

# 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 2024 inclusive.

---

## 1 Unclaimed money - consultation

The Guernsey Financial Services Commission (the **Commission**) has issued a consultation on the creation of a new policy regarding unclaimed money under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (the **POI Law**) ([here](#)).

The consultation follows the findings of the Commission's 2022/2023 *Thematic Review of Unclaimed Money of Collective Investment Schemes* ([here](#)) which identified that there was no uniform approach to unclaimed money within the collective investment scheme (**CIS**) industry and that, apart from the *Authorised Collective Investment Schemes (Class B) Rules and Guidance, 2021 (Class B Rules)* (which are applicable to Class B Funds), there are currently no rules or guidance relating to unclaimed money in Guernsey for CIS.

In drafting the consultation, the Commission has taken into account the International Organisation of Securities Commission's (**IOSCO**) report on *Good Practices for the Termination of Investment Funds* ([here](#)), published in 2017.

The consultation, which closes on **20 June 2024**, focuses on four proposals, namely that:

- *the board of the CIS adopts a policy regarding unclaimed money*
- *a responsible entity (which in most cases will be the designated administrator) is in charge of implementing the policy*
- *appropriate disclosures are made to investors within the scheme particulars, and*
- *provisions within the Class B Rules which are not aligned with the new policy are removed.*

## 2 Fund tokenisation – Commission's policy statement

The Commission has issued a policy statement setting out its regulatory approach to fund tokenisation in relation to CIS ([here](#)).

The policy statement notes that fund tokenisation, ie where the register of holders of units in a CIS is maintained by using distributed ledger technology and tokens are issued as a digital representation of the ownership of the units, is currently permitted under the Bailiwick regulatory regime, subject to the CIS's compliance with the POI Law and related rules/regulations and its designated administrator continuing to be responsible for its administration in accordance with the applicable law, including the proceeds of crime regime.

The Commission's overall position is to encourage the use of technology which enhances services to investors and increases efficiency and effectiveness of operations within the Bailiwick, subject to the technology complying with the Bailiwick's legislative regime protecting investors and countering financial crime. If there are specific rules which may hinder a party's ability to trial new technology, the Commission is prepared to work with that party, for example to consider whether to grant a waiver on a pilot basis or to redraft a rule where technological developments mean its original design is now obsolescent.

The Commission's statement acknowledges that technology within the fund tokenisation space will continue to advance, eg the use of public, permissionless blockchains and that such developments may pose additional risks which may not be consistent with the Bailiwick's current regulatory framework. It states that it is monitoring such developments and welcomes ongoing engagement with the funds sector to ensure that the Bailiwick's regulatory regime remains fit for purpose, reflecting changing technologies and practices, as well as meeting international regulatory standards.

The Commission continues to consider crypto and virtual asset issuances as representing a significant area of risk, especially to *retail investors* (see the Commission's previous statement for such activity [here](#)).

### **3 Investment Statistics**

The investment statistics for Quarter 4 of 2023 ([here](#)) show that the total net asset value of Guernsey CIS was £289.9 billion (an increase of 0.4 per cent over the quarter), broken down as follows:

- Guernsey domiciled open-ended funds at £49.9 billion (+0.9 per cent)
- Guernsey closed-ended funds at £240.1 billion (+0.3 per cent), and
- Guernsey Green Funds held a total net asset value of £5.4 billion.

### **4 Continuation funds – Guernsey's perspective**

A recent article in the Financial Times, written by James Cousins, a Partner at Mourant, considered the advantages of setting up a continuation fund in Guernsey. The article offered insights into current trends within the funds sector, highlighting Guernsey's appeal to fund managers. The article can be found [here](#).

### **5 TISE – news**

The International Stock Exchange (TISE) reported that in Quarter 1 of 2024, 228 new securities were listed, a 28.8 per cent increase on the same period in 2023. The total number of securities on TISE's Official List, as on 31 March 2024, was 4,313, an increase of 6.4 per cent year on year and a new record for TISE. Further details can be found [here](#).

TISE has also updated its *Assessing Sustainability for Listing* guidance to incorporate guidance in respect of early-stage trading companies. The revised guidance is available to Members via the TISE Member's portal, MyTISE ([here](#)).

TISE has published new guidance for Members in relation to listing applications for Real Estate Investment Trusts (REITs). TISE has advised that equity securities of REITs will no longer be deemed suitable for listing where the REIT is unregulated and:

- the securities are actively marketed to, and intended to be held by, retail investors (exemption applied to existing issuers) or
- the securities are intended to be held by institutional or sophisticated investors, but there is a lack of appropriate safeguards to prevent retail investor access, eg low value minimum investment, or
- there are reasonable concerns or uncertainties regarding retail investor access to the securities, for example widely held investment, inappropriate marketing materials, or unexplained trading activity, ie frequency, use of mobile applications or platforms for trading.

## Contacts

---



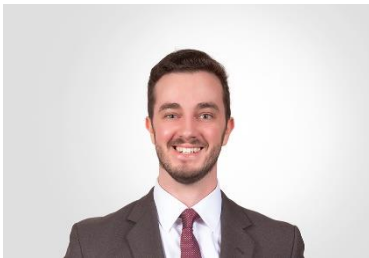
**Darren Bacon**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 503  
[darren.bacon@mourant.com](mailto:darren.bacon@mourant.com)



**Frances Watson**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
+44 1481 739 331  
[frances.watson@mourant.com](mailto:frances.watson@mourant.com)



**James Cousins**  
Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 739 329  
[james.cousins@mourant.com](mailto:james.cousins@mourant.com)



**Alasdair McKenzie**  
Senior Associate | Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 731 506  
[alasdair.mckenzie@mourant.com](mailto:alasdair.mckenzie@mourant.com)



**Gary Hall**  
Senior Associate | Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 20 7796 7615  
[gary.hall@mourant.com](mailto:gary.hall@mourant.com)



**Amy Williamson**  
Associate | Attorney (South Africa) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 739 313  
[amy.williamson@mourant.com](mailto:amy.williamson@mourant.com)



**Lauren Ingrouille**  
Associate | Solicitor (England & Wales) non-practising  
Mourant Ozannes (Guernsey) LLP  
+44 1481 739 340  
[lauren.ingrouille@mourant.com](mailto:lauren.ingrouille@mourant.com)

---

This update is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual contacts. You can find out more about us and access our legal and regulatory notices at [mourant.com](https://www.mourant.com). © 2024 MOURANT ALL RIGHTS RESERVED