



Guernsey Financial
Services Commission

Draft Protection of Investors (Bailiwick of Guernsey) Law, 2018

Key Issues for consideration

1. Notification of Ancillary Vehicles

The draft Protection of Investors Law contains the ability of the Commission to introduce rules regarding notification of ancillary vehicles of collective investment schemes (defined in section 20). Such notified vehicles will be exempted from the requirement to be licensed under the fiduciaries regime.

Do you foresee any unintended consequences in relation to the definition of “ancillary vehicle” or the power to introduce rules relating to such notifications?

2. Declarations of status of schemes, investments, etc.

The draft Protection of Investors Law contains a rule making power relating to the Commission being able to make declarations regarding the status of schemes, activities and investments.

Do you foresee any unintended consequences in relation to the power to introduce rules relating to this type of declaration?

3. Power to issue directions

The power for the Commission to impose directions upon a “directed person” has been included in the draft Protection of Investors Law. “Directed persons” is defined in section 30. Directions, while similar to conditions, can apply to a much broader range of persons.

Do you foresee any unintended consequences in relation to the definition of “directed person” or the power to impose directions?

4. Lists of information published by the Commission

The draft Protection of Investors Law will contain an explicit power to providing a list of, and information relating to, licensees and authorised and registered collective investment schemes. The list of information which is to be published, particularly as it relates to collective investment schemes, is more extensive than the information currently published.

Do you expect that the publication of this information will cause significant issues?

5. Provision of information and “relevant persons”

The power to provide information under the draft Protection of Investors Law will apply in relation to a “relevant person”. The term “relevant person” and the persons who may be subject to the information gathering power in section 33. This is partly due to other new provisions and to

enable the Commission to obtain information in a consistent manner for the performance of its functions.

Do you foresee any unintended consequences in relation to the scope of “relevant person”?

6. Requesting meetings with auditors, actuaries and others

The draft Protection of Investors Law will contain a power to request meetings with auditors, actuaries and others. This can be done on a bilateral basis or with the relevant licensee, former licensee, authorised or registered collective investment scheme or former collective investment scheme.

Do you expect that this will cause significant issues which are unintended?

7. Appointment of Skilled Person

The power to appoint a skilled person, which is standardisation of the Commission’s current power to require a report from a nominated or approved independent professional person, has been included in the draft Protection of Investors Law. The term “inspected person” is used to define the type of persons whom a skilled person may be appointed in relation to.

Do you foresee any unintended consequences in relation to provision or the scope of “inspected person”?

8. Supervised Roles

As approved in the Policy Letter, Approved Supervisory Roles, Vetted Supervisory Roles and Notified Supervisory Roles have been introduced. All Supervised Roles require the licensee to notify the Commission where a person has started to hold or ceased to hold a Supervised Role. In addition a person seeking to hold an Approved Supervised Role or Vetted Supervised Role must apply for the Commission’s “no objection” in relation to that specific roll.

Do you expect that this will cause significant issues which are unintended?

9. Part V – Representations, notices of decisions and appeals

Generally in the decision making process of the Commission relating to “minded to” notices, decisions, reasons for decisions and rights of appeal have been made consistent.

In addition a provision restricting the application for the variation or revocation of specified decisions, has been included. This means that in certain circumstances, the Commission will not be required to consider a further application for variation or revocation of these types of decisions.

Do you expect that this will cause significant issues which are unintended?

10. Other unintended consequences or significant issues? Please provide details quoting paragraph numbers