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THE GUERNSEY GREEN FUND RULES, 2021

Made: 1st November 2021

Coming into Operation: 1st November 2021

The Guernsey Financial Services Commission (“the Commission”), in exercise of the powers conferred on it by sections 12, 14, 15, 16, 18, 19 and 20 of The Protection of Investors (Bailiwick of Guernsey) Law¹ 2020 (“the Law”) makes the following Rules.

¹ Order In Council No. XVIII of 2020.

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PART 1 INTRODUCTION

1.1 Application

- (1) The Guernsey Green Fund Rules, 2021 replace the Guernsey Green Rules, 2018².
- (2) These Rules apply to the use of the description Guernsey Green Fund.
- (3) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (4) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

² No. 33 of 2018.

PART 2 GUERNSEY GREEN FUNDS

2.1 Declaration

- (1) A Guernsey Green Fund must be declared using either Route 1 or Route 2 as set out at Schedule 1.

2.2 Scope

- (1) A Guernsey Green Fund must be established with the objectives of –
 - (a) spreading risk; and the criteria for the spread of risk must be specified in the fund's prospectus; and
 - (b) seeking a return for investors whilst mitigating environmental damage;and must meet one of the criteria set out in Schedule 2.

2.3 Investment criteria

- (1) The governing body of a Guernsey Green Fund, the designated administrator, and any manager or designated custodian must take reasonable steps to ensure that the Fund –
 - (a) invests its property with the aim of spreading risk and with the ultimate objective of mitigating environmental damage, resulting in a net positive outcome for the environment;
 - (b) comprises 75% of assets, by value, that meet the notified green criteria as set out in Schedule 2. The remaining 25%, by value, of the property must not –

- (i) lessen or reduce the fund's overall objective of mitigating environmental damage; or
- (ii) comprise an investment of a type specified in Schedule 3;
- (c) only comprises of assets permitted to be held under its principal documents or prospectus and be of a nature or type described in its prospectus;
- (d) must not be invested in contravention of limits or restrictions imposed under its principal documents or prospectus.

2.4 Notifications

- (1) A licensee seeking, on behalf of a scheme, to use the description of Guernsey Green Fund must submit to the Commission –
 - (a) the appropriate notification forms;
 - (b) a final version of the prospectus;
 - (c) notification of the green criteria to be applied to the scheme;
 - (d) in the case of –
 - (i) a Route 1 scheme; a declaration, in accordance with Schedule 1, Part 1, that the scheme meets the notified green criteria which includes –

- (aa) a certificate from a suitable third party that the prospectus meets the notified green criteria;
 - (ab) details of the third party's name, address, and expertise; and
 - (ac) confirmation that no conflict of interests exists between the third party and the governing body of the scheme;
- (ii) a Route 2 Scheme; a declaration, in accordance with Schedule 1, Part 2, that the prospectus meets the notified green criteria;
- (e) confirmation of whether the governing body of the scheme will incorporate ESG Principles into its investment analysis and decision making process;
 - (f) the requisite fee; and
 - (g) such other information as the Commission may require.

2.5 Designation

- (1) The Commission may designate a scheme to be a Guernsey Green Fund if –
 - (a) it is satisfied that the scheme's principal documents and prospectus appear, to the Commission, to comply with these Rules; and
 - (b) a declaration has been provided, in accordance with rule 2.4 and Schedule 1, confirming that the scheme meets the notified green criteria.
- (2) A scheme must not describe or promote itself, by any means, as a Guernsey Green Fund unless designated in accordance with these Rules.
- (3) A scheme that meets, and continues to meet, the requirements in these Rules may be designated a Guernsey Green Fund and may use the logo, set out at Schedule 4, subject to any conditions issued by the Commission.

