

Channel Islands funds update: Q1 2024

Newsletters - 10/04/2024

In our latest Channel Islands funds update, we round up recent legal and regulatory developments in Jersey and Guernsey.

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Jersey developments

JPF growth continues

Jersey Finance's Q4 2023 statistics showed that the growth in Jersey Private Funds has continued. Despite a quiet quarter in general, there was a 4.2% increase in the number of JPFs, which stood at 692 as at 31 December 2023. Elsewhere in the statistics, the number of regulated collective investment funds and the assets under administration in regulated fund structures both fell slightly to 624 and £452.2 billion respectively.

Total funds under investment management on island increased from £31.3 billion to £32.8 billion.

The full statistics can be viewed in the [Jersey Finance Quarterly Report](#).

Sustainable Finance Consultation

The Government of Jersey has published a significant consultation paper aimed at further developing Jersey's sustainable finance framework.

The green paper invites views on how Jersey, as a leading international finance centre, may best deal with climate risk and act responsibly given the various environmental and social challenges faced worldwide. Jersey's aim is to be recognised as the leading sustainable international finance centre in the markets it serves, and the government consultation paper is an important step towards this goal, establishing how Jersey can achieve its ambition while maintaining the pragmatic, business-friendly approach that has been the core of its success as a funds domicile.

Contributions to the consultation are invited from all sectors of the finance industry by 26 April 2024. Read the full [Sustainable Finance Consultation](#).

Cyber Security Law

Government has also published a consultation on new legislation protecting against the threat of cyber crime on Jersey's banking and financial services sector. The Cyber Security (Jersey) Law supplements existing requirements for regulated entities and will require certain entities within these sectors to implement measures to identify cyber security threats and reduce the risk of these threats and the impact if they do arise.

Read our regulatory team's briefing on the proposals: [Latest news on the draft cyber security law for Jersey](#).

Read the consultation: [Cyber Security Law Consultation March 2024](#).

The consultation period closes at 10am on 23 April 2024.

CRS and FATCA - proposed changes to regulations

A further brief consultation was held during Q1 in relation to proposed changes in the regulations implementing FATCA and the Common Reporting Standard for tax information exchange.

The proposed changes are to be debated by the States Assembly this summer and will further align Jersey's framework with the latest global standards.

Proposals have also been sought for potential improvements to the regulations, in order to make Jersey's regime simpler and more efficient and effective. These will be addressed in a separate legislative process later in 2024.

Read the consultation, which has now closed, in full: [AEOI consultation February 2024](#).

Clarifying scope of Financial Services Law amendments

We previously reported that legislative amendments have been approved to amend the scope of investment business under the Financial Services (Jersey) Law 1998 (and certain related exemptions).

The changes introduced "arranging" and "operating an investment exchange" as investment business activity.

Please note that of these only the addition of arranging has taken effect. The amendments to the law and related orders connected with operating an investment exchange are to come into force on a later date.

Travel Rule guidance for VASPs

Virtual asset service providers (VASPs) should be aware of the JFSC's recently published guidance on the implementation of the so-called 'travel rule' promulgated by the Financial Action Task Force.

The travel rule requires that the transfer of virtual assets be accompanied by both originator and beneficiary information, to assist with the prevention of criminal and terrorist misuse.

The guidance note will assist VASPs to comply with the rule in a range of circumstances, with the JFSC recognising the challenges arising for VASPs across different jurisdictions in their implementation of the rule. Among other things, the guidance covers intra-group transfers, what to do when jurisdictions have not adopted the travel rule and transfers to and from non-VASPs.

Read the guidance note: [Travel Rule guidance note](#).

JFSC's Financial Crime and Regulatory Technology guide

The JFSC's new Financial Crime and Regulatory Technology (RegTech) guide explores how this technology can be applied and points that firms should consider before adopting it.

In line with its strategic aim of encouraging regulated and supervised firms to harness digital technologies, the JFSC's Innovation Hub has prepared the guide to encourage the adoption of RegTech, which includes any technology used to assist with regulatory compliance.

This technology is considered to present a real opportunity for Jersey firms in the fight against financial crime, contributing to lower compliance risk, increased efficiency and higher standards of business integrity. The JFSC's aim is RegTech maturity within the financial services industry by the end of 2024.

Read a copy of the guide: [Financial Crime and Regulatory Technology Guide](#).

