

Transitional period from 2008 Guernsey corporate law reform ends - what to do next

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Do you hold shares in a Guernsey company incorporated before July 2008? Or do you administer such a company or act as its registered agent, director or secretary? If you do, have you checked the memorandum and articles of the company to ensure that they comply fully with the Companies (Guernsey) Law 2008 (the CGL)?

When the CGL was enacted, special temporary transitional rules were also enacted which allowed pre-existing Guernsey companies to retain their pre-2008 memorandum and articles and not comply with all the provisions of the CGL.

Those transitional rules ended on 31 December 2016.

Accordingly, now all Guernsey companies whenever incorporated must comply with all relevant provisions of the CGL.

In addition to complying with the law, if memorandum and articles have not been updated then the company may be subject to unnecessary and outdated restrictions and be missing out on opportunities which the CGL allows (such as much greater ease to distribute assets to shareholders).

We're aware from our dealings with clients that many companies still haven't updated their memorandum and articles despite the change in the law.

We would urge you to check the position of your Guernsey companies without delay. If you need any assistance in this regard, please contact Marcus Leese or your usual contact at Ogier.

In addition, this issue is a good example of a more general point that goes far beyond Guernsey. Irrespective of the jurisdiction of the company you deal with, when was the last time that you reviewed its constitutional documents? Laws change - do those constitutional documents still comply with relevant local laws? Do they still represent best market practice? Do they take

advantage of all relevant opportunities and allow you to do all that you would want?

In our view, regular document reviews of existing structures is a valuable and increasingly necessary investment of time to ensure continued legal and regulatory compliance.

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