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DRAFT LICENSEES (CAPITAL ADEQUACY) RULES, 2010

As previously indicated, the Commission has been preparing new Capital Adequacy Rules mandatory for all entities licensed under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended (“the Law”). The Capital Adequacy Rules are the second part of a process to replace the Licensees (Financial Resources, Notification, Conduct of Business and Compliance) Rules, 1998 and the Collective Investment Schemes (Designated Persons) Rules, 1988. The Licensees (Conduct of Business) Rules, 2009 are coming into effect on 1 January 2010.

It is intended that the Capital Adequacy Rules will come into effect in 2010. It is therefore important for licensees to note that the Capital Adequacy Rules will **NOT** apply for accounts being prepared for years ending in 2009.

The main highlights of the Capital Adequacy Rules include:

- The introduction of *pro formae* calculations which take account of risks to which the business of the licensee might be subject;
- Nevertheless, the Board of a licensee maintains the responsibility for assessing not only its capital adequacy but also the basis and assumptions upon which it has been calculated; if the Board is of the view that the *pro formae* do not adequately capture the risks to which its business is subject, the Commission would expect the Board to formalise a more stringent level of capital requirement;
- The introduction of a liquidity requirement;
- The recognition that a licensee should not rely on loan support from another group company for the purposes of meeting its capital adequacy.

I would like to place on record my thanks to those who have assisted the Commission with this project.

The Commission would like to receive practitioners’ views on whether, in particular, the above objectives have been achieved and what problems are foreseen.

Please provide any comments on the Conduct of Business Rules to licenseescap@gfsc.gg by close of business on 24 December 2009.

Peter Moffatt

Director of Investment Business

26 November 2009

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