

GUERNSEY STATUTORY INSTRUMENT

2009 NO. 32

GREFFE
ROYAL COURT

17 DEC 2009

GUERNSEY

The Financial Services Commission (Fees) Regulations, 2009

Made

17th December, 2009

Laid before the States

Coming into operation

1st January, 2010

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 7, 38 and 61 of the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000^d, sections 85 and 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002^e, and sections 62 and 71 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002^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 Advisory 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; Nos. XVII and XXI of 2002; Nos. III and XXII of 2003; No. XXXIV of 2005; the Financial Services Commission (Enforcement Powers) (Bailiwick of Guernsey) Law, 2008; the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2008; and the Financial Services Commission (Bailiwick of Guernsey) (Amendment) (No. 2) Law, 2008. Also amended by Ordinance No. XXXIII of 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. Also amended by Ordinance No. XVII of 1988; Nos. X and XX of 1998; No. XXXIII of 2003; and the Protection of Investors (Bailiwick of Guernsey) Law, 1987 (Amendment) Ordinance, 2008.

^c Order in Council No. XIII of 1994; amended by No. XVII and XXI of 2002; No. XVI of 2003 and the Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2008. Also amended by Ordinance No. XXXIII of 2003 and Statutory Instrument No.1 of 2008.

^d Order in Council No. I of 2001, amended by No. XIV of 2003 and No. XVI of 2007. Also amended by Ordinance No. XXXIII of 2003 and Statutory Instrument No. 3 of 2008.

^e Order in Council No. XXI of 2002. Also amended by Ordinance No. XXXIII of 2003 and No. XII of 2008 and Statutory Instrument No. 33 of 2004 and No. 4 of 2008.

^f Order in Council No. XXII of 2002. Also amended by Ordinance No. XXXIII of 2003 and No. XIII of 2008 and Statutory Instrument No. 2 of 2008.

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 £27,385.

(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 £2,282 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 thereafter,
- (b) on or before 31st January each year, a fee of £47,119 unless the licensed institution demonstrates to the Commission before the fee becomes due that its total income as defined –
 - (i) was less than £5,000,000, in which case the relevant annual fee is £27,385;
 - (ii) was equal to, or more than, £5,000,000 but less than £10,000,000, in which case the relevant annual fee is £31,460; or
 - (iii) was equal to, or more than, £10,000,000 but less than £20,000,000, in which case the relevant annual fee is £37,681;

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 –

- (A) on or before the last day of the month in which the branch is first so established, a fee of £787 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 thereafter,

- (B) on or before the 31st January in each year, a fee of £9,438.

Licensing of insurers.

2. (1) Subject to regulation 3, and subject to the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009^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 £4,370; and

- (b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission –

- (i) on or before the last day of the month in which it is first so licensed a fee of £4,370 divided by twelve and 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 thereafter,

- (ii) on or before 31st January each year, an annual fee of £17,280, 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 –

^g A Statutory Instrument made by the Commission on 17th December, 2009.

- (I) are less than £1, in which case the annual fee is £4,370;
- (II) are equal to, or more than, £1 but less than £1,000,000, in which case the annual fee is £5,670;
- (III) are equal to, or more than, £1,000,000 but less than £10,000,000, in which case the annual fee is £6,960; or
- (IV) are equal to, or more than, £10,000,000 but less than £100,000,000, in which case the annual fee is £10,830;

PROVIDED that where a body has ceased writing new insurance business before the fee becomes due the annual fee will be £10,830, 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 –

- (A) are less than £1, in which case the annual fee is £4,370;
- (B) are equal to, or more than, £1 but less than £10,000,000, in which case the annual fee is £5,660; or
- (C) are equal to, or more than, £10,000,000 but less than £100,000,000, in which case the annual fee is £7,600.

(2) Subject to regulation 3, and subject to the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009 –

- (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 £4,370; and

- (b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission –

- (i) on or before the last day of the month in which it is first so licensed a fee of £4,370 divided by twelve and 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 thereafter,

- (ii) on or before 31st January each year a fee of £4,370.

