

Part III: Virtual asset service providers

Briefing Summary: Part III (Regulation of Financial Firm Businesses and Virtual Asset Service Providers) of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the "LCF Law") introduces a virtual asset service provider ("VASP") licensing regime in Guernsey. As a result, Guernsey's anti-money laundering and countering financing of terrorism regime applies to VASP activities, thereby aligning Guernsey's regulatory regime with the Financial Action Task Force ("FATF") guidance on such assets.

Service Area: Banking and Finance, Corporate, Corporate Regulation and Compliance, Regulatory, Corporate Regulation and Compliance

Sector: Banking, Blockchain, Digital Assets and Tokenisation, Fintech and Regtech

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Content Authors: Matthew Brehaut, Tom Carey

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Overview

A VASP will need:

- a licence (a "**Part III VASP Licence**"); and
- to be regulated by the Guernsey Financial Services Commission (the "**Commission**").

A Part III VASP Licence is required unless an exemption is available under the LCF Law or the "Notice with respect to the disapplication of the requirement to hold a licence under section 40 of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022" (the "**LCF Notice**").

We have set out below a detailed analysis of the provisions of Part III of the LCF Law in relation to VASPs. To facilitate the analysis, we have prepared a Part III VASP Decision Tree.

Carey Olsen comment

The LCF Law now provides regulatory certainty to virtual asset service providers wishing to use the Bailiwick to provide services to wholesale and institutional investors. With the spotlight currently on the use of blockchain technology in business operations and the issue and trading of crypto currencies, this is a welcome step forward for the Bailiwick in the digital space.

OFFSHORE LAW SPECIALISTS

BERMUDA BRITISH VIRGIN ISLANDS CAYMAN ISLANDS GUERNSEY JERSEY

CAPE TOWN HONG KONG SAR LONDON SINGAPORE

Key Contacts



Matthew Brehaut
PARTNER, LONDON
+44 (0)20 7614 5620

[EMAIL MATTHEW](#)



Tom Carey
PARTNER, GUERNSEY
+44 (0)1481 741559

[EMAIL TOM](#)

Detailed Analysis

A Part III VASP Licence is required where a person (either in or from within the Bailiwick) or a Bailiwick body (in or from within any place whatsoever):

- provides or carries on, offers to provide or carry on, or holds themselves out as being willing to provide or carry on;
- by way of business;

any of the following services or activities:

- exchange between virtual assets and fiat currencies;
- exchange between one or more forms of virtual asset;
- transfer of virtual assets;
- safe-keeping and/or administration of virtual assets or instruments enabling control over virtual assets;
- participation in and provision of financial services relating to an issuer's offer and/or sale of a virtual asset (including, without limitation and by way of example, an initial coin offering); or
- other services or activities specified by the States of Guernsey Policy and Resources Committee, any person doing so being a "virtual asset service provider" (a "**VASP**").

"By way of business"

Under the LCF Law, a person who provides any service or carries on any activity shall (unless the Commission decides otherwise) be deemed to do so "by way of business" if that person receives any income, fee, emolument or other consideration in money or money's worth for doing so.

"Virtual asset"

Under the LCF Law, a "virtual asset" means a digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes.

The LCF Law specifically provides that virtual assets do *not* include digital representations of:

- fiat currencies;
- general securities and derivatives within the meaning of category 2 in Schedule 1 to the Protection of Investors (Bailiwick of Guernsey) Law, 2020; and
- "other financial assets".

Exemptions

The following exemptions should be considered to determine whether or not the need for a Part III VASP Licence can be avoided.

Section 21

Section 21(1) of the LCF Law provides that a Part III VASP Licence is not required by any person or class or description of person specified by regulations of the States of Guernsey Policy and Resources Committee.

No such regulations have yet been proposed or published.

LCF Notice

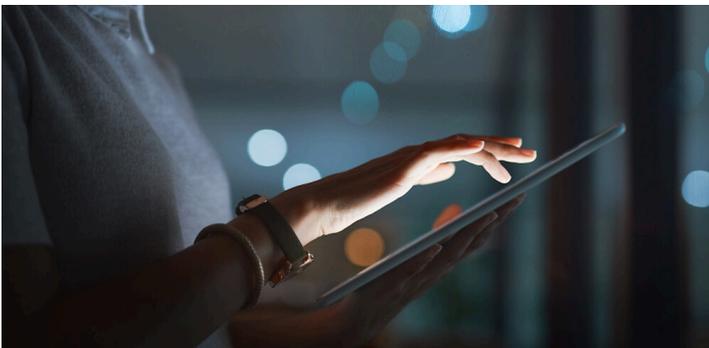
Section 40(1) of the LCF Law enables the Commission to exempt persons from the requirement to hold a licence under any part of the LCF Law. The LCF Notice provides the following exemptions in respect of the requirement to hold a Part III VASP Licence:

- persons who make investments, hold, or trade, in virtual assets for their own benefit. This disapplication will not apply to persons, or persons within groups, offering products or services related to virtual assets;
- licensees, who hold a licence under the Regulation of Fiduciaries Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, in the course of providing administration or management services, as services offered under that licence, to VASPs which either hold a Part III VASP Licence issued under the LCF Law or are exempt under the first paragraph above;
- licensees, who hold a licence under:
 - the Protection of Investors (Bailiwick of Guernsey) Law, 2020;
 - the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002; or
 - the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002,

in the course of providing administration or management services, as services offered under that licence, to VASPs which either hold a Part III VASP Licence issued under the LCF Law or are exempt under the first paragraph above; and

- authorised or registered collective investment schemes (within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 2020) investing, holding, or trading in virtual assets.

Please note that this briefing is intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen (Guernsey) LLP 2026



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