

GUERNSEY STATUTORY INSTRUMENT

2017 No. 111

**The Protected Cell Companies and Incorporated Cell  
Companies (Fees for Insurers) Regulations, 2017**

<i>Made</i>	12 <sup>th</sup> December, 2017
<i>Coming into operation</i>	1 <sup>st</sup> January, 2018
<i>Laid before the States</i>	, 2018

THE POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred upon it by section 13 and 25 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>a</sup>, sections 85, 86 and 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>b</sup>, and all other powers enabling it in that behalf, and after consultation with, where required, and with the agreement of, the Guernsey Financial Services Commission<sup>c</sup>, and where required, after consultation with, and, with the agreement of, the States of Alderney Policy and Finance Committee and the Chief Pleas of Sark Policy and Performance Committee:-

<sup>a</sup> Ordres en Conseil Vol. XXX, p. 243; as amended by Vol. XXXI, p. 278; Vol. XXXIII, p. 471; Vol. XXXV (1), p. 271; XXXVII, p. 24; Vol. XLII (2), p. 644; Vol. XLII (2), p. 766; Vol. XLIII (1), p. 49; Vol. XLIII (2), p. 574; No's. XIX, XXIII and XXIV of 2008; No. XIX of 2010; No. III of 2013; No. I of 2015; Recueil d'Ordonnances Tome XXIX, p. 406; Ordinance No. XXXIV of 2005; No. XXXIII of 2009; No. XXXIII of 2009; No. XII of 2015; No. XX of 2015; No. XXXIX of 2015; G.S.I. No. 29 of 2009.

<sup>b</sup> Order in Council No. XXI of 2002; as amended by No. I of 2000; No. XIII of 2010; Ordinance No. XXXIII of 2003; No's. XII and LI of 2008; No's. VIII and XXXI of 2010; No. XXXVI of 2011; No. LV of 2014; Nos. XII and XX of 2015; G.S.I. No. 33 of 2004; G.S.I. No. 4 of 2008; G.S.I. No's. 15 and 83 of 2010; G.S.I. No. 68 of 2014.

<sup>c</sup> in accordance with section 6 of Ordinance No. XII of 2015.

**Fee payable on application to be licensed as an insurer and for creation of new cell.**

1. For the purposes of section 6 and 11 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 -

- (a) an application by a protected cell company or an incorporated cell company to be licensed—
  - (i) as a Category 1, Category 2, Category 5 or Category 6 insurer, shall be accompanied by a fee of £5,596, and
  - (ii) as a Category 3 or Category 4 insurer shall be accompanied by a fee of £8,394,
- (b) an application by a licensed protected cell company for consent for the creation of a new cell -
  - (i) where the cell is to be a Category 3 or Category 4 insurer, shall be accompanied by a fee of £2,745,
  - (ii) where the cell is to be a Category 6(i) insurer shall be accompanied by a fee of £841.
  - (iii) which does not fall under paragraph (i) or (ii) above, shall be accompanied by a fee of £1,830,

- (c) an application by an incorporated cell to be licensed as
  - (i) a Category 1, Category 2, Category 5 , Category 6 (ii) or Category 6 (iii) insurer shall be accompanied by a fee of £1,830
  - (ii) a Category 3 or Category 4 insurer shall be accompanied by a fee of £2,745, and
  - (iii) as a Category 6(i) insurer shall be accompanied by a fee of £841.

**Licence fee and periodic fee payable by protected cell companies which are licensed as insurers.**

2. (1) For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, a protected cell company licensed as an insurer under section 7 of that Law in respect of insurance business that is general business within the meaning of that Law 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) where that company is -
    - (A) a Category 5 or Category 6(iii), insurer  
£5,596, or

(B) a Category 3 or Category 4 insurer,  
£8,394,

(ii) in respect of each trading cell in existence when  
it is first licensed, where that trading cell is-

(A) a Category 5 or Category 6(iii) insurer,  
£1,830, or

(B) a Category 3 or Category 4 insurer,  
£2,745

(iii) £841 in respect of each cell falling under  
Category 6(i) or Category 6(ii), in existence when  
it is first so licensed,

divided by twelve and multiplied by the number of  
calendar months or part thereof 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 31<sup>st</sup> January each year where the licence is  
in effect on 1<sup>st</sup> January of that year, a fee equal to the sum  
of the following amounts -

(i) where that company is -

(A) a Category 5 or Category 6(iii) insurer  
£5,596, or

- (B) a Category 3 or Category 4 insurer,  
£8,394,
  - (ii) in respect of each trading cell in existence at 1<sup>st</sup> January of that year, where that trading cell is-
    - (A) a Category 5 or Category 6(iii) insurer,  
£1,830, or
    - (B) a Category 3 or Category 4 insurer,  
£2,745
  - (iii) £146 in respect of each dormant cell in existence at 1<sup>st</sup> January of that year,
  - (iv) ££841 in respect of each cell falling under Category 6(i) or Category 6(ii) in existence at 1<sup>st</sup> January of that year,
- (c) on or before the last day of the month in which a new cell is created, where that cell is created after the date of licensing of the protected cell company,
- (i) in respect of each trading cell, where that trading cell is-
    - (A) a Category 5 or Category 6(iii) insurer,  
£1,830, or

