**How Regulation Can Help Our Recovery**

Thank you for asking me to speak. The last six months have certainly been rather strange. Today I’m going to offer a few reflections on what I think the Commission has learnt from the change in working practises imposed on us and how we are endeavouring to contribute to the Bailiwick’s recovery and the ongoing health of its international financial centre.

**Slide 2 - How we dealt with the lockdown**

When Guernsey locked down in March the Commission’s priorities were making sure we had a good grip on any developing financial crisis and making sure that Guernsey was not closed for business. I am pleased to say that our Authorisations Division was able to remain open for business and, even more importantly, received and processed new business coming into the Bailiwick throughout the lockdown. We didn’t have quite the same level of business coming in in terms of new funds and new insurers as in 2019 but we nevertheless had a healthy volume enabling rain makers and lawyers to report to overseas clients that Guernsey was still up and running #despite Covid.

Whilst switching 90% of our staff to home working, we were able to conduct quick fire prudential assurance conversations with our most significant firms across all sectors allowing us to provide the States with accurate information about the degree of stress in the financial services sector to allow it to calibrate its assistance using hard earned taxpayers’ money appropriately rather than being forced to believe that it needed to react to every request from someone in the sector seeking a taxpayer funded handout. In doing this I hope we helped the States focus its Covid expenditure on areas where it was most required thus helping ensure that Guernsey leaves the Covid era with a strong fiscal position.

In terms of appreciating the challenges which many in the sector were experiencing as a result of having to both home work and home school at the same time, we extended numerous deadlines for audited accounts and regulatory returns to give firms some breathing space whilst we also discontinued financial crime and other regulatory inspections for three months to let firms concentrate on servicing the needs of their clients rather than having to worry about us for a little while. We did this on the basis that we trusted the vast majority of the firms we regulate to try to do the right thing and we didn’t see a great deal of point imposing less than completely effective virtual inspections on firms at a time of stress for almost everyone in the sector. We also issued statements designed to help directors of local firms trying to do the right thing in terms of retaining enough local capital to keep the Guernsey firms on the road in the face of some shareholder pressure to release funds in a not particularly prudent fashion. The feedback we had was that these moves, along with our moves to submit electronic documents for matters where we had previously required ink signatures, helped keep the wheels turning in the largest and most productive part of the Bailiwick’s economy.

**Slide 3 - How we are aiming to help the Recovery**

We started planning early for the recovery, cancelling our April board meeting which we instead converted into a virtual session to brainstorm a series of internally generated ideas as to what we could do to help rebuild the economy after Covid. This discussion which involved both our Commissioners and our executive directors, led to a shortlist of high value moves we thought we could make whilst keeping sufficient resources focused on what we still thought might turn into a full blown financial crisis at that point. Thankfully the major economies’ employment of quantitative easing on a pretty much unprecedented scale along with the employment of major capital levers by the Bank of England and fellow global prudential regulators played a large part in averting the feared short term financial crisis and gave us space in which to develop our recovery initiatives.

In the first instance we found that not having our financial crime supervisors out on the road gave them time to help test our new on-line returns system and throughout the lockdown we continued to be able to roll out new modules of that. This shouldn’t have been particularly visible to industry but in the background we have been entirely retooling our RegTech, the technology which allows regulated firms to submit financial returns and other submissions to us, work which it is important we complete if we are to be able to claim to have functional regulation.

More noticeably we took several visible initiatives designed to help the Bailiwick remain a good place for good quality business: -

* Firstly, we rolled out a new application form designed for insurance Managing General Agents or MGAs. This is a class of business which ‘We Are Guernsey’ and elements of the insurance sector think could benefit from basing itself in Guernsey and our new tailored application form is designed to ensure that we make life as straightforward as possible for those wishing to apply to run that sort of insurance business in the Bailiwick. It is early days yet but when we, in a similar vein, created a tailored application form for insurance linked securities (ILS) the upturn in the volume of ILS business coming to the Bailiwick was noteworthy.
* We also launched a new fast track scheme for those seeking to redomicile funds into the Bailiwick. We are told that certainty of a timely outcome is a key consideration for someone seeking to move a fund from one domicile to another and that is what our new service seeks to provide. Assisted by the new regulations created swiftly by the States of Guernsey to allow Limited Partnerships (a component part of many funds) to redomicile to the Bailiwick without unintended and unwanted adverse consequences we hope that this will materially strengthen our fund proposition which supports some thousands of highly paid jobs on the island.
* Not content with this we also wrote and launched an extensive discussion paper on funds regulation. In this paper we have proposed a number of reforms to our funds regime which we believe, based on feedback from industry, lawyers and others, should materially enhance Guernsey’s Private Investment Fund proposition whilst simplifying other parts of the regime. We have been digesting the feedback from this consutlation and plan to bring forward new rules to enact some of our reforms in the near future, thereby enhancing the attractiveness of Guernsey as an investment management centre.

