

Channel Islands Funds Quarterly Update: Q1 2022

Newsletters - 05/05/2022

| Pan-Channel Islands developments

TISE reports record turnover and profit for 2021

The International Stock Exchange (TISE) has announced record turnover, profit and earnings per share for the second consecutive year. Turnover increased 19% to a record £9.9 million, post-tax profit increased 31% to a record £4.7 million and earnings per share increased 31% to a record 168.4 pence during the financial year in 2021. Read the full report [here](#).

Factors for consideration for financial services firms - the Russia/Ukraine war

Since the invasion of Ukraine by Russia, the governments of Jersey and Guernsey have confirmed policies of fully aligning their sanctions regime with that of the UK. Both the Jersey Financial Services Commission (JFSC) and Guernsey Financial Services Commission (GFSC) are encouraging financial services firms to prioritise sanctions monitoring and their assessment of sanctions risks. Both commissions request that firms check whether they maintain any accounts or have any form of relationship with any persons or entities referenced in sanctions notices and where this occurs, to consider any funds, economic resources or other assets, to be frozen and reported in accordance with the law.

In Guernsey, it is requested that all firms take note of the GFSC's Cyber Rules and Guidance, 2021 to ensure they have appropriate cyber security in place, implement IT updates in a timely manner and encourage staff members to exercise extra caution regarding unfamiliar links, emails or websites.

All firms involved in investment in countries involved in armed conflict must take care to ensure investors are treated equitably. This is especially the case in terms of fair valuation and

allocation of assets between investors.

If any firm is experiencing any difficulties in relation to the above matters, the GFSC encourages them to bring such matters to its attention through the GFSC's normal supervisory contacts at the earliest opportunity.

The GFSC has also provided notification that any application involving individuals, entities or investments with connections to Russia is ineligible for consideration through any of the GFSC's fast-track application regimes due to the ongoing war between Russia and Ukraine.

The GFSC also expects any applications with a Russian connection to be accompanied by reputable legal advice confirming the individuals or entities concerned have no connection with sanctioned individuals or entities remaining eligible to conduct lawful financial services business. Where any advice is submitted, the GFSC will conduct its own due diligence review.

The JFSC has issued a list of key considerations for relevant financial services, covering the local sanctions obligations, who they apply to, timing of sanctions, reporting obligations and more. See [here](#) for more information.

Jersey developments

Strong year-on-year growth shown in latest JFSC statistics

The latest quarterly statistics for the Jersey funds industry show a near-20% year-on-year increase in the value of regulated funds under administration on the island. This stood at £450.2 billion on 31 December 2021, a £72.1 billion annual increase.

Alternative asset classes, including private equity, real estate, hedge, credit and infrastructure, now represent 89% of total funds business in Jersey, with private equity and venture capital in particular increasing by 27% over the last year.

The rise in popularity of Jersey Private Funds has also continued. Over 530 have now been established since the product was launched in 2017.

The data from the JFSC also reveals continuing growth in the number of Jersey funds and managers taking advantage of national private placement regimes (**NPPRs**) to market to European investors. There are now over 370 such funds, an increase of 9% in the last six months alone, and 47% over the past five years.

Given that the majority of managers do not require pan-European market access, private placement under Jersey's robust and cost-effective regime remains a compelling alternative to full onshore EU presence.

The JFSC announces its 2022 business plan and key strategic focuses

The JFSC has published its business plan for 2022, which sets out its immediate aims towards its long-term vision of remaining a high-performing regulator (as set out in the strategic framework it published last year).

The business plan includes five key strategic focuses:

- enhancing and simplifying the regulatory toolkit
- fighting and preventing financial crime together with industry
- investing in technology and data analytics to operate even more effectively
- enhancing its regulatory effectiveness by embedding risk-based choices within its framework and expanding its regulatory remit for new regimes/business sectors
- recruiting, retaining and developing great talent in order to ensure technical excellence and mutual trust between regulator and stakeholders

The JFSC's business plan can be found [here](#).

"Failure to prevent" offence to be added to Proceeds of Crime Law

The Government of Jersey is moving ahead with plans to introduce a new criminal offence of failing to prevent money laundering or terrorist financing.