- (3) Subject to regulation 3, and subject to the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009 –

- (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 £2,460; and

- (b) a body so licensed under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission –

- (i) on or before the last day of the month in which it is first so licensed a fee of £2,460 divided by twelve and 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 thereafter,

- (ii) on or before 31st January each year a fee of £2,460;

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 “£360” for “£2,460”.

Licensing of mutual, provident or friendly societies.

3. (1) A mutual, provident or friendly society shall pay to the Commission when applying under section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 to be licensed as an insurer a fee of £2,460.
- (2) A mutual, provident or friendly society licensed as an insurer under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 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 £2,460 divided by twelve and 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 thereafter
 - (b) on or before 31st January each year a fee of £2,460.
- (3) 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 “£360” for “£2,460”.

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 licence under section 4(6) of that Law, shall pay to the Commission when making that application a fee of £4,110.

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

- (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 £1,130 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 –

- (a) on or before the last day of the month in which it is first so licensed a fee equal to the sum of the following amounts –
 - (i) £1,980; and
 - (ii) if the intermediary provides advice on general personal lines insurance, £150; and
 - (iii) if the intermediary provides advice on general commercial insurance, £290; and
 - (iv) if the intermediary provides advice on long term life insurance where there is no investment element, £290; and

- (v) if the intermediary provides advice on long term regular premium savings products, £430; and
- (vi) if the intermediary provides advice on long term single premium products, £1,410, plus £1,000 if the intermediary 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 : collective investment schemes" under Schedule 1 to that Law but PROVIDED that if the intermediary has not yet been so licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 the said fee of £1,000 should be paid when it is first so licensed, divided by twelve and 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
- (vii) a turnover related fee of £1,400;

divided by twelve and 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 thereafter,

- (b) 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 –
 - (i) £1,980; and
 - (ii) if the intermediary provides advice on general personal lines insurance, £150; and
 - (iii) if the intermediary provides advice on general commercial insurance, £290; and

- (iv) if the intermediary provides advice on long term life insurance where there is no investment element, £290; and
- (v) if the intermediary provides advice on long term regular premium savings products, £430; and
- (vi) if the intermediary provides advice on long term single premium products, £1,410, plus £1,000 if the intermediary 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 : collective investment schemes" under Schedule 1 to that Law but PROVIDED that if the intermediary has not yet been so licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 the said fee of £1,000 should be paid when it is first so licensed, divided by twelve and 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
- (vii) a turnover related fee of £5,630 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 £1,400;
 - (II) is equal to, or more than, £250,000 but less than £500,000, in which case the turnover related fee is £2,120;
 - (III) is equal to, or more than, £500,000 but less than £750,000, in which case the turnover related fee is £2,810;

- (IV) is equal to, or more than, £750,000 but less than £1,000,000, in which case the turnover related fee is £3,520;
- (V) is equal to, or more than, £1,000,000 but less than £2,000,000, in which case the turnover related fee is £4,220;
- (VI) is equal to, or more than, £2,000,000 but less than £3,000,000, in which case the turnover related fee is £4,930.

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

- (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 £1,130 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 paragraph (2)(b) of this regulation and a fee of £1,130 divided by twelve and multiplied by the number of complete months between the date on which the intermediary is first so licensed and the end of the calendar year in which that date falls, instead of the fee which the intermediary would otherwise have been obliged to pay under paragraph (2)(a) of this regulation.

- (3) The Commission may at its absolute discretion vary the fee payable under paragraph (2) of this regulation where three or more licensed insurance intermediaries are members of the same group of companies.
- (4) Where 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, applies to the Commission to extend the activities in respect of which it is licensed to carry on business –
- (a) it shall at the time of making the application pay to the Commission for each additional activity applied for a fee of –
- (i) £150 to provide advice on general personal lines insurance;
 - (ii) £290 to provide advice on general commercial insurance;
 - (iii) £290 to provide advice on long term life insurance where there is no investment element;
 - (iv) £430 to provide advice on long term regular premium savings products;
 - (v) £1,410 to provide advice on long term single premium products.
- (b) it shall on or before the last day of the month in which any additional activity is first so licensed pay to the Commission in respect of that activity a fee of –
- (i) £150 to provide advice on general personal lines insurance;
 - (ii) £290 to provide advice on general commercial insurance;

- (iii) £290 to provide advice on long term life insurance where there is no investment element;
- (iv) £430 to provide advice on long term regular premium savings products;
- (v) £1,410 to provide advice on long term single premium products, plus £1,000 if the intermediary 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 : collective investment schemes" under Schedule 1 to that Law but PROVIDED that if the intermediary has not yet been so licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 the said fee of £1,000 should be paid when it is first so licensed, divided by twelve and 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;

divided by twelve and multiplied by the number of complete months between the date on which the activity is first so licensed and the end of the calendar year in which that date falls.