(B) a Category 3 or Category 4 insurer,  
£2,745,

(ii) £841 in respect of each cell falling under  
Category 6(i) or Category 6(ii),

which fees shall be divided by twelve and multiplied by  
the number of calendar months or part thereof between  
the date the cell is created and the end of the calendar  
year in which that date falls, and

(d) on or before the last day of the month in which a  
dormant cell is reactivated, where that cell is reactivated  
after the date of licensing of the protected cell company,  
a fee equal to the difference between:

(i) in respect of a cell that was-

(A) a Category 6(i) or Category 6(ii) insurer,  
£841,

(B) a Category 5 or Category 6(iii) insurer,  
£1,830, or

(C) a Category 3 or Category 4 insurer,  
£2,745

(ii) £146 in respect of each dormant cell,

divided by twelve and multiplied by the number of calendar months or part thereof between the date the cell is reactivated and the end of the calendar year in which that date falls.

(2) For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, a protected cell company licensed as an insurer under section 7 of that Law in respect of insurance business that is Category 1 or Category 2 long term business within the meaning of that Law 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) £5,596, and

(ii) £1,830 in respect of each trading cell in existence when it is first so licensed,

divided by twelve and multiplied by the number of calendar months or part thereof 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 31<sup>st</sup> January each year where the licence is in effect on 1<sup>st</sup> January of that year, a fee equal to the sum of the following amounts -

(i) an annual fee of £84,045, 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 financial year most recently completed on or before 31<sup>st</sup> August of the calendar year preceding that in which the said fee must be paid

(A) are less than £1, in which case the annual fee is £5,596,

(B) are equal to, or more than, £1 but less than £1,000,000, in which case the annual fee is £7,265,

(C) are equal to, or more than, £1,000,000 but less than £10,000,000, in which case the annual fee is £8,920,

(D) are equal to, or more than, £10,000,000 but less than £100,000,000, in which case the annual fee is £13,879,

(E) are equal to, or more than, £100,000,000 but less than £500,000,000, in which case the annual fee is £22,135,

(F) are equal to, or more than, £500,000,000 but less than £2,000,000,000, in which case the annual fee is £42,865,

**PROVIDED** that where a body has ceased writing new insurance business before the fee becomes due the annual fee will be £13,879, 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 financial year most recently completed on or before 31<sup>st</sup> August of the calendar year preceding that in which the said fee must be paid -

(I) are less than £1, in which case the annual fee is £5,596,

(II) are equal to, or more than, £1 but less than £10,000,000, in which case the annual fee is £7,254, or

(III) are equal to, or more than, £10,000,000 but less than £500,000,000, in which case the annual fee is £9,740, and

- (ii) £1,830 in respect of each trading cell and £146 in respect of each dormant cell in either case in existence at 1<sup>st</sup> January of that year,
- (c) on or before the last day of the month in which a new cell is created, where that cell is created after the date of licensing of the protected cell company, a fee of £1,830 divided by twelve and multiplied by the number of calendar months or part thereof between the date the cell is created and the end of the calendar year in which that date falls, and
- (d) on or before the last day of the month in which a dormant cell is reactivated, where that cell is reactivated after the date of licensing of the protected cell company, a fee equal to the difference between £1,830 and £146, divided by twelve and multiplied by the number of calendar months or part thereof between the date the cell is reactivated and the end of the calendar year in which that date falls.

**Licence fee and periodic fee payable by incorporated cell companies which are licensed as insurers.**

3. (1) For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, an incorporated cell company licensed as an insurer under section 7 of that Law in respect of insurance business that is general business within the meaning of that Law shall pay to the Commission -

(a) on or before the last day of the month in which it is first so licensed, in respect of a company that is-

(i) a Category 5 or Category 6 insurer, £5,596, or

(ii) a Category 3 or Category 4 insurer, £8,394,

divided by twelve and multiplied by the number of calendar months or part thereof 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 31<sup>st</sup> January each year where the licence is in effect on 1<sup>st</sup> January of that year, in respect of a company that is –

(i) a Category 5 or Category 6 insurer, £5,596,

(ii) a Category 3 or Category 4 insurer –

(A) which has not written any business,  
£5,596, or

(B) which has written business, £8,394.

