

Island of



Guernsey

## Ordinance of the States

**XXX**  
**2010**

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Made .....28th July, 2010

Coming into Operation .....28th July, 2010

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### **The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) (Amendment) Ordinance, 2010**

## **The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) (Amendment) Ordinance, 2010**

**THE STATES**, in pursuance of their Resolution of the 28<sup>th</sup> July, 2010<sup>a</sup>, and in exercise of the powers conferred on them by section 21C of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>b</sup>, as amended, and all other powers enabling them in that behalf, hereby order:-

### **Amendment of Site Visits Ordinance.**

1. The Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008<sup>c</sup> is amended as follows.

2. In section 1(1) for the words following "the provisions of the regulatory Laws" substitute "or any Ordinance, regulation, order, rule, code, instruction, guidance, principle, condition, requirement or direction under them or the Transfer of Funds Ordinances or any regulation, order, rule, instruction or guidance under them".

3. In sections 2, 3 and 5 after "licensee" wherever appearing insert "or associated party thereof".

4. In section 5(c) for "regulatory Laws" substitute "provisions referred

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<sup>a</sup> Article III of Billet d'État No. XVII of 2010.

<sup>b</sup> 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's. XVII and XXI of 2002; No's. III and XXII of 2003; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII); and the Financial Services Commission (Bailiwick of Guernsey) (Amendment) Ordinance, 2005 (No. XXXIV).

<sup>c</sup> Ordinance No. II of 2008.

to in section 1(1)".

5. In section 6(2)(b) for "whether the licensee has complied with any of the regulatory Laws" substitute "whether the licensee or associated party thereof has complied with any of the provisions referred to in section 1(1)".

6. In section 6(2)(d)(i) -

(a) after "licensee" insert "or associated party thereof",  
and

(b) for "regulatory Laws" substitute "provisions referred to in section 1(1)".

7. After section 7(2) insert the following subsection -

"(3) Where a person claims a lien on a document, its production under -

(a) section 1, 2, 3 or 5, or

(b) a warrant granted under section 6,

is without prejudice to his lien."

8. After section 9(2) insert the following subsection -

"(3) A person -

(a) to whose premises a site visit under section 1,

2 or 3 has been or is to be made or who knows or has reasonable grounds to suspect that the Commission has requested or is likely to request that arrangements for such a site visit be made, or

- (b) to whom a request or requirement under section 1, 2, 3 or 5 has been made or who knows or has reasonable grounds to suspect that such a request or requirement is likely to be made to him,

and who falsifies, conceals, destroys, removes or otherwise disposes of, or causes or permits to be falsified, concealed, destroyed, removed or otherwise disposed of, documents which he knows or has reasonable grounds to suspect -

- (i) would be inspected or requested during such a site visit or are or would be relevant thereto, or
- (ii) are or would be specified in such a request or requirement,

is, unless he proves that he had no intention of concealing from the Commission or, as the case may be, from the persons carrying out such a site visit or making such a request or requirement, facts disclosed by the documents, guilty of an offence and liable -

- (A) on summary conviction, to

imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the uniform scale, or to both,

- (B) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both."

9. In section 11(1) -

- (a) for the definition of "associated party" substitute the following-

""**associated party**", in relation to any person, has the meaning given by Schedule 5 to the Insurance Business (Bailiwick of Guernsey) Law, 2002; provided always that the Commission may by regulation amend this definition,"

- (b) after the definition of "associated party" insert the following definition -

""**Bailiff**" means the Bailiff or Deputy-Bailiff, or a Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué, and includes -

- (a) where the warrant is to be executed in Alderney, the Chairman of the Court of Alderney or, if he is unavailable, a Jurat thereof,

- (b) where the warrant is to be executed in Sark, the

Seneschal or his deputy, ",

- (c) in the definition of "regulatory Laws" the words "but does not include the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, and" are repealed, and
- (d) after the definition of "servant" insert the following definition-

**"Transfer of Funds Ordinances"** means the Transfer of Funds (Guernsey) Ordinance, 2007, the Transfer of Funds (Alderney) Ordinance, 2007 and the Transfer of Funds (Sark) Ordinance, 2007."

**Interpretation.**

**10.** (1) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

(2) The Interpretation (Guernsey) Law, 1948<sup>d</sup> applies to the interpretation of this Law throughout the Bailiwick of Guernsey.

**Citation.**

**11.** This Ordinance may be cited as the Financial Services Commission (Site Visits) (Bailiwick of Guernsey) (Amendment) Ordinance, 2010.

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<sup>d</sup> Ordres en Conseil Vol. XIII, p. 355.

**Extent.**

12. This Ordinance has effect throughout the Bailiwick.

**Commencement.**

13. This Ordinance shall come into force on the 28<sup>th</sup> July, 2010.

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Her Majesty's Greffier.

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Printed by Image Group, Caslon Court, Pitronnerie Road, St Peter Port, Guernsey GY1 3NE