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 £4,070.
- (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 –
 - (a) on or before the last day of the month in which it is first so licensed a fee of £6,460 divided by twelve and 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 thereafter,

- (b) on or before 31st January each year a fee of £6,460.

PROVIDED that –

- (i) if 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;

then paragraph (2) of this regulation applies with the substitution of “£3,860” for “£6,460”;

- (ii) if the insurance manager demonstrates to the Commission before the fee is due that he acts only for business underwritten by members of the Society of Lloyd's then paragraph (1) of this regulation applies with the substitution of “£2,240” for “£4,070” and paragraph (2) of this regulation applies with the substitution of “£2,240” for “£6,460”.

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 £2,000.

- (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 £11,000;
 - (b) in the case of a designated manager of, or a designated trustee or custodian of the assets of, an authorised or registered open-ended collective investment scheme –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £250 multiplied by the number of complete months between the date on which the licence is first 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 £3,000;
 - (c) in the case of a designated manager of an authorised or registered closed-ended collective investment scheme –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £250 multiplied by the number of complete months between the date on which the licence is first 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 £3,000;
 - (d) in the case of a principal manager of an open-ended collective investment scheme authorised or registered under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 or a manager of a closed-ended collective investment scheme authorised or registered under the said section 8 –

- (i) on or before the last day of the month in which the authorisation or consent is first issued, a fee of £125 multiplied by the number of complete months between the date on which the authorisation or consent is first 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 £1,500;
- (e) in all other cases –
 - (i) on or before the last day of the month in which the licence is first issued, a fee of £250 multiplied by the number of complete months between the date on which the licence is first 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 £3,000.

PROVIDED that where a fee is due by a licensed insurance intermediary under paragraph (2)(a)(vi), paragraph (2)(b)(vi) or paragraph (4)(b)(v) of regulation 4 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 : collective investment schemes" under Schedule 1 to that Law, then no fee is due under paragraph (2)(e) of this regulation.

Authorisation or registration 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 or registered collective investment scheme shall pay to the Commission at the time of making that application a fee of £3,000.
- (2) The designated manager of an open-ended collective investment scheme authorised or registered under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 shall pay to the Commission –

- (a) on or before the last day of the month in which that scheme is first declared to be an authorised or registered collective investment scheme –
 - (i) a fee of £250 multiplied by the number of complete months between the date on which the scheme is first declared to be an authorised or registered 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 £17 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 £3,000 together with, in the case of an umbrella or multi-class scheme, a fee of £200 for each approved class or sub-fund.
- (3) The designated manager of a closed-ended collective investment scheme authorised or registered under section 8 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 shall pay to the Commission –
- (a) on or before the last day of the month in which that scheme is first declared to be an authorised or registered collective investment scheme, a fee of £250 multiplied by the number of complete months between the date on which the scheme is first declared to be an authorised or registered collective investment scheme 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 £3,000.
- (4) The designated manager of an authorised or registered open-ended 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 £650 for each additional class or sub-fund.

Designated territory investment business notification.

8. (1) 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, £1,000 in respect of each collective investment scheme in connection with which notice is given;
- (b) if that designated country or territory is the Bailiwick of Jersey, nil.

(2) In the case of a collective investment scheme in respect of which notice is given in accordance with section 29(1)(c)(iv) of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, and in respect of which the Commission's decision that the person giving the notice is a person to whom section 29(1)(c) of that Law applies is made on or after 1st January 2010, the person giving the notice shall pay to the Commission-

- (a) on or before the last day of the month in which the Commission's decision is made, a fee of £42 multiplied by the number of complete months between the date on which the decision is made 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 £500.

Non-Guernsey open-ended collective investment scheme notification.

