



Quarterly round-up of the recent investment funds updates in Guernsey

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Our investment funds team outline the latest developments within the investment funds market in Guernsey including changes to the requirements for individuals acting as a director, the Guernsey Financial Services Commission's annual report, updates to the AML/CFT handbook, the Lending, Credit and Finance (Bailiwick of Guernsey) Law and Financial Crime Return Rules.

Changes to the requirements for individuals acting as a director

Acting as a director of a company or incorporated body (whether incorporated in or under the laws of the Bailiwick of Guernsey or elsewhere) by way of business is a regulated activity under The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 as amended (the "**Fiduciaries Law**"). Individuals carrying on such regulated activity in or from within the Bailiwick are required to hold a personal licence pursuant to the Fiduciaries Law (a "**Personal Fiduciaries Licence**") unless an exemption applies.

On 8 July 2023, new regulations to the Fiduciaries Law came into operation ([The Regulation of Fiduciaries etc \(Bailiwick of Guernsey\) \(Amendment\) Regulations, 2023](#)), which provide additional exemptions from the need to obtain a Personal Fiduciaries Licence (one of which is particularly significant for the funds industry) and which introduce a new director registration regime with which directors should familiarise themselves in advance of the 1 October 2023 registration deadline.

For further information, please see our briefing [here](#).

2022 Annual Report - Guernsey Financial Services Commission (the "**Commission**")

The Commission's latest [annual report](#) highlights the increased risks faced by the financial services sector as a consequence of high inflation and rising interest rates not seen since 2007 and its use and development of digital technology to enhance performance. It also highlights the Commission's continued and high level communication with the States of Guernsey and the finance industry and its support for the Bailiwick's preparations for the impending MONEYVAL inspection in 2024.

Specifically the Commission noted:

- the continued development and use of Augmented Intelligence with the creation of an Early Warning System which assists supervisors in recognising smaller entities that are displaying certain patterns of possible concern;
- progress with a data project to review its overall data strategy and start creating a design framework for a new data platform that will transform its IT infrastructure. These are both large scale digital projects designed to increase automation and efficiency; and
- the implementation of recommendations from an audit against the Financial Action Task Force's criteria whilst working with the States of Guernsey to deliver a number of significant new pieces of MONEYVAL-related legislation, including the Lending, Credit and Finance Law. This brings crypto assets and personal loans inside the regulatory perimeter for the first time, hopefully advancing good AML/CFT practices and consumer protection.

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Updates to the AML/CFT Handbook

On 10 July 2023 the Commission issued an updated [Handbook on Countering Financial Crime and Terrorist Financing](#) following consultations on rules and guidance in relation to an independent audit function, business risk assessments, virtual asset service providers and additional information disclosures for licensed trustees and partners. Appendix I of the Handbook has also been updated to list jurisdictions presenting a higher risk of money laundering and terrorist financing, namely Cameroon, Croatia, Vietnam, Chile, Curaçao and Macau.

Update on the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022

The [Lending, Credit and Finance \(Bailiwick of Guernsey\) Law, 2022](#) (the “LCF Law”) is fully in force and effective from 1 July 2023, meaning persons undertaking regulated activity which is not subject to an exemption must now be licensed. The primary purpose of the LCF Law is to regulate the consumer credit and finance sector, “financial firm business”, virtual asset service providers and financial intermediation services. The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 has been repealed.

Additionally, on 23 June 2023 the Commission updated the [Notice of disapplication](#), expanding the exemptions from the requirement to be licensed under the LCF Law. Collective investment schemes are already exempt from the requirement to be licensed as a “financial firm business” pursuant to Part III of the LCF Law.

Financial Crime Return Rules

The Commission has made the [Financial Crime Return Rules](#), which came into force on 28 April 2023. These rules make certain filings mandatory for all licensees except personal fiduciary licence holders, general insurance business licensees, licensed insurance intermediaries and those licensed to provide ancillary services under Part II of the LCF Law. A financial flows return must be submitted annually by bank licensees. From a funds perspective, all licensees must file a financial crime risk return by 31 October 2024, for the reporting period 1 July 2023 to 30 June 2024, and annually thereafter.

These returns have been required for some time but from 2024 administrative financial penalties will apply for late filings and inaccurate submissions.



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PLEASE NOTE

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