

GUERNSEY STATUTORY INSTRUMENT

2005 NO. 49

The Financial Services Commission (Fees) Regulations, 2005

Made

20th December, 2005

Laid before the States

Coming into operation

1st January, 2006

THE GUERNSEY FINANCIAL SERVICES COMMISSION, in exercise of the powers conferred upon it by section 13 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^a, sections 21 and 22 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987^b, section 7 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^c, sections 85 and 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002^d, sections 62 and 71 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^e and section 12A of the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959^f, and all other powers enabling it in that behalf, and after consultation with the States of Guernsey Policy Council, the States of Alderney Policy and Finance Committee and the Chief Pleas of Sark General Purposes and Finance Committee, hereby makes the following Regulations –

^a Ordres en Conseil Vol. XXX, p.243; amended by No. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; No. XVII of 2002; No. XXII of 2003; also amended by the Insurance Business (Bailiwick of Guernsey) Law, 2002, by the Public Trustee (Bailiwick of Guernsey) Law, 2002 and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^b 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.

^c 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.

^d Order in Council No. XXI of 2002. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^e Order in Council No. XXII of 2002. Also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^f Recueil d'Ordonnances Tome XII, p.105; amended by Tome XV, p.197; Tome XVI, p.473; Tome XX, p.412; and Tome XXV, p.80. Also amended by Order in Council No. XII of 1995, Ordinance No. IV of 2003 and the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

Licensing of banks.

1. (1) A person applying to the Commission under section 5 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994 for a banking licence shall pay to the Commission at the time of making that application a fee of £15,900.

(2) A licensed institution shall pay to the Commission –

(a) on or before the last day of the month in which it is first so licensed a fee of £1,325 multiplied by the number of complete months between the date on which it is first so licensed and the end of the calendar year in which that date falls; and there after,

(b) on or before 31st January each year, a fee of £27,405 unless the licensed institution demonstrates to the Commission before the fee becomes due that its total income as defined –

(i) was not more than £4,999,999, in which case the relevant annual fee is £15,900;

(ii) was equal to, or more than, £5,000,000 but not more than £9,999,999, in which case the relevant annual fee is £16,445; or

(iii) was equal to, or more than, £10,000,000 but not more than £19,999,999, in which case the relevant annual fee is £21,925;

and the licensed institution shall also pay, in respect of each of its branches established outside the Bailiwick of Guernsey, in cases where the licensed institution is incorporated in the Bailiwick of Guernsey –

(i) on or before the last day of the month in which the branch is first so established, a fee of £457 multiplied by the number of complete months between the date on

which it is first so established and the end of the calendar year in which that date falls; and

- (ii) thereafter, on or before the 31st January in each year, a fee of £5,480.

Licensing of insurers.

2. (1) Subject to regulation 3, and subject to the Protected Cell Companies (Fees for Insurers) Regulations, 2005^g –

(a) a body applying to the Commission under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 to be licensed as an insurer in respect of insurance business that is long term business as defined in Schedule 1 to that Law other than solely domestic business shall pay to the Commission when making that application a fee of £3,535; and

(b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission when depositing its annual return and accounts in accordance with section 37 of that Law, or in accordance with any condition imposed under section 12 of that Law, a fee of £13,995, unless the body demonstrates to the Commission before the fee becomes due that its net retained policyholders' liabilities (after any reinsurance) at the end of the body's most recent complete financial year, prior to the deposit of the annual return and accounts –

- (i) are less than £1, in which case the annual fee is £3,535;
- (ii) are equal to, or more than, £1 but less than £1,000,000, in which case the annual fee is £4,581;
- (iii) are equal to, or more than, £1,000,000 but less than £10,000,000, in which case the annual fee is £5,627; or

^g A Guernsey Statutory Instrument made by the Commission on 20th December, 2005.

- (iv) are equal to, or more than, £10,000,000 but less than £100,000,000, in which case the annual fee is £8,765.

PROVIDED that where a company has ceased writing new insurance business before the fee is payable the annual fee will be £8,765, unless the body demonstrates to the Commission before the fee becomes due that its net retained policyholders' liabilities (after any reinsurance) at the end of the body's most recent complete financial year, prior to the deposit of the annual return and accounts –

- (i) are less than £1, in which case the annual fee is £3,535;
- (ii) are equal to, or more than, £1 but less than £10,000,000, in which case the annual fee is £4,581; or
- (iii) are equal to, or more than, £10,000,000 but less than £100,000,000, in which case the annual fee is £6,150.