9. (1) The fee payable to the Commission by a person giving notice, in accordance with rule 2.01 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, is £1,000 for each scheme in respect of which those restricted activities are to be carried on.

- (2) The person who has been given approval by the Commission in accordance with rule 2.03 of the Licensees (Conduct of Business and Notification) (Non-Guernsey Schemes) Rules 1994 shall pay to the Commission-
 - (a) on or before the last day of the month in which the approval is given, a fee of £42 multiplied by the number of complete months between the date on which the approval is given 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 £500.
- (3) The Commission may at its absolute discretion vary the fee payable under paragraph (1) of this regulation where notices described in that paragraph are received simultaneously by the Commission from a person in respect of more than 25 non-Guernsey schemes promoted by the same party.

Licensing of fiduciaries.

- 10.(1) Subject to paragraph (19), a person who applies for a personal fiduciary licence shall, on making the application, pay to the Commission a fee of £740.
- (2) Subject to paragraphs (4) and (19), a person who applies for a full fiduciary licence shall, on making the application, pay to the Commission a fee of £1,680.
- (3) Where applications for full fiduciary licences are submitted jointly by –

- (a) companies which are in the same ownership and have common staff, procedures and clients, or
- (b) any other combination of persons or unincorporated bodies permitted by the Commission to make a joint application

the applicants shall nominate one of their number as lead applicant.

- (4) Where a joint application is made, the lead applicant shall, on making the application and subject to paragraph (19), pay to the Commission a fee of £1,680 and a further £224 for each applicant other than the lead applicant.
- (5) A person to whom the Commission decides to grant a personal fiduciary licence shall pay to the Commission a fee of £70 for each calendar month or part of a calendar month between the Commission's decision to grant the licence and 31st December next following that decision.
- (6) A fee payable under paragraph (5) is due immediately upon the Commission notifying the applicant of its decision to grant a personal fiduciary licence.
- (7) A person who holds, and wishes to continue to hold, a personal fiduciary licence shall pay to the Commission an annual fee of £840.
- (8) A fee payable under paragraph (7) is due by 31st January in respect of each calendar year.
- (9) A person to whom the Commission decides to grant a full fiduciary licence shall pay to the Commission a fee, being one twelfth of the relevant annual fee for each calendar month or part of a calendar month between the Commission's decision to grant the licence and 31st December next following that decision.
- (10) A fee payable under paragraph (9) is due immediately upon the Commission notifying the applicant of its decision to grant a full fiduciary licence.

- (11) Where the Commission decides to grant a full fiduciary licence following a joint application, all persons who will be named on that licence shall be jointly and severally liable for the fee payable under paragraph (9).
- (12) "Relevant accounting period" means a person's last accounting period ending at or before the end of June in the year preceding that for which the relevant annual fee is due or, in the case of a person not yet carrying on any regulated activity, the first accounting period in which he will do so.
- (13) "Fiduciary turnover" means –
- (a) the figure, if any, shown in a person's audited financial statements as being the gross turnover from his regulated activities in the relevant accounting period or, if none,
 - (b) the figure, if any, certified by his auditor to the Commission as being the gross turnover from his regulated activities in the relevant accounting period or, if none,
 - (c) the figure shown in his audited financial statements as being his gross turnover in the relevant accounting period or,
 - (d) in the case of a person not obliged to produce audited financial statements for the relevant accounting period or not yet carrying on any regulated activity, the figure agreed between him and the Commission as an estimate of his gross turnover from regulated activities in the relevant accounting period

PROVIDED that –

- (i) if the relevant accounting period was not a period of twelve months, the person's fiduciary turnover shall be his fiduciary turnover determined as above divided by the number of months (including any part of a month) in the relevant accounting period and multiplied by twelve, and
- (ii) if the person made a joint application, the gross turnover, or gross turnover from regulated activities, of that person and of

any other persons with whom he made and remains eligible to make a joint application shall, for the purposes of this regulation, be the aggregate gross turnover, or as applicable the aggregate gross turnover from regulated activities, of all of those persons.

