

## FINANCIAL SERVICES BETWEEN THE CHANNEL ISLANDS AND THE EU

### Introduction

1. The Channel Islands (“the Islands”) comprise the Bailiwicks of Guernsey and Jersey. The Islands are autonomous British Crown Dependencies with a direct allegiance to the British Crown which goes back over 800 years. They are not part of the UK, are not represented in the UK (Westminster) Parliament and receive no financial subsidy from the UK government. They have their own parliaments and their own legal systems and have full fiscal autonomy.
2. From 1973 to 2020 the formal relationship between the Islands and the EU was governed by Protocol 3 of the UK’s Accession Treaty. Under Protocol 3, the Islands were part of the EU Customs Union and were essentially within the Single Market for the purposes of trade in goods but were “third countries” (i.e. outside the EU) in all other respects. Pursuing a “good neighbour” policy, the Islands built up a close relationship with the EU as third countries in many different fields outside the formal relationship under Protocol 3, including financial services regulation.
3. Over the past 50 years, Guernsey and Jersey have become successful specialist financial centres. The Islands are significant net providers of liquidity and capital via investment funds to the EU economy. They meet international investors’ needs by providing access to a wide range of assets and markets, offering tax transparency, a stringent regulatory environment and a highly skilled professional services sector which makes up almost a quarter of the total workforce.
4. As a result of the global Covid-19 pandemic, the Islands, in line with the rest of the world, face significant policy challenges. The Islands support the drive to “build back better”, a concept initially defined for natural disaster recovery but now used more widely to describe a desire to increase resilience of nations and communities for future generations. Governments across the world have had to act rapidly and take on unprecedented levels of borrowing to support people and businesses that are financially impacted by the pandemic. The need to tap into global investment flows and capital, that specialist finance centres like Guernsey and Jersey can provide, will be greater than ever. The Islands welcome opportunities to strengthen and improve their close and productive cooperation with EU institutions and agencies across Member States to ensure upcoming policy responses are efficient and effective.

### Financial Regulation and Supervision

5. The Islands operate under robust and internationally recognised regulatory regimes. The Jersey Financial Services Commission (JFSC) and the Guernsey Financial Services Commission (GFSC) are the independent financial regulators in each Island, covering prudential, conduct of business, anti-money laundering and countering the financing of terrorism (AML-CFT) provisions. They also supervise other (non-financial services) businesses for AML-CFT purposes so there is consistent and effective application of the Islands’ regulatory regimes.
6. The Islands’ legal frameworks for AML/CFT including the implementation of those frameworks, such as for customer due diligence and transparency of beneficial ownership information, were rated among the best jurisdictions in the world in the most recent Mutual Evaluation Reports published by the Council of Europe’s Committee of Experts on the Evaluation of AML Measures and the Financing of Terrorism (MONEYVAL) in 2016. The Jersey and Guernsey Governments remain strongly committed to fighting

against financial crime and, in cooperation with the competent authorities, are preparing for the fifth MONEYVAL assessments in 2022/23.

7. Both regulators proactively work with their EU counterparts, including the European Supervisory Authorities. They are respected for their work in international standard-setting bodies, as active members of the International Organisation of Securities Commissions (IOSCO) and the International Association of Insurance Supervisors. This is complemented by frequent engagement by the Islands' regulators and Guernsey and Jersey government officials with the EU Institutions in Brussels. This is underpinned by regular Ministerial visits.
8. The Islands' cooperative and proactive approach is reflected in a European Commission Decision which deems their supervisory and regulatory requirements as equivalent for the purposes of the treatment of banking exposures (renewed in 2019). Both regulators also interact regularly with Member State authorities in the supervisory colleges of cross-border banks.
9. Under the EU Statutory Audit Directive, the Guernsey and Jersey 'equivalence' decisions (2013) confirm that the *'public oversight, quality assurance, investigation and penalty systems of the islands are of a comparable standard to EU Member States'*. In June 2016, the European Commission granted an adequacy decision which allows the competent authorities in Jersey, Guernsey and the Member States to transfer audit papers.
10. The Channel Islands Financial Ombudsman was established in 2014 to enhance investor protection by resolving complaints about financial services provided in, or from, the Islands. It is an active member of the International Financial Services Ombudsman Network and is an Official Observer and Affiliate Member of the EU Financial Dispute Resolution Network (FIN-NET).
11. Both Islands' Company Registers actively participate in the European Business Registry Association (EBRA), the European network of national business registers and information providers from 22 European countries.

#### Funds

12. The Islands are leading fund domiciles, with institutional and retail funds under management and administration totalling over £628 billion /€702 billion (March 2020). The nature of capital flows makes it difficult to accurately measure the flow of investment into the EU. However, a 2016 study estimated that Jersey is a conduit for €188 billion of foreign investment into the EU27 (excluding the UK), equivalent to 4% of total net international investment; while a 2020 study of Guernsey's fund management industry identified that, of the £228 billion/€254.8 billion<sup>1</sup> of Guernsey funds under management and administration, around £77 billion/€86 billion<sup>2</sup>, is invested into assets in Europe. Over half of these funds originated from outside of the EU.
13. More than 50 European Investment Fund (EIF) equity transactions involve Channel Islands domiciled funds. This cornerstone and other funding from the EIF has enabled investors to support EU start-ups and mid-caps in ICT, the life sciences, energy & environment and renewable energy.
14. The Islands' regulators were among the first to conclude ESMA-negotiated Memoranda of Understanding (MoU) in relation to the Alternative Investment Fund Managers Directive (AIFMD) concerning managers of hedge funds, private equity and real estate funds. This has enabled licensed Channel Islands managers

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<sup>1</sup> Exchange rate calculated based on the monthly average for March 2020.

