

## Briefing Note 21 June 2019

### Measured approach will provide the best solution

This note is for information purposes only and is not intended to be legal advice.

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Guernsey's policies toward collecting beneficial ownership information about corporate entities, and who may access such information, have evolved over the years to adapt to global standards in the effort to fight money laundering. This week's joint announcement (<https://www.gov.gg/benownership>) from the States of Guernsey, States of Jersey and the Isle of Man Government shows that they are taking a measured approach to implementing new methods for providing that information to relevant interested parties. It also shows that the islands are committed to maintaining the highest standards of regulation as they become best practice globally.

In its "Action Plan 2019", the States of Guernsey, acting simultaneously with Jersey and the Isle of Man, has committed to implementing rules on accessibility of beneficial ownership information essentially equivalent to those of the European Union Fourth Anti-Money Laundering Directive (the "EU Directive").

Guernsey has had a similar system in place for a considerable time. Since the coming into force of the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017, Guernsey has maintained a register of beneficial ownership of corporate entities and other legal persons at the Guernsey Registry. In the case of corporate entities, the beneficial ownership information must be maintained and updated by the company's resident agent in Guernsey. This replaced the earlier requirement in the Companies Law (Guernsey) 2008 that required the resident agent to keep beneficial ownership information about a Guernsey company at its registered office. Importantly such information must be provided by the resident agent to Guernsey's Procureur (prosecutor), the Guernsey Financial

Services Commission, police or customs officials where required for criminal or regulatory investigations.

By implementing the new standards aligned to the EU Directive Guernsey now intends to extend this access and make beneficial ownership information of corporate entities accessible to EU law enforcement authorities and financial intelligence units by 2021, with the intention that the EU reciprocate by providing access to EU beneficial ownership registers to Guernsey authorities. The Action Plan also sets out the intention to make beneficial ownership information available to certain financial institutions to meet their regulatory due diligence requirements by 2022.

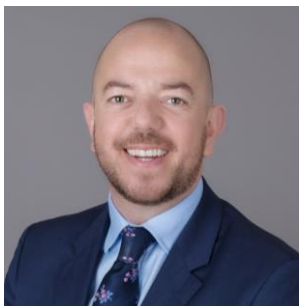
The Action Plan further sets out that, by January 2023, Guernsey will propose legislation to make beneficial ownership information publicly available in line with the EU Directive, although it could be made available to other persons with a legitimate interest in the information before then. The States of Guernsey has set out that the timetable for implementation of this legislation will be determined according to "global best practice at the time".

As the accessibility criteria of beneficial ownership information in the EU Directive are currently wider than is common practice in the European Union, it can be expected that the global standard will evolve between now and 2023. Guernsey's legislation on public accessibility will follow the EU's 2022 report on the implementation of the EU Directive, which can be expected to provide additional clarity on what has developed as best global practice.

We expect that in the near term, the changes announced in the Action Plan will have limited effect on Guernsey as an attractive jurisdiction to incorporate offshore companies – a

jurisdiction that adheres to all global standards to combat money laundering while respecting the privacy of legitimate business owners. This is a rapidly evolving area of law, as jurisdictions around the world try to develop rules in the sharing of corporate beneficial ownership information that will be accepted by all major financial centres. It is encouraging that Guernsey is taking a step-by-step

approach in co-ordination with the other Crown Dependencies to ensure that its beneficial ownership information rules remain consistent with the evolving global standards, while at the same time asserting Guernsey's autonomy to regulate its own financial sector.



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