JFSC funding model and fees

Following various consultations on the calculation of the fees for various regulatory applications and processes, KPMG have been appointed to advise on the JFSC's funding model and structure, which will help shape the commission's next three-year strategic plan.

The review will relate to both regulatory and registry fees, with a focus on jurisdictional comparison, elasticity of fee levels, sector views on fee structure and market trends.

We understand KPMG have selected industry representatives to attend workshops on the subject, but the JFSC also encourages anyone wishing to participate to contact their industry body directly.

On a related subject, late filing fees for the submission of beneficial owner and significant person information will now be automated, with a sliding scale of penalties continuing to apply depending on how late the information or confirmations are provided.

AML/CFT/CPF and other supervisory risk data collection exercise

The JFSC has launched its latest data collection exercise in respect of AML/CFT/CPF and other supervisory risk. The information will inform the JFSC's approach to its risk-based supervision and financial crime examination process and will be used to refresh the JFSC's risk model and national risk assessments.

The deadline for supervised businesses to submit their data is 31 May 2024.

Feedback on the JFSC Registry Supervision inspection programme

Feedback is now available from the Registry's Q4 2023 Supervision inspection programme. The most common inaccuracies highlighted include outdated information in statutory registers, unclear structure charts, inadequate address records and issues regarding how joint ownership of shares is recorded.

The feedback paper can be viewed in full: [Registry Supervision Inspection Programme Q4 2023](#).

JFSC thematic examinations for 2024

As highlighted in our [Q4 2023 update](#), the JFSC's first thematic examination for 2024 focuses on politically exposed persons and is taking place during the first half of the year.

The remaining themes will be compliance monitoring and conflicts of interest. Entities will be selected from different sectors of the industry to participate in each review.

The JFSC has also announced its sector-specific themes, including:

- custody and safekeeping (for fund services businesses)
- enhanced due diligence (for trust company businesses)
- suitability of advice (for investment businesses)
- AML/CFT/CPF staff training and awareness (for designated non-financial businesses and professions (DNFBPs)).

Read more detail on the themes: [Thematic Examination Programme 2024](#).

National Strategy and National Risk Assessment published

On 5 January 2024, the States of Guernsey published its National Strategy and update to the National Risk Assessment (**NRA**), which form part of the Bailiwick of Guernsey's commitment to ensuring that criminals, including money launderers, terrorist and those financing terrorism or the proliferation of weapons of mass destruction, can't launder the proceeds of crime through the Bailiwick or otherwise use the Bailiwick's finance and business sectors.

The Bailiwick has carried out its second NRA of the money laundering and terrorist financing risks in individual sectors and products within the Bailiwick. Similar to the first NRA, the key finding of the second NRA is that as an international finance centre with a low domestic crime rate, the greatest money risk comes from the laundering of the proceeds of foreign criminality.

Firms within the Bailiwick are encouraged to familiarise themselves with the Bailiwick's National Strategy and NRA, paying particular attention to the sectors in which the firm operates. Firms should also consider the conclusions of the NRA when they next review their Business Risk Assessments and risk appetite.

[Read more here: the National Strategy and National Risk Assessment.](#)

Updates to sanctions, terrorist financing and proliferation financing guidance

At the end of 2023 the States of Guernsey Policy and Resources Committee issued a number of updates to its guidance on sanctions, terrorist financing, proliferation financing including issuing an online proliferation financing training module and presentation slides from recent industry presentations.

The Guernsey Financial Services Commission (**GFSC**) has also updated its website on sanctions, terrorist financing and proliferation financing to reflect the additional guidance and documents issued and encourages firms to familiarise themselves with this new guidance. Read more about sanctions on the [GFSC website](#).

Consultation on proposed amendments to the Handbook on Countering Financial Crime

The GFSC published in early January 2024 a consultation paper on the proposed amendments to the rules and guidance on the Handbook on Countering Financial Crime (**Handbook**) to support the existing obligations upon specified businesses to countering proliferation financing. These amendments also incorporate the proposed amendments to Schedule 3 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (as amended) which was consulted on by the States of Guernsey Policy and Resources Committee.

The GFSC is also taking the opportunity to update the Handbook to take account of the recent publication of the Bailiwick's second NRA, changes to the rules on pooled bank accounts for local businesses and changes to chapter 12 of the Handbook on United Nations, United Kingdom, and Bailiwick sanctions, as well as other minor changes.

