GUIDANCE NOTE ON NOTIFICATIONS TO THE COMMISSION
NOVEMBER 2021

The Insurance Business (Bailiwick of Guernsey) Law, 2002, as amended (the Law).

The Insurance team is continuing to seek efficiencies in its day to day operations and has reviewed its approach to a number of matters in order to reduce the time spent on administrative tasks. The team is also implementing the Commission's impact and risk based approach to supervision, as outlined during the industry seminar last month, and will therefore concentrate its efforts on those firms which are considered to have the most impact.

To this end the following guidance is designed to reduce the number of referrals to the Commission on administrative matters. We will also reduce the time spent on routine acknowledgements.

Firstly, we would request that, in respect of these notifications, licensees communicate by e-mail and the Commission's Online Submissions Portal rather than hard copy correspondence wherever possible. Also, please do not send the same item of correspondence by both post and e-mail as this leads to duplication of effort in recording the receipt of that piece of correspondence.

This guidance is not intended for matters on which the Law requires the specific approval of the Commission. Guidance on specific notifications is provided below:

1. **Change of Auditor**

Section 34 of the Law imposes certain requirements on licensed insurers in relation to the appointment of an auditor. The Commission's approval is not required and in future the Commission will not routinely acknowledge notification of the resignation of an auditor, or the appointment of a new auditor. Licensed insurers should take steps to ensure that they comply with the requirements of the Law. A list of approved auditors is published on the Commission's website.

Sections 34 and 83 of the Law impose certain requirements on auditors. The Commission expects auditors to take steps to ensure that they comply with the requirements of the Law and the Commission will not be responsible for chasing up on these requirements. For example, upon the notification by an insurer of the resignation of an auditor the Commission will not be responsible for chasing the resignation notice from that auditor.

2. **Change of year end**

A change of year end does not require approval but should simply be notified to the Commission in order that we can amend our records and know when to expect the annual return. Licensees should ensure that they comply with Company Law requirements in relation to changes to financial periods. The Commission will not acknowledge the notification of a change of year end unless it raises specific questions on which further information is required.

3. **Payment of Dividends**

Unless a specific condition has been imposed on an insurer's licence the declaration of or payment of a dividend does not require either notification to, or the approval of, the Commission. Such notifications will not be acknowledged. Licensees should of course ensure that they do not declare dividends in breach of section 31 of the Law.

4. Change of business plan

The Law requires that a material change of business plan should be notified to the Commission prior to the implementation thereof. There is no need for an insurer, having notified the Commission of a material change to its business plan, to wait for the Commission's approval of that plan. The Commission will not routinely acknowledge a change of business plan. If, having considered the notification, the Commission requires further information it will request it; recognising that the change may already have been implemented. If a licensee is in any doubt regarding a change of business plan please call the Commission and we can provide verbal guidance on whether a notification should be submitted.

4.1 General insurers

The following is intended to provide guidance as to what the Commission regards as a material change of business plan. It is not exhaustive but is intended to illustrate the nature of changes for which the Commission would expect to receive notification.

- Captive insurers – a material change of business plan for a captive insurer would be starting to write unrelated party business, or, business that requires a long-term insurance licence. It is anticipated that, given this guidance, a captive insurer will rarely need to notify a material change of business plan and will simply file a business plan annually with its annual return.

- Commercial insurers writing business to unrelated parties – any new line of business to be written; any change to reinsurance arrangements which reduces the reinsurance protection; any change of business plan which reduces the solvency margin to less than 125% of the required margin.

- Commercial Reinsurers – any new line of business which represents an increase in premium of 30%; any change of business plan which reduces the solvency margin to less than 125% of the required margin.

Guidance on the content of narrative business plans is set out in the Appendix below and please note that any notification should always include a completed spreadsheet business plan which can be found on the Commission's website together with a guidance note on its completion.

4.2 Long-term insurers

A material change of business plan for a life insurer would include: a new product; a new source of business; a change in the geographical sources of business; a change in the policyholder protection arrangements (but see below regarding custodians)

A material change of business plan for a life reinsurer would include: a new line of business or a new transaction which increases policyholder liabilities by 30% or more.

