UK Crown Dependencies and Overseas Territories

The impact of Brexit on financial services
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Introduction

Background

Britain’s decision via referendum to leave the European Union (EU) has given rise to some uncertainty around the future of financial services (FS) in the United Kingdom (UK). The UK is now set to begin negotiating its terms of withdrawal with the EU, before untangling UK law from European legislation.

This process will most likely have an impact on the British Crown Dependencies and Overseas Territories (CDOTs). The CDOTs have unique relations with mainland Britain, meaning their legal and governmental statuses can differ from each other, implying varied implications from Brexit for each CDOT.

Furthermore, the CDOTs each have unique relationships, representations, and legal connections to the EU, sometimes outside the framework of their relations with the UK. Brexit will therefore naturally have some implications for the CDOTs due to their legal relationships with the UK and the EU respectively.

Purpose of this document

This document provides an overview of the differing relations of individual CDOTs with the UK and the EU, and of the FS industry in each jurisdiction. Its purpose is not to compare each territory, but to outline their legal and regulatory environments. Specifically, this document examines the potential impacts of Brexit on financial services in each CDOT and how their relationships with the EU and UK may be altered.

There are 14 British Overseas Territories and three Crown Dependencies. We have selected eight of the CDOTs which have economies considered to enjoy significant benefits from the FS industry:

► Jersey
► Guernsey
► Isle of Man
► Gibraltar
► Bermuda
► British Virgin Islands
► Cayman Islands
► Turks and Caicos Islands

Research for this document was carried out by CDOT Country Managing Partners, with additional support from EY’s FS Government team. All currency is reported in USD unless stated otherwise, and conversions were made in December 2016. Sources and raw data are outlined in the Appendix.
The impact of Brexit on CDOTs

Brexit impact on CDOTs relationships with UK
► No major short-term impacts on the CDOT relationships with the UK are expected, other than second-order economic effects.
► There is, however, a wider concern that the UK may not prioritise the tax and regulatory freedoms of the CDOTs in the Brexit negotiations.
► Concerns therefore exist that the UK could even compromise on CDOTs’ interests as a part of a broader Brexit negotiation strategy.

Brexit impact on financial services in CDOTs
► No huge impact on banks is expected; Insurance and WAM are likely to experience some disruption.
► Impacts on CDOTs will differ between jurisdiction depending on their bilateral relationships with the EU and UK.
► The regulatory and tax environments are the primary reasons why firms operate in many CDOTs: this is unlikely to change post Brexit.

Brexit impact on CDOTs relationships with EU
► It is not yet clear where CDOTs would sit under a bespoke UK-EU trade model. They could either operate in the EU via their relationship with the UK, or they could also have their own bilateral arrangements with the EU.
► Some CDOTs access the EU Single Market via London, and are therefore reliant on the UK accession to the Treaty of Rome. Such territories will therefore need to re-establish bilateral relationships with the EU and gain representation in Brussels.
► Doing so could take time, as there is limited European support for CDOTs, particularly in the European Parliament. The EU has been examining “blacklisted” jurisdictions, and with limited British lobbying power in Brussels post-Brexit, the EU may choose to push for higher corporation tax in its third countries as a requirement of equivalence.
**Key takeaway:** Jersey would continue to access Single Market as a third country
But how would UK-Jersey relationship be impacted, if both are now third-countries?

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**Banking**
- 32 banks:
  - $134.22bn of deposits
- No HQs
- 17 EU banks
- 6 North American
- 2 Middle East
- 3 Switzerland
- 3 Africa
- 1 Asia

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**Relationship with UK**
- Jersey is self-governing but has a close relationship with the UK as a Crown Dependency, meaning its allegiance is to the British Crown and not the UK Parliament.
- Technically, Jersey is considered independent from UK laws, and as a result, has its own legislature allowing the Crown Dependency to determine its own local laws, including on taxation.
- It has no representation in the Houses of Parliament, has constitutional rights of self-government and legislative independence, but is not entirely independent of the UK, which represents its overseas interests.
- Jersey’s International Identity Framework Document further clarifies its constitutional relationship with the UK and internationally.