2.6 Oversight of the Fund

- (1) The designated administrator must ensure that the Guernsey Green Fund is monitored against the notified green criteria and the investment criteria. Where the Fund is an open-ended investment scheme such monitoring must be performed, at a minimum, on a monthly basis and where it is a closed-ended investment scheme, at a minimum, on a quarterly basis. Where the scheme is in contravention the designated administrator must –
 - (a) immediately take steps to notify the designated custodian;
 - (b) immediately ensure steps are taken to rectify the position;
 - (c) if the position has not been rectified within one month of the date on which the contravention was identified –
 - (i) notify the Commission; and
 - (ii) provide the Commission with the proposals to rectify the breach; and
 - (d) for a period in excess of two months from the date that the contravention was identified, ensure that all investors are informed or otherwise notify the Commission that such communication has not taken place.
- (2) The governing body of a fund, the designated administrator, and any manager or designated custodian must cooperate with the licensee who submitted the Declaration.
- (3) No change to the licensee, who submitted the Declaration under Schedule 1, must occur without the written consent of the Commission.
- (4) Rule 2.6 (1)(a) to (d) do not apply to any Guernsey Green Funds –

- (a) during the first six months from the date of designation or until the fund is fully invested, whichever occurs first; or
- (b) once a decision has been taken, notified, and approved by the Commission to wind up the scheme in accordance with the scheme principal documents.

2.7 Removal of designation

- (1) Where a Guernsey Green Fund continues, after a period of three months from the date when a contravention was identified, not to meet the notified green criteria or the investment criteria then the designated administrator must –
 - (a) provide the Declaration of non-compliance, under Schedule 1, Part 3, to the Commission;
 - (b) inform the governing body of the scheme that it must, as soon as possible, cease to use the designation of Guernsey Green Fund and any logo on all documents and other materials, electronic or otherwise;
 - (c) ensure that all investors have been notified of any steps taken under this rule; and
 - (d) ensure that a copy of a Declaration of non-compliance is placed in a prominent position on the fund's website.
- (2) Where a Guernsey Green Fund is being wound up the designated administrator must notify and seek the approval of the Commission if it wishes to continue to use the Guernsey Green Fund designation.
- (3) The Commission may also remove the designation where a Guernsey Green Fund –
 - (a) remains invested, for more than three months, in breach of the notified green criteria or the investment criteria;

- (b) is being wound up; or
- (c) at any stage after it ceases to meet the notified green criteria, or the investment criteria, to protect –
 - (i) the interests of investors;
 - (ii) the public; or
 - (iii) the reputation of the Bailiwick as a finance centre.
- (4) Where, at any point, the Guernsey Green Fund has been promoted in accordance with ESG Principles and it becomes subject to action under this rule –
 - (a) it must cease to promote itself; and
 - (b) the designated administrator must follow (1)(b) to (d) unless otherwise agreed, in advance, with the Commission.

2.8 Prospectus disclosures

- (1) In addition to the disclosures required in any other rules to which the Guernsey Green Fund is subject, the prospectus must contain –
 - (a) notice that the fund has received the designation of a Guernsey Green Fund;
 - (b) the notified green criteria;
 - (c) information as to how the fund will meet its objectives;
 - (d) notification as to whether the fund is –

- (i) Route 1, third party certified; including the name of the independent party who will provide certification; or
 - (ii) Route 2, whereby a licensee will provide a declaration;
- (e) sufficient information regarding the declaration or certification and the methodology used;
 - (f) if the governing body of the fund and the manager intend incorporating ESG Principles into investment analysis and decision making processes; and
 - (g) any material conflicts of interest.
- (2) Sections (1)(a) and (d) do not apply to a fund which is listed on a recognised stock exchange and where commensurate disclosure has been made by way of a stock exchange announcement.

2.9 Notification and filings to be submitted to the Commission

- (1) Filings –
- (a) without prejudice to any other rules to which the fund is subject, the designated administrator must submit, to the Commission within six months of the fund's accounting year end, details of how the scheme had invested within the green criteria to which it is subject;
 - (b) the designated administrator is required to ensure that information on how the scheme meets the green criteria is reported, to investors, on an annual basis.
- (2) Notifications –
- (a) the designated administrator must give immediate written notification, to the Commission, of any material change to disclosures in the prospectus required under rule 2.8;

- (b) the designated administrator, or manager, must ensure that investors are notified of any changes to the matters referred to in rule 2.8.