This is very far from it. We continue to work with the States on planning for Guernsey having access to new UK-led Free Trade Agreements and we continue to work with it on proposals for embedding insurance policy holder prioritisation explicitly within Bailiwick law. Our contact with major regulators indicates to us that this is a reform which would be helpful in securing good quality access for the Bailiwick to large markets which would allow the Bailiwick’s niche insurers to expand their horizons and top lines, competing on a more level playing field with other jurisdictions.

We also continue to support our legislatures as they endeavour to progress necessary legislation on credit and digital finance, establishing a bank resolution regime and the passage of the long heralded Revision of Laws. This may well sound like mundane and boring things which should be happening anyway and there is a certain truth to that. Nevertheless, it is highly likely that larger economies will be applying more scrutiny to their trading counterparts having just spent many years taxes on Covid measures. In such an environment, it is really important that the Bailiwick can demonstrate that it has done its housekeeping well and that it has up to date financial services laws in place - laws which demonstrably meet the international standards the G7 countries like their counterparties to have. We will look forward to taking these legal projects forward with the new States in, we hope, short order as it might seem less than wise to consume the good will of our international counterparties on matters where there is no disagreement of substance as to what the relevant modern regulations should look like.

**Slide 4 - Sustainability Work**

I think it is worthwhile spending some time on the sustainability work on which the Commission is engaged. We, along with ‘We Are Guernsey’, see being on the front foot on sustainability matters as being important in ensuring that Guernsey (the green isle in old Norse as I’m sure you are all aware) is perceived internationally as a place which more than pulls its weight in helping to contribute to a greener and more sustainable future for the inhabitants of our common planet. In no sense has Covid interrupted our sustainability work or quenched our enthusiasm for it. Clearly we launched the first regulated green fund rules in 2018 and we are pleased to see use of those rules increasing as more Guernsey Green Funds are launched. We are delighted with the efforts Rupert and Andy from We Are Guernsey made to deliver a virtual sustainable finance week in the summer, showcasing our achievements to date and exploring some of the complexities of the area. As part of our post Covid recovery efforts we are:-

* Consulting, following our earlier 2018 discussion paper, on changing our insurance capital rules so that they, whilst remaining prudent, make it materially easier for insurers to use their long term capital to fund green investment projects;
* Considering providing our Guernsey Green Fund rules with an alternative rail based on the EU’s green taxonomy;
* Continuing and enhancing our work as part of the UN’s Sustainable Insurance Forum and the Banque de France headquartered Network for Greening the Financial System; and
* Continuing to be mindful of the need to avoid greenwashing (which I’d define as investors being ripped off by being sold sub-optimal investments which merely pretend to be sustainable).

We would like to arrive at a position where Guernsey is perceived as a global contributor to meeting the Paris Climate Change targets and thereby change the international narrative about our financial services centre in a positive fashion. To do that, we also think we need to do what we preach rather than just preaching so we have looked at how we do pension provision for our staff and contracted a new local firm to undertake lead investment management of our pension scheme. Staff are being offered a choice of selecting a green investment portfolio. We have also examined our carbon emissions and purchased land in Scotland which we aim to plant in an ecologically sensible fashion next year to more than consume the carbon we generate by the mid-2020s.

This is not to pretend that all things green are plain sailing. Thinking that I should do my personal bit for the planet I replaced my trusty 15-year-old diesel car with a clever hybrid late last year. I researched the market carefully and bought a low mileage hybrid from a supposedly reputable German manufacturer with a full service history. As soon as I tried to use it on a long run the fancy gearbox failed at great expense with the manufacturer shrugging its shoulders despite the failure being almost undoubtedly due to the overly complex supposedly green engineering. In the same way that all that glistens is not gold, all that looks green is not good. We will retain our sceptical approach and would encourage all investors to remember that if something is too good to be true, it probably is, no matter how green it looks. That said, we want to see the further development of a good quality sustainable financial sector on Guernsey and will continue to evolve our regulations to facilitate that.

**Slide 5 - What Have we Learnt from the Lockdown and How do we aim to improve?**

I think the lockdown forced many of us to question established processes and ways of doing things. The Commission has certainly learnt a lot from some of the new procedures we were forced by necessity to employ to keep in touch with firms whilst working from home. We missed the face to face contact with firms and don’t think Webex or Zoom allow you to replicate the insights you gain from actually being in the room with someone but, alongside that, we found we gained superior insights into what was making firms tick as we undertook a series of ad hoc prudentially focused thematics to better understand the stresses and strains firms might have been experiencing. We also found WFH worked for some steady state work but that it was not that great for innovation, process reform or inducting less experienced staff. As the States went through its various phases of unlocking we found the demand from my colleagues to return to the office was greater than we could accommodate at every stage before Stage 5. What that says about the quality of familial relationships enjoyed by Commission employees I’m not sure but we believe that we will remain a largely office based organisation because it works for us given our unique role in the Guernsey firmament. We have, however, in addition to the nine day fortnights we already offer staff, introduced a limited form of WFH enabling staff to work a couple of days a month from home on specific projects which are perhaps best done apart from a sometimes noisy open plan environment. This means that most of our staff should not have to do more than four days a week in the office.