(2) Subject to regulation 3, and subject to the Protected Cell Companies (Fees for Insurers) Regulations, 2005 –

- (a) a body applying to the Commission under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 to be licensed as an insurer in respect of insurance business that is general business as defined in Schedule 5 to that Law other than solely domestic business shall pay to the Commission when making that application a fee of £3,535; and
- (b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission when depositing its annual return and accounts in accordance with section 37 of that Law, or in accordance with any condition imposed under section 12 of that Law, a fee of £3,535.

(3) Subject to regulation 3, and subject to the Protected Cell Companies (Fees for Insurers) Regulations, 2005 –

- (a) a body applying to the Commission under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 to be

licensed as an insurer in respect of insurance business which is solely domestic insurance business shall pay to the Commission when making that application a fee of £1,990; and

- (b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission when depositing its annual return and accounts in accordance with section 37 of that Law, or in accordance with any condition imposed under section 12 of that Law, a fee of £1,990.

PROVIDED that in the case of such a body which had gross premium income of less than £12,000 in its most recent complete financial year, paragraph (3)(b) of this regulation applies with the substitution of “£290” for “£1,990”.

Licensing of mutual, provident or friendly societies.

- 3. A mutual, provident or friendly society shall pay to the Commission –
 - (a) when applying under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 to be licensed as an insurer, and
 - (b) when depositing its annual return and accounts in accordance with section 37 of that Law, or in accordance with any condition imposed under section 12 of that Law,

a fee of £1,990.

PROVIDED that if the Commission has certified that it does not consider the society to be a commercial insurer and has not withdrawn that certification this regulation applies with the substitution of “£290” for “£1,990”.

Licensing of insurance intermediaries.

- 4. (1) A person applying to the Commission under section 3 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 to be licensed as an insurance intermediary, other than a person

applying for a temporary registration under section 4(6) of that Law, shall pay to the Commission when making that application a fee of £1,675.

PROVIDED that, and notwithstanding the foregoing provisions of this paragraph –

- (A) the person intends to arrange contracts of insurance in, or provide advice on, only one subclass of general insurance business;
- (B) such business will be incidental to the person's other business activities; and
- (C) the person is a member of an association based in Guernsey which has established standards acceptable to the Commission on the provision of advice relating to travel insurance;

then if the association so agrees, the association shall pay a fee of £835 on behalf of that person, and all other persons to whom this proviso applies and who are members of the association, instead of the fee which each of those persons would otherwise have been obliged to pay under this regulation.

- (2) A licensed insurance intermediary, other than a person granted a temporary licence under section 4(6) of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission on or before 31st January each year, or such later date as may be agreed by the Commission, or in accordance with any conditions imposed under section 7 of that Law a fee equal to the sum of the following amounts –

- (a) £1,465; and
- (b) if the intermediary provides advice on general personal lines insurance, £105; and

- (c) if the intermediary provides advice on general commercial insurance, £210; and
- (d) if the intermediary provides advice on long term life insurance where there is no investment element, £210; and
- (e) if the intermediary provides advice on long term regular premium savings products, £315; and
- (f) if the intermediary provides advice on long term single premium products, £1,880; and
- (g) a turnover related fee of £4,185 unless the intermediary demonstrates to the Commission before the fee becomes due that its brokerage turnover at the end of the intermediary's most recent complete financial year –
 - (i) is less than £250,000 in which case the turnover related fee is £1,045;
 - (ii) is equal to, or more than, £250,000 but less than £500,000, in which case the turnover related fee is £1,570;
 - (iii) is equal to, or more than, £500,000 but less than £750,000, in which case the turnover related fee is £2,090;
 - (iv) is equal to, or more than, £750,000 but less than £1,000,000, in which case the turnover related fee is £2,615;
 - (v) is equal to, or more than, £1,000,000 but less than £2,000,000, in which case the turnover related fee is £3,140;
 - (vi) is equal to, or more than, £2,000,000 but less than £3,000,000, in which case the turnover related fee is £3,660.

