

Island of



Guernsey

Ordinance of the States

X
2014

Made 20th January, 2014
Coming into Operation 20th January, 2014
Laid before the States 26th March, 2014

Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) Ordinance, 2014

The Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) Ordinance, 2014

THE STATES LEGISLATION SELECT COMMITTEE, in exercise of the powers conferred on the States by sections 37 and 43 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended^a and all other powers enabling the States in that behalf, and in exercise of the powers conferred on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948, as amended^b, and having regard to the report of the States Policy Council^c, hereby orders:-

Limitation of liability.

1. (1) No liability shall be incurred by the Channel Islands Securities Exchange Authority Limited (hereinafter referred to as "CISEAL") in respect of anything done or omitted to be done after the commencement of this Ordinance in the discharge or purported discharge of any of the functions conferred on that body by or under the Law of 1987 (being the functions specified in the Schedule, which were conferred upon CISEAL by conditions of the licence granted to that body under section 4 of the Law of 1987 by the Commission on the 20th December, 2013) unless the thing is done or omitted to be done in bad faith.

(2) For the avoidance of doubt, the provisions of subsection (1) -

^a Ordres en Conseil Vol. XXX, p. 281; as amended by Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXII, p. 324; Vol. XXXV(1), p. 271; Vol. XXXVI, p. 264; Vol. XXXVII, p. 24; Vol. XLII(1), p. 644; No. XV of 2003; No. XXXII of 2003; No. XVIII of 2008; No. XIII of 2010; No. XX of 2010; Recueil d'Ordonnances Tome XXIV, p. 324; Tome XXVI, p. 333; Tome XXVIII, p. 51; Tome XXVIII, p. 87; Tome XXIX, p. 406; Tome XXXIII, p. 136; Tome XXXIII, p. 472; G.S.I. No. 83 of 2010.

^b Ordres en Conseil Vol. XIII, p. 288.

^c Article II of Billet d'État No. V of 2014.

- (a) do not apply in respect of liability for a criminal offence under the laws of the Bailiwick, and
- (b) are without prejudice to the performance and enforcement of the Commission's powers and duties conferred by or under the regulatory Laws.

Interpretation.

2. (1) In this Ordinance -

"CISEAL" means Channel Islands Securities Exchange Authority Limited,

"the Commission" means the Guernsey Financial Services Commission,

"the Law of 1987" means the Protection of Investors (Bailiwick of Guernsey) Law, 1987,

"the regulatory Laws" means -

- (a) the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^d,
- (b) the Protection of Investors (Bailiwick of Guernsey)

^d Ordres en Conseil Vol. XXX, p. 243.

Law, 1987^e,

- (c) the Banking Supervision (Bailiwick of Guernsey) Law, 1994^f,
- (d) the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000^g,
- (e) the Insurance Business (Bailiwick of Guernsey) Law, 2002^h,
- (f) the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002ⁱ,
- (g) the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008^j,
- (h) the Financial Services Commission (Site Visits) (Bailiwick of Guernsey) Ordinance, 2008^k,

^e Ordres en Conseil Vol. XXX, p. 281.

^f Order in Council No. XIII of 1994.

^g Order in Council No. I of 2000.

^h Order in Council No. XXI of 2002.

ⁱ Order in Council No. XXII of 2002.

^j Order in Council No. XV of 2008.

^k Ordinance No. II of 2008.

- (i) the Protection of Investors (Administration and Intervention) (Bailiwick of Guernsey) Ordinance, 2008^l,
- (j) any Ordinance, order, rule or regulation made under any of the above Laws or Ordinances, and
- (k) any other enactment or statutory instrument specified for the purposes of this Ordinance by regulations of the States Policy Council.

(2) The Interpretation (Guernsey) Law, 1948^m applies to the interpretation of this Ordinance throughout the Bailiwick.

(3) 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.

Citation.

3. This Ordinance may be cited as the Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) Ordinance, 2014.

Commencement.

4. This Ordinance shall come into force on the 20th January, 2014.

^l Ordinance No. LII of 2008.

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

SCHEDULE

Regulatory functions of CISEAL in respect of which the limitation of liability provided for by section 1 is applicable

1. The admission of issuers to the official list by reference to the Listing Rules and CISEAL's policy on issuer suitability.

2. The admission of members of CISEAL by reference to the Membership Rules and CISEAL's policy on member suitability.

3. The suspension or cancellation of an issuer from the official list in accordance with the Listing Rules.

4. The re-admission to the official list in accordance with the Listing Rules following suspension save where suspension was at the request of the issuer and CISEAL concludes that the criteria for re-admission are not met.

5. The suspension or cancellation of membership of CISEAL in accordance with the Membership Rules.

6. The re-admission to membership of CISEAL in accordance with the Membership Rules following suspension save where suspension was at the request of the member and CISEAL concludes that the criteria for re-admission are not met.

7. The enforcement against members of the Membership Rules and / or Listing Rules in accordance with the Discipline Chapter of those Rules.

8. Liaising with the Guernsey Financial Services Commission and other regulatory authorities and organisations as applicable on all matters relating to the operation of the Official List and the membership of CISEAL.

9. The taking of positive steps to undertake market surveillance which obligations include -

- (a) weekly monitoring of trading activity,
- (b) daily review of movements in prices and transactions,
- (c) news alert monitoring,
- (d) the reporting to the Guernsey Financial Services Commission within 1 trading day of -
 - (i) price movements in excess of 30% of the starting price at opening, and
 - (ii) transactions where market abuse as defined in the Law of 1987 is capable of being reasonably suspected.

10. The taking of positive steps to monitor ongoing issuer compliance with the Listing Rules.

11. The taking of positive steps to monitor ongoing member compliance with the Listing Rules and Membership Rules.

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