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A low-angle, upward-looking photograph of several modern skyscrapers with glass facades against a clear blue sky. A red flag 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

1 May to 30 June 2024

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Quick Fire Updates

1. International tax (Pillar 2) - update

In a previous FinReg Update ([here](#)), we reported that Guernsey, Jersey and the Isle of Man had announced their joint approach to implementation of the Organisation for Economic Co-operation and Development's Pillar 2 Global Tax Framework.

A policy letter will be published later in 2024 proposing the introduction of an 'Income Inclusion Rule' and a 'Qualified Domestic Minimum Top-Up Tax' to provide for a 15 per cent effective tax for large in-scope multi-national enterprises, ie cross-border groups with a turnover of over €750m per annum, from 2025. The proposals will apply to in-scope entities in Guernsey that are not already charged an effective tax rate of 15 per cent or more.

The latest statement from the States of Guernsey Policy and Resources Committee (the **P&R Committee**) can be found [here](#).

2. IOSCO Enhanced Multilateral Memorandum of Understanding

In May, the Guernsey Financial Services Commission (the **Commission**) became a signatory to the International Organisation of Securities Commission's (IOSCO) Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (EMMoU).

The EMMoU is the second Multilateral Memorandum of Understanding established by IOSCO, with the aim to:

- Enhance investor protection;
- Ensure markets are fair and efficient;
- Promote financial stability by reducing systemic risk.

The EMMoU takes into account the significant increase in globalisation and the interconnectedness of financial markets, as well as advancements in technology that have changed the way that the securities and derivatives industry operates and how violations of securities and derivatives laws occur.

The Commission's admission as a signatory follows a rigorous multi-year evaluation process overseen by the US Securities and Exchange Commission and therefore demonstrates the high quality of the Bailiwick's regulatory regime.

Further details can be found [here](#).

3. Commission – 2023 annual report

The Commission has published its annual report for 2023 (the **Report**) ([here](#)).

Among other things, the Report discusses the Commission's preparations for the Bailiwick of Guernsey's (the **Bailiwick**) MONEYVAL evaluation and onsite inspection as well as the work in preparation of the Bailiwick's second national risk assessment and first proliferation financing national risk assessment.

The Report also reviews the Commission's continuing use of digital technology to enhance performance and streamline processes for industry.

4. Unclaimed money in CIS - consultation

The Commission has issued a consultation on a new policy regarding unclaimed money in collective investment schemes (CIS) under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 ([here](#)).

The consultation follows the Commission's Thematic Review of Unclaimed Money of Collective Investment Schemes ([here](#)) which identified that there was no uniform approach to unclaimed money within the industry and that, apart from the *Authorised Collective Investment Schemes (Class B) Rules and Guidance, 2021*, there are currently no rules or guidance in Guernsey relating to unclaimed money in CIS.

The consultation puts forward key proposals which would apply to all authorised and registered collective investment schemes, except for private investment funds:

- the board of the CIS must adopt a policy regarding unclaimed money
- a responsible entity (in most cases the designated administrator) must oversee implementation of the policy
- appropriate disclosures must be made to investors within the scheme particulars.

The consultation closed on **20 June 2024**.

5. Sanctions Notice – guidance


The P&R Committee has issued revised and enhanced guidance on compliance with the Bailiwick's sanctions regime (together with the associated standard forms), covering:

- reporting obligations under the Sanctions (Bailiwick of Guernsey) Law, 2018 (guidance ([here](#)) / standard form ([here](#)))
- requesting assistance with unfreezing assets in cases where a non-designated person is affected or a designation is revoked (guidance ([here](#)) / standard form ([here](#)))
- applying for revocation or variation of a designation under The Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011 (guidance ([here](#)) / standard form ([here](#))), and
- requesting assistance when challenging a UK or UN designation (guidance ([here](#)) / standard form ([here](#))).

6. Deposit compensation scheme - amendments

The States of Guernsey's Committee for Economic Development has published proposals for amendments to the legislation governing the Bailiwick's Deposit Compensation Scheme (DCS) ([here](#)).

Guernsey's DCS was introduced in 2008 at the height of the global financial crisis by enactment of the Deposit Compensation (Bailiwick of Guernsey) Ordinance, .



Since the DCS was established, the Basel Committee on Banking Supervision, and the International Association of Deposit Insurers, has published the Core Principles for Effective Deposit Insurance Systems (the **Core Principles**) which set an international benchmark for jurisdictions to use in establishing, or reforming, deposit insurance systems.

It is anticipated that in future assessments of the Bailiwick's compliance with international financial standards will take account of the extent to which the DCS meets the Core Principles.

Proposed amendments include:

- extending the scope of the DCS to cover deposits made by a guardian on behalf of a child under the age of 18 and/or an attorney on behalf of a patient under a lasting power of attorney
- clarification that deposits held by partners in general partnerships, which represent partnership property, are not within scope of the DCS
- expanding the list of third parties to whom the board of the DCS may disclose information
- expanding the grounds for when the payment of compensation may be delayed or refused, including pending determination of any dispute over ownership of the deposit or where the bank has classified the account as dormant.

7. Financial Ombudsman - news

The Channel Islands Financial Ombudsman (CIFO) has published its annual report for 2023 ([here](#)).

CIFO reported a 12.4 per cent increase in the number of complaints received in 2023 (562 compared to 500 in 2022). The three products most frequently complained about were home emergency insurance, current accounts and health insurance, whilst the three most common issues raised by complainants were poor administration and delay, non-payment of claims, and fees and charges.

8. Data protection - news

The Office of the Data Protection Authority (the **ODPA**) has also published its 2023 annual report ([here](#)).

In 2023, the ODPA issued 12 new guidance notes, received 151 data breach reports, 56 data protection complaints and opened 16 investigations and seven inquiries.

Recently the ODPA has published two new guidance documents.

The first is a simple guide to data collection; to ensure that personal data obtained from individuals is collected and held in accordance with data protection law principles ([here](#)).

The second provides guidance for employers on sharing the health data of employees who may be experiencing a health emergency at work ([here](#)).

9. Finovation: The Guernsey Edge - future event

The Commission and Guernsey Finance will be co-hosting 'Finovation: The Guernsey Edge' on **11 September 2024**. The one-day technology conference will consider opportunities for Guernsey to leverage its nimbleness, robust legal framework, and approach to regulation to make financial services better with technology.

An exciting line-up of speakers has been confirmed and topics for discussion include digital money and an innovative new algorithmic fund which recently launched in Guernsey. The Commission will also preview its new applications and authorisations portal, which will digitalise and streamline the application process and make it easier for those wanting to do business in the Bailiwick.

Further details of and how to register to attend the conference can be found [here](#).

10. MO FinReg Forum

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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