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**Relationship with EU**
- Jersey is considered a part of the Single Market regarding free trade in goods, but otherwise is not an EU Member.
- Jersey and Guernsey have a Channel Islands Brussels Office (CIBO) which promotes their interests at a European level.
- Jersey abides by certain aspects of EU legislation under third country provision, i.e., Alternative Investment Fund Managers Directive (AIFMD).
- Jersey’s relationship with the EU was agreed when the UK became a full member under Protocol 3 of the 1972 European Communities Act*. The main impacts relating to customs and immigration are that nationals from the EU and EEA are free to live and work in Jersey.

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**What does Brexit mean for Jersey?**
- This relationship is wholly outside of the UK’s relationship with the EU, therefore the withdrawal of the UK from the EU should have no structural impact on the island’s existing relationship with the UK.
- It is not expected that Brexit will impact Jersey’s relationship with the EU – it accesses the Single Market for FS via ‘third country’ equivalence and signing agreements outside of UK-EU relationship.
- Jersey’s constitutional relationship with the EU will therefore not be structurally impacted by a Brexit.

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**Tax structure**
- The standard rate of corporate tax in Jersey is 0%.
- The exceptions to this standard rate are: financial service companies (defined in the Income Tax Law) which are taxed at 10%; utility companies which are taxed at 20%; and income specifically derived from Jersey property rentals or Jersey property development taxed at 20%.
- VAT is not applicable in Jersey as it is not part of the EU tax area.
Guernsey

Key takeaway: Guernsey would continue to access Single Market as a third country
But how would UK-Guernsey relationship be impacted, if both are now third-countries?

<table>
<thead>
<tr>
<th>Banking</th>
</tr>
</thead>
<tbody>
<tr>
<td>29 banks</td>
</tr>
<tr>
<td>$100.85bn of deposits</td>
</tr>
<tr>
<td>No HQs</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Insurance and WAM</th>
</tr>
</thead>
<tbody>
<tr>
<td>656 Asset Managers</td>
</tr>
<tr>
<td>$296.33bn in funds</td>
</tr>
<tr>
<td>804 Insurance entities</td>
</tr>
<tr>
<td>418 Insurers</td>
</tr>
<tr>
<td>19 Managers</td>
</tr>
<tr>
<td>34 Intermediaries</td>
</tr>
<tr>
<td>Over 5000 securities</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Financial services</th>
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</thead>
<tbody>
<tr>
<td>6,731 people working in FS (population of 62,711)</td>
</tr>
<tr>
<td>FS is 33.8% of $2.99bn GDP</td>
</tr>
</tbody>
</table>

Relationship with UK
- Guernsey is self-governing but has a close relationship with the UK as a Crown Dependency, meaning its allegiance is to the British Crown and not the UK Parliament.
- Technically, Guernsey is considered independent from UK laws, and as a result, has its own legislature allowing the Crown Dependency to determine its own local laws, including on taxation.
- It has no representation in the Houses of Parliament, has constitutional rights of self-government and legislative independence, but is not entirely independent of the UK, which represents its overseas interests.
- Guernsey’s International Identity Framework Document further clarifies its constitutional relationship with the UK and internationally.

Relationship with EU
- Guernsey’s relationship with the EU was agreed when the UK became a full member under Protocol 3 of the 1972 European Communities Act*.
- Guernsey abides by certain aspects of EU legislation under third country provision, i.e., Alternative Investment Fund Managers Directive (AIFMD).
- Jersey and Guernsey have a Channel Islands Brussels Office (CIBO) which promotes their interests at a European level.

What does Brexit mean for Guernsey?
- This relationship is wholly outside of the UK’s relationship with the EU, therefore the withdrawal of the UK from the EU should have no structural impact on the island’s existing relationship with the UK.
- EU legislation covered by Protocol 3 applies to Guernsey. The island secured access to the Single Market for FS via third country provisions included within European directives, after it demonstrated equivalence to EU standards.
- Guernsey’s finance industry can expect its relationship with the EU to continue largely unaffected by the result of the referendum as it operates as a third party country with the EU.

