



Channel Islands funds update: July 2024

Newsletters - 08/07/2024

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

[View our newsletter online.](#)

Pan-island developments

The first quarter 2024 investment statistics have been published for Jersey and Guernsey.

Jersey investment statistics

Statistics published by the Jersey Financial Services Commission (**JFSC**) show that at the end of the first quarter, the value of total funds under investment management increased by £2 billion since the end of 2023 and stood at £34.8 billion as at 31 March 2024.

The total net asset value of regulated funds under administration fell over the first quarter from £452.2 billion to £451.9 billion.

In contrast, the number of Jersey Private Funds (**JPFs**) registered increased from 692 as at 31 December 2023 to 718.

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

Guernsey investment statistics

Statistics published by the Guernsey Financial Services Commission (**GFSC**) show that the total net asset value of Guernsey funds was £292.5 billion, which was an increase over the quarter of £2.6 billion.

Within these totals, Guernsey closed-ended funds increased over the quarter by £1.4 billion to £241.5 billion. The Guernsey-domiciled open-ended sector also increased over the quarter by just under £1.2 billion to £51 billion.

Within these totals for Guernsey funds, Guernsey Green Funds held a total net asset value of £5.2 billion at the end of the quarter.

Read the Q1 2024 investment statistics in full here:

The full statistics can be viewed in the [GFSC Q1 2024 update](#).

Jersey developments

Revised Jersey Private Fund Guide

A new and improved iteration of the Jersey Private Fund Guide has been published by the JFSC following consultation. The updated Guide provides welcomed clarifications and enhancements to align with developments in regulation, particularly in relation to Annex B of the Guide.

Read our [client briefing which considers the key changes in detail](#).

Virtual Asset Service Providers (VASPs)

Measures to counter money laundering, terrorism financing and proliferation financing.

Our [Q1 2024 update](#) covered guidance on the implementation of the Financial Action Task Force's (FATF) so-called 'travel rule'. Further to recommendations from the FATF, the Jersey Financial Services Commission (JFSC) has published a [list of registered VASPs](#) to support the implementation of this rule.

The JFSC has also released feedback on the compliance of five VASPs with their statutory and regulatory obligations for suspicious activity reporting. The assessment was conducted in 2023 and reviewed the entities' relevant systems and controls and transaction monitoring systems and controls. [View the feedback here](#).

A further development in Q2 includes the publication of the Government of Jersey's national risk assessment of ML / CT / PF risks posed by the VASP sector to increase understanding and enable greater oversight and control. The report identifies the risks to the sector as being as expected with ML /CT / PF threats, namely medium-high. The existing mitigation of the risks relating to VASP activity is assessed as medium. [View the risk assessment](#).

Capabilities of VASPs

Jersey Finance has issued its report on Jersey's capabilities in the virtual asset space with commentary from the JFSC and the Government of Jersey. It follows research undertaken by Jersey Finance with IFI Global on the evolution of virtual assets in Jersey. The report includes case studies which showcase the island's digital infrastructure, forward-thinking approach to regulation, together with

a wide range of investment structures catering for VASPs.

Read the [Jersey Finance and IFI Global report](#).

View our client briefings: [Safe harbours for VASPs - part 1](#) and [part 2](#).

Digital Assets Reform Project: smart contracts, data assets and DAOs

The Jersey Law Commission has commenced its consultation on the impact of the digital age on Jersey law. This consultation focuses on smart contracts and their enforceability, decentralised autonomous organisations (**DAOs**) and data objects as property rights. Suggestions for additional reforms are also included. Contributions have been sought from a wide array of industry stakeholders.

The project will follow three parts with the first part being a "scoping" phase to establish what stakeholders view the legal issues are under the current law. A consultation report containing provisional findings and recommendations will form phase two. Phase three will comprise of final recommendations to the Chief Minister.

Phase one closed in June 2024. Read the [consultation paper](#).

