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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 with a white tail 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 October 2024 – 31 December 2024

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Quick Fire Updates

1. International tax (Pillar 2) - update

We previously reported on a States of Guernsey (**States**) policy letter which set out how the Organisation for Economic Co-operation and Development's Pillar 2 GloBE Rules (the **GLoBE Rules**) would be introduced as an international tax measure under the Income Tax (Guernsey) Law, 1975. See our update, [Pillar 2 Mourant jurisdictional outlook](#), on the implementation of the GloBE Rules in each of the Mourant jurisdictions.

Following consultation with industry partners, the States Policy and Resources Committee (**P&R**) has made [The Income Tax \(Approved International Agreements\) \(Implementation\) \(OECD Pillar Two GloBE Model Rules\) Regulations, 2024](#), to give effect to the GloBE Rules in Guernsey. These regulations came into force on **1 January 2025**.

2. Bank Resolution Authority - proposals

Since 2008 bank resolution has been a major focus for governments and regulators, ensuring appropriate powers exist to manage the failure of a bank, and thereby minimise the impact on depositors, the financial system and public finances.

To ensure the Bailiwick continues to meet international standards, P&R have published a [December 2024 policy letter](#), setting out proposals for the creation of:

- a **Resolution Committee**, as a statutory subsidiary of the Guernsey Financial Services Commission (the **Commission**) to be composed of two Commission representatives and two independent members appointed by the States, with responsibility for determining the best course of action under the Resolution Regime (see below), including if it is in the public interest to trigger a resolution process or allow a bank to be wound up through the usual process
- a **Resolution Regime** to allow domestically incorporated banks which are, or are likely to become, no longer viable to be addressed earlier than is possible under current banking supervision legislation and which provides a greater range of measures, including statutory alternatives to putting a bank into liquidation, and
- a **Resolution Fund** to act as an additional buffer against the financial risks inherent in resolving a bank and writing down creditors. This is done by sharing the cost burden of resolution amongst the surviving banks.

Further consultation with stakeholders is expected through the process of developing the bank resolution framework, including on the nature and value of the Resolution Fund.

3. Takeover Code - amendments

The UK Takeover Panel has published a draft [amended Takeover Code](#) (the **amended Code**) which narrows the scope of the companies to which the amended Code applies and

seeks to refocus its application on companies which have their registered office in the UK, the Channel Islands or the Isle of Man and whose securities are (or were at any time during the two years prior to the relevant date¹) admitted to trading on a UK regulated market, a UK multilateral trading facility or a stock exchange in the Channel Islands or the Isle of Man.

The amended Code comes into force on **3 February 2025** with a transition period of **two years** for companies that will cease to be subject to the amended Code to allow them to put in place alternative arrangements.

4. Pension Service Providers – new regulations

The Commission has made the [Companies \(Protected Cell Companies\) \(Prescribed Classes\) Regulations, 2024](#) to allow licensed pension service providers to be structured as a protected cell company.

These regulations came into operation on **20 December 2024**.

5. Property Equity Release - consultation

With the aim to introduce an equity release regime in Guernsey in January 2026, the Commission has published a [consultation paper on the introduction of equity release products](#). The paper sets out the scope of the proposed equity release regime, associated consumer protections and draft amendments to the Lending Credit and Finance Rules and Guidance, 2023.

The consultation closes on **28 February 2025**.

6. Prospectus Rules - consultation

The Commission has published a [consultation paper on proposals for revisions to the Prospectus Rules and Guidance, 2021](#). The revisions propose improved rules relating to the issuance of prospectuses for Category 2 Controlled Investments generally, and for Collective Investment Schemes which are registered under the Protection of Investors (Bailiwick of Guernsey) Law, 2020. The proposals aim to reduce the administrative requirements whilst ensuring the standards in the Bailiwick are comparable with peer jurisdictions.

The consultation closes on **3 March 2025**.

7. Public Notaries – new legislation

New legislation has been enacted to ensure that the role of Public Notary falls under the same level of regulation as in the UK and that documents certified by Bailiwick Public Notaries continue to be accepted for official use in other jurisdictions.

The [Public Notaries \(Bailiwick of Guernsey\) Law, 2023](#) (the **Public Notaries Law**) came into force on **14 October 2024** and approves the *Master of the Faculties* as the regulator for Public Notaries.

¹ The 'relevant date' is the date on which an announcement is made of an offer (or possible offer) for the company or on which some other event occurs in relation to the company which has significance under the Code

8. Sanctions - updates

P&R has amended the [Sanctions \(Bailiwick of Guernsey\) Law, 2018](#) to make it an offence, with effect from **17 December 2024**, for a person who is subject to director disqualification under a UK sanctions measure to be director of a Guernsey or Alderney company or to, directly or indirectly, participate in the promotion, formation or management of a Guernsey or Alderney company.

9. Suspicious activity reporting – recent judgments

The Guernsey Royal Court (the **Royal Court**) has considered two cases concerning suspicious activity reporting:

- in [Jakob International Inc v HSBC Private Bank \(Suisse\) SA, Guernsey Branch \[2024\] GRC 045](#) it was held that assets in certain bank accounts were not the proceeds of crime and that the bank should return the funds to its customer
- in [Richard Tucker Loero v Credit Suisse Trust Limited \[2024\] GRC075](#), it was found that assets held in a foreign law governed trust administered locally by a Guernsey trustee were not the proceeds of crime and that the trustee should deal with the trust funds as directed by its settlor and beneficiary.

Please see our notes on [Jakob International Inc v HSBC Private Bank \(Suisse\) SA, Guernsey Branch \[2024\] GRC 045](#) and [Richard Tucker Loero v Credit Suisse Trust Limited \[2024\] GRC075](#)..

