

GUERNSEY STATUTORY INSTRUMENT

2008 NO. 14

The Insurance Business (Approved Assets) Regulations, 2008

<i>Made</i>	<i>12 March, 2008</i>
<i>Coming into operation</i>	<i>12 March, 2008</i>
<i>Laid before the States</i>	<i>, 2008</i>

THE GUERNSEY FINANCIAL SERVICES COMMISSION, in exercise of the powers conferred upon it by section 85 and paragraph 2(1) of Schedule 2 to the Insurance Business (Bailiwick of Guernsey) Law, 2002^a, and after consultation with the States of Guernsey Policy Council, the Policy and Finance Committee of the States of Alderney and the General Purposes and Finance Committee of the Chief Pleas of Sark, hereby makes the following regulations:-

Meaning of "approved assets".

1. For the purposes of paragraph 2(1) of Schedule 2 to the Law, the expression "**approved assets**" shall mean -

- (a) in respect of Class 1 assets -
 - (i) cash in hand and on deposit with a recognised bank in a recognised territory,

^a Order in Council No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

- (ii) a certificate of deposit issued by a recognised bank in a recognised territory,
- (iii) debt securities issued by a sovereign or supranational agency listed on a recognised stock exchange or the International Securities Markets Association being both capable of normal realisation at short notice and having a current rating of AAA from Standard and Poors or equivalent rating from another reputable rating agency acceptable to the Commission,
- (iv) a collective investment scheme, capable of normal realisation at short notice, which have a rating from Standard and Poors of AAA or an equivalent rating from another rating agency acceptable to the Commission,
- (v) collective investment schemes, capable of normal realisation at short notice, where at least 95% of the market value of the underlying assets is within any of (or any combination of) the descriptions set out in subparagraphs (i) to (iv) and paragraph (c)(i) to (iii), provided that the market value of any assets held by the collective investment scheme that fall within paragraph (c)(i) to (iii) in respect of a single counterparty does not exceed 10% of the total market value of the collective investment scheme,

- (vi) net accounts receivable, including premiums receivable from an associated party, net of provision for bad and doubtful debts, and not outstanding for more than 90 days after the due date,
 - (vii) prepayments, excluding any prepayments resulting from amounts paid, either directly or indirectly, to a person with whom the insurer is associated, and
 - (viii) reinsurance balances receivable, net of provision for bad and doubtful debts, and not outstanding for more than 90 days after the due date,
- (b) in respect of Class 2 assets -
- (i) any asset with the prior written consent of the Commission, subject to such conditions as it may impose, and
 - (ii) irrevocable letters of credit, issued to the benefit of the insurer, provided by recognised banks in recognised territories, for such amount and on such conditions as have been approved by the Commission,
- (c) in respect of Class 3 assets -

- (i) debt securities listed on a recognised stock exchange or the International Securities Market Association being both capable of normal realisation within 90 days and having a current rating of A or higher from Standard and Poors or equivalent rating from another reputable rating agency acceptable to the Commission,
 - (ii) securities quoted on a recognised stock exchange,
 - (iii) collective investment schemes, capable of normal realisation at short notice, where at least 95% of the market value of the underlying assets is within any of, or any combination of, the descriptions set out in subparagraphs (i) to (iii) and the market value of assets held in respect of a single counterparty exceeds 10% of the total market value of the collective investment scheme, and
 - (iv) any asset that the Commission may by prior written consent approve as a Class 3 asset, and
- (d) in respect of Class 4 assets -
- (i) Exchange Traded Derivative Contracts or schemes resulting in an equivalent arrangement if, and only if, they are not leveraged and to the extent that they are in order to -

- (A) apply an index tracking strategy to part or all of a portfolio,
 - (B) apply capital protected strategies to part or all of a portfolio,
 - (C) apply efficient portfolio management techniques to a portfolio, or
 - (D) reduce investment risk currently employed on a portfolio,
- (ii) forward foreign exchange transactions, conducted with a recognised bank, to the extent that they hedge currency exposures to currencies other than the reporting currency in the statutory accounts, and
 - (iii) where a derivative contract changes the characteristics of underlying assets, those underlying assets,

but the following shall not be approved assets, unless in any particular case the Commission consents in writing to them being regarded as such and on such conditions as it may impose -

- (i) derivative contracts, or schemes resulting in an equivalent arrangement, in whatever form they take, other than those defined in paragraphs (d)(i) and (iii),

- (ii) any amount receivable, other than premiums receivable, or balance due from a person with whom an insurer is an associated party,
- (iii) any asset under lien securing any derivative contract or other such encumbrance (except to the extent that it is securing an obligation of the licensed insurer under an insurance contract), and
- (iv) any other asset that does not fall into any of the classes as defined above.

Interpretation.

2. (1) For the purposes of these Regulations, unless the context requires otherwise -

"collective investment scheme" means an arrangement relating to property the purpose or effect of which is to enable investors to participate in profits realised by the scheme and in which the investors do not have day to day control over the management of the property within the scheme and further which involves the pooling of the contributions of investors and the profits for income of the scheme,

"capable of normal realisation at short notice" means capable of being normally realised in 30 days or less,

"Commission" means the Guernsey Financial Services Commission,

"debt securities" means debentures, debenture or loan stock, bonds and notes, including convertibles, whether secured or unsecured,

"derivative" has the definition set out in Schedule 5 to the Law,

"Exchange-Traded Derivative Contracts" mean standardised derivative contracts transacted on an organised exchange and which usually have margin requirements,

"the Law" means the Insurance Business (Bailiwick of Guernsey) Law, 2002,

"licensed insurer" has the same meaning as in the Law,

"recognised bank" means a bank or building society –

- (a) with a short-term credit rating of A-1/P-1, or
- (b) licensed by the appropriate regulatory authority in Guernsey, the Isle of Man or Jersey,

"recognised stock exchange" means any regulated market for the trading of investments which is situated in and recognised as a stock exchange within the meaning of the law relating to stock exchanges of any recognised territory,

"recognised territory" means -

- (a) any member state of the European Economic Area,

- (b) any member state of the European Free Trade Area,
- (c) the United States of America, Canada or Japan,
- (d) the Bailiwick of Guernsey, the Isle of Man or the Bailiwick of Jersey, or
- (e) any other country or territory which the Commission may determine and publish on its website from time to time, and

"supranational agency" means an entity that does not have one particular national identity and appears on the list maintained on the website of the Commission.

(2) Any reference in these Regulations to an enactment is a reference thereto or from time to time amended, replaced, re-enacted, extended or applied.

(3) The provisions of the Interpretation (Guernsey) Law 1948^b shall apply to the interpretation of these Regulations throughout the Bailiwick of Guernsey.

Repeal.

3. The Insurance Business (Approved Assets) Regulations, 2002^c are hereby repealed.

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

^c Guernsey Statutory Instrument No. 35 of 2002.

Citation and commencement.

4 These Regulations may be cited as the Insurance Business (Approved Assets) Regulations, 2008 and shall come into force on the 12th March, 2008.

Dated this 12th day of March, 2008.

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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 define approved assets for the purposes of paragraph 2(1) of Schedule 2 to the Insurance Business (Bailiwick of Guernsey) Law, 2002.