Tax structure
- Zero rate of corporate tax; Guernsey caps personal tax at £250,000.
- Exceptions to this include: specific banking activities to be taxed at 10%; 20% tax on Guernsey residents’ assessable income; utility companies taxed at 20%; and income derived from land and buildings, taxed at 20%.

*see Appendix
Isle of Man

Key takeaway: IoM would continue to access Single Market as a third country
Much of IoM FS industry growth is reliant on Asia and MENA

Banking
22 banks
1 HQ
20 subs
13 EU banks
9 non-EU

Insurance and WAM
49 Asset Managers
135 Insurers

Financial services
FS HR data unavailable (population 88,000)
FS is 37.8% of $3.86bn GDP

Relationship with UK
► The Isle of Man is a Crown Dependency, meaning its allegiance is to the British Crown and not the UK Parliament.
► It has no representation in the Houses of Parliament and has constitutional rights of self-government and legislative independence, although its overseas interests are represented by the UK.
► The Isle of Man is included in many international treaties which the UK has signed, such as human rights agreements and sanctions.

Relationship with EU
► The Isle of Man’s relationship with the EU is through Protocol 2 to the Act of Accession which formed part of the United Kingdom’s Treaty of Accession 1972.
► Under Protocol 3 the Isle of Man is part of the customs territory of the EU and there is free movement of industrial and agricultural goods in trade.

What does Brexit mean for IoM?
► The Isle of Man is reliant on the continuation of the Customs Union in order to secure continued access to the Single Market.
► The Isle of Man would continue to enjoy third country status in accessing the Single Market; however, it is possible that the EU becomes stricter around allowing unfettered access for third countries (namely the UK post-Brexit).
► If the UK also becomes a third country, this may have an impact (either complimentary or negatively) on the Island’s access to the UK market. In brief, it would reduce the EU’s rules limiting third country access to the UK market.
► The Isle of Man’s financial services industry has not had unlimited access to the EU, and so much of its growth is instead reliant on servicing Asian and Middle Eastern markets.

Tax structure
► The standard rate for corporate tax in the Isle of Man is 0%.
► The exceptions to this standard rate are: income received from banking business which is taxed at 10% and income received from land and property in the Isle of Man which is taxed at 20%. In addition, a 10% tax rate also applies to companies who carry on a retail business in the Isle of Man and have taxable income in excess of £500,000 from that business.
► VAT is applicable in the Isle of Man as it is part of the EU customs territory.

*see Appendix

UK Crown Dependencies and Overseas Territories – The impact of Brexit on financial services
**Gibraltar**

**Key takeaway:** Loss of Single Market access and passporting rights is threat for Gibraltar more than any other CDOTs.

### Banking
- **15 banks**
- **14 EU banks**
- **1 non-EU bank**
- **2 HQs**
- **8 subs**
- **$9.79bn assets in Banking**

### Insurance and WAM
- **27 EU WAM HQs**
- **61 Insurance HQs** (58 EU; 3 non-EU)
- **60 company managers**
- **15 Auditors**
- **$9.59bn in Funds**
- **£19.3bn in assets, equal to 876% of GDP**