The planned amendments to the Proceeds of Crime (Jersey) Law 1999 were subject to a consultation in January 2022, the results of which can be found [here](#). The additional offence is considered to be a significant enhancement to Jersey's AML/CFT enforcement regime and is likely to be introduced by government at the earliest opportunity.

Wider JFSC powers to issue financial penalties

Following a consultation in 2021, the JFSC's powers to impose civil financial penalties have been extended, bringing the island further in line with the latest FATF recommendations.

With effect from 29 April 2022, certain designated non-financial businesses (such as lawyers and accountants), as well as persons performing senior management functions in regulated businesses, will be liable to civil penalties for breaches of regulatory Codes of Practice (including those set out in the JFSC's AML/CFT Handbook).

The JFSC will issue a notice on what constitutes a "senior management function" for this purpose and is seeking views from industry on this topic. The consultation paper can be found [here](#).

Consultation on provision of information by partnerships

Revenue Jersey is reviewing the way it interacts with Jersey partnerships which, as set out in our [briefing](#), are now required to assess whether they are in scope of the new formal economic substance requirements. These requirements do not apply to funds but may apply to other partnerships if they conduct certain activities.

The consultation document sets out a number of proposed changes aimed at creating efficiencies for partnerships and their partners, and for Revenue Jersey itself. The consultation closed on 31 March and we will report on any updated proposals when available. The consultation paper can be viewed [here](#).

Consultation on change to corporate tax return dates

The filing deadline for corporate tax returns is to be brought forward from 31 December to 30 November in the year following the year of assessment, if changes proposed by the Minister for Treasury and Resources are approved. The Minister sought feedback on the move in a recent [consultation paper](#). The changes aim to manage the demands on companies during the busy year-end period, and would also bring the date in line with the corporate income tax payment deadline. If approved, the changes will apply from the 2022 year of assessment, with the first revised deadline falling on 30 November 2023.

Consolidated AML/CFT handbook issued

A revised consolidated version of the AML/CFT Handbook for regulated financial services businesses has been published by the JFSC. The new handbook takes effect from 31 May 2022 and can be found [here](#).

The updates include:

- merging the various service-specific handbooks into one consolidated handbook
- extending the scope of the AML/CFT Codes of Practice and guidance to cover all supervised persons
- adding new provisions covering electronic identification, statements and utility bills and certification

Amendments to Electronic Communications Law now in force

The anticipated amendments to the Electronic Communications (Jersey) Law 2000, adding further clarity around the use of electronic signature and remote witnessing, came into force on 11 March 2022. Please see our briefing [here](#).

Date set for introduction of limited liability companies

The Government of Jersey has approved the final elements of Jersey's new limited liability company (LLC) regime, which is set to come into force on 1 September 2022.

Final changes were made to optimise the LLC legislation in the hope that the regime will be a viable option in Jersey's toolkit, in particular for US managers who are familiar with the LLC as a legal entity. Among other things, the changes pave the way for LLCs (which are separate legal entities but not automatically bodies corporate) to be able to opt for body corporate status.

New insolvency regime introduced

As referred to in our last quarterly update, the new insolvency remedy for creditors of Jersey companies is now in force. Read our latest briefing on the subject [here](#).

| Guernsey developments

Fourth quarter fund statistics

The total net asset value of Guernsey funds increased in the final quarter of 2021 by £13.6 billion to £303.6 billion, which represents an increase of £58.1 billion since 31 December 2020.

Guernsey domiciled open-ended funds experienced an increase of £5.5 billion over the year since 31 December 2020. Also, Guernsey's closed-ended sector increased over the quarter by £11.3 billion to £249.1 billion, which represents an increase of £52.6 billion.

Within the totals for Guernsey funds, Guernsey Green Funds held a total net asset value of £4.4 billion at the end of the quarter.

