

Discretionary exemptions

Briefing Summary: Section 40(1) (Regulation of Credit) of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the "LCF Law") provides that the Guernsey Financial Services Commission (the "Commission") "... may, ... on the application of any person, by instrument in writing exempt any person ... from the requirement to hold a licence in respect of the carrying on of business regulated by the [LCF Law] or any class or description thereof" (a "Discretionary Exemption").

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This creates a discretionary exemption regime similar to that in the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020.

This is in addition to the list of class exemptions which the Commission has published in its 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.

These exemptions are available to firms and individuals who conduct activities that would ordinarily require a licence under the LCF Law. Where such exemptions apply, there is no need to apply to, or otherwise notify, the Commission.

Any person may apply for a Discretionary Exemption. The Commission has indicated that it would be willing to grant Discretionary Exemptions in respect of "Exempted Private Lenders" and persons whose loan book is in run-off.

Exempted Private Lenders

Non-bank "private lenders" (an "**Exempted**") may be able to apply for a Discretionary Exemption from licensing under Part II and Part III (in so far as Part III covers the same activities) (a "**Private Lender Exemption**").

An Exempted Private Lender must:

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- make available no more than 2 loans per annum;
- have a maximum loan portfolio of no more than £2 million (including any commercial loans, which will not be exempted under the Private Lender Exemption);
- comply with the Lending, Credit and Finance Rules and Guidance, 2023 (the "**LCF Rules**") as applicable in respect of their lending to customers; and
- at all times have acting on their behalf an "Appointed Service Provider" (a Part II licensee that is appointed by an exempt private lender and is responsible for ensuring that the relevant LCF Rules and Anti-Money Laundering/Countering the Financing of Terrorism requirements are met by the Exempted Private Lender).

The Private Lender Exemption only allows exemption from licensing under Part II of the LCF Law for the provision of consumer credit and/or home finance arrangements which are "regulated agreements" (and Part III in respect of those activities only).

A Part III FFB licence may still be required if a private lender is conducting commercial lending.

Firms or individuals who previously conducted lending, but who have ceased writing new business, and who are running off their loan books.

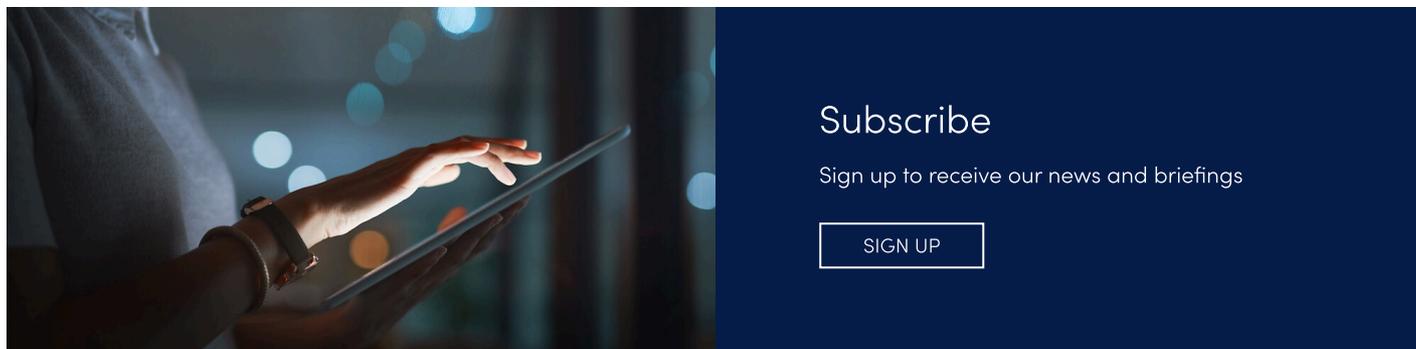
A loan book being in "run off" does not automatically entitle the lender to an exemption from the requirement for a licence.

However, if the loan book enters run-off before 1 July 2023, and the run-off is not expected to take more than 5 years, lenders may qualify for a Discretionary Exemption.

Provided that no new business is conducted in the Bailiwick from 1 July 2023, lenders may apply for a Discretionary Exemption.

During the period of the exemption, lenders will need to follow the requirements of the LCF Rules. Lenders will be permitted to make minor changes to loan terms, for the benefit of (and with the agreement of) the customer and to change interest rates in response to changes in the Bank of England base rate.

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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