



## Guernsey investment funds update - Q4 2023

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### Changes to the requirements for individuals acting as a director

As noted in our previous update, on 8 July 2023 new regulations to The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (the “**Fiduciaries Law**”) came into operation, introducing additional exemptions from the need to obtain a personal licence pursuant to the Fiduciaries Law. One new exemption from a funds perspective is acting as a director of a company connected to an authorised or registered collective investment scheme, where the director also acts as a director for the collective investment scheme (or its general partner) and both entities are administered by a licensed administrator (so, e.g. carry vehicles and co-investment vehicles).

If no specific exemption applies under the Fiduciaries Law, a director can rely on the “residual” exemption which permits a person to hold a maximum of six directorships in respect of which no other exemption is available under section 3(1) of the Fiduciaries Law (the “**Six Directorships Exemption**”). A new registration regime was introduced on 8 July 2023 in relation to certain directors relying on the Six Directorships Exemption (the “**Director Registration Regime**”). A director will be subject to the Director Registration Regime where he or she relies on the Six Directorships Exemption and any one or more of those six directorships is in respect of a company that is neither (i) administered by a Bailiwick licensed fiduciary (which acts as the resident agent of the company), nor (ii) registered under the Charities and Non-Profit Organisations (Registration) (Guernsey) Law, 2008.

Directors subject to the Director Registration Regime were required to register by 1 October 2023 and therefore any directors not having considered whether the Director Registration Regime applies to them should do so as a matter of urgency.

### Guernsey funds statistics

The total net asset value of Guernsey funds at the end of Q3 2023 was £288.8 billion, an increase over the quarter of £2.8 billion (+1.0%). Within these totals, Guernsey closed-ended funds increased over the quarter by just under £2.4 billion (+1.0%) to £239.4 billion. The Guernsey-domiciled open-ended sector increased over the quarter by just under £0.5 billion (+1.0%) to £49.4 billion. Within these totals for Guernsey funds, Guernsey Green Funds held a total net asset value of £5.5 billion at the end of the quarter.

### Guernsey pension funds – hedging longevity risk

Pension funds that operate defined benefit schemes are exposed to longevity risk; the risk that their pensioners live longer than predicted. Their exposure has been growing rapidly in recent years as life expectancy has increased. Just one extra year of additional life expectancy can add 5% to a pension fund’s total liabilities. One solution to this issue is for pension funds to transfer longevity risk to the reinsurance market. Such a transfer can be attractive for both parties. From the pension fund’s perspective, a life reinsurer is often an attractive counterparty, both because of its deep understanding of the nature of the risk being transferred, and because it can provide a balance sheet big enough to assume a meaningful amount of risk from the fund.

#### OFFSHORE LAW SPECIALISTS

Carey Olsen has recently seen an increasing number of longevity risk transfer transactions. Since acting on the first such transaction involving the BT Pension Scheme in 2014, Carey Olsen has advised on a further 12 similar transactions. In aggregate those transactions have a combined value of in excess of £45 billion. Please see our detailed briefing [here](#).

## Guernsey's fast track application regime for managers of overseas funds

Carey Olsen has recently assisted a number of overseas fund managers with migrating their fund management companies ("Mancos") to Guernsey, and we continue to receive enquiries. Mancos are able to expedite this process using a fast track regime for managers of overseas funds.

In our view, more migrations are occurring for the following reasons:

- **Substance:** In light of economic substance requirements, businesses are asking themselves the question "given my operations and where my group of companies is focussed, which jurisdiction is easier for me to locate substance?" Both the geographical location of the relevant directors and other personnel as well as transport links are crucial. Essentially, companies appear to be migrating to jurisdictions where they can most readily comply with substance requirements. This is particularly the case where a corporate group structure involves companies registered in various offshore financial centres. In these cases, it is better from a substance perspective to locate all relevant companies with their personnel and office space in a single jurisdiction than to have them, and their substance, spread out over multiple jurisdictions.
- **Efficiencies in administration of group entities:** Aside from substance, there are practical and cost efficiencies both administrative and legal in structuring all entities within one jurisdiction.
- **Guernsey as a jurisdiction:** Fund managers are attracted by Guernsey's fiscal and legal stability and its highly rated systems for combating financial crime. [Guernsey is a leading jurisdiction for funds](#) and has a wealth of quality financial service providers and professionals, including non-executive directors. From a regulatory perspective, the GFSC is familiar with a wide range of fund and financing structures and welcomes innovation. Guernsey is a short flight from London with multiple flights daily and is in the same time zone. English and other common law authorities are persuasive in the Guernsey Courts.

For further details please see our briefing note [here](#).

## Legal entities – records and filing

Guernsey has tidied up its legislation for legal entities (companies, limited partnerships, limited liability partnerships and foundations). The amendments are in force save for some penalty provisions which come into effect from 15 December 2023.

By way of example, companies now have a duty to file with the Registry not just any special resolution amending a company's articles of incorporation, but also a set of the amended articles. There is also a duty to record the "nature of the voting rights associated with each class of share" in a company's register of members.

## UK-EU Memorandum of understanding on financial services

A memorandum of understanding on financial services (the "MoU") between the UK and the EU was finally signed on 27 June 2023. The MoU is an arrangement between the two sides to cooperate around the objectives of preserving financial stability, market integrity and the protection of investors and consumers. The MoU also creates a joint EU-UK financial regulatory forum to allow both sides to cooperate on and discuss regulatory matters. For further information on this MoU and the implications for the Channel Islands, please see [our briefing note](#) on this topic.

If you have any questions or would like to discuss any of the points raised above, please speak to your usual Carey Olsen contact.



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### PLEASE NOTE

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