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A low-angle, upward-looking photograph of several modern skyscrapers with glass facades against a clear blue sky. A flag with red and white sections is flying from a pole in the center of the frame, positioned between two of the buildings. The bottom portion of the image is overlaid with a semi-transparent red gradient.

# FinReg Update

Guernsey

October to December 2023 (Publication date 8 January 2024)

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# Quick Fire Updates

## 1. Guernsey Registry – new portal

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The Guernsey Registry (the **Registry**) – the statutory office responsible for the oversight and maintenance of registers of companies, limited partnerships, limited liability partnerships, foundations, charities, non-profit organisations and intellectual property - is undergoing a digital transformation to improve the quality of the services it provides.

The new online portal is now available and those wishing to use it to conduct a search of the registers, make submissions including annual validations, and generally update requisite information, may do so [here](#). Further details on the new portal can be found [here](#).

## 2. Limited partnerships with legal personality - update

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The series of amendments made to the legislation which governs entities that are administered by the Registry, including the Companies (Guernsey) Law, 2008 and the Limited Partnerships (Guernsey) Law, 1995, are now fully in force. For a summary of the wider amendments see our Update [here](#).

Limited partnerships with legal personality (**LP Incs**) are now required to file with the Registry particulars of their basic governing provisions (**particulars of governance**). The Registry has published a template for LP Incs to use when submitting their particulars of governance ([here](#)).

In addition, LP Incs (excluding collective investment schemes) must appoint (and notify to the Registry) a resident agent (an **RA**) who is either an individual resident in Guernsey who is a general partner, or a Guernsey corporate service provider. The RA's duties include ascertaining and verifying the beneficial owners of the LP Inc and providing a statement to that effect to the Registrar of Beneficial Ownership (the **Registrar**). The RA must also notify the Registrar if any general partner or beneficial owner fails to comply with a request to verify beneficial ownership.

## 3. Beneficial ownership registers in the Crown Dependencies

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The Crown Dependencies have issued a joint public commitment ([here](#)) to extend access to the information held on their registers of beneficial ownership for those with a 'legitimate interest' before the end of 2024, with appropriate safeguards to manage effectively any interference with privacy rights.

The proposal that access to the register of beneficial ownership will be for those with a 'legitimate interest' recognises that *'there is a crucial balance to strike between protecting human rights and combatting financial crime'*.

## 4. National Risk Assessment – second assessment

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In December 2023, the States Policy and Resources Committee (the **Committee**) published the Bailiwick of Guernsey's second National Risk Assessment (the **NRA**) ([here](#)). The NRA assesses the money laundering and terrorist financing risks presented by individual sectors and products within the jurisdiction and incorporates the first assessment (published in January 2020) of

risks in relation to the financing of proliferation of weapons of mass destruction.

## 5. Unregulated trustees and partners – new legal requirements

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New requirements applicable to anybody who is:

- a trustee or partner of a partnership (other than a limited partner in the case of a limited partnership), and
- not regulated to act as a trustee or partner by the Guernsey Financial Services Commission (the **Commission**)

were introduced by The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) (No. 4) Ordinance 2023 ([here](#)), which came into force on **16 October 2023**.

In summary, the new requirements are to:

- obtain and maintain information about parties to the trust or partnership, eg for an individual who is a beneficiary under a discretionary trust, their full name and principal residential addresses,
- obtain and maintain information about regulated agents or service providers to the trust or partnership,
- keep records at all relevant times and for at least five years starting from the date of the dissolution or termination of the trust or partnership, and
- when carrying out business on behalf of the trust or partnership that involves financial services or related businesses, disclose that the person is acting as a trustee of the trust or partner of the partnership (which ought to be done for all business on behalf of the trust or partnership).

The Committee has issued guidance ([here](#)) on the application and scope of the new requirements.

## 6. OECD Crypto-Asset Reporting Framework - update

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In August 2022, in light of the rapid growth of the crypto-asset market, the OECD approved the Crypto-Asset Reporting Framework (the **CARF**) ([here](#)).

The CARF provides for standardisation in the reporting of tax information on transactions in crypto-assets to facilitate the automatic exchange of such information under the OECD's Common Reporting Standard (CRS). It also incorporates the Financial Action Task Force's current anti-money laundering standards.

