

GUERNSEY STATUTORY INSTRUMENT

2008 No.

**The Registration of Non-Regulated Financial Services  
Businesses (Bailiwick of Guernsey) Law, 2008  
(Schedule 1 Amendment) Regulations, 2008**

<i>Made</i>	<i>24<sup>th</sup> November, 2008</i>
<i>Coming into operation</i>	<i>1<sup>st</sup> December, 2008</i>
<i>Laid before the States</i>	<i>, 2009</i>

**THE POLICY COUNCIL**, in exercise of the powers conferred on it by section 1(4) of the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008<sup>a</sup> and all other powers enabling it in that behalf, hereby makes the following Regulations:-

**Amendment of Schedule 1.**

1. For Schedule 1 to the Law substitute the following Schedule –

"SCHEDULE 1

Section 1

PART I

FINANCIAL SERVICES BUSINESSES

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<sup>a</sup> Order in Council No. XV of 2008.

1. The businesses specified in the following paragraphs of this Part of this Schedule are financial services businesses for the purposes of any provision of, or made under, this Law, except where they are incidental or other activities falling within Part III.
2. Lending (including, without limitation, the provision of consumer credit or mortgage credit, factoring with or without recourse, financing of commercial transactions (including forfeiting) and advancing loans against cheques).
3. Financial leasing.
4. Operating a money service business (including, without limitation, a business providing money or value transmission services, currency exchange (bureau de change) and cheque cashing).
5. Facilitating or transmitting money or value through an informal money or value transfer system or network.
6. Issuing, redeeming, managing or administering means of payment, means of payment includes, without limitation, credit, charge and debit cards, cheques, travellers' cheques, money orders and bankers' drafts.
7. Providing financial guarantees or commitments.
8. Trading for account of customers (by way of spot, forward, swaps, futures, options, etc.) in -

- (a) money market instruments (including, without limitation, cheques, bills and certificates of deposit),
  - (b) foreign exchange, exchange, interest rate or index instruments, and
  - (c) commodity futures, transferable securities or other negotiable instruments or financial assets, including, without limitation, bullion.
- 9.** Participating in securities issues and the provision of financial services related to such issues, including, without limitation, underwriting or placement as agent (whether publicly or privately) for and on behalf of a customer.
- 10.** Providing settlement or clearing services for financial assets including, without limitation, securities, derivative products or other negotiable instruments.
- 11.** Providing advice to undertakings on capital structure, industrial strategy or related questions, on mergers or the purchase of undertakings, except where the advice is provided in the course of carrying on the business of a lawyer or accountant.
- 12.** Money broking.
- 13.** Money changing.
- 14.** Providing individual or collective portfolio management services or advice.

15. Providing safe custody services.
16. Providing services for the safekeeping or administration of cash or liquid securities on behalf of clients.
17. Carrying on the business of a credit union.
18. Accepting repayable funds other than deposits.

## PART II

### REGULATED BUSINESSES

19. The businesses specified in the following paragraphs of this Part of this Schedule are regulated businesses for the purposes of this Law.
20. Accepting deposits in the course of carrying on "deposit-taking business" as defined in the Banking Supervision (Bailiwick of Guernsey) Law, 1994.
21. Carrying on "controlled investment business" as defined in the Protection of Investors (Bailiwick of Guernsey) Law, 1987.
22. Carrying on "insurance business" as defined in the Insurance Business (Bailiwick of Guernsey) Law, 2002, or doing anything which can only lawfully be done under the authority of a licence of the Commission under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.

23. Carrying on "regulated activities" as defined in the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, in circumstances where the activity is prohibited except under the authority and in accordance with the conditions of a licence granted by the Commission under section 6 of that Law.
24. Otherwise investing, administering or managing funds or money on behalf of other persons.

### PART III

#### INCIDENTAL AND OTHER ACTIVITIES

25. (1) Any financial services business falling within paragraphs 2 to 18 carried out in the course of carrying on the profession of -
  - (a) a lawyer, where such business is incidental to the provision of legal advice or services,
  - (b) an accountant, where such business is incidental to the provision of accountancy advice or services,
  - (c) an actuary, where such business is incidental to the provision of actuarial advice or services.
- (2) For the purposes of this paragraph, business is incidental to the provision of such advice or services, if -
  - (a) separate remuneration is not being given for the

business as well as for such advice or services,

- (b) such advice or services is not itself financial services business falling within paragraphs 2 to 18, and
- (c) the business being carried out is incidental to the main purpose for which that advice or services is provided.

**26.** The carrying on of any financial service business -

- (a) by way of the provision of in-house legal, accountancy or actuarial advice or services to any business referred to in paragraphs 2 to 18, or
- (b) in the course of carrying on the profession (respectively) of a lawyer, accountant or actuary for any client carrying on such a business.

**27.** Any financial services business falling within any of paragraphs 2, 3, 7, 9, 11 or 18 where that business is only carried on by a body corporate ("**first company**") in the course of providing services to another body corporate -

- (a) of which the first company is the sole shareholder,
- (b) which is the first company's sole shareholder, or
- (c) which has the same sole shareholder as the first company.

**28.** Activities constituting the restricted activities of dealing,

advising and promotion for the purposes of Schedule 2 to the Protection of Investors (Bailiwick of Guernsey) Law, 1987 provided that -

- (a) such activities are carried on by a person who is not incorporated or registered in the Bailiwick,
- (b) such activities are carried on by a person who does not maintain a physical presence in the Bailiwick,
- (c) such activities are carried on from a country or territory listed in Appendix C to the Handbook,
- (d) the conduct of such activities is subject to requirements to forestall, prevent and detect money laundering and terrorist financing that are consistent with those in the Financial Action Task Force Recommendations on Money Laundering in respect of such activities, and
- (e) the conduct of such activities is supervised for compliance with the requirements referred to in item (d), by an overseas regulatory authority.

**29.** Any business falling within paragraph 22 which is -

- (a) carried on by a person who is licensed in the Bailiwick solely to carry on general insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (b) carried on by a person who is not incorporated or registered in the Bailiwick,

- (c) carried on by a person who does not maintain a physical presence in the Bailiwick,
- (d) not managed in or from within the Bailiwick, and
- (e) subject to authorisation and supervision by the United Kingdom Financial Services Authority."

**Interpretation.**

2. (1) In these Regulations, unless the context requires otherwise "**the Law**" means the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008, and other expressions have the same meanings as in the Law.

(2) The Interpretation (Guernsey) Law, 1948<sup>b</sup> applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation and commencement.**

3. These Regulations may be cited as the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 (Schedule 1 Amendment) Regulations, 2008 and shall come into force on the 1<sup>st</sup> December, 2008.

Dated this 24<sup>th</sup> day of November, 2008

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<sup>b</sup> Ordres en Conseil Vol. XIII, p. 355.



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DEPUTY L.S.TROTT  
Chief Minister  
For and on behalf of the Policy Council

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EXPLANATORY NOTE  
*(This note is not part of the Regulations)*

These Regulations amend the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008 by inserting a new Schedule 1.