- (14) "Relevant annual fee" means, in relation to any period after 31st December 2009, £20,720 unless the person by whom it is payable demonstrates to the Commission (before the fee becomes due) that his fiduciary turnover –
- (a) is less than £250,000, in which case the relevant annual fee is £5,040,
 - (b) is equal to, or more than, £250,000 but less than £1,000,000, in which case the relevant annual fee is £8,400, or
 - (c) is equal to, or more than, £1,000,000 but not more than £2,000,000, in which case the relevant annual fee is £17,094.
- (15) A person who holds a full fiduciary licence shall pay to the Commission the relevant annual fee by 31st January in each calendar year.
- (16) All persons named on the full fiduciary licence shall be jointly and severally liable for the fee payable under paragraph (15).
- (17) An individual who applies under section 3(1)(y) of the Fiduciary Law for an exemption shall, on making the application, pay a fee of £370.
- (18) A company or partnership which applies under section 3(1)(y) of the Fiduciary Law for an exemption shall, on making the application, pay a fee of £740.
- (19) If the Commission notifies a person who has made an application for any exemption under section 3(1)(y) of the Fiduciary Law that his application has been unsuccessful and, within three months of that notification, he applies for a fiduciary licence, the fee paid under this regulation shall be set off against the fee payable under paragraph (1) or (2) as appropriate.

(20) A person applying to the Commission for its permission under section 38 of the Fiduciary Law to use a name or description set out in section 36 of the Fiduciary Law shall, on making the application, pay a fee of £1,410.

(21) If any fee due under this regulation is not paid when it is due, the Commission shall without prejudice to any other remedy in respect of the non-payment be entitled to the payment of interest calculated on that fee or so much of it as may for the time being be outstanding at the rate of 10% per annum from the date on which payment became due to that on which payment was made.

Fees not refundable.

11. No fee payable under these Regulations is refundable.

Interpretation.

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

- (a) “Accounts Rules” means the Regulation of Fiduciaries (Accounts) Rules, 2001;
- (b) “the Commission” means the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;
- (c) “Fiduciary Law” means the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000;
- (d) “fiduciary licence” means a full fiduciary licence or a personal fiduciary licence;
- (e) “fiduciary turnover” has the meaning given by regulation 10(13);
- (f) “financial statements”, in regulation 10, means financial statements which comply with the requirements of Rule 7 of the Accounts Rules;

- (g) “full fiduciary licence” means a fiduciary licence granted by the Commission of the category described in section 4(1)(a) of the Fiduciary Law;
- (h) “joint application” means an application of the type described in regulation 10(3);
- (i) “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;
- (j) “personal fiduciary licence” means a licence granted by the Commission of the category described in section 4(1)(b) of the Fiduciary Law;
- (k) “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;
- (l) “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;

- (m) “regulated activity”, in regulation 10, means an activity described in section 2 of the Fiduciary Law, when carried on by way of business;
 - (n) “relevant accounting period”, in regulation 10, has the meaning given by regulation 10(12);
 - (o) “relevant annual fee”, in regulation 10, means the fee payable by a person by virtue of regulation 10(14);
 - (p) “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; and 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;
 - (q) other words and expressions have the same meanings as they have in the enactment conferring the powers under which the particular Regulation is made;
 - (r) a reference to an enactment or to any Rule or Regulation made under an enactment is a reference to that enactment, Rule or Regulation as from time to time amended, repealed and replaced, extended or applied by or under any other enactment, Rule or Regulation.
- (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, 2008ⁱ are repealed.

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

ⁱ Guernsey S.I. 2008 No.94

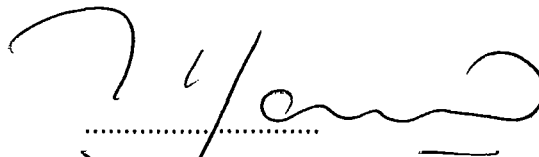
Citation.

14. These Regulations may be cited as the Financial Services Commission (Fees) Regulations, 2009.

Commencement.

15. These Regulations shall come into force on 1st January, 2010.

Dated this 17th day of December, 2009.



P.A. HARWOOD

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 Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994, the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 the fees payable on the making of an application for a banking licence, and in respect of 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 open-ended collective investment scheme notification, the licensing of fiduciaries, and fees payable annually thereafter.