PART 3 GENERAL PROVISION

3.1 Interpretation

(1) In these Rules terms have their ordinary meaning unless specifically defined in the Law or in these Rules.

(2) In these rules the following definitions should be followed -

“company” means any scheme constituted as a body corporate; including protected cell companies and incorporated cell companies;

“ESG Principles” means environmental, social, and governance issues as set out by the UN supported Principles for Responsible Investment (the PRI);

“governing body” means, in the case of a company, its directors; in the case of a limited partnership, its general partner; in the case of a trust, its trustees;

“Guernsey Green Fund” means a scheme designated in accordance with these Rules and meeting the green criteria;

“manager” means a manager of a Guernsey Green Fund licensed under the Law. If the Scheme does not have a manager licensed in Guernsey then the references to manager should be read as references to the designated administrator;

“principal documents” means, in relation to –

- (a) a unit trust scheme, the trust instrument and management agreement, if any;
- (b) a company scheme, the articles of incorporation of a Guernsey company (or an equivalent document under the applicable law of a non-Guernsey body corporate), the management agreement and the trustee agreement; and
- (c) a collective investment scheme other than a unit trust scheme or a company scheme, the documents dealing collectively with the same or similar obligations and duties as the principal documents constituting a unit trust scheme or a company scheme;

“scheme” means an authorised collective investment scheme or a registered collective investment scheme.

PART 4 SAVINGS, REVOCATIONS, CITATION AND COMMENCEMENT

4.1 Savings

- (1) Guernsey Green Funds designated as such under the 2018 Rules continue to be designated Guernsey Green Funds under these Rules.

4.2 Revocations

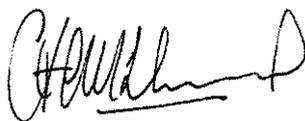
4.2.1 Revocation of The Guernsey Green Fund Rules, 2018

- (1) The Guernsey Green Fund Rules, 2018 are revoked.

4.3 Citation and commencement

- (1) These rules may be cited as the Guernsey Green Fund Rules, 2021.
- (2) These rules come into force on 1st November 2021.

Dated this 29th day of October 2021



C.A. SCHRAUWERS

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

SCHEDULE 1

Part 1 - Route 1

Route 1

- I hereby provide a copy of a certification provided by *[insert name of certifier]* an independent third party that disclosures made to shareholders, or potential shareholders, and the investment criteria of the Scheme meets the notified green criteria as defined in Schedule 2 of The Guernsey Green Fund Rules, 2021.
- I confirm that I have advised *[insert name of certifier]* that it is an offence, under the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020 in respect of which the Commission exercises its functions, to knowingly or recklessly provide the Commission with information which is false or misleading in a material manner.
- I confirm that we, as proposed designated administrator/manager *[delete as applicable]* of the scheme, are satisfied that the third party certifier is independent from the scheme and its associated parties and that, to the best of our knowledge, the third party certifier has adequate expertise to provide a reliable and accurate assessment of the scheme's ability to meet the green criteria as defined in Schedule 2 of The Guernsey Green Fund Rules, 2021.
- I confirm that we, the proposed designated administrator/manager *[delete as applicable]* of the scheme, are satisfied that the disclosures made in relation to the scheme meet the requirements of The Guernsey Green Fund Rules, 2021.
- I confirm that the information supplied is complete and correct, to the best of my knowledge and belief at the time of the submission, and that there are no other facts, material to the notification, of which the Commission should be aware.

