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GUERNSEY STATUTORY INSTRUMENT

2009 No.

The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009

Made — *17th December, 2009*

Laid before the States

Coming into operation — *1st January, 2010*

THE GUERNSEY FINANCIAL SERVICES COMMISSION, in exercise of the powers conferred upon it by section 13 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987[a], sections 85 and 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002[b], sections 438(3), 469(3) and 534 of the Companies (Guernsey) Law, 2008[c], and all other powers enabling it in that behalf, and after consultation with the States of Guernsey Policy Council, the States of Guernsey Commerce and Employment Department, the States of Alderney Policy and Finance Committee and the Chief Pleas of Sark General Purposes and Advisory Committee, hereby makes the following regulations –

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

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

(a) an application by a protected cell company to be licensed as an insurer shall be accompanied by a fee of £4,370;

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a Ordres en Conseil Vol. XXX, p. 243; amended by Vol. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; Nos. XVII and XXI of 2002; Nos. III and XXII of 2003; No. XXXIV of 2005; Nos. XIX, XXIII and XXIV of 2008. Also amended by Ordinance No. XXXIII of 2003; and by Statutory Instrument No. 29 of 2009.

b Order in Council No. XXI of 2002. Also amended by Ordinance No. XXXIII of 2003; and Nos. XII and LI of 2008; and by Statutory Instrument No. 33 of 2004; and No. 4 of 2008.

c Order in Council No. VIII of 2008; amended by Ordinance Nos. XXV and LIV of 2008.

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(b) an application by a licensed protected cell company for consent for the creation of a new cell shall be accompanied by a fee of £1,230;

(c) an application by an incorporated cell company to be licensed as an insurer shall be accompanied by a fee of £4,370;

(d) an application by an incorporated cell to be licensed as an insurer shall be accompanied by a fee of £1,230.

<u>Licence fee and periodic fee payable by protected cell companies which are licensed as insurers.</u>

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) £4,370; and

(ii) £1,430 in respect of each trading cell and £110 in respect of each dormant cell in either case in existence when it is first so licensed;

divided by twelve and multiplied by the number of complete months 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 January each year, a fee equal to the sum of the following amounts –

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(i) £4,370; and

(ii) £1,430 in respect of each trading cell and £110 in respect of each dormant cell in either case in existence at 1 January of that year;

and

(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 £1,430 divided by twelve and multiplied by the number of complete months between the date the cell is created and the end of the calendar year in which that date falls.

2. (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 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) £4,370; and

(ii) £1,430 in respect of each trading cell and £110 in respect of each dormant cell in either case in existence when it is first so licensed;

divided by twelve and multiplied by the number of complete months 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 January each year, a fee equal to the sum of the following amounts –

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(i) 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, 2009[d]; and

(ii) £1,430 in respect of each trading cell and £110 in respect of each dormant cell in either case in existence at 1 January of that year;

and

(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 £1,430 divided by twelve and multiplied by the number of complete months between the date the cell is created and the end of the calendar year in which that date falls.

<u>Licence fee and periodic fee payable by incorporated cell companies which are licensed as insurers.</u>

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, a fee of £4,370 divided by twelve and multiplied by the number of complete months 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 January each year, a fee of £4,370.

[d] A Statutory Instrument made by the Commission on 17th December 2009.

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3. (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 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 £4,370 divided by twelve and multiplied by the number of complete months 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 January each 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, 2009.

<u>Licence fee and periodic fee payable by incorporated cells which are licensed as insurers.</u>

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 £1,430 divided by twelve and multiplied by the number of complete months 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 January each year, a fee of £1,430.

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Conversion of companies.

5. A person applying to the Commission –

(a) under section 438 or section 469 of the Companies (Guernsey) Law, 2008, for the consent of the Commission to convert an existing company, which is licensed as an insurer, into a protected cell company or an incorporated cell company; or

(b) under section 469 of the Companies (Guernsey) Law, 2008, for the consent of the Commission to convert an existing protected cell company, which is licensed as an insurer, into an incorporated cell company;

which will, when converted, be licensed under the Insurance Business (Bailiwick of Guernsey) Law, 2002, shall pay to the Commission at the time of making that application a fee of £810.

Power of Commission to waive fees.

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

Fees not refundable.

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

Fees under the 2009 FSC (Fees) regulations.

8. 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, 2009.

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Interpretation.

9. (1) In these Regulations –

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

(b) "dormant cell" means a cell of a protected cell company in respect of which there are no unexpired insurance policies and no insurance liabilities;

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

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

(e) "trading cell" means a cell of a protected cell company that is not a dormant cell.

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

(3) The Interpretation (Guernsey) Law, 1948[e] applies to the interpretation of these Regulations.

Repeals.

10. The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2007[f] and the Protected Cell Companies and

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[e] Ordres en Conseil Vol.XIII, p.355
[f] Guernsey S.I. 2007 No. 41

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Incorporated Cell Companies (Fees for Insurers) (Amendment) Regulations, 2008[g] are repealed.

Citation.

11. These Regulations may be cited as the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2009.

Commencement.

12. These Regulations shall come into force on 1st January, 2010.

Dated this 17th day of December, 2009.

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P. A. HARWOOD
Chairman of the Guernsey Financial Services Commission.
For and on behalf of the Commission.

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[g] Guernsey S.I. 2008 No.95

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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. 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, or for the conversion of an existing licensed protected cell company into an incorporated cell company, and for the creation of a new cell by a licensed protected cell company.

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