JFSC funding model and fees consultations and feedback

We previously reported in our [Q1 2024 update](#) on the various consultations relating to the JFSC's calculation of its fees for regulatory applications and processes.

As a result of the feedback received and the reduction in Retail Price Index (**RPI**) from September to December 2023, the JFSC has revised its proposals for fee increases, amending the rate to 6% from the initially proposed 10.1%. It has appointed KPMG to advise on its funding model and structure and has issued a new consultation covering fee changes across the funds, insurance and investment business sectors.

The proposed revisions to the funding model have been welcomed by industry and we await feedback from the latest consultation which closed in May 2024.

[Read the full feedback papers on previous consultations 10, 11 and 12](#). View details of the [new consultation](#).

JFSC thematic assessment visit findings from 2023

The JFSC has issued bitesize feedback of their thematic assessment visits undertaken in 2023 to assess designated service providers' (**DSPs**) compliance with statutory and regulatory requirements. The [feedback](#) is covered in a single page across four named sectors, including [Jersey Private Funds \(JPFs\)](#).

Examples of good practice observed for JPFs include:

- comprehensive risk assessments covering a wide spectrum of risks relevant to each fund type
- consideration of the Government of Jersey's National Risk Assessment
- utilising integrated data systems which combine risk assessments, investor information and wider business risks

Areas of improvement identified were maintenance of risk profiles and records on source of funds, and methodology for calculating risk and issues related to performing reviews on a timely basis - such as using the fund's risk rating to determine the frequency of investor reviews rather than investor risk ratings.

Three considerations for JPFs were highlighted in the feedback:

- consideration should be given to the risk of the fund investor base and any fund promoters
- the requirement to conduct risk assessments during onboarding, periodically and on trigger events
- ensuring policies allow identification of each beneficial owner or controller of an investor - including those exercising control through ownership means, other means or positions held

JFSC feedback on examination of supervised persons' reliance on obliged persons

The JFSC has released feedback on the extent to which supervised persons had complied with obligations in relation to reliance on obliged persons.

Where supervised persons rely on third parties to meet customer due diligence requirements and enhanced customer due diligence requirements, they must comply with the conditions of Article 16 of the Money Laundering (Jersey) Order 2008 (the **Money Laundering Order**) and codes of practice in the Handbook for the prevention and detection of ML / CF / TF.

The report comprises of an anonymised summary of the key findings and examples of good practice. The findings identify certain deficiencies in systems and controls across some of the supervised persons examined. However, there was a reduction in the overall number of findings from the previous examination conducted in 2019.

[View the feedback.](#)

Feedback on the JFSC Registry Supervision inspection programme for Q1 2024

The JFSC has issued feedback on the visit programme for Q1 2024. This follows the feedback paper issued for 2023 (covered in our [Q1 2024 update](#)).

Overall findings include that records of beneficial ownership were generally well maintained with most discrepancies amounting to only minor infractions. There were no systematic issues reported.

Examples of good practice identified during inspections and interviews are included within the report. Boards, senior management and owner operators are encouraged by the JFSC to consider the report's conclusions.

View the [Q1 2024 report](#) in full.

Obligated entity central register access

As advised in our [Q4 2023 update](#), the governments of Jersey and Guernsey have undertaken substantial work to enable access to beneficial ownership information. This reflects the islands' commitment to transparency in accordance with international standards.

Following the obligated entity access to information consultation in October 2022, the Government of Jersey consulted on the draft Financial Services (Disclosure and Provision of Information) (Jersey) Amendment Law during Q2.

The proposed legislation will address limb (a) of the [revised joint commitment](#) issued in December 2023 to provide access to registers of beneficial ownership and control for obligated entities that are conducting customer due diligence pursuant to the Money Laundering Order. The proposals reflect the island's international obligations and balancing the requirements to protect human rights while combatting financial crime.