Part 2 – Route 2

Route 2

- I confirm that we, as proposed [*insert nature of role*] of the scheme, are satisfied that the objective of the scheme encompasses the mitigation of environmental damage and that the scheme's investment criteria meets the notified green criteria as defined in Schedule 2 of The Guernsey Green Fund Rules, 2021.
- I confirm that we, the proposed [*insert nature of role*] of the scheme, are satisfied that the disclosures made to shareholders, and potential shareholders, with regards to the scheme meet the requirements of The Guernsey Green Fund Rules, 2021.
- I confirm that the information supplied is complete and correct to the best of my knowledge and belief at the time of submission and that there are no other facts material to the notification of which the Commission should be aware.

Part 3 – Declaration of Non-compliance

Declaration of Non-compliance

- We, as [*insert nature of role*] of the scheme, have assessed the scheme against disclosures made to shareholders, and potential shareholders, and The Guernsey Green Fund Rules, 2021 and, in accordance with rules 2.3, 2.6 and 2.7 of The Guernsey Green Fund Rules, 2021, hereby confirm that the scheme no longer meets the notified green criteria/investment criteria.
- We, as [*insert nature of role*], hereby confirm that, to the best of our knowledge, the scheme will no longer use the designation of a Guernsey Green Fund and will ensure that no references are made to it in any further disclosures to shareholders, or to potential shareholders, or in marketing materials.
- We, as [*insert nature of role*], hereby confirm that, to the best of our knowledge, all investors in the scheme have been notified that the scheme no longer meets the notified green criteria/investment criteria and is no longer a designated Guernsey Green Fund.

- I confirm that the information supplied is complete and correct, to the best of my knowledge and belief at the time of the submission, and that there are no other facts, material to the declaration, of which the Commission should be aware.
- I am aware that it is an offence, under the Financial Service Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020, in respect of which the Commission exercises its functions, to knowingly or recklessly provide the Commission with information which is false or misleading in a material manner.

SCHEDULE 2

Green Criteria

This Schedule contains a list of green criteria that are endorsed by the Commission as standards that can be adopted by a Guernsey Green Fund.

A fund must, in accordance with rule 2.3, comply with one of the criteria listed below and the chosen criteria must be set out in the notification to the Commission under rule 2.4.

Criteria	Date added	Location
The Common Principles for Climate Mitigation Finance Tracking	9 July 2018 ³	Appendix 1

³ Added into the previous version of these Rules – The Guernsey Green Fund Rules, 2018, No. 33 of 2018.

SCHEDULE 3

Exclusion policies

This Schedule contains a list of different exclusion policies that have been developed by various international institutions that have relevant environmental expertise.

A Guernsey Green Fund must, in accordance with rule 2.3(1)(b)(ii), comply with one of the exclusion policies listed below. It is the decision of the governing body of the fund to select the policy which is most relevant to the scheme.

Policy	Date Added	Location
The Climate Bonds Initiative Green Bonds Methodology – Exclusion Policy	9 July 2018 ⁴	Appendix 2

⁴ Added into the previous version of these Rules – The Guernsey Green Fund Rules, 2018, No. 33 of 2018.

SCHEDULE 4

Use of the Guernsey Green Fund logo



The logo must be reproduced from original artwork provided by the Commission and must comply with the Guernsey Green Fund Brand Guidelines which can be found at www.gfsc.gg

The use of the Guernsey Green Fund logo must not be misleading. For example, due consideration should be given to the placement of the logo on stationary or the homepage of an investment manager's website if other funds within its portfolio are not designated as Guernsey Green Funds.

As soon as possible after a Scheme's designation has been removed, pursuant to rule 2.7, the Scheme and its designated administrator, or any manager or designated custodian of the Scheme, must cease to use the Guernsey Green Fund logo in respect of the scheme.

It should be noted that use of the words 'Guernsey Green Fund' are separately restricted under rule 2.5.

