



Guernsey Financial
Services Commission

APPROVED ASSETS REGULATION CONSULTATION

**FEEDBACK ON THE
CONSULTATION PAPER ISSUED BY THE GUERNSEY FINANCIAL
SERVICES COMMISSION**

Issued 10th July 2018

This feedback paper reports on input received by the Guernsey Financial Services Commission (“the Commission”) on the Consultation Paper issued on 10th May 2018.

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1: Executive Summary

1.1 Background

This paper details and responds to the feedback received on the consultation paper, “Approved Assets Regulation Consultation – A Consultation Paper on the Revision of Regulations for Licensed Insurance Managers and Intermediaries” (“CP”) issued on 10th May 2018.

The CP outlined proposed changes to the Insurance Managers and Insurance Intermediaries (Approved Assets) Regulations, 2002 (“the Regulations”). This affected licensed insurance managers and insurance intermediaries (together referred to as “the Licensees” for the purposes of this paper).

1.2 Feedback received

The CP was issued publicly. The Commission also sought the views of the relevant governmental bodies, as required by statute, with a copy of the CP being provided to each of the following:

- The Policy & Resources Committee of the States of Guernsey;
- The Policy and Finance Committee of the States of Alderney; and
- The General Purposes and Finance Committee of the Chief Pleas of Sark.

A small number of responses were received from Licensees. No issues were raised by the governmental bodies noted above. The Commission is grateful to all respondents for taking the time to consider and comment on the CP. Fuller consideration of these comments is made in section 2.

1.3 Summary

- Responses from Licensees focused on potential unintended consequences of the proposed amendments, which were associated with the broad definition of Associated Party.
- The Commission is of the view that such issues can be managed with the discretion afforded under the amended Regulations. Caution will be needed to ensure that such discretion is exercised in a proportionate and consistent manner.
- The amended Regulations will be issued in the same form as that included within the CP. These have been published on the Commission’s website.
- Following consideration of the responses, a three-month transition period will be allowed and the amended Regulations will come into force on 10th October 2018..

2: Summary of Feedback

2.1 Overall position

Respondents agreed with the Commission's rationale for the proposed amendments, being to remove an inconsistency in the Regulations that weakened the capital available to Licensees by allowing controllers, associates or associated parties to capitalise a Licensee and then potentially have that funding loaned back to them.

Responses primarily focused on bringing a number of potential unintended consequences of the proposed amendments to the Commission's attention. The Commission's view is that these can be managed using the discretion afforded in the proposed amendments.

The Commission therefore has issued the amended Regulations. These are unchanged from the version appended to the CP, with the exception of a three-month transition period being included. The timeline for implementation can be seen in section 3.

2.2 Responses

Below is a detailed summary of responses received, with a response by the Commission included for each.

1) Loans to Associated Parties

Feedback received from Licensees raised issues around the exclusion of loans made to Associated Parties from Approved Assets. In their feedback, Licensees presented a number of examples in practice where lending was being undertaken with an Associated Party for legitimate reasons.

Commission Response

The Commission would ideally draft a form-of-words that would exempt such loans made for legitimate purposes. However, given the definition of associated party this would not be possible to execute without resulting in further unintended consequences.

Within the proposed amendments originally put forward by the Commission in the CP, a provision was included that permitted the Commission to designate specific loans to controllers, associates and associated parties as Approved Assets. The Commission is of the view that this would allow for the management of such a situation as described above, where the designation of such loans as an Approved Asset is appropriate.

The Commission will look to assess this on a case-by-case basis, in order to ensure that the recoverability and credit quality of such loans is appropriate, and that the rationale for inclusion as an Approved Asset is reasonable, prior to such a designation being made.

2) Transition period

The Commission advised in the CP that it would consider whether a three-month transition period was required based on feedback received from Licensees.

No feedback on this area was received from Licensees.

After due consideration, the Commission has therefore determined that the amendments to the Regulations will come into force three months after the release of this feedback paper on 10th October 2018.

3: Implementation Timeline

The amended Regulations have been published on the Commission's website concurrently with the public release of this feedback paper. This will come into force on 10th October 2018.