COLLAS CRILL

Collas Crill explains... Preparing for a regulatory visit in Guernsey

APRIL 2022

This is part of a series of guides in which we examine areas of law that frequently arise in practice. Further guides will be released weekly; click here to subscribe to receive Collas Crill news and insights by email.

As part of the regulatory regime for licensed fiduciaries, the Guernsey Financial Services Commission ("GFSC") carries out onsite visits to both corporate and individual licensees. This guide provides some practical advice for licensees on how to best to prepare for such visits.

What types of visits should licensee's expect?

At a speech in October 2020, Director General of the GFSC, William Mason, noted that they had reviewed the PRISM system in the wake of COVID-19. From January 2021, companies would expect less expansive regulatory visits. These visits now take the form of either a full risk assessment or a financial crime risk assessment, focusing on the GFSC's key thematics. For 2022, for example, these are politically exposed people (PEPs) and unclaimed client money.

What is the purpose of a regulatory visit?

The purpose of the visit is to ensure that you:

- understand your business;
- meet the minimum criteria for licensing;
- understand the regulatory framework as it applies to your business;
- have systems, controls, policies and procedures, proportionate to the size of your business and its risks, as required by the regulatory framework; and
- have systems and controls that are properly considered, adequate and reviewed and properly applied to the business.

Pre-visit documents and information. How should you respond?

Before an onsite visit, the GFSC will send a letter to the licensee attaching a list of the documents and information that it requires to review in advance.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

These are important documents that will demonstrate to the GFSC how the firm's systems and controls work, what the policies and procedures are, and how you comply with the overall regulatory framework.

Some practical tips:

1. Carefully review the notification letter, and have a look at what is required to be produced. Some materials may have differing deadlines, so make a note of these and plan accordingly.
2. For a full review there can be a broad scope of documents that you are required to produce. So, think about how you will divide and conquer that list and spread that preparatory work amongst your team.
3. Plan a timetable for delivery of these documents and factor in review times. Review it as a team first before you provide it to your Board for final approval.
4. Identify technical barriers to uploading documents onto the GFSC's online portal which you may need to overcome. For example can documents which are saved in your firm's internal systems by easily uploaded onto the portal?

Remember: first impressions count! If you undertake this initial process well, you're really putting your best foot forward.

How can you make the best use of the intervening period between submission of pre-visit documents and the visit?

Once you have submitted the pre-visit materials, there will be a period of 4-5 weeks before the onsite visit. This time is invaluable to undertake all of your pre-visit preparation work.

Some practical tips:

1. You will generally know before you have been notified which staff are most likely to be interviewed. This may be daunting for them, so make sure you prepare them on interview techniques, dress code etc to ensure they are comfortable and confident.
2. As you go through your review before submission process you will have identified themes. So, brief the relevant teams on any themes that the GFSC may raise.
3. Look back at any findings from previous onsite visits. This can be important to give you a sense of any action points that were raised, to refresh memories and to be able to provide a thorough update on the issue.
4. Engage with the GFSC about the logistics. They will let you know in advance details of who they want to meet with but the sooner you can get this information and understand the agenda for these meetings, the sooner you can start targeted preparation.

The BIG day. What should you do?

When the day of the onsite visit arrives, it is really important that you warmly welcome the GFSC. Again, impressions count. They are there do to a job, and you should do all you can to help things go smoothly.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

Some practical tips:

1. Think about your meeting space. Make sure the GFSC has somewhere private to work, which won't interfere with servicing your clients. However keep them front of house. The GFSC should not have free access to the office and file storage areas; neither should they have access to a networked computer terminal.
2. Give the GFSC the opportunity to run through how the scope of the visit will happen and introduce them to the key individuals, such as the Board Members (if available), the MD/CEO or other senior staff. Explain to them the structure (who reports to who) and indicate if any expected unavailability.
3. Appoint a chaperone: someone who will be their point of contact throughout the visit to organise meetings, logistics, toilets, coffee and WIFI passwords.

How do you approach the interviews?

The GFSC will conduct a series of interviews, which can range from interviewing directors to more junior administrative staff.

Some practical tips:

1. Be open and honest with the GFSC. There is no need to embellish, overstate, give opinions or be emotional.
2. Be ready to answer a broad range of questions – including who you are, how you fit into the organisation, what your role is and how your day to day goes.
3. When asked a question try not to answer off the cuff. Take a minute to pause and consider the question. It is better to answer properly and accurately than to fire off a response quickly.
4. Interviews can be stressful – so take a notebook in and then if a request is made you can jot it down for following up later.

What should be highlighted at the close out meeting?

Most visits end with a close out meeting, which is a useful time to gauge how the visit went.

Some practical tips:

1. Although comments made at this meeting may not feature in the final report, it is important to take notes of any preliminary findings or themes mentioned.
2. If it does transpire that the GFSC has misunderstood anything during the course of the visit, now is a good time to correct them and demonstrate what the position is.
3. You should get a feel where your strengths and weaknesses lie, so listen carefully.

What happens after the visit?

After the onsite visit, any draft report that the GFSC makes will be tabled to their internal risk governance panel for review. Once reviewed, you'll then receive the draft report. This is your last opportunity to correct any

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

factual inaccuracies or misunderstandings that the GFSC may have made. So, make sure that you read the draft report very carefully and circulate it to all the relevant people.

You will then receive the final report which may or may not contain your risk mitigation programme. Make sure this report is shared with your Board, including any Non Executive Directors. Where there is a risk mitigation programme it is imperative that any remediation work is dealt with properly. In terms of your regulatory responsibility, you need to balance the need to act promptly against what you can realistically achieve. Sit down as a Board and have a look at what you're being asked to do, and set realistic timeframes to do it.

About this guide

This guide gives a general overview of this topic. It is not legal advice and you may not rely on it. If you would like legal advice on this topic, please get in touch with one of the authors or your usual Collas Crill contacts.

About Collas Crill

We are a leading offshore law firm. We are easy to do business with and give practical advice to overcome tough challenges. Through our network of offices, we practise British Virgin Islands, Cayman Islands, Guernsey and Jersey law.

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.

COLLAS CRILL

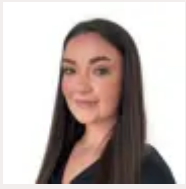
For more information please contact:



Michael Adkins

Partner (Advocate) | Guernsey

t: +44 (0) 1481 734 231 | **e:** michael.adkins@collascrill.com



Jessica Bell

Associate* | Guernsey

t: +44 (0) 1481 734884 | **e:** jessica.bell@collascrill.com

This note is a summary of the subject and is provided for information only. It does not purport to give specific legal advice, and before acting, further advice should always be sought. Whilst every care has been taken in producing this note neither the author nor Collas Crill shall be liable for any errors, misprint or misinterpretation of any of the matters set out in it. All copyright in this material belongs to Collas Crill.