The paper does not directly consult on limb (b) of the commitment to develop and deliver legitimate interest access in a leading timeframe. The Government of Jersey intends to closely monitor international developments as to how legitimate interest is both defined and implemented and plans to engage with industry in a separate consultation on this aspect of the commitment later in 2024.

The consultation ran from April to June 2024. View [more details](#) of the consultation and the [draft law](#).

Proposed amendments to the Common Reporting Standard and Foreign Account Tax Compliance Act regulations

Draft regulations have been lodged with the States Greffe to amend the island's legislative framework which implements the Foreign Account Tax Compliance Act (**FATCA**) and the Common Reporting Standard (**CRS**).

The proposed changes will ensure compliance with global standards on the automatic exchange to:

- provide that financial institutions without a business premises and which are not considered to be carrying on a business now fall within the scope of the Comptroller of Revenue's enforcement powers (addressing a gap in the existing regulations)
- confirm that obligations in respect of a trust or partnership fall on Jersey resident trustees and the responsible partner under the Income Tax (Jersey) Law 1961 (as applicable)
- clarify that the CRS and FATCA regulations do not prevent a partner or trustee from recovering the value of a penalty from the relevant trust or partnership
- ensure the anti-avoidance rule in the CRS regulations is in line with the Organisation for Economic Co-operation and Development (OECD) expectations

The proposals will be debated by the States Assembly in July. [View the draft regulations.](#)

JFSC publishes 2023 annual report

The JFSC published its annual report and financial statements on 21 June 2024.

A core theme in the report is the preparations for MONEYVAL's evaluation of Jersey. The commentary highlights the JFSC's strategic activity in preparation for this evaluation, such as the revision of substantial amounts of policy and guidance to remove the scope exemptions for anti-money laundering, counter-terrorist financing and counter-proliferation financing (**AML / CTF / CPF**), as reported in our [Q2 2023 update](#).

Other notable activities in relation to combatting financial crime are the delivery of national risk assessments. A further workstream is the digitalisation of financial services. The report highlights improvements to the myJFSC portal and certain application processes such as the fund service business application.

It is also reported that application levels for collective investment funds have increased in 2023 compared to the previous year.

[Read the report in full here.](#)

JFSC clarifies anti-money laundering service providers and Schedule 2 applications

The JFSC have recently issued [guidance to confirm the process for Schedule 2 applications by appointed anti-money laundering service providers \(AMLSPs\)](#).

Application forms

Currently, AMLSPs must apply for [registration through the AMLSP appointment to relevant person workbook \(AMLSP Workbook\)](#). This process will be digitised in due course. Entities without an

appointed AMLSP must submit a Supervisory Bodies Law (**SBL**) form through the myJFSC portal.

It is important to ensure that AMLSPs apply using the AMLSP Workbook to avoid incorrect fees being issued and to inform the JFSC of the AMLSP relationship. Where an SBL application is sent in error, entities should contact Authorisations@jerseyfsc.org to request the withdrawal of the SBL form and to submit a replacement AMLSP Workbook.

Further guidance can be found on the JFSC's website:

[Anti-Money Laundering Services Provider FAQs Guidance and Legal Notices and guidance to Schedule 2 Supervisory Bodies Law Registration Form - myJFSC.](#)

Certificates and invoices

The JFSC have clarified that invoices and certificates for successful Schedule 2 applicants are emailed to the party named as "Primary Contact and Position". The correct individual's details should therefore be named within the AMLSP Workbook. Where documentation is not received as expected, entities should contact the JFSC.

Guernsey developments

GFSC issues policy statement on approach to fund tokenisation

On 14 May 2024, the GFSC published a policy statement on fund tokenisation.

The GFSC's overall position is to encourage technology which enhances services to investors and increases efficiency and effectiveness of operations in Guernsey. It states that such technology must clearly comply with Guernsey's framework of law and rules designed to protect investors and counter financial crime but, if there are specific rules which those wishing to trial new technology feel stand in the way of their efforts, the GFSC is happy to discuss whether a waiver may be granted on a pilot basis or a rule redrafted if the movement of technology has made its original design obsolete.