Although the proposed legislative amendments to Schedule 3 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (as amended) are minor, the extension of the existing AML/CFT to counter proliferation financing means that changes are required to almost the entire Handbook, a significant majority of which would be regarded as minor technical amendments reflecting that references to AML/CFT are now AML/CFT/CPF.

The consultation period closed on 2 February 2024 and the GFSC will be issuing feedback on its consultation. The consultation paper and associated draft legislation and Handbook changes can be found on the commission's [Consultation Hub](#).

Consultation on Revisions to the supervisory framework for Prescribed Business

The States of Guernsey Policy and Resources Committee proposes changes to the supervisory framework surrounding businesses and individuals registered under the Prescribed Business (Bailiwick of Guernsey) Law 2008 and Schedule 5 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law 1999 (the **POC Law**). For the purposes of the consultation paper, "Prescribed Businesses" includes the following persons: (a) individuals and businesses providing legal, accountancy and estate agent services, and (b) individuals who act as director to not more than six companies which are not exempt from registering with the GFSC.

The proposals empower the GFSC to:

- require information (name, date of birth, place of residence) relating to directors, partners and beneficial owners of Prescribed Businesses providing legal, accountancy and estate agent services as part of the application for registration and on an ongoing basis
- refuse/revoke an application should any director, partner or beneficial owner of such Prescribed Businesses fail to satisfactorily complete any of the checks undertaken by the Registrar or HM Greffier under Schedules 6 to 9 of the POC Law
- impose financial penalties for the late payment of fees to the GFSC
- make rules requiring certain information to be submitted to the GFSC, including penalties for late filing of returns
- impose higher financial penalties for non-compliance
- make a technical amendment so as to make explicit that beneficial owners of firms of

advocates must notify HM Greffier of that status, as part of their notification under Schedule 9 of the POC Law

The consultation period closed on 4 February 2024.

Updates to the Handbook

An updated Handbook on Countering Financial Crime (AML/CFT/CPF) (the **AML/CFT/CPF Handbook**) was issued by the GFSC on 16 February 2024 following a consultation on rules and guidance to support the extension of the existing obligations upon specified business to countering proliferation financing.

On 7 March 2024 the AML/CFT/CPF Handbook was amended to update the countries listed in Appendix I to reflect the Financial Action Task Force's updated list of jurisdictions under increased monitoring, which removed Gibraltar and the United Arab Emirates. Changes for Belarus, Burundi, Bolivia, Lao PDR, Egypt and Tongo were also made, together with updates to reflect changes made to the Beneficial Ownership (Definition) Regulations, 2017 which amended the list of recognised stock exchanges within paragraph 7.59.

On 13 March 2024 the GFSC issued an amendment to the country list in Appendix I of the AML/CFT/CPF Handbook reflecting the Financial Action Task Force's updated list of jurisdictions under increased monitoring, which added Namibia. Therefore Namibia has been added to Appendix I of the AML/CFT/CPF Handbook.

Read the full [Handbook on Countering Financial Crime \(AML/CFT/CPF\)](#).

Q4 2023 investment statistics

Fourth quarter 2023 investment statistics released by the GFSC show that the total net asset value of Guernsey funds was £289.9 billion, which was an increase over the quarter of £1.1 billion.

Within these totals, Guernsey closed-ended funds increased over the quarter by £0.7 billion to £240.1 billion. The Guernsey-domiciled open-ended sector also increased over the quarter by just under £0.5 billion to £49.9 billion.

Within these totals for Guernsey funds, Guernsey Green Funds held a total net asset value of £5.4 billion at the end of the quarter.

Read the [Q4 2023 investment statistics](#) in full.

Use of payment service providers

The GFSC is raising awareness of the use of non-bank payment service providers, such as electronic money institutions (**EMIs**), to ensure consumers know how to check adequate consumer protection

is available.

Only those payment service providers based within the Bailiwick, or specifically targeting Bailiwick residents, are required to be licensed by the GFSC. Individuals and businesses within the Bailiwick are able to use payment service providers based elsewhere, however the GFSC does not have regulatory remit over those providers based outside the Bailiwick.

Individuals and businesses are encouraged to check whether the payment service provider is appropriately licensed in its home state and that adequate consumer protection is available. There is a risk that the provider, if not regulated by an equivalent body to the GFSC, may not be acting in the best interests of Bailiwick individuals or residents, meaning there may be limited options to take action against such payment service providers.

A list of all financial services businesses licensed and regulated by the GFSC can be found on its website, along with an up-to-date list of the GFSC's warnings: gfsc.gg.

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