

**The Competition (Prescribed Mergers and Acquisitions)
(Guernsey) Regulations, 2012**

<i>Made</i>	<i>31st July, 2012</i>
<i>Coming into operation</i>	<i>1st August, 2012</i>
<i>Laid before the States</i>	<i>26th September, 2012</i>

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred upon it by sections 13(1), 16 and 63 of the Competition (Guernsey) Ordinance, 2012^a ("**the Ordinance**"), and all other powers enabling it in that behalf, hereby makes the following regulations:-

Prescribed mergers and acquisitions.

1. (1) Mergers and acquisitions are prescribed for the purposes of section 13(1) of the Ordinance if –

- (a) the combined applicable turnover of the undertakings involved in the merger or acquisition arising in the Channel Islands exceeds £5 million, and
- (b) two or more of the undertakings involved in the merger or acquisition each have an applicable turnover arising in Guernsey which exceeds £2 million.

^a Ordres en Conseil Vol. XXV, p. 124; Vol. XXVI, pp. 146, 200 and 292.

(2) For the purposes of subparagraph (1) the place in which the undertaking's turnover arises -

- (a) in respect of undertakings other than credit institutions, financial institutions, or insurance undertakings is determined by the location of the customer to whom the products are sold or the services provided,
- (b) in respect of undertakings that are credit institutions or financial institutions is determined by the place in which the income items listed in regulation 4 of the Turnover Regulations are received by the institution or a branch or division thereof, and
- (c) in respect of insurance undertakings is determined by the place in which the gross premiums are received by the undertaking or a branch or division thereof.

(3) For the purpose of these regulations the applicable turnover of an undertaking shall be calculated in accordance with regulations 2 to 7 of the Turnover Regulations.

Undertakings involved in a merger or acquisition.

2. For the purposes of regulation 1(1) an undertaking is involved in a merger or acquisition if –

- (a) it is being acquired by another undertaking,
- (b) it is acquiring another undertaking,

- (c) it is entering into a joint venture with another undertaking,
- (d) it is the joint venture of other undertakings, or
- (e) it is involved in an amalgamation or other combination with another undertaking.

Application for approval from the Authority.

3. Where an undertaking is involved in a prescribed merger or acquisition, an application must be made for the approval of the Authority in accordance with these regulations and the provisions of the Ordinance.

Application for approval by way of preliminary review.

4. (1) Where a credit institution or financial institution is an acquiring undertaking in a prescribed merger or acquisition, it shall apply to the Authority for approval by way of a preliminary review of the merger or acquisition and shall provide such information as the Authority may require in that respect.

(2) Subject to section 17(2) of the Ordinance, where, on receipt of an application for preliminary review, the Authority considers that -

- (a) the merger or acquisition satisfies the requirements of sections 13(2) and 17(3) of the Ordinance, it shall notify the undertaking of its decision in accordance with section 17 of the Ordinance, or
- (b) further information is required in order to determine whether the merger or acquisition satisfies the requirements of sections 13(2) and 17(3) of the Ordinance, it shall notify the undertaking that it must

apply for a first detailed review, in accordance with regulation 5.

Application for approval by way of first detailed review.

5. (1) Where an acquiring undertaking in a prescribed merger or acquisition is -

- (a) an undertaking other than a credit institution or financial institution, or
- (b) an undertaking which is a credit institution or a financial institution and which, on application for a preliminary review, has been notified by the Authority that a first detailed review is required,

it shall apply to the Authority for approval by way of a first detailed review of the merger or acquisition and shall provide such information as the Authority may require in that respect.

(2) Subject to section 17(2) of the Ordinance, where, on receipt of an application for a first detailed review, the Authority considers that -

- (a) the merger or acquisition satisfies the requirements of sections 13(2) and 17(3) of the Ordinance, it shall notify the undertaking of its decision in accordance with section 17 of the Ordinance, or
- (b) further information is required in order to determine whether the merger or acquisition satisfies the requirements of sections 13(2) and 17(3) of the Ordinance, it shall notify the undertaking that it must

apply for a second detailed review, in accordance with regulation 6.

Application for approval by way of second detailed review.

6. (1) Where an acquiring undertaking in a prescribed merger or acquisition is an undertaking which, on application for a first detailed review, has been notified by the Authority that a second detailed review is required, it shall apply to the Authority for approval by way of a second detailed review of the merger or acquisition and shall provide such information as the Authority may require in that respect.

(2) Subject to section 17(2) of the Ordinance, where the Authority is in receipt of a completed application for a second detailed review it shall notify the undertaking as to whether or not it gives its approval to the merger or acquisition in accordance with section 17 of the Ordinance.

Interpretation.