The GFSC notes that the current regulatory regime in Guernsey permits fund tokenisation (that is the register of holders of units in a Guernsey registered or authorised collective investment scheme) may be maintained by using distributed ledger technology and tokens issued as a digital representation of ownership of such units. However, the GFSC states that it should be noted that:

- the collective investment scheme would still be required to comply with the provisions of the POI Law and the applicable underlying fund rules
- the licensed designated administrator of the collective investment scheme would also remain responsible for administering the scheme in line with applicable law, including the Proceeds of Crime regime. In that respect, a private, permissioned blockchain would be

required to be used, under the control of the designated administrator

- a token issued specifically as described above would not constitute a virtual asset for the purposes of the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the **LCF Law**)

The GFSC is aware that more advanced features of fund tokenisation may be considered in the future (for example, using public, permissionless blockchains), and such features may pose additional risks and may not be consistent with Guernsey's current regulatory framework. The GFSC will monitor developments and welcome continued engagements with the funds sector to ensure that Guernsey's regulatory framework remains fit for purpose, reflecting changing technologies and practices, while continuing to meet international regulatory standards.

Feedback Paper following consultation on the disclosure rules for insurance intermediaries

The Guernsey Financial Services Commission (**GFSC**) has published a feedback paper following its consultation on the disclosure rules for insurance intermediaries issued in December 2023. The proposed changes would require insurance intermediaries to disclose the nature of their relationship with insurers with whom they deal with, as well as a requirement to disclose the basis on which they are remunerated.

The majority of respondents to the consultation confirmed that the proposed disclosures are already well-established good practice and considered it a positive development for it to be formalised in the rules.

A number of intermediaries also highlighted the importance of an appropriate implementation period so they had sufficient time to update their systems and processes.

As a result, the GFSC intends to proceed with the proposed changes outlined in the December 2023 consultation paper, save for the change to rule 7.4.4., and that the amendments to the Insurance Rules and Guidance will come into effect on 1 January 2025 (see below).

The Insurance Intermediaries (Amendment) Rules, 2024

These rules amend the Insurance Intermediaries Rules and Guidance, 2021 and will come into effect on 1 January 2025 to give licensees sufficient time to update their systems and processes.

In summary:

- section 7.4 has been updated to introduce a requirement to disclose, in writing, the nature of the relationship between the licensee and the insurer with whom it transacts or intends to transact with, and whether they are acting on behalf of an insurer or represent the client

- section 7.5 has been updated to introduce a requirement to disclose, in writing, before providing insurance intermediary services to a client, the basis for which the licensee is remunerated

National Risk Assessment for Legal Persons and Legal Arrangements Report published

The States of Guernsey published in April 2024 its report concerning the Bailiwick of Guernsey's money laundering, terrorist financing and financing of proliferation of weapons of mass destruction risk from legal person and legal arrangements.

The report follows and supplements Guernsey's second National Risk Assessment which was published in December 2023.

The GFSC strongly encourages firms to read and familiarise themselves with the report and give consideration to, where appropriate, the conclusions of the report when they next review their business risk assessment.

Consultation on Unclaimed Money under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (as amended)

At the end of March 2024, the GFSC published a consultation paper seeking views from interested parties on the creation of a new policy regarding unclaimed money under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (as amended) (the **POI Law**). The paper follows on from the GFSC's thematic review regarding unclaimed money in 2023.

The thematic review identified that unclaimed money is not dealt with in a consistent manner within the collective investment scheme industry and that industry would benefit from further guidance in this area.

The key proposals detailed in the consultation period are that:

- the board of a collective investment scheme adopts a policy regarding unclaimed money
- there is a responsible entity charged with policy implementation
- there are appropriate disclosures to investors within the scheme particulars
- the provisions within the Authorised Collective Investment Schemes (Class B) Rules and Guidance, 2021 which relate to unclaimed money, but which are not aligned with the new policy, are removed

The consultation period closed on 20 June 2024.

