

9th Conference – 4th April 2019

Investment, Fiduciary and Pension Division

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As the Deputy Director responsible for Investment, Fiduciary and Pensions policy I must always have in mind the Commission's core aims.

Slide: Functions of the Commission

The Commission has a number of functions defined by statute including: effective supervision, the maintenance of the Bailiwick's financial services sector, protection of the public interest and protection of the public against financial loss. We also take into account protection and enhancement of the reputation of the Bailiwick as a financial centre.

Translating these objectives into a programme of policy initiatives is not easy and various factors are relevant.

In the first instance we look to the international standard setters who promote common global principles for effective supervision, such as IOSCO, GIFCS and IOPS.

So isn't the solution, therefore, simple? Shouldn't the Commission simply copy the international frameworks, thereby securing both effective supervision and the good reputation of the Bailiwick?

It is, of course, not quite as straight forward as that.

We must also appreciate how these standards have been interpreted and implemented by our peers. Like every jurisdiction, Guernsey must make an appropriate translation of international standards into local regulation, and in so doing ensure that industry can continue to operate on a level-playing field internationally - maintenance of the reputation of the Bailiwick as a financial centre requires first that the Bailiwick continues to operate as a financial centre!

But we must also consider the nature of the Guernsey market. Certain international standards are designed for large, diversified economies with a focus on domestic business and do not cater for smaller specialised international financial centres. We must ensure that the regulatory regime addresses the risks in our market.

The policy team does not operate in a silo, we form part of the same Division as the supervisors and through regular interaction we stay abreast of new emerging types of business and associated risks.

We also regularly engage with external stakeholders: with government, with Guernsey Finance and of course with industry, bilaterally and through industry associations (such as GIFA, GAT and GAPP).

Another factor that cannot be ignored is the finite nature of our resources. The same principles which apply to supervision also apply to policy-setting. In making the decision to allocate time and resource, consideration of the impact on our objectives must be taken into account, alongside the risk posed by inaction.

But we recognise that your resources are limited too. Changes to policy must be justifiable as they can create real and substantial costs for our licensees in terms of senior management time, compliance staff, changes to procedures, systems and so on.

All of the factors I have just discussed contribute to the formulation of the Commission's policy programme.

So, what does this look like, for 2019?

Slide: IFPD Policy Projects

In the Fiduciary Sector the major policy initiative has been the issuance of a Discussion Paper proposing the creation of a consolidated Fiduciary Handbook. The period for comments on this paper remains open until 30 April.

With respect to Pensions, again last month, the Commission published its comments on feedback received from stakeholders on the Pension Rules. Overall, no fundamental changes in policy are proposed and the majority of amendments proposed are clarificatory in nature or relate to refinement of drafting.

Looking to the investment sector, much of the team's time so far this year has been given over to consideration of potential enhancement to the jurisdiction's fund offering. We are also looking to enhance existing parts of the framework, and within this category I would highlight proposed revision to the Prospectus Rules and Registered Collective Investment Scheme Rules.

All of these proposals will be subject to consultation, and I thought it might be useful to briefly highlight some key elements of policy making process and governance.

Slide: Policy Process

Significant projects involving the creation of new Rules must pass formal and thorough internal review procedures, ensuring a consistent approach to policy making across the Commission. Only then can the most important part of the process begin: consultation.

Given my audience today, you might think that I am engaging in flattery by emphasising the value of industry consultation, but that is not the case. The attendees here today represent a wide breadth and depth of knowledge and expertise, not to mention countless years of industry experience (some more than others). Tapping such a valuable resource is vital.

Over the years, both in this jurisdiction and elsewhere, there is one common feature to every consultation I have run: and that is that I was always left wanting more feedback. If stakeholders choose not to participate in a consultation my default assumption is that they are happy with a proposal. But I understand that that may not always be the case. There may be other reasons for non-participation.

Responding to the Commission's consultations does take time, time that you could otherwise dedicate to running your business. I understand that, but would argue that such time will be considerably less than that spent later on implementing a rule which does not work for your business. Another argument I have heard is that the regulator starts with a preconceived idea and has no interest in listening. On the first charge, to some extent, it is true. We do begin with an idea of what we want to achieve and how we intend to go about it, but that should not be misunderstood as a reluctance to listen. A commitment to listen, should not be confused with a commitment to always agree, but the only way we can fully understand the impact of proposals, the potential pitfalls, the unforeseen consequences, the consensus view - is with your engagement.

Whether it is a formal written response, involvement with your industry association or even a phone call or meeting with me or my team, please know that your engagement is always valued and taken into account.

Following consultation, all comments are reviewed and considered carefully and this process feeds into the drafting and publication of final rules.

In this way, working with your cooperation we aim to maintain a policy framework across sectors which both maintains international standards and protects and enhances confidence in, and the reputation of, the Bailiwick.

Thank you for your time today.

And now, as already mentioned by Gillian, over to a short animation to conclude the Division's Regulatory Round-up.