(2) For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, an incorporated cell company licensed as an insurer under section 7 of that Law in respect of insurance business that is Category

1 or Category 2 long term business within the meaning of that Law 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 £5,596 divided by twelve and multiplied by the number of calendar months or part thereof 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 31<sup>st</sup> January each year where the licence is in effect on 1<sup>st</sup> January of that year, an annual fee of the same amount as that for the time being prescribed in regulation 2(1)(b)(ii) of the Financial Services Commission (Fees) Regulations, 2017

**Licence fee and periodic fee payable by incorporated cells which are licensed as insurers.**

4. For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, an incorporated cell 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 –
  - (i) £1,830, for a cell falling within Category 1, Category 2, Category 5, Category 6(ii) or Category 6(iii),

(ii) £2,745, for a cell falling within Category 3 or Category 4, and

(iii) £841, for a cell falling within Category 6(i),

divided by twelve and multiplied by the number of calendar months or part thereof 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 31<sup>st</sup> January each year where the licence is in effect on 1<sup>st</sup> January of that year, a fee of -

(i) £1,830, for a cell falling within Category 1, Category 2, Category 5, Category 6(ii) or Category 6(iii),

(ii) £2,745, for a cell falling within Category 3 or Category 4, and

(iii) £841, for a cell falling within Category 6(i).

**Power of Commission to waive fees.**

5. The Commission may in its absolute discretion waive any fee, or part of a fee, payable pursuant to these Regulations.

**Fees not refundable.**

6. Subject to regulation 5, no fee payable under these Regulations is refundable.

**Fees under the Financial Services Commission (Fees) Regulations, 2017.**

7. The fees payable under these Regulations are in substitution for, and not in addition to, the fees payable under regulation 2 of the Financial Services Commission (Fees) Regulations, 2017.

**Interpretation.**

8. (1) In these Regulations -

"Category 1" means a long-term insurer with any element of unrelated party business or an insurer so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015<sup>d</sup>,

"Category 2" means a long-term reinsurer with any element of unrelated party business or an insurer so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015,

"Category 3" means a general insurer with an element of unrelated party business or an insurer so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015,

"Category 4" means a general reinsurer providing reinsurance to a commercial insurer, whether or not part of the same group, and with no direct business or an insurer so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015,

"Category 5" means a life or general insurance or reinsurance entity

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<sup>d</sup> G.S.I. No. 31 of 2015.

created and owned, directly or indirectly, by one or more industrial, commercial or financial entities or associations, the purpose of which is to provide insurance or reinsurance cover for risks (other than commercial insurance risks) of the entity or entities to which it belongs, or for entities connected to those entities or an insurer so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015,

**"Category 6"** means:

- (i) Special Purpose Insurers as defined under the Insurance Business (Special Purpose Insurer) Rules 2016, or
- (ii) transformer cells, namely cells whose primary purpose is to enable transactions between the Capital and Insurance markets by converting contracts written on ISDA documentation into contracts written on traditional insurance documentation or vice versa, and
- (iii) entities or a cell of a protected cell company or incorporated cell company so categorised by the Commission under the Insurance Business (Solvency) Rules, 2015,

**"the Commission"** means the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987,

**"dormant cell"** means a cell of a protected cell company in respect of which there are no unexpired insurance policies and no insurance liabilities,

"**incorporated cell company**" means an incorporated cell company within the meaning of the Companies (Guernsey) Law, 2008,

"**protected cell company**" means a protected cell company within the meaning of the Companies (Guernsey) Law, 2008, and

"**trading cell**" means a cell of a protected cell company that is not a dormant cell.

(2) A reference to an enactment, rule or regulations is a reference thereto as from time to time amended, repealed and replaced, extended or applied.

(3) The Interpretation (Guernsey) Law, 1948<sup>e</sup> applies to the interpretation of these Regulations.

**Revocation.**

9. The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2016<sup>f</sup> are revoked.

**Citation.**

10. These Regulations may be cited as the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2017.

**Commencement.**

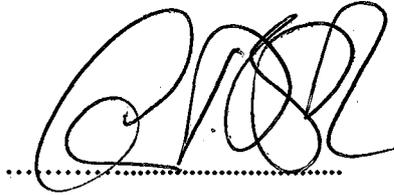
11. These Regulations shall come into force on 1<sup>st</sup> January, 2018.

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

<sup>f</sup> G.S.I. No. 82 of 2016.

Dated this 16<sup>th</sup> day of December, 2017.

A handwritten signature in black ink, appearing to read 'G St PIER', written over a horizontal dotted line.

Deputy G St PIER

President of the Policy & Resources Committee

For and on behalf of the Committee

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations prescribe the fees payable to the Guernsey Financial Services Commission by any company which is a protected cell company or an incorporated cell company, and by an incorporated cell, and which applies to be licensed to conduct insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002, and the fees payable periodically thereafter by such a company or cell when licensed and also for the creation of a new cell or the reactivation of a dormant cell by a licensed protected cell company. Furthermore, the Regulations prescribe the fee payable to the Guernsey Financial Services Commission by any company for consent for the conversion of a licensed company into a protected cell company or an incorporated cell company, for the conversion of an existing licensed protected cell company into an incorporated cell company, or for the conversion of a licensed protected cell company or incorporated cell company into a non-cellular company. These Regulations come into force on the 1<sup>st</sup> January, 2018.