

UPDATE

## New pensions supervisory framework

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With effect from 30 June 2017, a new regime covering the regulation of pension and gratuity schemes in Guernsey came into force. The new regime will apply to pension and gratuity schemes which are administered in Guernsey by licensed fiduciaries and will bring Guernsey's regulatory regime in line with current international standards. Previously, the administration of pension and gratuity schemes in Guernsey was not formally supervised per se (although the service providers administering the schemes generally were); however this is no longer the case.

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### The new regime

The changes come as (i) an extension to the definition of regulated activities under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 to include the formation, management or administration of pension schemes or gratuity schemes and (ii) by the introduction of The Pension Licensees (Conduct of Business) & Domestic And International Pension Scheme And Gratuity Scheme Rules 2017 (the **Rules**) which will apply to all those licensed fiduciaries who provide such services by way of business, while also ensuring such fiduciaries are subject to regulation by the GFSC.

It is important to appreciate that the Rules will only apply to Guernsey regulated service providers and the pension and gratuity schemes they manage. Schemes with lay trustees, non-Guernsey trustees and non-Guernsey administrators will be outside the scope of the new regime. However, it will be prudent to follow the Rules where applicable in any event as they are likely to be viewed as best practice.

The Rules include matters such as (i) governance and internal controls, (ii) record keeping, (iii) provision of information to members, including member-borne charges, (iv) procedures for pension transfers, (v) statements of investment principles, (vi) limitations on employer-related investments and (vii) contribution schedules.

Although the changes are effective from 30 June 2017, there will be a transitional period, which lasts until 30 September 2018 that will allow firms time to fully comply and obtain regulated status for the schemes they administer. However, licensed fiduciaries are required to carry out 'gap analysis' of Internal Controls for each scheme by 30 September 2017.

### Included schemes

Pension schemes which are included are any schemes 'approved' under Sections 150, 154A, 157A or 157E or established in Guernsey and 'recognised' under section 40(o) or 40(ee) of the Income Tax (Guernsey) Law, 1975 (the **Income Tax Law**). Gratuity schemes (which are widely defined) are also included.

### Why now?

The changes have been introduced to protect and enhance Guernsey's reputation as being a leading provider of offshore financial services, in addition to the fact that these new requirements should, amongst other things, enable pension providers in Guernsey to apply for exemptions under the Common Reporting Standard (CRS).

## The effects

In practice, this new regime will not bring many changes, as many requirements under the Rules, such as maintaining and securely keeping records of minutes and accounts, will have been practised previously by most service providers in the sector. However, it ensures a common standard across pension and gratuity schemes and therefore greater security.

The changes will also introduce a supplementary pension license fee from 2018.

## Other changes

Also effective from 30 June 2017, a new regime introduces a formal process for applying for the approval of pension schemes for non-residents. A new section has been added to the Income Tax Law meaning that schemes recognised under section 40(o) and section 40(ee) of the Income Tax Law will now (voluntarily) be able to apply for formal approval under a new section 154A of the Income Tax Law.

This will enable Guernsey licensed fiduciaries to benefit from an exemption within the OECD Common Reporting Standard on financial account information reporting requirements for pension schemes.

## What can Mourant Ozannes do?

Mourant Ozannes has an experienced team of pension experts who can provide all manner of advice in relation to the new regime and any other pension issues.

## Contacts

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