In terms of firm-facing work, we have reviewed our PRISM system in the wake of Covid and are re-engineering it to a greater degree than we have since we introduced it in 2013 to evolve how we do our supervision. As from January 2021 you should see the following changes: -

1. Less frequent face-to-face conversations with larger firms which have what I would characterise as more orthodox business models;
2. More focused but less frequent Full Risk Assessments which, going forwards, will be more narrowly focused on: governance; business model/strategy; operational risk and, sometimes, conduct matters.
3. More focused thematics on key prudential risks and conduct matters. Our Covid experience has taught us that looking at key prudential matters such as credit risk, insurance risk and capital at similar firms at the same time is likely to give us better quality insights than looking at firms one at a time;
4. Us gathering more financial crime data with successive enhancements to the financial returns due at the end of this year and of 2021. This data and the significant investment we have made in now fully operational financial crime supervision systems over the last two years should allow us to undertake high impact financial crime inspections. This doesn’t mean that we will only visit firms we suspect of money laundering but we will be able to focus on the issues which count which should allow us to demonstrate effective application of the Bailiwick’s AML/CTF legislation so vital for all our futures.

The net effect of these headline changes is that orthodox larger firms should see less of us, something I have a feeling they will like. Behind the scenes to make this all work properly we are continuing to work with our partners D-fine and Regul-AI-tion to develop our analytical tools to allow us to gain high quality insights from both the hard and the soft data which we gather. Over the next two years I would expect this technology investment to give us a much-enhanced ability to understand the risks at the smaller firms we regulate which we have previously lacked the human resources to fully comprehend. I would also expect the technology we are developing or exploiting better with the help of our partners to eliminate a lot of the dull manual work associated with supervision. In the same way that you don’t need so many police officers on the beat if you have every street covered by cameras backed up by quick reaction teams, we are aiming to arrive at a situation where the data leads the supervisors to the comprehension work which can still only by undertaken by a skilled human brain rather than having them spend so much of their day trawling through information in a search for lines of enquiry which may prove to have little value.

**Slide 6 - Enforcement**

Last, but far from least, I will turn to Enforcement. I am sure that several you will be curious as to how I can bring our enforcement work into our Covid recovery efforts other than to note that our Enforcement investigations continued throughout the Covid lockdown. To explain - Covid countermeasures have seen a vast expansion of the role of the State in almost all economies across the globe. As we emerge from the Covid gloom with national balance sheets overburdened with debt taken on to provide economic relief and medical help, other countries are likely to be even less tolerant than they were before of money laundering as, “an inevitable part of international commerce”. Over the past year, the Commission’s financial crime team has uncovered some significant breaches of the anti-money laundering regulations as set out in our handbook on countering financial crime and terrorist financing. If there is a strong suspicion of actual money laundering having taken place or other financial crime in whatever form our Enforcement Division investigates, and if necessary refers matters to Law Enforcement for criminal investigation given that we only have civil enforcement powers. When the Council of Europe’s terrorist financing and money laundering inspectors next come and visit us in 2023 they will expect us all to be able to demonstrate that we are a clean jurisdiction. The consequences of not being found to be a clean jurisdiction are severe for practitioners and economies as other IFCs have discovered to their cost. The Commission will continue to work, further to its statutory objectives and the Bailiwick’s international commitments, to stop firms who have knowingly laundered money from ever doing so again. Being a good place to do business must surely mean that the rule of law is applied. Without it, as Hobbes noted, life is “poor, nasty, brutish and short”.

**Slide 7 - Concluding Remarks**

In summary, as I hope I’ve explained without trying your patience too much, we are working hard to alter those rules which we think we can sensibly alter to make sure the Bailiwick is seen to be a hospitable destination for good quality financial services business, particularly sustainable business which will demonstrably do good for the planet. We aim to be pragmatic not prissy.

Covid has accelerated the development of better internal processes which we hope to be able to roll out, so we are less burdensome for orthodox larger firms whilst being better able to detect investigation worthy conduct at smaller firms. We should thereby keep investors and consumers safer whilst making money laundering too high risk an activity for anyone to pursue within the Bailiwick. This is only one aspect of what needs to be done to help the Bailiwick prosper but given the size of our major industry we think it a significant part. We look forward to working with both the financial services sector and the new States to build on our collective strengths to ensure a prosperous and ethical future.