

1. Consultation Paper – Director Exemption

The Commission has today published a Consultation Paper on proposals to make new regulations providing for the exemption from licensing under The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (the “Fiduciaries Law”) of the activity of acting as a director of certain companies connected to registered or authorised collective investment schemes. This consultation complements a recent Policy & Resources Committee consultation on revisions to the supervisory framework surrounding the six directorship exemption¹.

The Consultation Paper can be found on the Commission’s Consultation

Hub: <https://consultationhub.gfsc.gg/>

Responses to this consultation are sought by 23 January 2023.

2. Six Directorships Registration Proposals

Following the States of Guernsey’s Policy & Resources Committee’s recent publication of its Consultation Paper on proposed revisions to the supervisory framework surrounding the six directorship exemption, the Commission will be hosting two meetings for interested persons at its offices on Gategny Esplanade on the following dates:

Wednesday 21 December 2022 from 8.30am to 10am and on Monday 9 January 2023 from 8.30am to 10am.

At the start of each meeting, we will give a presentation on the proposals followed by discussion and questions over a coffee. These meetings will also be an opportunity for attendees to ask us for clarification on any aspect of the proposals. We will also cover the Commission’s parallel consultation on Exemption of Directorships connected to Authorised and Registered Collective Investment Schemes issued today.

The Policy & Resources Committee’s proposals impact those individual Bailiwick residents who use an exemption in the Fiduciaries Law^[1] which allows them to hold directorships of six or fewer companies without having to hold a fiduciary licence. These proposals do not affect other exemptions from licensing in that law such as directorships of local trading companies based in Guernsey, or of a company quoted on a recognised stock exchange; or when the company is supervised by the Commission; or when an individual holds directorships in the course of their duties as an employee of a licensed trust and corporate services provider.

We would ask those wishing to attend to contact the Commission by Friday 16 December for the first meeting and by Thursday 5 January 2023 for the second meeting. Please send reservation requests to AMLCFT@gfsc.gg.

We would encourage anyone who is unsure whether their directorship falls under the six directorships exemption and therefore the proposed registration regime, to attend.

The consultation on the proposed revisions to the supervisory framework surrounding the six directorship exemption closes on 16 January 2023 and the consultation on the Exemption of Directorships connected to Authorised and Registered Collective Investment Schemes closes on 23 January 2023.

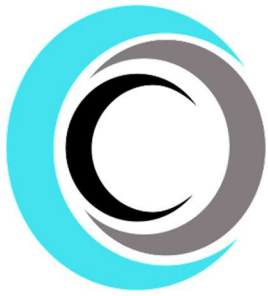
[1] The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (the Fiduciaries Law)

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3. Thematic Review of ML and TF Business Risk Assessments

The Commission has today issued its report on the thematic review of the money laundering and terrorist financing business risk assessments of more than 100 licensed and registered firms across all sectors. The thematic was undertaken to assess how well firms identified and assessed these risks to their businesses. The results were positive, demonstrating that most Business Risk Assessments met the Bailiwick's regulatory requirements. A copy of the thematic review can be found on the Financial Crime Division's Thematic Reviews page.

These assessments are important elements for the setting of appropriate risk-commensurate controls within firms.

We noted many examples of good practice during our review. Nevertheless, seven areas for improvement were identified where firms could improve their risk assessments, of which there were two key areas. Firstly, firms could benefit from additional research and using the National Risk Assessment to help them improve upon identifying the terrorist financing risks relevant to their businesses through their customers; jurisdictions; products; services; transactions and delivery channels. Secondly, firms are advised to make more use of their management information to ensure that the assessments are relevant and tailored to the business.

We will be holding an industry event in 2023 to discuss the findings. Invitations will be sent out in due course. In the meantime, all firms are encouraged to consider the report's contents, particularly when updating and revising their business risk assessments.

4. Guernsey Financial Services Commission at COP15 to discuss how private capital can address biodiversity challenges

On Tuesday 13 December, William Mason, Director General of the Guernsey Financial Services Commission spoke as part of a Canadian-led panel on "Business investing for biodiversity and climate objectives". The panel was part of COP15[1] – UN Biodiversity Conference[2] in Montreal, Canada which saw governments from around the world coming together to try to agree on a new set of goals to halt and reverse nature loss.

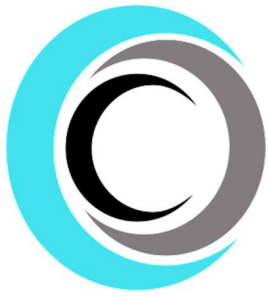
The panel explored the potential for private finance to invest in protecting nature for biodiversity and climate objectives in support of the proposed new Global Biodiversity Framework[3]. Speaking about his participation in the panel, William said: "To address the human existential challenge posed by continuing nature and especially biodiversity loss, private investment is desperately required to supplement insufficient public funds. The key to progress is to develop and fund nature positive projects which offer a genuine financial return."