GFSC signs up to Memoranda of Understanding

The GFSC formally become a signatory of the International Organisation of Securities Commission's (IOSCO) Enhanced Multilateral Memorandum of Understanding (EMMoU) on 28 May 2024, becoming the sixteenth regulator to be permitted to become a signatory after a rigorous multi-year evaluation process overseen by the US Securities and Exchange Commission. The EMMoU was designed by IOSCO to update information exchange between regulators, taking into account the vast advances in information technology since the first IOSCO Multilateral Memorandum of Understanding was created in 2002.

On 19 April 2024, the GFSC also signed a Memorandum of Understanding (MoU) that provides a framework for cooperation and information sharing between the two authorities.

Updates to the Handbook on Countering Financial Crime (AML /CFT / CPF)

The GFSC has issued an updated Handbook on Countering Financial Crime (AML / CFT / CPF) (the **Handbook**).

Chapter 1 of the Handbook has been updated to include guidance to licensed firms relating to offences detailed with section 48MA of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (the **Proceeds of Crime Law**) and section 74A of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, relating respectively to the failure to prevent money laundering and the failure to prevent terrorist financing.

Minor technical changes have been made to Schedule 3 of the Proceeds of Crime Law. These changes relate to:

- including reasonable measures to understand the nature of the customer's business where it is a legal person or legal arrangement
- requiring senior management approval for continuing high risk business relationships with a domestic or international politically exposed person
- making minor amendments to the thresholds for occasional transactions involving virtual assets
- extending the disclosure requirements for trustees of relevant trusts and partners of relevant partnerships to include both foreign trustees and partners of Guernsey legal arrangements, and Guernsey trustees and partners of an equivalent foreign legal arrangement

Minor changes have also been made to the Transfer of Funds (Guernsey) Ordinance, 2017, the Transfer of Funds (Alderney) Ordinance, 2017 and the Transfer of Funds (Sark) Ordinance, 2017. The changes amend the thresholds for wire transfers to align with the FATF recommendations and require money service providers to report suspicious activity in any country affected by the suspicion as well as Guernsey.

Rules within Chapter 7 of the Handbook have also been updated to include a requirement to take reasonable measures to identify and verify the powers that regulate and bind a legal person or legal arrangement, and to consider reporting suspicious transactions or activity when carrying out enhanced customer due diligence where higher risks are identified at the time of payout.

Minor amendments have also been made to a rule in Chapter 2, so that money service providers include agents in their AML / CFT / CPF programmes and monitor them for compliance. A rule in Chapter 8 has been amended to refer to CDD information instead of customer identification data in respect of correspondent relationships.

GFSC publishes 2023 Annual Report

The GFSC published its 2023 annual report and financial statements on 6 June 2024.

In the annual report, the GFSC discusses:

- its preparations for Guernsey's 2024 MONEYVAL inspection
- its continued development of digital technology to enhance performance and streamline processes for industry
- the introduction of the LCF Law which introduced internationally compliant financial crime regulation for virtual asset services providers (more commonly referred to as "crypto"), as well as consumer credit protection for citizens

A central focus for the GFSC in 2023 was preparing for Guernsey's MONEYVAL evaluation. The onsite inspection took place in April 2024. The GFSC worked closely with other authorities, including providing significant input into Guernsey's second national risk assessment, and Guernsey's first proliferation financing national risk assessment.

Enhancing performance and streamlining processes through digital technology were key themes in 2023, as the GFSC continued to develop and roll out its Early Warning System across the GFSC. The augmented intelligence-enabled system assists supervisors in recognising firms that are displaying possible patterns of concern. During 2023, the GFSC scoped and developed its plans to digitalise its applications and authorisations process with a new online applications and authorisations portal, due to launch in early 2025. The new system will streamline the process and allow online collaboration and

communication throughout, making it easier to do business in Guernsey.

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