A round-up of the recent updates affecting investment funds in Guernsey

Briefing Summary: Our investment funds team outline the latest developments in the investment funds market in Guernsey including the Lending, Credit and Finance (Bailiwick of Guernsey) Law 2022, updates to Natural Capital Fund framework, HMRC guidance on the registration of GPUTs, changes to Guernsey's insolvency regime and the consultation on "six directorship" exemption for directors.

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The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022

The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the "**LCF Law**") came into partial force on 1 January 2023 and will come into full effect on 1 July 2023.

The LCF Law introduces new licensing regimes for lenders, virtual asset providers and financial platforms and financial intermediaries, replaces the registration regime under the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 with a licensing regime, and provides UK-style consumer protections for retail and home borrowers. Licences must be obtained by 1 July 2023.

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Accompanying rules (the "**LCF Rules**") and a notice of exemptions (the "**LCF Notice**") have recently been issued by the Guernsey Financial Services Commission (the "**Commission**"). Following significant industry consultation, the LCF Rules and the LCF Notice provide various exemptions from the licensing obligations of the LCF Law to facilitate the ongoing operations of the funds industry in Guernsey and ensure that Guernsey is not at a competitive disadvantage to other jurisdictions. In particular, "financial firm business" as defined in the LCF Law, which includes lending carried on by way of business, requires a licence pursuant to Part III of the LCF Law. However, financial firm business carried on by a "regulated business" is exempt from such licensing requirement. A "regulated business" includes collective investment schemes authorised or registered by the Commission, and entities carrying on controlled investment business within the meaning of The Protection of Investors (Bailiwick of Guernsey) Law, 2020 (which would include Guernsey fund managers and advisers and, typically, general partners of Guernsey collective investment schemes).

Please see our full guide to the LCF Law.

Updates to Natural Capital Fund framework

As reported in our previous funds update, the Commission introduced the Natural Capital Fund framework in September 2022. The Natural Capital Fund designation endorses schemes through which investment can be made into initiatives which make a positive contribution to, and/or significantly reduce harm done to, the natural world. To ensure that the Natural Capital Fund framework reflects the international agreement reached at COP 15 in December 2022, the Commission has updated the framework to reference the Convention on Biological Diversity's Kunming-Montreal Global Biodiversity Framework. The newly agreed framework centres on the goal of "30 by 30" – a target to achieve the effective conservation and management of at least 30 per cent of the world's land, coastal areas and oceans as well as the restoration of 30 per cent of terrestrial and marine ecosystems by 2030. A copy of the updated Rules is available on the Commission's website.

HMRC guidance on the registration of GPUTs

On 31 January 2023, HMRC published updated guidance for unauthorised unit trusts, which includes Guernsey Property Unit Trusts ("**GPUTs**"), expanding the circumstances in which they are required to register with HMRC's Trust Registration Service ("**TRS**"). Previously, only GPUT trustees which were liable for certain UK taxes were required to register with TRS, however now all GPUT trustees acquiring UK real estate on or after 6 October 2020 will need to register unless an exemption applies (e.g. where it is holding it via a holding company or nominee(s)). A 90 day window applies for registration following which a penalty fine can be applied.

The UK Government created the TRS in 2017 to ensure that the UK complies with its international obligations to counter money-laundering and terrorist financing. Information on the TRS is not available to the general public and may only be obtained by relevant interested organisations in limited circumstances (e.g. to investigate suspected money-laundering activity).

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Please speak to your usual Carey Olsen contact for more information on these changes.

Changes to Guernsey's insolvency regime

Long-awaited changes to Guernsey's corporate insolvency regime came into force on 1 January 2023. The Companies (Guernsey) Law, 2008 (Insolvency) (Amendment) Ordinance, 2020 (the "**Ordinance**") and the Companies (Guernsey) (Insolvency Rules) Regulations, 2022 (the "**Insolvency Rules**") represent the most significant and wide-ranging reform of Guernsey's corporate insolvency regime since 2008.

The Ordinance focuses on enhancing the powers of liquidators and administrator and the Insolvency Rules provide practical guidance to insolvency practitioners and other interested parties.

For a detailed explanation of the changes, see here.

Consultation on "six directorship" exemption for directors

The Commission has published a consultation paper seeking views on a proposed change to one of the exemptions from the requirement under The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (the "**Fiduciaries Law**") to obtain a personal fiduciary licence when acting as a company director, by way of business, in or from within the Bailiwick.

There are a number of exemptions which will already apply where acting as a company director in a funds context. For instance, a personal fiduciary licence is not required where the company in question is a "supervised company", which includes a licensed fund general partner company, licensed investment manager or adviser, and an authorised or registered collective investment scheme constituted as a company, and any subsidiaries of any of those companies.

The Commission's consultation relates to the "six directorship" exemption, which means individuals who hold directorships of six or fewer companies, which are not subject to another exemption under the Fiduciaries Law, are not required to hold a personal fiduciary licence. They are however still subject to anti-money laundering and counter-terrorism financing obligations. In 2015, a MONEYVAL report recommended measures should be introduced to ensure effective compliance with these obligations. Accordingly, changes are being proposed which would see a registration framework extended to directors who come under the "six directorship" exemption. This is proposed as a practical and proportionate solution to deliver on the recommendation. It is envisaged that certain directors will be exempt from the registration requirements. In addition, the proposals will not directly impact individuals who rely on other exemptions under the Fiduciaries Law.