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FinReg Update

Guernsey – Q1 2020



Quick Fire Updates

1. Insolvency reform

The States of Guernsey has approved long-awaited amendments to Guernsey's companies law. These amendments are intended to improve and update Guernsey's corporate insolvency regime, by providing clarity around many of the processes to be adopted and giving statutory footing to the powers of insolvency officeholders to investigate and pursue misconduct of corporate officers. The changes, which are not yet in force, are consistent with Guernsey's alignment to general principles of UK corporate insolvency processes, while providing welcome flexibility and simplification.

View our update [here](#).

2. Exit Interviews for MLROs and MLCOs

The Guernsey Financial Services Commission (the **Commission**) has introduced exit interviews for individuals leaving their position as MLRO or MLCO of a bank or fiduciary licensee from the beginning of January 2020. This is a six-month pilot initiative which is intended to give the Commission a better understanding of the role, responsibilities and challenges faced by individuals in those particular roles.

We understand that this is a voluntary process, which engages individuals, not firms. While the Commission can use any feedback towards the overall supervisory view of the firm concerned, feedback will remain confidential and will not be provided to the firm.

View the Commission's news article [here](#).

3. New fiduciary rules

The Fiduciary Rules, 2020 (the **Rules**), made by the Commission under the Regulation of Fiduciaries Law, will become effective 31 December 2020. The Rules apply to licensed fiduciaries and will replace the current Codes of Practice for Corporate Service Providers, Foundation Service Providers and Company Directors along with the Regulation of Fiduciaries (Accounts) Rules, 2001 and the Financial Resources Requirements Rules, 2018.

View the Rules [here](#).

4. Data Protection Breaches

The Office of the Data Protection Authority (**ODPA**) has released figures for data protection breaches for 2019. Some 92 breaches were reported in the four months leading up to the end of 2019. The majority of those were due to human error (information sent by email or post to the wrong person was the most common data breach) and the balance due to system error, mislaid data, hacking, unauthorised access and unauthorised disclosure.

View the ODPA news article [here](#).

More recently, the ODPA has published its Strategic Plan 2019-2022 ([here](#)) setting out its strategic objectives and associated priority actions.

5. Financial Ombudsman consultation on fee levy 2020

At the start of 2020, the Channel Islands Financial Ombudsman (**CIFO**) issued a consultation on its proposed 2020 levy schemes, which are payable by financial service providers (**FSPs**) registered or holding a licence, permit or certificate with the Commission. The consultation, which closed on 3 February 2020, essentially concerned how the CIFO's costs should be divided between levy-paying FSPs in each sector of activity.

Under the proposed new funding structure, the total levy will be divided among the levy paying FSPs in the same way in both Jersey and the Bailiwick of Guernsey so that similar FSPs pay the same amount. The proposed figures (which are subject to change) are set out in the consultation paper ([here](#)).

6. Improved online services (company tax returns)

Guernsey's Revenue Service has introduced a new online service for companies completing and submitting their corporate tax returns. The upgrade in service is intended to make the process of submitting tax information much more streamlined, with an enhanced corporate tax return incorporating the new economic substance requirements.

7. Standard & Poor Rating

Guernsey continues to be rated AA- (long-term sovereign credit rating) and A-1+ (short-term sovereign credit rating) by the rating agency, Standard & Poor. Guernsey's outlook has also improved from negative to **stable** as a result of greater stability in UK politics and greater clarity regarding the UK's exit from the European Union.

View the States of Guernsey media release [here](#).

8. National Risk Assessment

The Bailiwick of Guernsey has published its National Risk Assessment report (**NRA**) on money laundering and terrorist financing. The purpose of the NRA is to assist authorities to understand the level and nature of the risks faced by various business sectors within the Bailiwick as well as providing valuable information to businesses to ensure that they have appropriate measures in place to address risks.

View the NRA [here](#).

9. Validation of the risk-based approach to AML/CFT

The High Court decision in *BVI Financial Services Commission (FSC) v Harneys Insurance Management Services* affirms the risk based approach to client due diligence and strict liability offences for breach of a BVI anti-money laundering (**AML**) code of practice, which accompanies the primary AML legislation. It also provides useful guidance to all regulated financial service firms and Risk and Compliance professionals.

The judgment is available [here](#).

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