applicability of restrictions to Umbrella Funds

- 5.20 Unless the contrary is provided, the provisions of this Appendix shall not apply to an umbrella fund as if it were a single WF, but shall apply to each sub-fund of the umbrella as if each such separate part were a single OCIF. An exception to this rule is 5.6 of this Appendix, where the combined investment by all the sub-funds of an umbrella fund in any class of security issued by any one issuer shall not exceed 10 per cent of that class.

Name of Scheme

- 5.21 The word “Warrant” must appear in the name of the WF.
- 5.22 If the name of the WF indicates a particular objective (other than investing in warrants), geographic region or market, the WF should invest at least 70 per cent of its non-cash assets in securities and other investments to reflect the particular objective or geographic region or market the WF represents.

Prospectus

- 5.23 The prospectus must explain the nature of warrants as an investment and contain a detailed description of the risks inherent in investment in warrants.
- 5.24 The prospectus and any advertising material must contain clear warnings, including to the effect:
- 5.24.1 That prices of warrants may fall in value as rapidly as they may rise and it may not always be possible to dispose of them during such falls;
 - 5.24.2 That the scheme therefore carries a significant risk of loss of capital;
 - 5.24.3 That the right to redeem *Units* may also be suspended in certain circumstances;
 - 5.24.4 That it is suitable only for those investors who can afford the risks involved and can accept that they may not get back the value of their original investment; and
 - 5.24.5 If a substantial proportion of the assets of the *OCIF* are comprised of warrants then, notwithstanding any diversification as to the type etc., of warrants, the investor should regard his investment as a single risk.

Appendix 6

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

6 Real Property Fund

Definition

- 6.1 A Real Property Fund (RPF) is an *OCIF*, the principal objective of which is to invest directly or indirectly in to real property. The investments of a RPF may comprise:
- 6.1.1 Freehold real property;
 - 6.1.2 Leasehold real property which has an unexpired term of 20 years or more;
 - 6.1.3 Transferable securities issued by a company, the principal object of which is to invest in, deal in, develop, redevelop or refurbish property, whether directly or indirectly;
 - 6.1.4 *Units* in a collective investment scheme which would qualify as a Real Property Fund under the provisions of this Appendix;
 - 6.1.5 Government and other public securities; and
 - 6.1.6 A RPF may also hold cash or near cash.

Acquisition of Real Property

- 6.2 The RPF should acquire an interest in any real property only:
- 6.2.1 If the real property is the subject of a report by a professionally qualified property valuer who is independent of the manager and the *trustee/custodian* of the RPF and who is also not connected with the property or with any transaction relating to the property within the previous two months, or with any person who holds an interest in the property;
 - 6.2.2 If, in addition to stating the value of the property, the valuation report (see 6.2.1 of this Appendix) includes the valuer's professional opinion that if acquired for the RPF, the interest in the property would be capable of being disposed of reasonably expeditiously at the valuation;
 - 6.2.3 The acquisition is completed within a reasonable period of time, this being (other than for exceptional reason) usually within 6 months of the date of the valuation report;
 - 6.2.4 The acquisition price is not more than 105 per cent of the value stated in the valuation report;
 - 6.2.5 If the RPF is a limited company, the directors of the *Fund company*, or otherwise the manager of the RPF, are satisfied that there is reasonable right of access to the property; and
 - 6.2.6 The unexpired term of a lease, if any, which has been granted to a third party in respect of the property, or any part of it, is not less than seven years.

- 6.3 Not more than 90 per cent of the *NAV* of the RPF may comprise direct investment in real property, whether leasehold or freehold.
- 6.4 Not more than 15 per cent of the *NAV* of the RPF may be invested in any single property, whether leasehold or freehold.
- 6.5 The value of leasehold property which has an unexpired term of less than 60 years should not exceed 10 per cent *NAV*.
- 6.6 The aggregate value of property which is unoccupied, and non-income producing or in the course of substantial development, redevelopment or refurbishment should not exceed 15 per cent of the *NAV* of the RPF.
- 6.7 No real property should be acquired by the RPF if it is subject to any mortgage, charge or other security interest unless it is a mortgage:
 - 6.7.1 Where the total outstanding sums do not exceed 50 per cent of the unmortgaged value of the property;
 - 6.7.2 Which may be discharged on demand or within 28 days by repayment of all outstanding sums; and
 - 6.7.3 Is not secured either immediately or contingently in any other property.
- 6.8 The aggregate value of real property subject to any mortgage should not exceed 15 per cent of the *NAV* of the RPF.
- 6.9 The RPF shall not grant any option or other right over any real property or any part of any real property held by the RPF.
- 6.10 The value of any transferable securities not listed or quoted on a recognised market may not exceed 10 per cent of the *NAV* of the RPF.
- 6.11 The value of the RPF's holding in transferable securities issued by any single issuer may not exceed 10 per cent of the *NAV* of the RPF.
- 6.12 Not more than 10 per cent of the *NAV* of the *OCIF* may comprise *Units* in a collective investment scheme.
- 6.13 Not more than 35 per cent of the *NAV* of the *OCIF* may comprise *government and other public securities*.
- 6.14 Not more than 20 per cent of the income receivable by the RPF should be derived from the members of one group. This limit does not apply to income derived from *government and other public securities*.

