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Code Of Practice For Insurance Intermediary Applicants And Licensees Conducting**Business From Within The Bailiwick Of Guernsey**

THE GUERNSEY FINANCIAL SERVICES COMMISSION, (the Commission), in exercise of its powers conferred on it by section 55 of The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, hereby issues the Code Of Practice For Insurance Intermediary Applicants And Licensees Conducting Business From Within The Bailiwick Of Guernsey.

This Code of Practice is inter-dependent with, and should be read in conjunction with, Schedule 4 (Minimum Criteria for Licensing) of The Insurance Managers and Intermediaries (Bailiwick of Guernsey) Law, 2002, the content of which applies.

In addition to satisfying the policy of selectivity, the Commission takes into account:

- 1 whether the applicant or licensee is fit and proper;
- 2 the conduct of the business (to be) undertaken;
- 3 how the business is (to be) organised, the number of persons responsible for carrying on each aspect of that business and the relationship between those persons;
- 4 a physical presence within the Bailiwick;
- 5 compliance with money laundering avoidance legislation;
- 6 the economic benefit, if any, likely to be derived to the Bailiwick from such business.

1 **Fit and Proper**

The Commission believes that the concept of “fit and proper” embraces honesty, competency and solvency. It looks for evidence that an applicant, its intended directors and employees and, where appropriate, its controlling shareholders, meet a high, rather than a minimum, standard. With regard to institutions, the Commission takes into account, inter alia, their business record, other business interests, financial soundness and strength, record-keeping and other internal systems. With regard to individuals, the relevant considerations include their reputation and character as well as whether the individual has sufficient skills, knowledge and experience to properly undertake and fulfil his particular duties and responsibilities.

2 **Conduct of Business**

****** Approval of a licence will not be granted where applicants intend to provide insurance business services outside the Bailiwick unless:-

2.1 They are subject to statutory regulation in the country (or countries) concerned by an authority that exercises corresponding functions to the Commission and appears to the Commission to afford adequate protection to policyholders.

Or

2.2 They are able to show that any business conducted in a territory where there is no statutory regulation is conducted to the same standards as applied to business conducted within the Bailiwick and that there will be compliance with the Code of

Conduct and Conduct of Business Rules and any other rules or codes published from time to time by the Commission.

In both cases licensees must ensure that “four eyes” checks are being carried out, as detailed in Section 3 of this Code of Practice.

3 Organisation of Business and Human Resources

The Commission applies the “four-eyes” criterion and thus requires at least two individuals to direct the business of an approved body. It is expected that the individuals will be either executive directors or persons granted executive powers by, and reporting immediately to, the Board. By the same token, any applications for approval from a company where the majority of the shares are owned by a single individual is unlikely to be approved; although, if the individual is otherwise acceptable, the Commission is prepared to consider a joint venture with an existing approved body who has voting control and representation on the board.

These provisions are designed to ensure that at least two minds are applied to both the formulation and implementation of the policy of the licensee. The Commission would not regard it as sufficient for the second person to make some, albeit significant, decisions relating only to a few specific aspects of the business. Both must demonstrate the ability to influence strategy and day-to-day policies and their implementation, and both must actually do so in practice. Both persons’ judgements must be engaged in order that major errors leading to difficulties for the business are less likely to occur. Both persons must have

sufficient experience and knowledge of the business and the necessary personal qualities to detect and resist any imprudence, dishonesty or other irregularities by the other person.

Two closely related persons would not normally meet the “four-eyes” criterion.

The Commission also needs to be satisfied that an applicant has sufficient staff resources to enable it to carry on its business efficiently and effectively. It would not be acceptable to use a third party to manage the business within the Bailiwick.

New sole traders will not be licensed but where a licensed person is a sole trader (including single director companies), he may comply with the above, if there are documented robust arrangements with another licensed entity, which is not a sole trader, to ensure that:

- 3.1 the business is supervised adequately, taking into account the nature and volume of activities; and
- 3.2 the other licensee provides locum cover in the event of absence or inability to provide advice to clients.

4 Physical presence within the Bailiwick

The Commission will expect to be able to contact the licensee at all times and will insist that a head office is maintained within the Bailiwick which is permanently staffed by Guernsey residents. All client files and records must be held locally and available for inspection by the Commission.

Intermediaries who are only marketing their services to residents of the Bailiwick and who are not themselves residents of the Bailiwick may, on the approval of the Commission in writing, be exempt from this condition on the basis of the Commission being satisfied of the regulation in their home jurisdiction.

5 Compliance with Money Laundering avoidance legislation

The licensee will need to ensure that it is able to comply with money laundering avoidance legislation, including the 'know your customer' provisions. Proposal documents must be sent to the Bailiwick office and subjected to the "four-eyes" and money laundering checks before policies are issued.

6 Economic Benefit

The Commission will ensure that the economic interests of the Bailiwick or any part thereof, will not be jeopardised by the operation of the licensee, having regard to the economic circumstances of the islands of the Bailiwick in or from within which the licensee proposes to carry on such business.

7 Existing clients relocating

****** For clarification it must be noted by licensees that, in the event of existing clients who move to another jurisdiction and wish to continue to be serviced by a licensee or if the licensee is contacted by prospective clients from another jurisdiction, it will be the responsibility of the licensee to ensure that they abide by Clause 2 of this criteria (Conduct of Business). If the

Commission becomes aware that any licensee is in breach of this clause, it will take whatever action it deems necessary following consultations with the respective regulatory authority.

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