5. Appointment of Custodian

The standard condition applying to long-term insurers requires the insurer to appoint a trustee which must be approved by the Commission. However, the appointment of custodians is not required to be approved by the Commission and the standard condition simply requires the insurer to notify the Commission in its business plan of the custodians it intends to use. The insurer is responsible for ensuring that the custodians are independent of the insurer and the insurance manager. The Commission will not routinely acknowledge notifications of custodian appointments.

6. Alternate Directors

Where a member of staff of an insurance manager, who has already filed a personal questionnaire and received approval to act as a director/alternate director, wishes to act as an alternate director for a one off client board meeting he may do so without the prior approval of the Commission. An Online Application to that effect should subsequently be filed with the Commission's Authorisations Unit.

For the avoidance of doubt, the appointment of a permanent alternate director does still require the prior approval of the Commission.

7. PQ requirements for cells of a licensed PCC

The Commission only requires a completed Personal Questionnaire (PQ) for any individual who, alone or with associates, beneficially owns 50% or more of the cell shares issued in respect of any cell. Individuals who may have general oversight of a cell from the parent company perspective or whom the insurance manager deems to be the day to day controller of the cell are not required to submit a PQ. Insurance managers should continue to carry out their own due diligence on their client and relevant individuals as necessary to fulfil their obligations under the Handbook.

8. Notification of acquisition of significant shareholding

Licensees that are companies are required to make a notification, under section 49 of the Law, of the acquisition of between 5% and 15% of the voting power of the licensee. Such notifications will not be routinely acknowledged unless queries arise on which further information is required by the Commission. (Note: this requirement does not apply to cells)

9. General

Licensees are reminded that they are responsible for ensuring compliance with relevant laws, regulations, rules, codes etc. They should take legal advice as appropriate and the absence of a response from the Commission to any notification should not be interpreted as approval of the legal basis of any matter contained therein.

Licensees are responsible for the content of any submission to the Commission and should have appropriate procedures for checking the contents of any document prior to submission.

January 2014

Appendix
Guidance on the content of narrative business plans

The Insurance Business Rules, 2021 (the "Rules"), set out the requirements for business plans. This guidance is intended to assist licensees and potential licensees in providing the information regarding the insurance programme in a form that will enable swift analysis by the Commission. The numbers below correspond to the relevant sections of the Rules and the guidance is in *italics*.

2.1(1)(d)(ii) A description of the nature of the risks which the applicant intends to write.

This should include each individual line of business; e.g. property, EL, PL, and should specifically state who the policyholder is in each case so that the Commission can understand whether policies are being issued to the parent, third parties or the general public. This is necessary in order to determine whether the insurer is a captive or a commercial insurer.

2.1(1)(d)(ix) A narrative, consistent with the business plan, outlining exposures to be underwritten, reinsurance to be obtained and the dividend policy to be pursued (where known).

The narrative should clearly explain the gross and net exposure to be underwritten by the company in respect of each loss and in the aggregate. If the exposure is unlimited this should be clearly stated. Please double check that the narrative business plan corresponds with the spreadsheet business plan.

2.1(1)(d)(x) A summary of the reinsurance programme detailing:

- (A) reinsurers
- (B) security ratings
- (C) attachment points

The narrative should make it clear at what point the reinsurance attaches and what the limit of that reinsurance is. If the company is exposed once the reinsurance is exhausted this should be made clear.

2.1(1)(d)(xii) for general business only:

(A) A summary of the fronting arrangements detailing, fronters, security ratings and commission structures

The narrative should clearly explain the fronting arrangements including confirmation of whether the fronter remains liable to the policyholders in the event of the failure of the Guernsey insurer. If there is an overlying insurer with which there is no direct contractual relationship this should also be explained.

<u>Other</u>
The narrative business plan should be just that, a narrative. Whilst a diagram of the programme structure often assists this should not be used as a substitute for the narrative. The

narrative business plan should be submitted in full with each annual return; business plans which simply state that there has been no change from the previous year are not acceptable.