PROVIDED that, and notwithstanding the foregoing provisions of this paragraph –

- (A) the intermediary intends to arrange contracts of insurance in, or provide advice on, only one subclass of general insurance business; and
- (B) such business will be incidental to the intermediary's other business activities; and
- (C) the intermediary is a member of an association based in Guernsey which has established standards acceptable to the Commission on the provision of advice relating to travel insurance;

then if the association so agrees, the association shall pay a fee of £835 on behalf of that intermediary, and all other intermediaries to whom this proviso applies and who are members of the association, instead of the fee which each of those intermediaries would otherwise have been obliged to pay under this regulation.

Licensing of insurance managers.

- 5. (1) A person applying to the Commission under section 3 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 to be licensed to act in Guernsey as an insurance manager shall pay to the Commission at the time of making that application a fee of £3,290.
- (2) An insurance manager licensed under section 4 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission when depositing its annual return and accounts in accordance with section 26 of that Law, or in accordance with any conditions imposed under section 7 of that Law, a fee of £5,230, unless the insurance manager demonstrates to the Commission before the fee is due that each insurer for which he acts underwrites only
 - (a) the risks of the insurer's parent;

- (b) the risks of subsidiaries of the insurer's parent;
- (c) the risks of a joint venture company where the risks underwritten by the insurer are limited to the equity interest held by the insurer's parent in that company; or
- (d) risks which are fully reinsured by the insurer's parent, where the parent is an insurance company;

in which case the fee is £3,135.

Licensing of controlled investment business.

- 6. (1) A person applying to the Commission under section 3 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 for a licence to carry on controlled investment business in or from within the Bailiwick shall pay to the Commission at the time of making that application a fee of £1,400.
- (2) A person who is licensed under section 4 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 to carry on controlled investment business shall pay to the Commission –
 - (a) in the case of a person who is licensed to carry on the restricted activity of operating an investment exchange, on or before 31st January in each year, a fee of £10,000;
 - (b) in the case of a designated manager or designated trustee or custodian –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £233 multiplied by the number of complete months between the date on which the licence is issued and the end of the calendar year in which that date falls; and thereafter,
 - (ii) on or before 31st January in each year, a fee of £2,800;

- (c) in the case of a principal manager of a collective investment scheme authorised under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 or a manager of a closed-ended investment company, a closed-ended unit trust or a closed-ended limited partnership which has received consent from the Commission following an application described in regulation 10(1) –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £117 multiplied by the number of complete months between the date on which the licence is issued and the end of the calendar year in which that date falls; and thereafter,
 - (ii) on or before 31st January in each year, a fee of £1,400;
- (d) in all other cases –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £146 multiplied by the number of complete months between the date on which the licence is issued and the end of the calendar year in which that date falls; and thereafter,
 - (ii) on or before 31st January in each year, a fee of £1,750,
 - (iii) except that where a fee is due by a licensed insurance intermediary under regulation 4(2)(f) and that person is licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 for either or both of the restricted activities of promotion and advising, and no other restricted activities, in respect of Category 1 : controlled investments under Schedule 1 to the Law, then no fee is due under this regulation 6(2)(d).

Authorisation of collective investment schemes.

7. (1) A person applying to the Commission under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 for a declaration that a

collective investment scheme is an authorised collective investment scheme shall pay to the Commission at the time of making that application a fee of £2,800.

(2) The designated manager of a collective investment scheme authorised under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 shall pay to the Commission on or before the last day of the month in which that scheme is first declared to be an authorised collective investment scheme –

(a) (i) a fee of £233 multiplied by the number of complete months between the date on which the scheme is first declared to be an authorised collective investment scheme and the end of the calendar year in which that date falls; and in addition,

(ii) in the case of an umbrella or multi-class scheme, a fee of £15 for each class or sub-fund multiplied by the number of complete months between the date on which the scheme is first so declared and the end of the calendar year in which that date falls; and thereafter,

(b) on or before 31st January in each year, a fee of £2,800 together with, in the case of an umbrella or multi-class scheme, a fee of £175 for each approved class or sub-fund.

(3) The designated manager of an authorised collective investment scheme shall pay to the Commission, whenever the Commission is notified in accordance with any Rules for the time being in force of a proposed alteration which would have the effect of adding a class or sub-fund to the scheme, a fee of £600 for each additional class or sub-fund.

Designated territory investment business notification.

8. The fee payable to the Commission by a person giving notice in accordance with section 29(1)(c)(iv) of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 of the date from which it intends to promote a collective investment scheme in or from within the Bailiwick is –

- (a) if the designated country or territory in or from within which, and under the law of which, it is permitted to promote that scheme is anywhere other than the Bailiwick of Jersey, £1,400 in respect of each collective investment scheme in connection with which notice is given;
- (b) if that designated country of territory is the Bailiwick of Jersey, nil.

