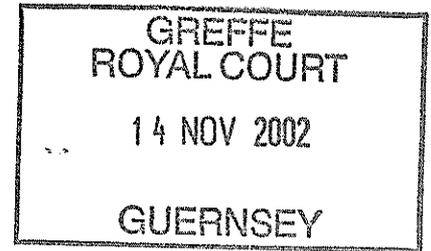


GUERNSEY STATUTORY INSTRUMENT
2002 NO. 38



The Insurance Business (Licensing) Regulations, 2002

<i>Made</i>	<i>5th November, 2002</i>
<i>Coming into operation</i>	<i>5th November, 2002</i>
<i>Laid before the States</i>	<i>2002</i>

THE GUERNSEY FINANCIAL SERVICES COMMISSION (in these regulations called "the Commission), in exercise of its powers conferred by sections 6(3) and 85 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, and after consultation with the States of Guernsey Advisory and Finance Committee, the States of Alderney Policy and Finance Committee and the Chief Pleas of Sark General Purposes and Finance Committee, hereby makes the following regulations:

Applications for licences.

1 An application for an insurance licence under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall comprise the following:

1.1 A fully completed application form in the standard format determined by the Commission, as published on its website, together with the appropriate fee payable in accordance with section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 and any fees regulations made thereunder, where applicable.

1.2 Details of ownership including:

1.2.1 Sufficient information to confirm the ultimate ownership of the proposed applicant.

1.2.2 Sufficient information to confirm the applicant's controllers.

1.2.3 A list of the applicant's current shareholders and proposed shareholders on licensing, if different.

1.2.4 An organisation chart in sufficient detail to identify all holdings between the applicant and its ultimate holding company and all material associated parties with whom the applicant will trade.

1.2.5 The latest audited financial statements of the applicant, where applicable, and ultimate holding company and controller, where different.

1.2.6 A short narrative outlining the background of the ultimate holding company and controller, where different.

1.2.7 Where a trust is involved in the ownership chain, the following:

1.2.7.1 a copy of the trust deed;

1.2.7.2 the names and current addresses of the beneficiaries;

1.2.7.3 the names and current addresses of the settlors;

1.2.7.4 the names and current addresses of the trustees;

1.2.7.5 The relationship of the settlors to the beneficiaries.

1.2.8 The proposed method of capitalisation, whether by way of share capital, letter of credit, subordinated loans or otherwise.

1.2.9 Any other information that is relevant to a full understanding of the control or ownership of the applicant or as may be requested by the Commission.

1.2.10 For protected cell companies it will be necessary to provide the above information for each new cell applicant, except where approval has been given on a product or class basis and the Commission has confirmed in writing that such information is not required for new cells covered by the product or class approval.

1.3 A business plan in the standard format determined by the Commission, as published on its website or as may be agreed by the Commission in writing for a particular application, to include:

1.3.1 Financial projections, covering at least the first 3 years of operations of the applicant following licensing to include appropriate stress and scenario testing as follows:

1.3.1.1 forecast profit and loss account, broken down into a technical account and non-technical account;

1.3.1.2 forecast balance sheet;

1.3.1.3 forecast statement of solvency at each year end; and

1.3.1.4 for long term business, forecast statement approved by an actuary.

1.3.2 A description of the nature of the risks which the applicant intends to write.

1.3.3 An explanation of the applicant's strategy for managing risks associated with carrying on insurance business, particularly in relation to reinsurance.

1.3.4 Details of any loss history, identifying the source of the information, and past actuarial studies, if appropriate.

1.3.5 Confirmation that the financial projections are and should be consistent with the loss history and actuarial studies. Where they are not an explanation of why should be provided.

1.3.6 A narrative setting out the rationale for setting up the company in the Bailiwick of Guernsey.

1.3.7 A summary of any proposed portfolio transfers together with an actuarial valuation establishing the transfer value.

1.3.8 The investment policy to be adopted by the applicant together with the names of any investment managers, where applicable, to be utilised.

1.3.9 A narrative, consistent with the business plan, outlining exposures to be underwritten, reinsurance to be obtained and the dividend policy to be pursued (where known).

1.3.10 A summary of the reinsurance programme detailing:

1.3.10.1 reinsurers;

1.3.10.2 security ratings;

1.3.10.3 attachment points.

1.3.11 For protected cell companies, where the cell applicant is to be reliant on the core for solvency, a solvency projection showing the allocation of core capital to all of the individual cells.

1.3.12 For general business only:

1.3.12.1 A summary of the fronting arrangements detailing:

(a) fronters;

(b) security ratings;

(c) commission structures.

1.3.12.2 A summary of how loss reserves are to be calculated and accounted for.

1.3.13 For long term business only:

1.3.13.1 the names and addresses of the parties providing services in relation to the policyholder protection arrangements;

1.3.13.2 copies of the agreements between the parties in relation to the policyholder protection arrangements.

1.3.14 Details of any other forms of business to be undertaken.

1.4 Information required in respect of the applicant's personnel and third party service providers including:

1.4.1 The names and addresses of the current and proposed:

1.4.1.1 directors;

1.4.1.2 officers;

1.4.1.3 managers;

1.4.1.4 general representative;

1.4.1.5 consultants;

1.4.1.6 Money Laundering Reporting Officer, if other than the Money Laundering Reporting Officer of the general representative; and

1.4.1.7 compliance officer, if other than the compliance officer of the general representative.

1.4.2 For all current and proposed directors and general representatives (where the general representative is not an insurance manager licensed under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002) a Personal Questionnaire, in the standard format determined by the Commission, as published on its website, or a statement from the current or

proposed director or general representative that the Personal Questionnaire held by the Commission is a current Personal Questionnaire in accordance with the definition in Schedule 5 of the Insurance Business (Bailiwick of Guernsey) Law, 2002. The Commission may require Personal Questionnaires to be completed by other individuals as it sees fit.

