



ADVISORY
Industry Information

Guernsey Regulator Releases Final Form Rules on Virtual Asset Service Provider & Consumer Lending Law

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Introduction

The Guernsey Financial Services Commission (the “GFSC”) has issued The Lending, Credit and Finance Rules and Guidance, 2023 (the “Rules”) which govern businesses that will be regulated under the Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022 (the “LCFL”) which regulates various virtual asset service providers (“VASPs”) and financial services businesses (“FSBs”) that were previously not regulated in Guernsey.

The GFSC consulted on a draft form of the Rules over the summer of 2022, and has also published feedback on that consultation.

This briefing is part of a series of briefings by Walkers on the LCFL. We will publish subsequent briefings on each of the licensing regimes in due course.

Next Steps

Affected businesses must have their licenses in place by 30 June 2023. The window for licence applications is due to open on 1 February 2023 and there is a 50% discount to the relevant application fee where the GFSC receives the full licence application before 31 March 2023. If the GFSC receive an application after 31 March 2023 there is a risk that the licence does not get granted in time, so affected businesses should look to make their applications as soon as possible.

The new licensing regimes

There are four new licensing regimes under the LCFL, which apply to the following services or activities:

- Providing consumer credit, including unsecured loans, mortgages, goods on HP and credit cards, or services ancillary to the provision of consumer credit, such as introduction services and credit brokerage – this will require a “Part II Licence”;
- Carrying on “financial firm business”, being activities that were previously registerable under the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (the “NRFSB Law”), such as payment handling services and lending – this will require a “Part III FFB Licence” (the NRFSB Law will be repealed from 1 July 2023);
- Certain services or activities in relation to virtual assets, such as ICOs, issuing tokens, exchanging between virtual assets and fiat currencies and exchanging between one or more forms of virtual asset – this will require a “Part III VASP Licence”; and
- Operating a peer to peer platform or a crowdfunding platform, or providing non-bank credit or finance intermediation or brokerage services for the purposes of matching lenders with borrowers – this will require a “Part IV Licence”.



In all cases the licensing requirement applies to:

- a Guernsey entity providing (or holding itself as being willing to provide) any of the above services or activities anywhere in the world; and
- a non-Guernsey business providing (or holding itself out as being willing to provide) any of the above services or activities in or from within the Bailiwick of Guernsey.

Certain exemptions do apply, most notably there is a notification regime for non-Guernsey businesses regulated in a “designated jurisdiction” wishing to provide services in Guernsey that would normally require a Part II Licence (conditions apply), and businesses regulated by the GFSC under certain other regulatory laws do not need to obtain a Part III FFB Licence. The GFSC also have the discretion to exempt a person from the requirement to hold any of the above licences and have also published details of certain blanket exemptions.

Applications for licences under the LCFL will need to meet the minimum criteria for licensing set out in the LCFL (similar to that in other regulatory laws in Guernsey). The GFSC will also have the full range of supervisory, enforcement and rule-making powers under the LCFL that it enjoys under those other regulatory laws.

Walkers’ comment

The LCFL widens the scope of regulated financial services business and for the first time will regulate consumer lending and mortgages in Guernsey. Crucially, the LCFL also introduces a VASP licensing regime in Guernsey. By licensing these activities, Guernsey is also applying its world-leading standard anti-money laundering and countering financing of terrorism (“AML/CFT”) regime to these activities (although the AML/CFT regime already applies to activities under the NRFBS Law). This is especially welcome for virtual assets as Guernsey is aligning itself with FATF guidance on virtual assets – a key move in Guernsey’s development as a leading VASP jurisdiction.

About Walkers’ Guernsey regulatory team

Walkers’ regulatory team can advise on the new LCFL, including licensing requirements and applications. We have a team of regulatory experts spanning all practice areas who regularly advise on all aspects of Guernsey regulation, including financial services, AML, sanctions, data protection, tax, economic substance, FATCA and the CRS.

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