As part of its commitment to tax transparency measures the States of Guernsey (the **States**), alongside the other Crown Dependencies, has confirmed its commitment to adopt the CARF in a joint statement issued by participating jurisdictions. The States, as a jurisdiction hosting active crypto markets, has also committed to incorporating the CARF into domestic law and activating exchange agreements in time for exchanges to commence in 2027 ([here](#)).

## 7. Financial crime and sanctions website and guidance

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The States has created a new website documenting news and resources on financial crime ([here](#)). The website brings together in one place a number of existing web pages covering financial sanctions, together with the recently published overarching guidance on targeted financial sanctions ([here](#)) and advisory memorandum on UN sanctions linked to terrorism and terrorist financing ([here](#)).

The new website will also host details of the Guernsey agencies working to combat financial crime and the NRA, plus information about the forthcoming MONEYVAL inspection.

## 8. Disclosure rules for insurance intermediaries

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The Commission has published a consultation paper ([here](#)) which proposes changes to the disclosure requirements relevant to the relationship between licensed insurance intermediaries and insurers. The consultation closes on **29 January 2024**.

The Commission expects insurance intermediaries to provide clients with enough information to ensure they can make a fully informed decision before purchasing a policy. The consultation proposes amendments to the Insurance Intermediaries Rules and Guidance to require insurance intermediaries to:

- Name, and disclose their relationship to, the insurers they represent,
- Disclose whether they are representing the client or are acting for and on behalf of the insurer,
- Identify and disclose where they are offering insurance products of a limited number of insurers (three or fewer), and
- Disclose the basis on which they are remunerated.

## 9. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999

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The Committee has published a consultation on amendments to Schedule 3 to require specified businesses, to apply obligations and other sanctions frameworks in relation to combatting the financing of proliferation of weapons of mass destruction and to develop a distinct proliferation financing assessment. The consultation closes on **23 January 2024**.

The Commission will consult separately on changes to the Countering Financial Crime and Terrorist Financing (the Handbook) (the **Handbook**)

## 10. Financial Ombudsman - news

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The Channel Islands Financial Ombudsman received 152 complaints in the third quarter of 2023, of which 124 were within its remit. Home insurance, current accounts, health insurance and money transfers were the product areas most complained about, and in the main, complaints related to poor administration or delay, non-payment of claim and fees and charges. Further details can be found [here](#).

## 11. AML/CFT Handbook - update

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Amendments have been made to the list of equivalent jurisdictions in Appendix C of the Handbook ([here](#)), as well as to the list of countries presenting a higher AML/CFT risk in Appendix I of the Handbook.

## 12. Commission Fees for 2024

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The Commission has published its fee schedule for 2024 (effective from **1 January 2024**) ([here](#)). Fees have been increased by 6.3% which is broadly in line with Guernsey's overall rate of inflation to September 2023.

## 13. Regulatory enforcement

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In October 2023 the Commission published notice of the fact of a prohibition order and a discretionary financial penalty against an individual for failure to meet the minimum criteria for licensing. Further details are available [here](#).

## 14. Data Protection - news

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Statistics for the third quarter of 2023 reveal that 38 personal data breaches were reported to the Office of the Data Protection Authority (the **ODPA**). One self-reported breach involved an email containing a significant volume of personal data being sent to an incorrect recipient. In another breach a template document containing someone's personal data was accidentally shared with a third person. Further details are available [here](#).

In November 2023, the ODPA issued a public consultation on its development of a Children's Framework on the handling of the personal data of a child. The consultation closed on 31 December 2023.

In December 2023, the ODPA issued an enforcement notice to a not-for-profit organisation requiring it to improve its processes for dealing with data subject access requests. The issues arose following a data subject access request from the parents of a minor which resulted in a complaint to the ODPA that the organisation had not provided all relevant personal data within the required deadline. The ODPA has provided a detailed statement of the issues that arose, lessons to be learned, and the ways that it seeks to support organisations in the third sector. Further details are available [here](#).

Finally, a reminder that persons who process personal data must complete their annual registration with the ODPA on or before **29 February 2024**.

## 15. MO FinReg Forum

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If you would like to participate in our quarterly FinReg Forum, which provides updates on similar matters for each of Guernsey, Jersey (where the forum is hosted) and from time to time the Isle of Man (provided by Cains), please do get in touch..

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