Borrowing

- 6.15 The RPF may borrow for the purposes of purchasing real property and for short term purposes to defray expenses or facilitate redemption. The maximum aggregate amount which may be borrowed is 35 per cent *NAV*. Borrowing for the purpose of purchasing real property must not exceed 50 per cent of the purchase price of the real property.

- 6.16 Relaxation on some limits for RPF with NAV less than £5m and during the early life of an RPF may be permitted.

Disclosure

- 6.17 If the name of the RPF indicates a particular objective, sector or geographic region, the RPF should invest at least 70 per cent of its non-cash assets in investments which reflect that objective, sector or geographic region.
- 6.18 The prospectus should include an appropriate warning as to any delays which could arise in meeting redemption requests which exceed the amount of its cash or near-cash assets.

Dealing

- 6.19 The assets of a RPF which comprise real property should be fully revalued at least once each year in conjunction with the preparation of audited report and accounts and should be periodically reviewed for the purposes of calculating the NAV in order to determine the *redemption and selling prices* on each dealing day. Both the revaluation and the reviews should be performed by a property valuer who is qualified in accordance with 6.2.1 of this Appendix.
- 6.20 *Redemption and selling prices* should be determined on a forward pricing basis only.

Appendix 7

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

7 Futures and Options Fund

Definition

- 7.1 A Futures and Options Fund (FOF) is an *OCIF*, the principal objective of which is investment in futures contracts (including commodities and financial futures) and/or options.

Detailed Provisions

- 7.2 To be defined by later amendment.



Appendix 8

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

8 Guaranteed Fund

Definition

- 8.1 A Guaranteed Fund (GF) is an *OCIF* which has a structure whereby a guaranteed amount will be paid to *Holders* at a specific date in the future.

Detailed Provisions

- 8.2 To be defined by later amendment

Appendix 9

Investment Limits and Borrowing Powers (See paragraphs 6.39 – 6.42)

9 Leveraged Fund

Definition

- 9.1 A Leveraged Fund (LF) is an *OCIF* which utilises a borrowing capacity or other form of leverage greater than that permitted by Appendix 1 or, in the case of one of the specialist funds, the corresponding other Appendix.

Limited Liability

- 9.2 The liability of *Holders* must be limited to their investment in the LF.

Detailed Provisions

- 9.3 To be defined by later amendment.

Appendix 10

10 A Guide to the contents of Financial Reports for OCIF

General

- 10.1 Annual reports must contain all the information required in this appendix; interim reports must at least contain the Statement of Assets and Liabilities and the Investment Portfolio. Where the *OCIF* has paid or proposes to pay an interim dividend, the amount of dividend should be disclosed.
- 10.2 All reports must contain comparative figures for the previous period except for the Investment Portfolio.
- 10.3 The items listed under the Statement of Assets and Liabilities, Revenue Statement, Distribution Statement, Statement of Movements in Capital Account and the Notes to the Accounts, where applicable, must be disclosed. It is however, not mandatory to adopt the format as shown or to disclose the items in the same order.

Statement of Assets and Liabilities

- 10.4 The following must be separately disclosed:
 - 10.4.1 Total value of investments;
 - 10.4.2 Bank balances;
 - 10.4.3 Formation costs;
 - 10.4.4 Dividends and other receivables;
 - 10.4.5 Amounts received and due, if any, in respect of *Units* purchased;
 - 10.4.6 Bank loans and overdrafts or other forms of borrowings;
 - 10.4.7 Amounts payable on redemption;
 - 10.4.8 Distributions payable;
 - 10.4.9 Total value of all assets;
 - 10.4.10 Total value of all liabilities;
 - 10.4.11 *Net asset value*;
 - 10.4.12 Number of *Units* in issue; and
 - 10.4.13 Net asset value per Unit.

Revenue Statement

- 10.5 Total investment income net of withholding tax, broken down by category.
- 10.6 Total other income, broken down by category.
- 10.7 Equalization on issue and cancellation of *Units*.
- 10.8 An itemized list of various costs which have been debited to the *OCIF* including:
 - 10.8.1 Fees paid to the manager;

- 10.8.2 Remuneration of the *trustee/custodian*;
- 10.8.3 Amortization of formation costs;
- 10.8.4 Directors' fees and remuneration;
- 10.8.5 Safe custody and bank charges;
- 10.8.6 Auditors' remuneration;
- 10.8.7 Interest on borrowings;
- 10.8.8 Fees paid to investment adviser, if any;
- 10.8.9 Other amounts paid to any *connected persons* of the *OCIF*;
- 10.8.10 Legal and other professional fees;
- 10.8.11 Any other expenses borne by the *OCIF*;
- 10.8.12 Taxes;
- 10.8.13 Amounts transferred to and from the capital account; and
- 10.8.14 Net income to be carried forward for distribution.