APPENDIX 1

Common principles for Climate Mitigation Finance Tracking

Category	Sub-category	Example
1. Renewable Energy	1.1 Electricity Generation	<p>Wind power</p> <p>Geothermal power (only if net emission reductions can be demonstrated)</p> <p>Solar power (concentrated solar power, photovoltaic power)</p> <p>Biomass or biogas power that does not decrease biomass and soil carbon pools (only if net emission reductions can be demonstrated)</p> <p>Ocean power (wave, tidal, ocean currents, salt gradient, etc.)</p> <p>Hydropower plants (only if net emission reductions can be demonstrated)</p>
	1.2 Heat Production or other renewable energy application	<p>Solar water heating and other thermal applications of solar power in all sectors</p> <p>Thermal applications of geothermal power in all sectors</p> <p>Wind-drive pumping systems or similar</p> <p>Thermal applications of sustainability/produced bioenergy in all sectors, incl. efficient, improved biomass stoves</p>

	1.3 Transmission systems, greenfield	<p>New transmission systems (lines, substations) or new systems (e.g. new information and communication technology, storage family, etc.) and mini-grid to facilitate the integration of renewable energy sources into the grid</p> <p>Renewable energy power plant retrofits</p> <p>Improving existing systems to facilitate the integration of renewable energy sources into grid</p>
2. Lower-carbon and efficient energy generation	<p>2.1 Transmission and distribution systems</p> <p>2.2 Power Plants</p>	<p>Retrofit of transmission lines or substations and/or distribution systems to reduce energy use and/or technical losses, excluding capacity expansion</p> <p>Thermal power plant retrofit to fuel switch from a more greenhouse gas intensive fuel to a different, less greenhouse gas intensive fuel type</p> <p>Conversion of existing fossil-fuel based power plant to cogeneration technologies that generate electricity in addition to providing heating/cooling</p> <p>Waste heat recovery improvements</p> <p>Energy efficiency improvement in existing thermal power plant, industrial energy efficiency improvements through the installation of more efficient equipment, changes in processes, reduction of heat losses and/or increased waste heat recovery</p>
3. Energy efficiency	3.1 Brownfield energy efficiency in industry	Installation of co/generation plants that generate electricity in addition to providing heating/cooling

	<p>3.2 Brownfield energy efficiency in commercial, public and residential sectors (buildings)</p>	<p>More efficient facility replacement of an older facility (old facility retired)</p> <p>Energy efficiency improvement in lighting, appliances and equipment</p> <p>Substitution of existing heating/cooling systems for buildings by co/generation plants that generate electricity in addition to providing heating/cooling</p> <p>Retrofit of existing buildings: architectural or building changes that enable reduction of energy consumption</p>
	<p>3.3 Brownfield energy efficiency in public services</p>	<p>Energy efficiency improvement in utilities and public services through the installation of more efficient lighting or equipment</p> <p>Rehabilitation of district heating systems</p> <p>Utility heat loss reduction and/or increased waste heat recovery</p> <p>Improvement in utility scale energy efficiency through efficient use, and loss reduction</p>
	<p>3.4 Vehicle energy efficiency fleet retrofit</p>	<p>Existing vehicles, rail or boat fleet retrofit or replacement (including the use of lower-carbon fuels, electric or hydrogen technologies, etc)</p>
	<p>3.5 Greenfield energy efficiency in commercial and residential sectors (buildings)</p>	<p>Use of highly efficient and architectural designs, energy efficiency and equipment, and building techniques that reduce building energy consumption,</p>

	3.6 Energy audits	<p>exceeding available standards and complying with high energy efficiency certification or rating schemes</p> <p>Energy audits to energy end-users, including industries, buildings and transport systems</p>
4. Agriculture, forestry and land-use	<p>4.1 Agriculture</p> <p>4.2 Afforestation and reforestation, and biosphere conservation</p> <p>4.3 Livestock</p>	<p>Reduction in energy use in traction (e.g. efficient tillage), irrigation and other agriculture processes</p> <p>Agriculture projects that do not deplete and/or improve existing carbon pools (reduction in fertiliser use, rangeland management, collection and use of bagasse, rice husks, or other agricultural waste, low tillage techniques that increase carbon contents of soil, rehabilitation of degraded lands, etc.)</p> <p>Afforestation (plantations) on non-forested land</p> <p>Reforestation on previously forested land</p> <p>Sustainable forest management activities that increase carbon stocks or reduce the impact of forestry activities</p> <p>Biosphere conservation projects (including payments for ecosystem services) targeting reducing emissions from the deforestation or degradation of ecosystems</p> <p>Livestock projects that reduce methane or other greenhouse gas emissions (manure management with biodigestors, etc.)</p>