<sup>2</sup> *ibid*

to access EU markets through national private placement regimes (NPPR). In July 2015, and again in July 2016, Jersey and Guernsey received positive assessments by ESMA regarding their suitability for passporting. The decision will be taken by the European Commission and is currently delayed pending the outcome of a review of AIFMD.

### Banking

15. Both Islands use sterling and are part of the UK's payment and clearing system. There are 22 licensed banks in Guernsey and 24 in Jersey. Both jurisdictions have deposit compensation schemes. The combined level of banking deposits across the Islands is £204.7 billion/€228.8 billion (as of March 2020). These deposits are drawn into the UK and the EU largely from the rest of the world.
16. In 2016 the Islands were admitted to the geographic scope of the Single Euro Payment Area (SEPA) cross-border bank payment schemes for credit transfers, direct debits and debit card purchases, as third countries. Both Islands have voluntarily transposed the relevant parts of the EU Payment Services Directive (PSD and PSD II) into domestic legislation to enable payments in Euros between Channel Islands' banks and SEPA Member banks.

### Other aspects of the Islands' FS sector

17. The Islands are leading international **fiduciary** centres, hosting a wide range of services which are governed by modern trust and company law. Trust and Company Service Providers (TCSPs) have been regulated since 2000. This means TCSPs must hold and keep up to date beneficial ownership information for all companies administered by them. TCSPs are subject to routine, ongoing onsite and offsite supervision of all aspects of their activities. Both Islands played a key role in creating a comprehensive global standard for effective TCSP regulation and supervision through the Group of International Finance Centre Supervisors (GIFCS), which was published in 2014. Jersey was the first member jurisdiction to be assessed under the standard and was awarded top ratings in April 2019.
18. The Islands are committed to sustainable finance and recognise the contribution that finance can make to achieving **environmental, social and governance (ESG)** goals. 75% of AUM in Guernsey is managed, or administered, by firms confirming with the UN's Principles of Responsible Investments and Guernsey is home to the world first regulated green fund regime. Guernsey established its Green Finance Initiative and joined the UN Financial Centres for Sustainability Network in 2018. It joined the UN's Sustainable Insurance Forum Network for Greening the Financial System in 2019 and the Guernsey International Insurance Association become a signatory to the Sustainable insurance Principles in 2020. In support of this activity both Islands, regulators, participate actively in the relevant IOSCO committees. Jersey industry estimates that some £7.4 billion/€8.2 billion (Sept 2020) is invested in socially responsible investing (SRI) funds. Jersey professionals also set up and service a range of structures which support SRI investment objectives and Jersey is participating in the UN "United 4 Smart Sustainable Cities" initiative. Both Islands support TISE GREEN, a new market segment created on the Guernsey headquartered securities exchange which covers bonds, funds and trading companies which meet globally recognised green standards. There is more to come: the JFSC is currently consulting on plans to strengthen the regulation of ESG funds in Jersey and Guernsey is working on a framework to develop a green standard for its insurance-linked securities platforms.
19. Guernsey and Jersey actively encourage **technological innovation**, as the finance sector becomes more digitally enabled. Both Islands benefit from high quality digital infrastructure which meets the needs of the community and the economy, underpinned by a legislative and regulatory regime which promotes

the use of secure and efficient technology, for instance for electronic customer due diligence. Both Islands offer supportive environments for Fintech and Regtech (Sand Box Jersey and Guernsey's Innovation SoundBox). Both regulators participate actively in the relevant IOSCO committees and are members of the Global Financial Innovation Network, of financial regulators and related organisations, which has been set up to share experiences and approaches.

20. Guernsey has a substantial and diverse **insurance industry** with assets of £30.15 billion/€33.59 billion (Dec 2018). Insurers in Guernsey cover a range of specialist risks such as fine art insurance. It is host to Europe's largest captive insurance industry. Guernsey is also home to longevity swap structures that enable, for example, EU Member States' pension schemes to gain direct access to the reinsurance market in order to insure longevity risk.
21. Guernsey's reinsurance and insurance-linked securities (ILS) sectors provide cover for catastrophe risks around the world. Participating notes issued in Guernsey have been digitised on a blockchain, replacing the role of a traditional settlement system for the note issue. Thanks to cross-sectoral work between the funds industry and the insurance-linked securities (ILS) sub-sector, Guernsey offers the world's first dual-regulated insurance and fund product.
22. Further information about the public authorities in Guernsey and Jersey and other aspects of Channel Islands cooperation with the EU, including on tax and tackling financial crime, can be found on the Channel Islands Brussels Office website.

*Channel Islands Brussels Office,*  
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