1.4.3 The name, address, date of birth, qualifications, and employment history, of insurance representatives to be authorised by the applicant under section 15 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

1.4.4 A copy of the auditors' acceptance to act as auditor of the applicant (on headed paper including the name and address of the auditor).

1.4.5 A copy of the actuary's acceptance letter to act as actuary of the applicant, where appropriate.

1.4.6 Details of any other relevant third party service providers, including but not limited to claims handlers and loss adjusters.

1.5 The memorandum and articles of association.

1.6 The certificate of incorporation.

1.7 The details of the bank mandate signing powers.

1.8 Confirmation that share capital has been received and/or that letters of credit and subordinated loans are in place and available to the applicant.

Business from sensitive jurisdictions.

2 Additional information, to be individually determined by the Commission, may be required where the applicant, controller or ultimate holding company is resident in a sensitive jurisdiction, as published by the Commission on its website.

Policyholder protection requirements for insurers writing long-term business.

3 The requirements imposed by this regulation apply (subject to such exemptions as the Commission may lawfully determine) to all insurance entities, whether structured as a company, a protected cell company or a branch of a non-Bailiwick insurer.

A licensed insurer shall appoint a Guernsey based trustee who shall be responsible for safeguarding the applicant's assets.

A licensed insurer's assets representing at least 90% of policyholder liabilities must be held in trust.

The trustee appointed pursuant to this regulation must report full details of the assets held by it to the Commission at least quarterly and must also inform the Commission if the applicant instructs a withdrawal of more than 5% of the market value of the assets held within any one period of one month.

3.1 A trustee appointed pursuant to this regulation shall comply with the following requirements:

3.1.1 The trustees must be Guernsey based, independent of the applicant or licensed insurance manager and approved by the Commission.

3.1.2 The trustee is responsible for safeguarding the applicant's assets and may:

3.1.2.1 hold securities directly in its name or with an appointed nominee.

3.1.2.2 appoint a custodian or custodians to hold its assets.

3.1.3 The trustee may only appoint custodians after satisfying itself that they are fit and proper and competent to perform the role.

3.1.4 The applicant must advise the Commission in its business plan on the custodians it intends to use.

3.1.5 The custodians must be independent of the applicant or insurance manager unless the Commission has confirmed otherwise in writing.

3.1.6 The trustee is not responsible for the investment management of policyholder funds.

3.1.7 The trustee shall be able to demand of the custodian the immediate withdrawal of assets from the custodian to another custodian. Where the custodian requires a period of notice this period of notice shall be as short as possible.

3.1.8 The trustee agreement between the applicant and the trustee should contain the following provisions:

3.1.8.1 Assets representing at least 90% of policyholders' liabilities must be held in trust.

3.1.8.2 The assets must be held on trust to meet the obligations

of the company to the policyholders and generally for the benefit of the policyholders and shall not be available to meet any other obligations of the company, such as those to general creditors, except in accordance with the terms of the policies to meet expenses of the applicant.

3.1.8.3 Payments from the trust can either be:

- (a) to the policyholder directly;
- (b) to the applicant so it can pay policyholders;
- (c) to the insurer for named items (management expenses etc) required in the normal course of business.

3.1.8.4 The trustee must report to the Commission if the applicant instructs that 5% or more of the market value of the assets held are to be paid out within one calendar month.

3.1.8.5 The Commission will be allowed access to relevant trustee records for enquiries and for inspection.

3.1.8.6 Notice of termination by either party must be given to the Commission.

3.1.8.7 On termination the trustee must only transfer the assets either to another approved trustee or to the insurer on express approval of the Commission.

3.1.8.8 The trustee must report to the insurer at least quarterly giving full details of asset movements.

3.1.9 The trustee must send a certificate of assets held to the Commission and the applicant at least quarterly.

3.2 The Commission may remove the trustee.

3.3 The Commission may accept alternative structures, such as reinsurance, security agreements and guarantees, in place of assets, on the proviso that such structures are in favour of the trustee and a legal opinion relating to those structures is made available to the Commission.

3.4 All entities described in item 3.4 above must explain the policyholder protection regime in their marketing literature in a format agreed with the Commission.

Applicability of Policyholder Protection requirements.

4 The above policyholder protection requirements apply to all licensed insurers, whether branch operations, protected cell companies or other insurance entities, in respect of long term business, but the Commission may amend the requirements where alternative structures are acceptable to the Commission.

Other powers to require information.

5 The provisions of these regulations are without prejudice to the power of the Commission to require additional information and documents in relation to any application.

Citation.

6 These regulations may be cited as the Insurance Business (Licensing) Regulations, 2002.

Commencement.

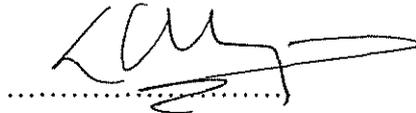
7 These regulations shall come into force on the 5th November, 2002.

Interpretation.

8 8.1 Any reference in these regulations to an enactment, regulation, rule or code is a reference thereto as amended.

8.2 The provisions of the Interpretation (Guernsey) Law, 1948 apply to the interpretation of these regulations.

Dated this *5th* day of November, 2002.

A handwritten signature in black ink, appearing to read 'L C Morgan', written over a horizontal dotted line.

L C Morgan

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

EXPLANATORY NOTE.

(This note is not part of the Regulations)

These regulations define the information required of an applicant when applying for a licence to carry on insurance under section 6(3) of the Insurance Business (Bailiwick of Guernsey) Law, 2002.