10. Solvency certificates - recent judgment

In [JJW Hotels Inc & Resorts Holding v Rhodes, Harris and JJW Limited \(in compulsory liquidation\) No.2 \[2024\] GRC 069](#) the Royal Court confirmed that under the Companies (Guernsey) Law, 2008, directors are required to approve a certificate of solvency to authorise the making of a distribution to shareholders and the certificate cannot be approved after the distribution has taken place. Furthermore, the certificate must specifically relate to the transaction in question, ie a general certification of matters including solvency would be insufficient to satisfy the requirement to approve a solvency certificate.

11. Enforcement decisions

The Commission has issued one new [public statement](#), including prohibition orders and financial penalties, in respect of a licensee and an individual who failed to meet the minimum criteria for licensing under the Regulation of Fiduciaries, Administrative Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (the [minimum criteria for licensing](#)).

Separately, the Commission issued a [prohibition order](#) against another individual who failed to meet the minimum criteria for licensing.

12. Appeals against Commission enforcement decisions

The Royal Court has issued two judgments on appeals against enforcement decisions of the Commission:

- in [Weighbridge Trust Limited v the Guernsey Financial Services Commission \[2024\] GRC 080](#) the Royal Court found that a Commission decision to impose a public statement in respect of the appellant was unreasonable, disproportionate and unfair to the current management of the appellant, as the Commission had not sufficiently considered that the company was under different and innocent control at the time that the public statement would be issued. Appeal allowed
- in [Hofgren v Chairman of the Guernsey Financial Services Commission \[2024\] GRC 079](#) the Royal Court held that, although some of the findings of the Senior Decision Maker, who had imposed a prohibition order and discretionary financial penalty, did not stand, they did not undermine the overall picture or seriousness of the appellant's conduct and the decision as a whole. Appeal dismissed.

13. Privacy in court proceedings – recent judgment

In [Fuller, Tattersall and Moroney v Guernsey Financial Services Commission \[2024\] GRC 083](#), the Guernsey Court of Appeal held that all matters before the courts of Guernsey should take place in open court, unless the applicant can adduce clear and cogent evidence demonstrating that justice would be frustrated if the case was heard in public.

In this instance no compelling case for privacy had been made and it was in the public interest for the appeal to be heard in public. Appeal dismissed.

14. AML/CFT/CPF Handbook - update

The [Handbook on Countering Financial Crime](#) has been updated to reflect the Financial Action Task Force's (FATF) updated Appendix C (list of equivalent jurisdictions) and Appendix I (list of higher risk jurisdictions) following changes by FATF to its list of jurisdictions under increased monitoring.

15. Commission – update on new portal


During 2024 the Commission has been developing an online applications and authorisations portal for submission and resolution of applications, which it expects to launch in **early 2025**.

The portal will support online communication throughout the application process (including the ability to check progress in real time) and the facility to store all documents and correspondence in a secure location and to download them.

16. Guernsey Registry – news

The Registry has provided an [update for corporate service providers](#) which includes information and reminders on annual validations (due by **28 February 2025**) and related civil penalties, amendments to legislation during 2024 and an update on its IT transformation project.

Separately, the Registry has published a [newsletter](#) aimed at non-regulated companies, charities and not-for-profit



organisations (NPOs). The newsletter includes information on the submission of annual validations, details of drop-in sessions for charities and NPOs and a note from the Office of the Data Protection Authority (the ODPa) to the third sector.

17. Financial Ombudsman - news

The Channel Islands Financial Ombudsman (the CIFO) received 149 complaints in quarter 3 of 2024, of which 89 fell within its remit. Current accounts, home and health insurance, were the product areas most complained about and complaints principally related to poor administration or delay, fraud and the non-payment of claims. Please see the [CIFO Public Complaint Statistics – Q3 2024](#) for further details.

18. Data Protection - breaches

The ODPa has issued three [Public Statements](#) for failings by data controllers ([controllers](#)) in their data processing:

A joint data processing agreement between separate controllers was found to lack clarity, resulting in uncertainty about which controller was responsible for providing the data requested under a data subject access request (DSAR). The ODPa issued an enforcement order to compel the controller to take specific actions to address shortcomings and thereby bring their practices into compliance.

A controller failed to ensure appropriate security safeguards to prevent emails containing personal data from being sent to an incorrect party. The ODPa issued a reprimand, and the controller has now implemented robust measures to ensure that its policy of sending e-mails using a specialised secure platform is respected and followed.

When responding to a DSAR, a controller failed to search all relevant filing systems. The controller also failed to respond to an ODPa Information Notice within the required timeframe. The ODPa imposed an order requiring the controller to carry out further searches and provide copies of everything the data subject is entitled to receive, implement measures to identify all relevant filing systems which may need to be considered when conducting a search, and implement improved processes to ensure compliance with future DSARs. In addition, a reprimand was imposed for failure to comply with the Information Notice.

During the third quarter of 2024 the [ODPa received 40 personal data breach reports](#).

19. Data Protection - news

The ODPa has established a [Guidance Advisory Panel](#) (the [Panel](#)) to help improve the guidance provided to assist understanding of and compliance with the Bailiwick's data protection legislation. The Panel's membership includes representatives from the public and private sector.

The ODPa has signed Memoranda of Understanding with each of [Abu Dhabi](#), [Bermuda](#) and the [Isle of Man](#) aimed at building strategic alliances, especially with other leading financial services centres.

20. MO FinReg Updates

In addition to our quarterly Guernsey FinReg Update, similar updates are provided by our colleagues in [Jersey](#), the [Cayman Islands](#) and [British Virgin Islands](#).

21. 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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