The GFSC issues consultation on Bailiwick mind and management for fiduciary and investment sectors

On 7 February, the GFSC issued a consultation paper which sets out proposals to issue guidance under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (as amended) and the Protection of Investors (Bailiwick of Guernsey) Law, 2020 (as amended) to clarify that maintenance of local mind and management is a relevant factor in the GFSC's assessment of the prudent conduct of business of a licensee under the minimum criteria for licensing. The GFSC expects that licensees will ensure that there is a level of local oversight and management of operations within the Bailiwick of Guernsey commensurate with the scale and nature of the activity carried out.

The closing date for responses to the consultation paper was 21 March 2022.

Guernsey outlines priorities for 2022 in latest green strategy report

Biodiversity, energy transition, and carbon pricing and markets are the three key priorities for Guernsey Finance and Guernsey's sustainable finance industry, according to the latest Guernsey Green Finance Strategy Report.

The strategy, which you can read in full [here](#), sets out measures and themes intended to help Guernsey maintain its position as a leading sustainable finance centre, and was developed with the support of Guernsey Green Finance's industry-driven strategy group, the UN Financial Centres for Sustainability Network, with collaboration from key stakeholders, and discussions at COP26, at which Guernsey Green Finance was present.

Guernsey launches its first cryptocurrency fund

Guernsey has launched its first cryptocurrency fund, and the world's first Tier 1 Bitcoin exchange-traded fund (ETF), allowing the jurisdiction to extend its financial services and other digital offerings.

This fund is available to institutional investors and it is currently seeking approval to list, at which point it will become a Tier 1 ETF. Read more [here](#).

Monterey Insights report highlights recovery in Guernsey's fund sector

The most recent annual Monterey Insights Guernsey Fund Report has highlighted the strength of the recovery in Guernsey's funds sector during the Covid-19 pandemic. The report showed that the number of schemes serviced in the island rose by 87 to 1,222, while the total number of sub-funds increased by 71 to 1,443.

Private equity/venture capital funds remain the most popular product of serviced funds, topping asset allocations with US\$388.4 billion, followed by alternative investment with US\$60.8 billion.

Read more [here](#).

GFSC has Global Financial Innovation Network membership reaffirmed

The GFSC have had its membership as part of the main Coordination Group of the Global Financial Innovation Network (GFIN) reaffirmed. This confirmation of the reappointment came after a review of the Coordination Group by the Financial Conduct Authority, as current Chair, and approval from all network members.

The GFSC is a founding member of GFIN which was launched in 2019. GFIN was created to

provide a more efficient way for innovative firms to interact with regulators, aiding with navigation between countries as they look to scale and test new ideas. It also created a new means of cooperation between financial services regulators to work on innovation-related topics, sharing different experiences and approaches.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



Emily Haithwaite

Group Partner, Ogier Legal L.P.

Jersey

E: emily.haithwaite@ogier.com

T: [+44 1534 514072](tel:+441534514072)

Key Contacts



Niamh Lalor

Partner

Jersey

E: niamh.lalor@ogier.com

T: [+44 1534 514210](tel:+441534514210)



Sophie Reguengo

Partner

Jersey

E: sophie.reguengo@ogier.com

T: [+44 1534 514122](tel:+441534514122)



Matt McManus

Managing Associate

Jersey

E: matt.mcmanus@ogier.com

T: +44 1534 514434



Brooke Lewis

Associate

Jersey

E: brooke.lewis@ogier.com

T: +44 1534 514074



Tim Clipstone

Partner

British Virgin Islands

Guernsey

E: tim.clipstone@ogier.com

T: +44 1481 752265



Bryon Rees

Partner

Guernsey

E: bryon.rees@ogier.com

T: [+44 1481 752312](tel:+441481752312)



Gabrielle Payne

Senior Associate

Guernsey

Jersey

E: gabrielle.payne@ogier.com

T: [+44 1481 752228](tel:+441481752228)



Chloe Gill

Associate

Guernsey

E: chloe.gill@ogier.com

T: [+44 1481 752355](tel:+441481752355)

Related Services

Sustainable Investing and Impact Funds

Tax

Corporate

Enforcement of Judgments and Awards

Banking and Finance

Investment Funds

Fund Finance

Regulatory

Listing services

Legal

Related Sectors

Restructuring and Insolvency

Technology and Web3

Funds Hub