Non-Guernsey collective investment scheme notification.

9. The fee payable to the Commission by a person giving notice, in accordance with rule 2 of the Licensees (Conduct of Business and Notification) (Non-Guernsey Schemes) Rules 1994, of any proposal to carry on the restricted activities of management, administration or custody in connection with a non-Guernsey scheme, other than a scheme for the time being excluded from section 7 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 by virtue of section 29(2) of that Law and the Investor Protection (Designated Countries and Territories) Regulations, 1989 and 1992, is £1,400 per scheme.

Closed-ended funds.

- 10.(1) A person applying to the Commission for a closed-ended investment company, a closed-ended unit trust or a closed-ended limited partnership within the meaning of paragraph 2(2) of Schedule 1 to the Protection of Investors (Bailiwick of Guernsey) Law, 1987 for consent under section 3 or section 7 or section 7A, as the case may be, of the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959, as amended, shall pay to the Commission at the time of making that application a fee of £2,800.
- (2) A closed-ended investment company, a closed-ended unit trust or a closed-ended limited partnership which has received consent from the Commission following an application described in regulation 10(1) shall pay to the Commission –

- (a) on or before the last day of the month in which that entity has been granted consent, a fee of £200 multiplied by the number of complete months between the date of the consent and the end of the calendar year in which that date falls, and thereafter;
- (b) on or before 31st January in each year a fee of £2,400.

Fees not refundable.

11. No fee payable under these Regulations is refundable.

Interpretation.

12.(1) In these Regulations, unless the context otherwise requires, –

- (a) “the Commission” means the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;
- (b) “manager”, in relation to a closed-ended investment company, a closed-ended unit trust or a closed-ended limited partnership, means an entity equivalent to a principal manager of a collective investment scheme authorised by the Commission;
- (c) “principal documents”, in relation to –
 - (i) a unit trust scheme, means the trust deed;
 - (ii) a company scheme, means the articles of association of a Bailiwick company (or the equivalent document under the applicable law of a body corporate incorporated elsewhere than in the Bailiwick), the management agreement and the trustee agreement;
 - (iii) a collective investment scheme other than a unit trust scheme or a company scheme, means the documents dealing collectively with the same or similar obligations, rights and duties as the principal documents of a unit trust scheme or a company scheme;

- (d) “principal manager”, in relation to a collective investment scheme authorised by the Commission, means the principal manager of that scheme appointed under the principal documents which has delegated the performance of some or all of its functions to the designated manager;
 - (e) “total income” means annual income as reported to the Commission by institutions licensed under the Banking Supervision (Bailiwick of Guernsey) Law, 1994 as the sum of lines 34.6, 34.7 and 34.8 on form BSL/1. For the purpose of these Regulations, total income for an institution will be derived from the institution’s most recently submitted form BSL/1 corresponding to, or closest to, the institution’s financial year-end;
 - (f) other words and expressions have the same meanings as they have in the enactment conferring the powers under which the particular Regulation is made;
 - (g) a reference to an enactment is a reference to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.
- (2) The Interpretation (Guernsey) Law, 1948^h applies throughout the Bailiwick to the interpretation of these Regulations as it applies to the interpretation of an enactment in force in the Island of Guernsey.

Repeals.

13. The Financial Services Commission (Fees) Regulations, 2004ⁱ are repealed.

Citation.

^h Ordres en Conseil Vol.XIII, p.355

ⁱ Guernsey S.I. 2004 No.52

14. These Regulations may be cited as the Financial Services Commission (Fees) Regulations, 2005.

Commencement.

15. These Regulations shall come into force on 1st January, 2006.

Dated this 20th day of December, 2005.

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J. E. HALLAM

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 prescribe for the purposes of the Banking Supervision (Bailiwick of Guernsey) Law, 1994, the Insurance Business (Bailiwick of Guernsey) Law, 2002, the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, the Protection of Investors (Bailiwick of Guernsey) Law, 1987 and the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959, the fees payable on the making of an application for: a banking licence, the licensing of an insurer, the licensing of an insurance manager, the licensing of an insurance intermediary, the licensing of controlled investment business, a designated territory investment business notification, a non-Guernsey

collective investment scheme notification, consent for the raising of money by a closed-ended collective investment fund and fees payable annually thereafter.