

GUERNSEY STATUTORY INSTRUMENT

2005 NO. 31

**The Protected Cell Companies (Prescribed Company) Regulations, 2005**

*Made* 13<sup>th</sup> September 2005

*Laid before the States* 2005

*Coming into operation* 13<sup>th</sup> September 2005

**THE GUERNSEY FINANCIAL SERVICES COMMISSION**, in exercise of the powers conferred upon it by sections 7 and 26 of the Protected Cell Companies Ordinance, 1997<sup>a</sup>, and after consultation with the States Commerce and Employment Department, hereby makes the following Regulations –

**Citation.**

1. These Regulations may be cited as the Protected Cell Companies (Prescribed Company) Regulations, 2005.

**Prescribed companies for the purposes of section 7 of the Ordinance.**

2. (1) For the purposes of section 7(1)(c) of the Protected Cell Companies Ordinance, 1997, the class or description of company specified in subsection (2) is hereby prescribed; and accordingly any company of that class or description may, subject to the provisions of the said Ordinance, be incorporated as, or converted into, a protected cell company.
- (2) The class or description of company referred to in subsection (1) is any class or description of company other than a licensed person provided that the company and its affairs are administered by a licensed person with a place of business in Guernsey.

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<sup>a</sup> Ordinance No. V of 1997; amended by No. XV of 1998.

### **Definitions.**

3. **"licensed person"** means -
- (a) a person who carries on controlled investment business within the meaning of the Protection of Investors (Bailiwick of Guernsey) Law, 1987<sup>b</sup> and who holds a licence under section 3 of that Law,
  - (b) a person who is a licensed institution within the meaning of the Banking Supervision (Bailiwick of Guernsey) Law, 1994<sup>c</sup>,
  - (c) a person who is a licensee within the meaning of the Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>d</sup> or the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002<sup>e</sup>,
  - (d) a person who has a full fiduciary licence within the meaning of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000<sup>f</sup>.

### **Repeals.**

4. The Protected Cell Companies (Prescribed Company) Regulations, 1999<sup>g</sup> and the Protected Cell Companies (Special Purpose Vehicle) Regulations, 2001<sup>h</sup> are hereby repealed.

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<sup>b</sup> Ordres en Conseil Vol. XXX, p.281 and 243; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; and Nos. XV and XXXII of 2003. See also Ordinances XVII of 1988 and X and XX of 1998. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

<sup>c</sup> Order in Council No. XIII of 1994; amended by No. XVII of 2002; and No. XVI of 2003. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

<sup>d</sup> Order in Council No. XXI of 2002. Amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

<sup>e</sup> Order in Council No. XXII of 2002. Amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

<sup>f</sup> Order in Council No. I of 2001; amended by No. XIV of 2003. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

<sup>g</sup> GSI No 34 of 1999.

<sup>h</sup> GSI No 12 of 2001.

**Commencement.**

5. These Regulations shall come into force on 13th September 2005.

Dated this 13<sup>th</sup> day of September, 2005.

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J. E. HALLAM

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission.

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## EXPLANATORY NOTE.

(This note is not part of the Regulations)

Protected cell company status under the Protected Cell Companies (Guernsey) Ordinance, 1997 is reserved for authorised collective investment schemes, insurers and any other class or description of company prescribed by Regulations of the Commission. Regulations made in 1999 and 2001 provided that closed-ended collective investment funds, special purpose vehicles and companies carrying on finance business which did not require supervision by the Guernsey Financial Services Commission could also be established as protected cell companies. The attached Regulations repeal the 1999 and 2001 Regulations and extend the activities specified in the Ordinance which may be carried out by a protected cell company to all activities, except activities regulated by the Guernsey Financial Services Commission, provided that the company and its affairs are administered by a financial institution licensed by the Commission.