	4.4 Biofuels	Production of biofuels (including biodiesel and bioethanol)
5. Non-energy greenhouse gas reduction	5.1 Fugitive emissions	Reduction of gas flaring or methane fugitive emissions in the oil and gas industry Coal mine methane capture
	5.2 Carbon capture and storage	Projects for carbon capture and storage technology that intend to prevent release of large quantities of CO2 into the atmosphere from fossil fuel use in power generation and process emissions in other industries
	5.3 Air conditioning and refrigeration	Retrofit to existing industrial, commercial and residential infrastructure to switch to cooling agent with lower global warming potential
	5.4 Industrial processes	Reduction in greenhouse gas emissions resulting from industrial process improvements and cleaner production (e.g. cement, chemical), excluding carbon capture and storage
6. Waste and wastewater		Treatment of wastewater if not a compliance requirement (e.g. performance standard or safeguard) as part of a larger project that reduces methane emissions (only if net emission reductions can be demonstrated) Waste management and waste-to-energy projects that reduce methane emissions and generate energy (e.g. incineration of waste, landfill gas capture, and landfill gas combustion) Waste-recycling projects that recover or reuse materials and waste as inputs into new products or as a

		resource (only if net emission reductions can be demonstrated)
7. Transport	7.1 Urban transport modal change	Urban mass transit Non-motorised transport (bicycles and pedestrian mobility)
	7.2 Transport oriented urban development	Integration of transport and urban development planning (dense development, multiple land-use, walking communities, transit connectivity, etc.) leading to a reduction in the use of passenger cars Transport demand management measures to reduce GHG emissions (e.g. speed limits, high-occupancy vehicle lanes, congestion charging/road pricing, parking management, restriction or auctioning of licence plates, car-free city areas, low emission zones)
	7.3 Inter-urban transport	Railway transport ensuring a modal shift of freight and/or passenger transport from road to rail (improvement of existing lines or construction of new lines) Waterways transport ensuring a modal shift of freight and/or passenger transport from road to waterways (improvement of existing infrastructure or construction of new infrastructure)
8. Low-carbon technologies	8.1 Products or equipment	Projects producing components, equipment or infrastructure dedicated for the renewable and energy efficiency sectors
	8.2 R&D	Research and development of renewable energy or energy efficiency technologies

		carbon standards like VCS or Gold Standard
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APPENDIX 2

Exclusion policies

Sector	Excluded area
Energy	Uranium mining for nuclear power Any fossil fuel-based power generation including: gas, 'clean' coal and other coal
Energy efficiency	Efficiency upgrades to greenhouse gas intensive power sources – e.g. cleaner coal technology Energy savings in fossil fuel extraction activities – emission reduction requirements require a rapid phase-out of all fossil fuel usage. Anything that helps to extend the life of a fossil fuel usage is excluded.
Waste	Landfill without gas capture Waste incineration without energy capture
Transport	Rail lines where fossil fuels account for more than >50% of freight.

EXPLANATORY NOTE

These Rules have been re-drafted in line with the Commission's Revision of Laws Implementation Project.

In 2020 the Protection of Investor (Bailiwick of Guernsey), 1987, Law was replaced with the 2020 Law and the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020⁵. All Rules made, under the earlier enactment, have been checked for validity and legality.

The Rules have been re-drafted to bring them into line with the Commission's current legal drafting practice and to ensure that all out-of-date references have been replaced.

Although these Rules have been re-drafted and re-formatted, the content and legal meaning remains the same as that under the previous Rules.

⁵ Order In Council No. XVII of 2020.