7. (1) In these regulations –

"applicable turnover" means the turnover of an undertaking calculated in accordance with the Turnover Regulations,

"acquiring undertaking" means -

- (a) an undertaking involved in the proposed merger or acquisition acquiring another undertaking, and
- (b) all undertakings involved in the proposed merger or acquisition by way of a joint venture, an amalgamation or other combination with other undertakings,

"credit institution" means a deposit-taking business as defined in section 3 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994^b,

"financial institution" means a controlled investment business as defined in the Protection of Investors (Bailiwick of Guernsey), Law 1987^c and a financial services business as defined in the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008^d,

^b No. XIII of 1994; amended by No's. XVII (Financial Services Commission (Bailiwick of Guernsey) (Amendment) Law, 2002) and XXI of 2002 (Insurance Business (Bailiwick of Guernsey) Law, 2002, No. XVI of 2003 (Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2003); No. XVI of 2008 (Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2008); No. IV of 2009 (Banking Supervision (Bailiwick of Guernsey) (Amendment) (No. 2) Law, 2008); No. XIII of 2010 (Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009); No. XXI of 2010 (the Banking Supervision (Bailiwick of Guernsey) (Amendment) Law, 2010); Ordinance No. XXXIII of 2003 (Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003); G.S.I. No. 1 of 2008 (Banking Supervision (Bailiwick of Guernsey) (Amendment) Regulations, 2008); the Banking Supervision (Bailiwick of Guernsey) Regulations, 2010; and the Financial Services Commission (Regulatory Laws) (Bailiwick of Guernsey) (Amendment) Regulations, 2010 (G.S.I. 2010/83).

^c Ordres en Conseil Vol. XXX, p. 281; amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; No. XIII of 1994; No. XII of 1995; No. II of 1997; No. XVII of 2002; No's XV and XXXII of 2003; No. XVIII of 2008; the Statements Obtained Under Compulsion (Restriction of Use) (Bailiwick of Guernsey) Law, 2009 (No. XIII of 2010); and the Protection of Investors (Bailiwick of Guernsey) (Amendment) Law, 2010 (No. XX of 2010). Also amended by Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Ordinances X and XX of 1998; Ordinance XXXIII of 2003; Ordinance XXXI of 2008; and the Financial Services Commission (Regulatory Laws) (Bailiwick of Guernsey) (Amendment) Regulations, 2010 (G.S.I. 2010/83).

^d Order in Council No. of XV of 2008; amended by Ordinance No. XXXII of 2008; the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (Schedule 1 Amendment) Regulations, 2008 (G.S.I. No. 75 of 2008); the Financial Services Commission (Regulatory Laws) (Bailiwick of Guernsey) (Amendment) Regulations, 2010 (G.S.I. 2010/83); and Order in Council XIII of 2010).

"insurance undertaking" means an insurance business as defined in the Insurance Business (Bailiwick of Guernsey) Law, 2002^e,

"prescribed merger or acquisition" means a merger or acquisition prescribed by regulation 1(1),

"the Turnover Regulations" means the Competition (Calculation of Turnover) (Guernsey) Regulations, 2012,

and other words and expressions have the same meaning as in the Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^f applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

(3) Any reference in these regulations to an enactment or statutory instrument is a reference thereto as from time to time amended, repealed and replaced (with or without modification), extended or applied.

Citation.

8. These Regulations may be cited as the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations, 2012.

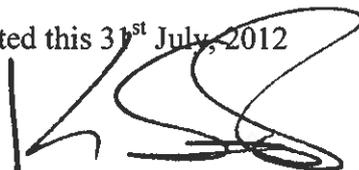
^e Order in Council No. XXI of 2002; amended by Ordinance No. XXXIII of 2003; Ordinance No. XII of 2008; Ordinance No. LI of 2008; Ordinance No. VIII of 2010; Ordinance No. XXXI of 2010; Order in Council No. XIII of 2010 ; the Insurance Business (Bailiwick of Guernsey) (Amendment) Ordinance, 2011; G.S.I. No. 33 of 2004 (Insurance Business (Definition of Long Term Business) (Amendment) Regulations, 2004); G.S.I. No. 4 of 2008 (Insurance Business (Bailiwick of Guernsey) (Amendment) Regulation, 2008); G.S.I. No. 15 of 2010 (Insurance Business (Bailiwick of Guernsey) (Amendment) Regulations, 2010); and G.S.I. No. 83 of 2010 (Financial Services Commission (Regulatory Laws) (Bailiwick of Guernsey) (Amendment) Regulations, 2010). Brought into force on 5th November, 2002 by Ordinance No. XVIII of 2002 (Insurance Business (Bailiwick of Guernsey) Law, 2002 (Commencement) Ordinance, 2002).

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

Commencement.

9. These Regulations shall come into force on the 1st August, 2012.

Dated this 31st July, 2012



DEPUTY K. STEWART

Minister of the Commerce and Employment Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the regulations)

These Regulations prescribe the mergers and acquisitions for which the Authority's approval is required for the purpose of section 13(1) of the Competition (Guernsey) Ordinance, 2012.