



## Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008 | 1

The Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008 (the “**Unregulated Funds Order**”) was introduced by Jersey Financial Services Commission in February 2008. The Unregulated Funds Order allows Unregulated Funds to be established in the Island. The introduction of Unregulated Funds was seen at the time as a reflection the Island’s growing maturity as a funds jurisdiction and an the logical extension of the Island’s strategy to focus on niche, sophisticated products for high net worth and institutional investors. The Unregulated Funds Order exempts funds from regulation under the Collective Investment Funds (Jersey) Law 1988 (“**CIF Law**”), if certain conditions are satisfied; however, Jersey’s regime concerning money laundering and terrorism still applies to the Unregulated Fund regime.

This Unregulated Fund regime allows eligible funds merely to notify the Jersey Financial Services Commission of their establishment, rather than going through a full authorisation process. The speed and simplicity of the system provides Jersey with a significant advantage in competing with other European and offshore jurisdictions (notably the Cayman Islands) to become the funds’ jurisdiction of choice, particularly for alternative/hedge funds and sophisticated investors. Jersey has ‘evolved into a specialist centre for the alternative asset classes, including hedge, real estate and private equity funds’, with such funds now accounting for 70% of Jersey’s fund business.

Unregulated Funds have no audit requirement, no limit on number of investors, no investment or borrowing restrictions and no requirement to use Jersey service providers. A choice of fund vehicles is available including company, protected cell or incorporated cell company, unit trust or limited partnership.

There are two categories of unregulated fund: an Unregulated Eligible Investor Fund and an Unregulated Exchange Traded Fund.

### **Unregulated Eligible Investor Fund**

Unregulated Eligible Investor Funds are open to investors who put a minimum of US\$1 million each into the fund, or to sophisticated investors. The investors will be required to acknowledge in writing their acceptance of the risks involved in a prescribed form. In addition, the fund must take steps to ensure that its investors meet the legal requirements to invest in the fund.

The fund may be open-ended or closed-ended and may take the form of a company (or cell company), unit trust or partnership (where the general partner is required to be a Jersey company).

There is no requirement for an Unregulated Eligible Investor Fund to have a Jersey-based administrator or custodian, nor for it to have any Jersey resident directors. There is also no need for Jersey-based auditors to be appointed to the fund.

The fund may only list on a stock exchange, which permits restrictions upon transfers of interests within the fund. This is in order to ensure that only eligible investors are allowed to invest in the fund.

### **Unregulated Exchange Traded Fund**

An Unregulated Exchange Traded Fund is a form of unregulated fund that need not be regulated by the Jersey Financial Services Commission on the basis that it is already regulated by a stock exchange. There



VOISIN LAW

## Collective Investment Funds (Unregulated Funds) (Jersey) Order 2008 | 2

is a prescribed list of stock exchanges for which funds listed on them may classify as Unregulated Exchange Traded Funds.

An Unregulated Exchange Traded Fund may only take the form of a closed-ended fund, but may be established as a company (or cell company), unit trust or partnership. It will be subject to the same criteria for investors to be eligible as for an Unregulated Eligible Investor Fund. As with an Unregulated Eligible Investor Fund, there is no need for Jersey-based auditors to be appointed to the fund.

It should be noted that the JFSC issued a consultation paper proposed which to phase out Unregulated Exchange Traded Funds, and that following that consultation the JFSC came to the decision that from 1 January 2017 the JFSC Registry will not be accepting any new notifications for Unregulated Exchange Traded Funds.

However, existing Unregulated Exchange Traded Funds are to be allowed to continue in operation until the end of the natural life.

For further information or specific advice, please contact [Kate Anderson](#) or [Chris Le Quesne](#) of Voisin.

*This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.*