

Employment and pensions updater - December 2018

Service area / [Employment, Pensions and Incentives](#)

Location / [Jersey](#)

Date / [December 2018](#)

Team news

Julie Currie and Lois Madden have joined our market-leading Channel Island employment and pensions team and will be advising on both Guernsey and Jersey matters. You can find out more about Julie [here](#) and Lois [here](#).

Tarina Le Boutillier is undertaking a six-month secondment with our know-how and knowledge management team to help maintain and develop further our employment and data protection know-how and precedent base, as well as assisting in other knowledge based projects. Legal assistant Adele Browne will be joining the team for the duration of Tarina's secondment. Adele's details can be accessed [here](#).

International Savings Plans ("ISPs") approved by States of Jersey

On 6 December, the States of Jersey approved the introduction of ISPs by Jersey financial providers with effect from 1 January 2019.

ISPs are designed to enable multinational and international companies to set up tax efficient savings plans in Jersey for non-resident employees.

It is anticipated that ISPs may be of particular utility in areas such as the Gulf region, which has many jurisdictions which require employers to make payments to employees when their employment ends (or on the occurrence of a major "trigger" event which might include redundancy, ill health related retirement/resignation or other major life events such as divorce).

Should you wish to discuss how an ISP might be of use (or how it may be structured), please contact [Siobhan Riley](#).

Consultation on proposed regulation of pension business

The States of Jersey is consulting with interested parties on the proposed regulation of pension business. The consultation opened on 19 November 2018 and closes on 31 January 2019. The proposal is to introduce regulation in order to uphold standards of consumer protection and ensure that Jersey maintains its world-class reputation as a well-regulated and reputable jurisdiction.

A copy of the consultation paper, including the specific questions on which responses are being invited, is available [here](#).

This note gives an overview of the key issues outlined in the consultation paper. We will be discussing these issues in more detail at our breakfast briefing on 23 January 2019.

Current framework

The consultation relates to occupational pension schemes (on a defined contribution or defined benefit basis) and private pension schemes. Occupational public sector schemes are included.

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Pension schemes in Jersey are not regulated or governed by pensions-specific legislation. Under the current pensions framework:

- Pension schemes require the initial approval of the Comptroller of Income Tax. Whilst the Comptroller has the power to approve pension schemes if they meet certain criteria, and to withdraw approval, he does not have a role in regulating pension schemes on an ongoing basis.
- Although the Jersey Financial Services Commission (the "JFSC") does not directly regulate pension business, it does regulate and supervise associated activities:
 - Trust companies and investment advisers are regulated under the Financial Services (Jersey) Law 1998 (the "FSJL")
 - Banks that provide any services to pension schemes are regulated and supervised under the Banking Business (Jersey) Law 1991
 - Annuities and pension plans offered by insurance companies are governed by the Insurance Business (Jersey) Law 1996.

There is no specific regulatory authority which governs pensions in Jersey. The view of the States is that there is a regulatory and supervisory gap in respect of pension schemes and businesses associated with pensions.

A concern is expressed within the consultation that this structure does not accord with international standards.

How could a regulatory framework be created?

A regulatory framework could be created in the following ways:

- A new pensions regulation law could be implemented,
- Existing pensions-related law could be supplemented, or
- Pension provision could be added as a new class of financial service business within Article 2 of the FSJL.

Expanding the FSJL would mean that a regulator (almost certainly the JFSC) would be able to issue codes of practice to set out the principles and detailed requirements for pensions services.

Our view

Our immediate view is that pensions provision would already appear to be reasonably well regulated within Jersey.

Whilst a criticism may be made that there is no overarching regulation of pensions regulated activities, it will be important to ensure that any proposed regulation does not add a layer of additional cost for providers (and, therefore, for scheme members).

Alongside the Jersey proposals, it should be noted that Guernsey is looking to introduce a secondary pension scheme from 2020. The principles of the scheme, which will be an auto-enrolment private pension provision for working-age residents of Guernsey and Alderney, were approved by the States in 2016 and a detailed set of proposals is due to be published in the first quarter of 2019. Further details are available on the States of Guernsey website [here](#).

For further information or professional advice please contact our lawyers below. Please also join us for a discussion of the consultation paper at our breakfast seminar on 23 January 2019. If you would like to receive an invitation for this seminar, please contact us [here](#).

Continued



Key contacts

For further information or professional advice please contact our lawyers below:



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