### Financial services
- **2,008 people working in FS** (population of 32,000)
- **FS is 20% of GDP of $2.2bn**

<table>
<thead>
<tr>
<th>Relationship with UK</th>
<th>Relationship with EU</th>
<th>What does Brexit mean for Gibraltar?</th>
<th>Tax structure</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Gibraltar is a self-governing UK Overseas Territory,</strong> meaning it has nearly entire internal democratic self-government, via parliament elected by citizens of Gibraltar.</td>
<td><strong>Gibraltar is currently within the EU by virtue of Article 355(3) of the Treaty of Rome which allows Gibraltar membership by virtue of its relationship with the United Kingdom as an overseas territory.</strong></td>
<td><strong>By virtue of the above, Gibraltar can currently take advantage of the Single European Passport for banking, insurance and investment services.</strong></td>
<td><strong>Laws introduced in 2010 ended the distinction between offshore and onshore businesses and moved Gibraltar to a system of self-assessment for companies.</strong></td>
</tr>
<tr>
<td><strong>Some policy areas, such as foreign relations and defence are still under the control of the British Government.</strong></td>
<td><strong>Gibraltar sits outside of EU VAT ruling but does have other many EU Directives which apply.</strong></td>
<td><strong>As such, the uncertainty surrounding the UK (and Gibraltar’s) continued ability to passport these services into the EU market represent the most relevant Brexit-related issue for the jurisdiction.</strong></td>
<td><strong>The law now provides that all companies, however owned, are taxed on profits accruing in or derived from Gibraltar, thereby preserving the territorial basis of taxation.</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Whilst access to EU Single Market is of particular importance to Gibraltar, it is equally important to note that the UK represents Gibraltar’s largest trading market in financial services. This will dilute the severity of a hard Brexit.</strong></td>
<td><strong>All companies are chargeable on taxable profits at a rate of 10%, except for utility, energy and fuel supply companies and for companies deemed to be abusing a dominant market position, for which the applicable rate is 20%.</strong></td>
</tr>
</tbody>
</table>
### Bermuda

**Key takeaway:** Bermuda's insurance industry has third country equivalence via Solvency II. Ensuring alignment and representation to Brussels will allow EU-Bermuda relations to continue.

<table>
<thead>
<tr>
<th>Banking</th>
<th>Relationship with UK</th>
<th>Relationship with EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 banks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All HQs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Bermuda-based</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### Insurance and WAM
- **58 Asset Managers**
  - 18 HQs; 40 Subs
  - $5.539bn in assets (98% of GDP)
- **1130 Insurers**
  - 174 EU; 765 Non-EU

#### Financial services
- **2,369 people working in FS** (population 65,000)
- FS contributes $0.65bn to GDP of $5.13bn

#### Tax structure
- **No corporation taxes in Bermuda.**

### What does Brexit mean for Bermuda?
- Many of the insurers operating out of Bermuda enjoy EU access through passporting via the Lloyd's of London market.
- Third country equivalence with Solvency II is necessary for this access to continue for firms; **Bermuda is currently equivalent** after a six-year process of alignment, so will retain access unless domestic regulations change.
- Bermuda is also aligning its regulations with AIFMD and has built a bilateral relationship with Brussels.

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> Bermuda is a British Overseas territory, independent of Britain, and in control of its own laws, notably on tax.

> Bermuda has a Cabinet on whose advice the Governor must act, except in respect of matters which are his special responsibility (external affairs, defense and armed forces, internal security, and the police) or where he is empowered to act in his own discretion.

> The Governor and Commander-in-Chief of Bermuda is appointed by The Queen.

> Bermuda is recognised as an **Overseas Territory in Annex II of the Treaty on the Functioning of the European Union.**

> Bermuda is a member of the **Association of the Overseas Countries and Territories of the European Union (OCTA).**

> Bermuda is not automatically subjected to EU laws, but can choose to gain equivalence.

> Bermudians are British Overseas Territory Citizens (BOTC) and accordingly British Nationals. Since 21 May 2002, most persons who were BOTCs then, were additionally granted full British Citizenship and therefore have the right to live and work in the EU and EEA.

> A 2014 report published by the UK Overseas Territories Association outlining the relationship between CDOTs and the EU found that **Bermuda exported some $24.5bn (around €21.7bn) worth of services, mostly insurance-related, to the EU.**
**British Virgin Islands**

**Key takeaway:** The British Virgin Islands (BVI) has an FS lobbying position with the EU which it would be set to lose. Further representation would be required to support continued consideration of BVI in Brussels.

