

Trust Structure Analysis

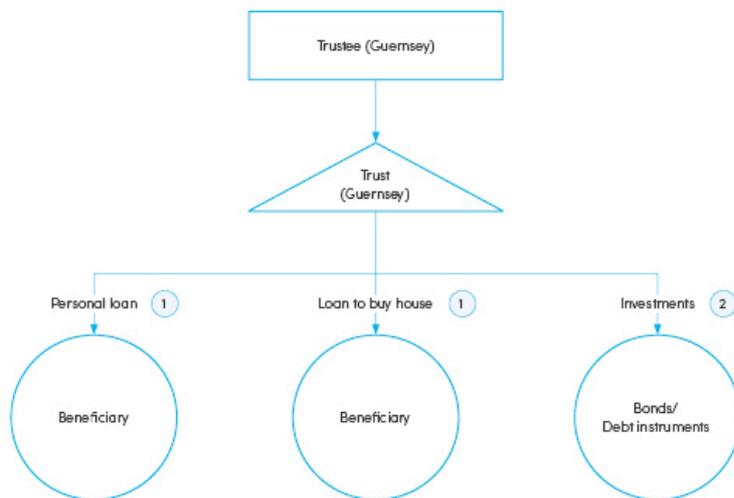
Briefing Summary: Definitions: "LCF Law" means The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022. "Notice" means the Guernsey Financial Services Commission's *Notice with respect to the disapplication of the requirement to hold a licence under section 40 of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022*.

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1. Personal loan; Loan to buy house

Each loan might be subject to both:

- Part II of the LCF Law, as the provision of credit to a customer under a regulated agreement (as the loan is made to individuals) (in the case of the personal loan, and if the loan to buy a house is in respect of a property outside the Bailiwick) and (if the loan to buy a house is in respect of a residential property in the Bailiwick); and
- Part III of the LCF Law, as "lending" (and thereby constituting the trustee a "financial firm business")

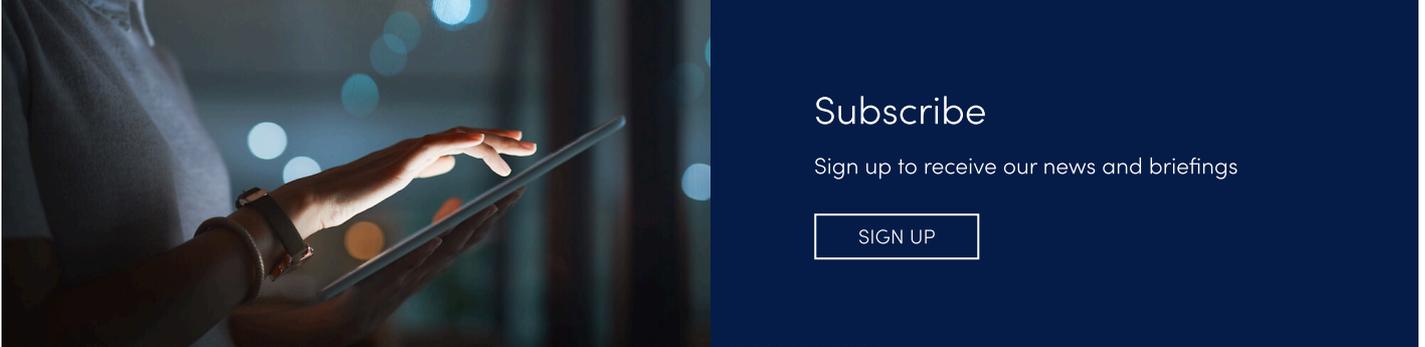
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(the credit is sourced).

Part III

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disapplied under paragraph V of the second section of the Notice (as this is a Guernsey trustee who extends credit to named beneficiaries of the trust from which the credit is sourced).



The fact that they also fall within the scope of category 2 (General securities and derivatives) of Schedule 1 (Controlled Investments) to the Protection of Investors (Bailiwick of Guernsey) Law, 2020 does not exempt them from also (potentially) being characterised as a "lending" under Part A (Financial Firm Business) of Schedule 1 of the LCF Law.

The Commission's *Feedback following the Commission's consultation on the Lending, Credit & Finance Rules, Guidance and Implementation* issued 19 January 2023 confirmed (at question 22) that debt instruments and bonds are not considered to be "lending" for the purposes of the LCF Law.

However:

- this has not translated into the LCF Law, the Lending, Credit and Finance Rules and Guidance, 2023 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; and

where the boundary between "debt instruments and bonds" and lending for the purposes of the LCF Law lies remains unclear.