

Guernsey action plan to prevent the misuse of companies and legal arrangements

Guernsey remains committed to meeting the Financial Action Task Force standards on Anti Money Laundering (AML) and Combating the Financing of Terrorism (CFT). This commitment has long been recognised and verified through independent assessments¹ including most recently:

- The International Monetary Fund Assessment of the Supervision and Regulation of the Financial Sector published in January 2011,
- The OECD Global Forum on Tax Transparency and Information Exchange published in 2013.

Guernsey complies with recommendation 33 on the beneficial ownership of legal persons such as companies. Guernsey has in place the relevant legislation which obliges all beneficial owners of Guernsey companies and other legal persons to be properly identified and recorded and is one of a handful of jurisdictions that has such measures in place. Guernsey also regulates trust and company service providers (CSPs) and has done so for more than a decade. This regime ensures that all CSPs are fit and proper, having in place appropriate policies and procedures with respect to AML/CFT and are subject to regular inspections by the Guernsey Financial Services Commission. Bearer shares are also prohibited for Guernsey companies.

In its most recent assessment the IMF concluded that in Guernsey “companies are subject to a wide variety of measures which in summary ensure that accurate and comprehensive beneficial ownership information is obtained for all legal entities.”

Guernsey also has a comprehensive framework for identifying and properly recording the beneficiaries of legal arrangements such as trusts. Guernsey is well advanced on implementing the IMF recommendations with respect to FATF recommendations 24 and 25 which will ensure that Guernsey continues to meet the highest international standards in respect of legal persons and legal arrangements such as trusts.

Guernsey welcomes the UK’s commitment to improve the supervision and enforcement of company formation agents, improvements which will bring the UK and other jurisdictions up to the standards that have been in place in Guernsey since the year 2000.

Guernsey’s government is committed in its strategic plan to actively seek to meet the international standards of tax transparency. Consistent with that approach, we will commit to take the following actions on beneficial ownership:

¹ Earlier reports include: The Review of Financial Regulation in the Crown Dependencies presented to the Secretary of State for the Home Department in November 1998, The International Monetary Fund Assessment of the Supervision and Regulation of the Financial Sector published in November 2003, The Final Report of the Independent Review of British Offshore Financial Centres published in October 2009.

1. **Update our existing assessment of money laundering and terrorist financing risks** as part of its preparations for implementing the 2012 FATF recommendations.
2. **Review and implement legislative measures for legal persons (other than companies and foundations)** to ensure that the existing obligations currently placed on Guernsey companies and foundations also apply equally to other legal persons registered in the Bailiwick.²
3. **Carry out an assessment of the costs and benefits of a central register** of information on company's beneficial ownership available to law enforcement and tax authorities; and in the event that a central register proves to be more effective than Guernsey current regime, commit to implementing such a register following its implementation by G8 members and the other Crown Dependencies and Overseas Territories.
4. **Implement legislation to ensure that Guernsey is compliant with** FATF recommendation 25 on legal arrangements.
5. **Continue to support international cooperation** on the timely and effective exchange of information for criminal and civil tax purposes.
6. **Continue to work with the UK authorities** to achieve recognition that Guernsey's AML/CFT framework is equivalent to European Union standards.

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² Guernsey currently has in place an AML regime under the Proceeds of Crime Legislation which applies to all financial services businesses requiring them to identify and record the beneficial owners of all legal persons or legal arrangements which they administer or do business with. In addition to the general requirements under the proceeds of crime laws (and as part of the general AML/CFT architecture) Guernsey also *specifically requires companies and foundations to appoint a resident agent who is responsible for identifying and recording the beneficial owners of the company or the beneficiary of the foundation. Guernsey intends to implement legislation imposing similar obligations on Limited Partnerships and Limited Liability Partnerships to ensure a consistent approach to beneficial ownership for all legal persons.*