### Banking

- **10 banks**

### Insurance and WAM

- **72 asset managers**
- **$1.095bn assets**
- **224 insurers**

### Financial services

- **403 people working in FS** (population 28,000)
- **$0.79bn GDP**

| Relationship with UK | | Relationship with EU |
|----------------------|----------------------|
| ▶ The BVI is a British Overseas Territory. |
| ▶ Local legislature and courts in the BVI have autonomy from UK law. |
| ▶ The British Government acts on behalf of the BVI with regard to international relations, foreign policy, and defence. |
| ▶ However, BVI has some authority in certain areas to negotiate for itself. |

<table>
<thead>
<tr>
<th>Relationship with EU</th>
</tr>
</thead>
<tbody>
<tr>
<td>▶ BVI is recognized as an Overseas Caribbean Territory (OCT) in Annex II of the Treaty on the Functioning of the EU, and a member of OCTA.</td>
</tr>
<tr>
<td>▶ <strong>BVI holds the co-chair of the OCT/EU Financial Services Partnership Working Party (PWP), bringing together technical experts from the OCTs and EU to discuss issues of mutual concern.</strong></td>
</tr>
<tr>
<td>▶ This platform is important for the BVI to ensure its interests are considered by the EU in its decision-making.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What does Brexit mean for BVI?</th>
</tr>
</thead>
<tbody>
<tr>
<td>▶ <strong>Loss of the OCT/EU co-chair post-Brexit would lead to less representation in Brussels.</strong></td>
</tr>
<tr>
<td>▶ BVI, along with other CDOTs would require further representation in Brussels post-Brexit.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tax structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>▶ There are no corporation taxes in the BVI.</td>
</tr>
</tbody>
</table>
# Cayman Islands

**Key takeaway:** Cayman relations to EU via EUSD are through bilateral arrangements with EU member states. Offering financial services products may become more difficult.

<table>
<thead>
<tr>
<th>Banking</th>
<th>Relationship with UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 banks, 9 subs (Category ‘A’)</td>
<td>The Cayman Islands is a British Overseas Territory. Although the local legislature and courts are independent from the United Kingdom, the British Government deals with all international relations on behalf of the Territory.</td>
</tr>
<tr>
<td>165 banks, 36 subs (Category ‘B’)</td>
<td>The law of the Cayman Islands is a combination of common law and statute, and is based heavily upon English law.</td>
</tr>
<tr>
<td>(41 EU; Non-EU banks 135)</td>
<td>As a leading offshore financial centre, the <strong>Cayman Islands has extremely modern statutes dealing with company law, insolvency, banking law, trust law, insurance and other related matters.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Insurance and WAM</th>
<th>Relationship with UK</th>
</tr>
</thead>
<tbody>
<tr>
<td>24 Asset Managers</td>
<td>The Cayman Islands is indirectly affected by the decisions of the EU as it is a dependency of the United Kingdom which is a member state of the EU.</td>
</tr>
<tr>
<td>738 Insurers (9 HQs)</td>
<td><strong>The Cayman Islands are a member of OCTA, but are not subject to EU law.</strong></td>
</tr>
<tr>
<td>$124bn assets abroad</td>
<td>The Cayman Islands agreed in 2004 to implement the EU Savings Directive (EUSD), but only after securing some important benefits for the financial services industry in the Cayman Islands.</td>
</tr>
<tr>
<td>$2.77bn nominal GDP</td>
<td>As the Cayman Islands are not subject to EU laws, the implementation of the EUSD is by way of bilateral agreements between each EU member state and the Cayman Islands.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Financial services</th>
<th>What does Brexit mean for Cayman Islands?</th>
</tr>
</thead>
<tbody>
<tr>
<td>3,536 people working in FS (population 58,400)</td>
<td>As British passport holders, Caymanians could lose the right to work and travel in the EU.</td>
</tr>
<tr>
<td>FS is 41.2% to GDP of $2.35bn</td>
<td><strong>It may become more difficult for Cayman Islands to offer financial services products and services in the EU; this is dependent on the UK’s response.</strong></td>
</tr>
</tbody>
</table>

| Tax structure | No corporation taxes in the Cayman islands. |
## Turks and Caicos Islands

**Key takeaway:** TCI will need to continue with its ‘third country’ equivalence to retain access to the EU Single Market. The Premier has called for a referendum on TCI remaining an overseas territory of the UK.

