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Gibraltar

Accounting

FUNDS AND FUND MANAGEMENT 2009

1.1 Requirement to produce financial statements

Requirement to maintain the books and records in the local jurisdiction

There is no requirement for Gibraltar funds to maintain their books and records in Gibraltar.

Production of financial statements by collective investment funds

UCITS schemes and non-UCITS retail schemes (public funds) are required to produce annual and semi-annual financial statements under the Financial Services (Collective Investment Schemes) Act 2005.

Experienced Investor Funds are required to produce annual financial statements under the Financial Services (experienced investor funds) Regulations 2005. The audited financial statements must be submitted to the FSC within six months of the period end.

If the fund is structured as a corporate entity, there are also annual accounts requirements under the Companies Act and the Companies (Accounts) Act 1999.

For corporate vehicles, the directors are responsible for the preparation of the financial statements and two directors are required to sign balance sheet of the annual financial statements. For trusts, the trustee takes responsibility for the preparation of the annual financial statements. Two trustees sign the balance sheet.

A statement of compliance should be submitted to the Commissioner within four months of the end of the accounting period. The Statement of Compliance is un-audited.

Choice of period/year-end for collective investment funds

Gibraltar funds can choose their own year-end. Once chosen, public funds cannot alter the year-end without the prior approval of the Financial Services Commission.

Requirement for comparatives

Comparatives are required for the financial statements.

Restrictions on the currency under which financial statements must be prepared

There are no restrictions. The base currency is specified in the formation documents of the fund.

Accounting publications specific to the funds industry (as issued by accounting bodies or the regulators)

There are no accounting publications specific to the funds industry in Gibraltar as IFRSs or U.K. accounting standards and any technical material issued in the United Kingdom are generally followed.

In relation to public funds, the Code of Practice issued under the Financial Services (Collective Investment Schemes) Regulations 2006 provides details of the contents and disclosures for the annual and interim accounts together with disclosure requirements for auditors, managers, and trustees/custodians.

Use of short-form accounts

Short-form accounts are not permitted under Gibraltar law and regulations.

Umbrella schemes

For corporate entities, financial statements must be prepared for the company as a whole. There is also a requirement to produce separate financial statements for each sub-fund.

For unit trust umbrella funds, there is no requirement to produce financial statements for the umbrella, however, they are permitted. There is a requirement to produce separate financial statements for each sub fund.

In all cases, information on each sub-fund as stipulated by legislation should be included within the report of the manager.

Classes of shares

Financial statements are required which incorporate all classes of shares.

There is no requirement to produce financial statements for each class of share, unless each class of share represents a separate sub-fund (such as, protected cell companies) in which please refer to umbrella funds above.

1.2 Requirement to audit financial statements

The annual financial statements of public funds must be audited. Audited accounts must be submitted to the Financial Services Commission within four months of the year-end. There is no requirement to audit the interim financial statements.

The annual financial statements of experienced investor funds must also be audited. Audited accounts must be submitted to the Financial Services Commission within six months of the year-end.

The auditor must be independent of the fund, be registered under the Auditors Registration Act, and be approved by the Financial Services Commission.

1.3 Publication of financial statements

If a fund is set up as a corporate entity, the accounts must be filed with Companies House within 13 months of the year-end.

In any event, public funds are required to make available their accounts to the public at the places specified in the prospectus within four months for annual and two months for semi-annual accounts. They must be supplied to unit-holders free-of-charge on request. The accounts may be distributed electronically if permitted by the prospectus.

1.4 Accounting standards

The legislation governing the regulation of funds is silent in relation to the application of accounting standards. Company law requires that appropriate accounting standards are used in compiling financial statements for a company. There are no restrictions on the accounting standards that may be used for non-corporate vehicles. Predominantly, this results in accounts being prepared in accordance with U.K accounting standards as adopted locally to take account of differences between U.K. and Gibraltar company law or in accordance with IFRSs. With the consent of the regulator, it is possible to utilize other generally accepted standards such as, U.S. GAAP.

1.5 Contents of financial statements

Requirements for inclusion in annual financial statements:

	Required by Law	Required by GAAP (U.K. GAAP as adopted locally)	Complied with for Best Practice
A statement which includes all income less expenses plus realized and unrealized gains and losses	Yes	Yes	Yes
A statement which only includes income less expenses	No	No	No
A statement which only includes income less expenses plus realized gains and losses	No	No	No
Statements of net assets and liabilities	Yes	Yes	Yes
Statement of changes in net assets	Yes	Yes	Yes
Cash flow statement	No	Yes	Yes
Statement of accounting policies	Yes	Yes	Yes
3-year net asset value table	Yes	No	Yes
5-year net asset value table	No	No	No

1.6 Accounting treatments and disclosures

The following items must be included in the annual financial statements:

	Required by Law	Required by GAAP (U.K. GAAP as adopted locally)	Complied with for Best Practice
Futures are shown on balance sheet using the grossed up notional amount	No	No	No
Futures are shown on the balance sheet based on the margin outstanding	No	No	Yes
Futures are shown on the balance sheet based on the margin outstanding and the margin paid to date	No	No	No
Organization costs are written off immediately	No	Yes	Yes

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	Required by Law	Required by GAAP (U.K. GAAP as adopted locally)	Complied with for Best Practice
Organization costs are amortized over one year	No	No	No
Organization costs are amortized over more than one year	No	No	No
Issue costs are charged to the statement of operations	No	No	No
Issue costs are netted off against creation proceeds	No	Yes	Yes
Contingent deferred sales charges are recorded as income	No	No	No
Contingent deferred sales charges are netted off against redemption proceeds	No	Yes	Yes
Holdings in other collective investment funds are consolidated if the fund holds > 50 percent of the underlying collective investment fund's shares	No	Yes	Yes
Methods used in financial statement presentation to measure listed investments are:			
Cost	No	No	No
Market value:			
bid	No	No	Yes
mid	No	No	Yes
offer	No	No	No
close	No	No	Yes
price at any time during the day	No	No	Yes
The financial statements distinguish between income and capital	Yes	No	Yes

Appendix

Reference material

The following details the relevant laws and regulations for collective investment funds and fund management companies and provides Web addresses (in certain instances) for where this material can be located:

Regulator

www.fsc.gi

Main legislation listed and available under:

<http://www.fsc.gi/fsclists/publications.asp?Section=3&Type=4>

- Financial Services (Collective Investment Schemes) Act 2005
- Financial Services (Collective Investment Schemes) Regulations, 2006
- Financial Services (Experienced Investor Funds) Regulations 2005;

<http://www.fsc.gi/fsclists/publications.asp?Section=3&Type=7>

- Code of Practice - Collective Investment Schemes

<http://www.fsc.gi/download/adobe/fso98.pdf>

- Financial Services Act 1998

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.