

# Guernsey funds legal and regulatory update

An overview of Guernsey legislative and regulatory developments relevant to investment funds for the period 1 June to 31 August 2024 inclusive.

## 1 International tax (Pillar 2) - update

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

The States of Guernsey Policy and Resources Committee (the **P&R Committee**) has since published a policy letter ([here](#)) specifying that the OECD Pillar 2 GloBE Rules<sup>1</sup> (the **GLoBE Rules**) will be introduced as an international tax measure under the Income Tax (Guernsey) Law, 1975 (the **Income Tax Law**).

If approved, the amendment to the Income Tax Law will allow the P&R Committee to make regulations implementing the GloBE Rules, associated commentary and administrative guidance into domestic law. This will include the introduction of an income inclusion rule and domestic minimum top-up-tax for large in-scope multinational enterprises (**MNE**) from **1 January 2025**.

Implementation of the GloBE Rules will ensure that Guernsey adheres to the following Pillar 2 principles:

- applying the GloBE Rules and a domestic minimum tax on MNEs with global revenues above €750 million
- maintaining Guernsey's domestic tax regime
- minimising the compliance burden of in-scope MNE groups
- complying with international standards, and
- maintaining overall alignment on corporate tax policy with Jersey and the Isle of Man.

The P&R Committee has stated that it will continue to engage with affected stakeholders and industry bodies to inform design where alternative approaches are permitted under the GloBE Rules (eg accounting standards and currency for payment of the Qualified Domestic Minimum Top-up Tax) and in the preparation of the relevant administrative provisions. This engagement will ensure that Guernsey continues to offer an attractive and globally competitive investment environment whilst maintaining Guernsey's position as a responsible international finance centre, meeting international tax standards.

## 2 Sustainable finance – new discussion paper

The Guernsey Financial Services Commission (the **Commission**) has issued a discussion paper (the **Paper**) on the future of sustainability reporting in the Bailiwick of Guernsey (the **Bailiwick**) ([here](#)). The Commission is asking for the finance sector's views on how the introduction of the International Sustainability Standards Board's four key objectives ([here](#)) can be achieved.

The Commission anticipates that the responses to the Paper will assist it, together with the finance sector, in developing appropriate and proportionate sustainability reporting for the Bailiwick to meet the

<sup>1</sup> OECD - The Pillar Two Rules in a nutshell

challenges presented by sustainability, including delivering against the States' climate change policy (the **Policy**) ([here](#)).

The Policy includes a sustainable finance policy objective '*to leverage its finance sector's expertise to facilitate the provision of liquidity and capital to sustainable finance given Guernsey's net zero targets*'. The Policy sets out a multi-faceted approach, including:

- administering private wealth and facilitating the routing of private capital and private equity to climate finance, and
- Guernsey investment funds, acting as net providers of liquidity, and capital, to green and sustainable projects on a global basis.

### **3 Commission – 2023 annual report**

The Commission has published its annual report for 2023 (the **Report**) ([here](#)). The Report discusses the Commission's preparations for the Bailiwick's MONEYVAL evaluation and the onsite inspection in April 2024, the preparation of the Bailiwick's second national risk assessment and the first proliferation financing national risk assessment.

The Report notes that the Commission's appraisal of how the Bailiwick complies with the International Organisation of Securities Commission's standards for the investment and fund management sector had found that the current levels of observance are positive and assist in the development of policy for these sectors.

The Report detailed the Commission's findings for several internal reviews undertaken during 2023, including:

- the debt funding, exposure and risks in Guernsey's private equity funds
- understanding the liquidity risks associated with open ended collective investment schemes where real property is the main investment activity, and
- the effectiveness of the Commission's policy to impose conditions on collective investment schemes which fail to submit audited financial statements by the required deadline.

### **4 Investment Statistics**

The investment statistics for Quarter 2 of 2024 ([here](#)) show that the total net asset value of Guernsey funds was £295.7 billion (an increase of 1.1 per cent over the quarter), broken down as follows:

- Guernsey domiciled open ended funds at £51.7 billion (+1.4 per cent)
- Guernsey closed ended funds at £244.0 billion (+1.0 per cent), and
- Guernsey Green Funds held a total net asset value of £5.1 billion.

### **5 Enforcement decisions**

In July 2024, the Commission published notice of prohibition orders and discretionary financial penalties against the licensee and directors of three incorporated cell companies. The Commission found that the three directors had demonstrated a serious lack of competence, soundness of judgement and diligence. Further details are available [here](#).

### **6 TISE – news**

The International Stock Exchange (**TISE**) reported that in the first half of 2024 it listed 444 securities, representing an 18.4 per cent increase on the equivalent period in 2023. The total number of securities on the TISE Official List, as at 30 June 2024, increased by 5.6 per cent to 4,371, which is a record high for TISE. Further details are available [here](#).

TISE has published amendments to its Membership Rules ([here](#)) which will come into effect on **2 September 2024**. The changes include:

- removing the restriction on eligibility for Category 1 membership, ie Members will no longer need to obtain Category 2 membership in order to qualify for Category 1 membership
- including additional guidance regarding the application and interpretation of the eligibility criteria by the Listing and Membership Committee
- additional rules formalising the process for changing Listing Agent or Sponsor

- revisions to the TISE Authority's rules and guidance relating to its supervisory powers
- addition of new rules allowing the TISE Authority to cancel a Member's membership due to inactivity over a continuous period of 24 months, and
- amendments to the appeals procedure.

## Contacts

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



**Frances Watson**  
Partner | Advocate  
Mourant Ozannes (Guernsey) LLP  
Guernsey  
+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)

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