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GFSC UPDATE

The GFSC has published details of a “short consultation” on various proposed changes to the Rules and Guidance in the Handbook on Countering Financial Crime and Terrorist Financing (version issued on 29 November 2019) (“**the Handbook**”). This is to take into account the Bailiwick of Guernsey’s National Risk Assessment (“**NRA**”) on money laundering (“**ML**”) and the financing of terrorism (“**FT**”) which was published in January 2020. The GFSC has also stated that it is anticipated that the proposed changes will assist firms in identifying high risk countries and territories for both ML and FT purposes.

The following is a summary of some of the main proposed changes to the Handbook:

1. The creation of a new “**Appendix H**” to the Handbook, which will list those countries and territories which the Financial Action Task Force (“**the FATF**”) has identified as having significant deficiencies in their regimes in relation to ML, FT and the financing of proliferation of weapons of mass destruction, and in respect of which the FATF has called for the application of countermeasures. (In accordance with Paragraph 5(1)(c)(i) of Schedule 3 to the *Proceeds of Crime Law*, a firm **shall** (i.e. must) apply Enhanced CDD to a business relationship or occasional transaction where the customer or beneficial owner has a relevant connection with a country or territory that has been identified by the FATF as a country for which such measures are appropriate.) Only two countries are included in the Appendix H, which forms part of the consultation document: Iran and North Korea. The GFSC has also advised that, while details of such countries are currently communicated to firms by way of a Business from Sensitive Sources Notice (“**BSSN**”) – Section A, going forward it is proposed that the FATF’s “call for action” will be communicated to firms by way of updates to Appendix H rather than by way of a BSSN.
2. The creation of a new “**Appendix I**” to the Handbook, which will list a number of countries and territories that are identified as presenting a higher risk. This includes government departments such as the UK HM Treasury and US Treasury and NGOs widely used by the finance industry such as Transparency International. Appendix I will also include those countries subject to a FATF “call for action” and countries “under increased monitoring” by the FATF. Going forward it is proposed that the FATF countries “under increased monitoring” will be communicated to firms by way of updates to Appendix I rather than by way of a BSSN – Section B. What this means in practice is that Appendix I will basically be Guernsey’s new

“High Risk Jurisdictions List”. It currently includes Iran and the DPRK highlighted as “compulsory High Risk Jurisdictions”.

3. The Handbook emphasises that the NRA process is an iterative one, which will involve the exercise being repeated over time, therefore the GFSC is proposing a new Rule in the Handbook requiring firms to take into account the findings of any updated NRA and to reflect the firm’s assessment of whether the risks identified in any updated NRA are relevant, or potentially relevant, to the firm; and where they are relevant, to identify the measures for mitigating those risks. The Handbook is to also include new and more detailed Guidance on how firms should apply the NRA to their business risk assessments and customer risk assessments, including additional guidance on FT risk factors in line with the findings of the NRA.
4. Finally, where a firm is licensed under *The Insurance Business (Bailiwick of Guernsey) Law, 2002 (as amended)* and offers insurance products within the scope of its licence as part of its relationship with another regulated financial services business (“FSB”), the proposed amendments to the Handbook will mean that the firm can treat the regulated FSB as its customer.

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