

Guernsey funds legal and regulatory update

An overview of Guernsey legislative and regulatory developments relevant to investment funds for the period 1 March to 31 May 2023 inclusive

1 International tax (BEPS) – update

Guernsey, Jersey and the Isle of Man have announced their decision on a joint approach to implementation of the OECD's Pillar Two framework, one of the two-pillar solutions agreed by the OECD/G20 Inclusive Framework on Base Erosion and Profit Sharing (**BEPS**) (of which Guernsey is a member) in 2021 to address the taxation challenges of the digitalised global economy.

Pillar Two applies to large multi-national enterprises (**MNEs**) that meet an annual consolidated revenue of EUR 750 million. The Islands' joint approach will comprise the implementation of an 'Income Inclusion Rule' and a domestic minimum tax to provide for a 15 per cent effective tax rate for MNEs from **2025**.

In view of the threshold, Pillar Two is unlikely to affect many businesses in Guernsey and those that are unaffected will continue to be subject to Guernsey's established zero-10 corporate tax regime.

The announcement ([here](#)) confirms that the three Islands will continue to work together and that they remain committed to continuing to offer attractive and globally competitive investment environments.

2 Lending credit and finance – update

The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the **LCF Law**) is now in force (effective **1 January 2023**), with full implementation from **1 July 2023**. The Guernsey Financial Services Commission (the **Commission**) has published the final rules and guidance, which underpin the LCF Law, together with a notice setting out the various class exemptions. It has also published a series of FAQs ([here](#)).

The Commission has advised that it has received a significant number of applications during the early submission window (running from 1 February to 31 March) which it is working through with the aim of having reviewed them all by 1 July when the new regime becomes effective. Outstanding applications are encouraged as soon as possible with a reminder that if regulatory approval is not held on **1 July 2023**, all activities regulated under the LCF Law will need to cease until approval is granted.

For an overview of the LCF Law, including most recently the licensing process, visit our dedicated 'Lending, Credit and Finance Hub' [here](#).

3 Financial Crime Return Rules, 2023

Following its consultation earlier this year, the Commission has issued the Financial Crime Return Rules, 2023 (the **Rules**) ([here](#)) which are effective from **28 April 2023**.

The Rules, which apply to most licensees, including designated administrators of authorised or registered collective investment schemes licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (the **POI Law**), make the filing of the following annual returns mandatory with effect from **31 May 2023**:

- **Financial Crime Risk Return** (annual return of data and information in respect of activities subject to the requirements of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999) by **31 October 2024** following the end of the reporting period 1 July 2023 to 30 June 2024; and

- **Intermediary Annual Multi-Scheme Return** (annual return of data in respect of intermediary relationships on collective investment schemes authorised or registered under the POI Law) by administrators of authorised and registered collective investment schemes by **31 May 2024** following the end of the reporting period 1 April 2023 to 31 March 2024.

These returns have been in place for some time during which the Commission has fed back to those licensees that had made errors, omissions or delayed submissions. There will however be administrative penalties for the late or inaccurate submission of returns from 2024 onwards.

4 Investment statistics – Quarter 4 of 2022

The investment statistics for Quarter 4 of 2022 ([here](#)) show that the total net asset value of Guernsey funds stands at £297.3 billion, broken down as follows:

- Guernsey domiciled open-ended funds decreased by £2.8 billion (5.3 per cent) to £50.8 billion (representing a net decrease of £3.7 billion (-6.9 per cent) in 2022)
- Guernsey closed-ended sector decreased by £8.2 billion (-3.3 per cent) to £240.9 billion (representing a decrease of £8.2 billion (-3.3 per cent) in 2022) and
- Guernsey Green Funds held a total net asset value of £5.6 billion at the end of the Quarter 4.

The total net asset values over 2022 decreased by £12.0 billion (-3.9 per cent).

5 TISE - news

In March 2023, the International Stock Exchange (the **TISE**) published its annual report and consolidated financial statements for the year ending 31 December 2022 in March 2023 ([here](#)).

Highlights include:

- record-equalling turnover of £10.0 million
- second best year for new listings and profitability
- geographic diversification underpinned by the continued growth and internationalisation of Member firms
- international membership grew by 13 per cent to 43 Listing and Trading Members by the end of 2022
- 4,020 listed securities at the end of 2022, representing a 9.6 per cent year on year increase
- fall in profits of 13.2% year on year but the second highest on record at £4.1 million and
- earnings per share of 145.6p, totalling £8.0 million returned to shareholders in 2022.

6 Data protection – news

From the start of 2023, the Office of Data Protection Authority (**ODPA**) has moved from bi-monthly to quarterly reporting data breaches and has added two new reporting criteria, namely the severity of the reported breach and the total number of people affected. The breach statistics for Quarter 1 of 2023 reveal that 38 personal data breaches were reported to the ODPA. One of the breaches involved a UK-based company that was subject of a large cyber-attack which reported the breach to the ODPA as Guernsey was one of several jurisdictions where it had customers affected by the breach.

Further details are available [here](#).

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