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William's attendance at the panel comes shortly after the Guernsey Financial Services Commission launched its Natural Capital Fund framework, as part of Guernsey's growing Sustainable Funds Regime. The Natural Capital Fund regime offers a regulatory designation for funds to help channel investment into biodiversity and natural capital projects that make a positive contribution and/or significantly reduce harm to the natural world. The intention is to provide environmentally conscious investors with assurance that their capital is deployed in efforts to promote the protection and recovery of the Earth's natural environment.

At an earlier COP15 event, on Sunday 11 December, William spoke at the World Biodiversity Summit, working with Guernsey Finance, to explain the contribution the Bailiwick is making to grow environmental finance at a session entitled, "Business and Finance for Biodiversity: Closing the Nature Finance Gap."

The Natural Capital Fund framework complements the Bailiwick's existing regulated Guernsey Green Fund regime, which now channels more than £5.3 billion into green investments. Together the Guernsey Green Fund and Natural Capital Fund regimes provide the Bailiwick with a suite of sustainability designations based on international environmental standards.

1 The Conference of the Parties

<https://www.unep.org/un-biodiversity-conference-cop-15>
<https://www.cbd.int/doc/c/abb5/591f/2e46096d3f0330b08ce87a45/wg2020-03-03-en.pdf>

5. Third Quarter 2022 Investment Statistics

Guernsey Funds

The total net asset value of Guernsey funds is the same in Sterling terms as the last quarter at £302.7 billion. Over the past year, total net asset values have increased by £12.8 billion (4.4%).

Open-ended Schemes

Within these totals, Guernsey domiciled open-ended funds decreased over the quarter by £0.6 billion (-1.1%) to £53.6 billion. This represents an increase of £1.4 billion (2.7%) in the past year.

Closed-ended Schemes

The Guernsey closed-ended sector increased over the quarter by £0.5 billion (0.2%) to £249.1 billion. This represents an increase of £11.3 billion (4.8%) in the past year.

Guernsey Green Funds

Within the totals for Guernsey Funds, Guernsey Green Funds held a total net asset value of £5.6 billion at the end of the quarter.

Non-Guernsey Schemes

The Non-Guernsey Scheme regime was revoked by the Commission on 11 May 2021. Quarterly NGS reporting has been replaced by extending annual reporting on activities in respect of investment assets serviced in Guernsey.

The statistics are available here.

Enquiries to: Andrew Dempster, Assistant Director, Investment, Fiduciary and Pension Division

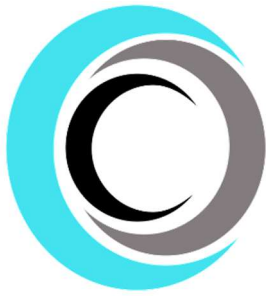
Tel: (01481) 712706
International Dialling Code: +44 1481 Email: adempster@gfsc.gg

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6. Crescendo Advisors International Limited, Mr Hamish Jebb Hamilton Few

The Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020 (“the Enforcement Powers Law”)

The Protection of Investors (Bailiwick of Guernsey) Law, 1987 and the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (collectively “the POI Law”)[i]

Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 (“the Regulations”)[ii]

The Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing (“the Handbook”)

The Licensees (Conduct of Business) Rules 2016 (the “COB Rules”)

The Finance Sector Code of Corporate Governance (“the Code of Corporate Governance”)

The Principles of Conduct of Finance Business

Crescendo Advisors International Limited (the “Licensee” or the “Firm”)

Mr Hamish Jebb Hamilton Few (“Mr Few”)

The Guernsey Financial Services Commission (“the Commission”) decided that from 30 December 2022 it would take the following actions:

To impose a financial penalty of £203,000 under section 39 of the Enforcement Powers Law on the Licensee;

To impose a financial penalty of £33,810 under section 39 of the Enforcement Powers Law on Mr Few;

To make an order under section 33(1) of the Enforcement Powers Law prohibiting Mr Few from holding the position of Controller, Director, Money Laundering Reporting Officer and Money Laundering Compliance Officer for a period of 3 years and 4 months;

Pursuant to section 32(3) of the Enforcement Powers Law, to disapply the exemption set out in section 3(1)(g) of the Regulation of Fiduciaries, Administration Business and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 in respect of Mr Few for a period of 3 years and 4 months; and

To make this public statement under section 38 of the Enforcement Powers Law.

The Commission considered it reasonable and necessary to make these decisions having concluded that the Licensee and Mr Few failed to ensure compliance with the regulatory requirements and failed to meet the minimum criteria for licensing set out in Schedule 4 of the POI Law.

The findings in this case were serious and spanned a significant period, including after 13 November 2017 when The Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2016 came into force, which increased the maximum level of financial penalties.

More Info - <https://www.gfsc.gg/news/crescendo-advisors-international-limited-mr-hamish-jebb-hamilton-few>

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