Distribution Statement

- 10.9 Amount brought forward at the beginning of the period.
- 10.10 Net income for the period.
- 10.11 Interim distribution per *Unit* and date of distribution.
- 10.12 Final distribution per *Unit* and date of distribution.
- 10.13 Undistributed income carried forward.

Statement of Movements in Capital Account

- 10.14 Value of the *OCIF* as at the beginning of the period.
- 10.15 Number of *Units* issued and the amounts received upon such issuance (after equalization if applicable).
- 10.16 Number of *Units* redeemed and the amount paid on redemption (after equalization if applicable).
- 10.17 Any items resulting in an increase/decrease in value of the *OCIF* including:
 - 10.17.1 Surplus/loss on sale of investments;
 - 10.17.2 Exchange gain/loss;
 - 10.17.3 Unrealised appreciation/diminution in value of investments;
 - 10.17.4 Net income for the period less distribution;
 - 10.17.5 Amounts transferred to and from the revenue account; and
 - 10.17.6 Value of the *OCIF* as at the end of the period.

Notes to the Accounts

The following matters shall be set out in the notes to the accounts:

- 10.18 Principal accounting policies:
 - 10.18.1 The basis of valuation of the assets of the *OCIF* including the basis of valuation of unquoted and unlisted securities;
 - 10.18.2 The revenue recognition policy regarding dividend income and other income;
 - 10.18.3 Foreign currency translation;
 - 10.18.4 The basis of valuation of forward foreign exchange and futures contracts;
 - 10.18.5 The basis of amortization of formation costs;
 - 10.18.6 Taxation; and
 - 10.18.7 Any other accounting policy adopted to deal with items which are judged material or critical in determining the transactions and in stating the disposition of the scheme.
- 10.19 Any changes to the above accounting policies and their financial effects upon the accounts should also be disclosed.

Transactions with Connected Persons

- 10.20 The following transactions should be disclosed:
 - 10.20.1 Details of all transactions entered into during the period between the *OCIF* and the manager, investment adviser, the directors of the *Fund company* and any entity in which these parties or their *connected persons* have a material interest; and
 - 10.20.2 Name of any director of the *Fund company* or any *connected person* of such a director if any such person becomes entitled to profits from transactions in shares or from management of the *OCIF* and the amount of profits to which such person becomes entitled.

Borrowings

- 10.21 State whether the borrowings are secured or unsecured and the duration of the borrowings.
- 10.22 Details of any contingent liabilities and commitments of the *OCIF*.
- 10.23 If the free negotiability of any asset is restricted by statutory or contractual requirements, this must be stated.

Contents of the Auditors' Report

- 10.24 The report of the Auditor should state:
 - 10.24.1 Whether in the auditor's opinion, the accounts prepared for that period have been properly prepared in accordance with the relevant provisions of the principal Constitutive Document of the *OCIF* (i.e. Articles of Association, in the case of a *Fund company*; trust deed, in the case of an unit trust; etc.) And of this guide;
 - 10.24.2 Without prejudice to the foregoing, whether in the auditor's opinion, a true and fair view is given of the disposition of the *OCIF* at the end of the period and of the transactions of the *OCIF* for the period then ended;



- 10.24.3 If the auditor is of the opinion that proper books and records have not been kept by the *OCIF* and/or the accounts prepared are not in agreement with the *OCIF's* books and records, that opinion;
- 10.24.4 If the auditor has failed to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of the audit, that fact; and
- 10.24.5 In the case of an *OCIF* established in Jersey, the auditor should also confirm that the audit has been carried out in accordance with auditing standards and any other relevant requirements (e.g. The Companies (Jersey) Law 1991; the Articles of Association).

Investment Portfolio

- 10.25 Number or quantity of each holding together with the description and market value: distinguish between listed and unlisted and categorized by country. For a FF, list the schemes in which it invests, the country where each scheme is established, the number of *Units* held and market value.
- 10.26 The total investment stated at cost.
- 10.27 The value of each holding as a percentage of the total *net asset value* of the *OCIF*.
- 10.28 Statement of movements in portfolio holdings since the end of the preceding accounting period.

Performance Table

- 10.29 A comparative table covering the last three financial years and including, for each financial year, at the end of the financial year:
 - 10.29.1 Total net asset value; and
 - 10.29.2 *Net asset value per Unit*.
- 10.30 A performance record over the last ten financial years; or if the *OCIF* has not been in existence during the whole of that period, over the whole period in which it has been in existence, showing the highest issue price and the lowest *redemption price* of the *Units* during each of those years.