### Banking
- **7 licenced banks**

### Insurance and WAM
- **20 Insurance firms**
- **13 licenced Insurance brokers**
- **3 licenced money transmitters**

### Financial services
- **Labour force:** 15% professional services (population 35,200)  
  FS contributes 13% to GDP of $0.79bn

### Relationship with UK
- The Turks and Caicos Islands (TCI) are a British Overseas Territory.
- In 2009, the UK Government imposed direct role over TCI after finding evidence of corruption.
- In 2012, self-rule was restored and a new constitution introduced.

### Relationship with EU
- TCI’s primary relationship with the EU is established via its ties to the UK, and is therefore viewed as a ‘third country’ in dealing with the EU.
- TCI are recognised as an Overseas Caribbean Territory (OCT) in Annex II of the Treaty on the Functioning of the European Union, and a member of OCTA.
- TCI enjoys free trade and de facto freedom of movement within the EU thanks to the UK’s membership, with no export barriers.

### What does Brexit mean for Cayman Islands?
- TCI’s relationship with the EU will depend on whether they continue to act via the UK, or establish a new one of their own choosing.
- As British passport holders, TCI residents could lose the right to work and travel in the EU.
- The Premier of the TCI has called for a referendum on its being an Overseas Territory of the UK.

### Tax structure
- No corporation taxes in the Turks and Caicos Islands.
- The only direct taxes are customs excise duties on the importation of goods and stamp duties on the sale of real estate.
Appendix – Protocol 3
Protocol 3 to the 1972 Treaty of Accession

Protocol 3 to UK’s 1972 Treaty of Accession is the mechanism by which the Channel Islands and the Isle of Man’s relationships with the EU are defined.

Under Protocol 3, they are considered a part of the customs territory of the EU.

This means Jersey, Guernsey, and the Isle of Man have free movement of industrial and agricultural goods with the EU Member States. However, the islands do not contribute to or receive funding from the EU.

As a result, the relevant EU legislation concerning trade in agricultural goods and customs therefore applies directly to the Channel Islands and the Isle of Man. Other than these requirements stipulated in Protocol 3, all other EU laws do not directly apply to the islands.

Nevertheless, they may choose to adopt similar or identical legislation to that of the EU if they choose to. An example of this would be to ensure third country equivalence with the EU Single Market.

The islands are also free to trade with other countries in the EEA in essentially the same way they trade with the EU.
Appendix – CDOT data
Sources

Research for this document was conducted by EY’s CDOT lead partners, with additional desk research by the FSO Government team. Further sources used are outlined below:

**Jersey**
- Banks
  - [jerseyfsc.org/banking_business/regulated_entities/index.asp](http://jerseyfsc.org/banking_business/regulated_entities/index.asp)
- Asset managers
  - [jerseyfsc.org/funds_securities_issues/regulated_entities/regulated_entities.asp](http://jerseyfsc.org/funds_securities_issues/regulated_entities/regulated_entities.asp)
- Insurers
  - [jerseyfsc.org/insurance_business/insurance_companies/regulated_entities/index.asp](http://jerseyfsc.org/insurance_business/insurance_companies/regulated_entities/index.asp)
- FS industry
- FS employees
- EU-UK relationship
  - [gov.je/Government/JerseyWorld/InternationalAffairs/Pages/RelationshipEUandUK.aspx](http://gov.je/Government/JerseyWorld/InternationalAffairs/Pages/RelationshipEUandUK.aspx)

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Guernsey

► Banks
  ► gfsc.gg/Banking/Pages/RegulatedEntities.aspx

► Asset Managers
  ► gfsc.gg/Investment/Regulated-Entities/Pages/Licensees.aspx

► Insurers
  ► gfsc.gg/Insurance/Regulated-Entities/Pages/Licensed-Insurers.aspx

► Services
  ► guernseyfinance.com/support-services/overview/

Isle of Man

► EU-UK relationship
  ► gov.im/media/624101/protocol3relationshipwiththeeu.pdf

Other overseas territories

► caribbean-council.org/brexit-uk-overseas-territories

► Halsbury's Laws of England
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