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The Investor Protection (Designated Countries and Territories) Regulations 1989

THE STATES ADVISORY AND FINANCE COMMITTEE, having regard to the Protection of Investors (Bailiwick of Guernsey) Law, 1987(a) ("the Law") and in particular to sections 1,7 and 29 of, and Schedules 2 and 3 to, the Law;

having regard to the recommendations of the Guernsey Financial Services Commission;

whereas, in the opinion of the Committee, the laws of:

- (i) the United Kingdom of Great Britain and Northern Ireland;
- (ii) the Bailiwick of Jersey;
- (iii) the Isle of Man

afford adequate protection to investors in relation to the restricted activities respectively specified in Schedule 1 to these Regulations in respect of each of those countries and territories, and in relation to the classes or descriptions of collective investment schemes respectively specified in Schedule 2 to these Regulations in respect of each of those countries or territories;

whereas any notice given to the Commission under section 29(1)(c)(iv) of the Law should be required to identify by name each collective investment scheme to which it relates;

whereas a fee equivalent to that payable by an applicant for a licence should in general be payable in respect of each collective investment scheme identified in such a notice;

(a) Order in Council No. XX of 1987; No. XIX of 1987;
Ordinance No. XVII of 1988.

whereas, however, on the basis of reciprocal treatment afforded in this respect to Guernsey collective investment schemes in the Bailiwick of Jersey, it is possible to dispense with the payment of a fee when such a notice is given in respect of a collective investment scheme whose promotion is authorised in or from within, and under the law of, that Bailiwick;

in exercise of the powers conferred on it by sections 3(1)(g), 14(2)(a), 21, 22, and 29 of the Law,

HEREBY MAKES THE FOLLOWING REGULATIONS –

Designated countries and territories - restricted activities

1. Each of the countries and territories specified in column (1) of Schedule 1 to these Regulations is hereby designated for the purpose of section 29(1)(c) of the Law as a country or territory whose law, in the opinion of the Committee, affords adequate protection to investors in relation to the activities specified opposite its name in column (2) of that Schedule.

Designated countries and territories - collective investment schemes

2. Each of the countries and territories specified in column (1) of Schedule 2 to these Regulations is hereby designated for the purpose of section 29(2) of the Law as a country or territory whose law, in the opinion of the Committee, affords adequate protection to investors in relation to the classes or descriptions of collective investment schemes specified opposite its name in column (2) of that Schedule.

Notices under section 29(1)(c)(iv) of the Law

3. (1) It is hereby declared for the avoidance of doubt that a notice given to the Commission under section 29(1)(c)(iv) of the Law by a person intending to carry on the restricted activity of promotion in connection with a collective investment scheme in or from within the Bailiwick under any exemption conferred under that section must:
 - (a) identify the designated country or territory concerned;
 - (b) state the name of each collective investment scheme which he intends to promote in or from within the Bailiwick of Guernsey and the manner in which he intends to promote each such scheme;
 - (c) certify that he is permitted to promote each such scheme in that manner in the designated country or territory concerned.
- (2) [Repealed by paragraph 8 of the Financial Services Commission (Fees) Regulations, 1990; see also paragraph 6 of those Regulations]

Interpretation

4. (1) In these regulations -
 - (a) “the Law” means the Protection of Investors (Bailiwick of Guernsey) Law, 1987;

- (b) words and expressions used in the Law have the same meanings as they have in the Law;
- (c) a reference to any enactment (wherever made) is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.

(2) The Interpretation (Guernsey) Law, 1948(c) applies throughout the Bailiwick to the interpretation of these regulations.

Citation

- 5. These Regulations may be cited as the Investor Protection (Designated Countries and Territories) Regulations 1989.

Commencement

- 6. These Regulations shall come into force on 1st November 1989.

Dated 29th September 1989.

R.J. FALLA
President, States Advisory and Finance Committee
for and on behalf of the Committee

SCHEDULE 1

Section 1

Designated countries and territories - restricted activities

(1) Country or territory	(2) Restricted activities
The United Kingdom of Great Britain and Northern Ireland	Promotion carried on in connection with an authorised unit trust scheme within the meaning of the United Kingdom's Financial Services Act 1986.
The Bailiwick of Jersey	Promotion carried on in connection with a Collective Investment Fund within the meaning of the Collective Investment Funds (Jersey) Law, 1988 and in respect of which a functionary holds a permit granted under that Law.
The Isle of Man	Promotion carried on in connection with an authorised scheme within the meaning of the Financial Supervision Act 1988 (an Act of Tynwald).

SCHEDULE 2

Section 2

Designated countries and territories - collective investment schemes

(1) Country or territory	(2) Collective investment schemes
The United Kingdom of Great Britain and Northern Ireland	Any authorised unit trust scheme within the meaning of the United Kingdom's Financial Services Act 1986.
The Bailiwick of Jersey	Any collective investment fund within the meaning of the Collective Investment Funds (Jersey) Law, 1988 in respect of which a functionary holds a permit granted under that Law.
The Isle of Man	Any authorised scheme within the meaning of the Financial Supervision Act 1988 (an Act of Tynwald).

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Protection of Investors (Bailiwick of Guernsey Law, 1987 prohibits the carrying on of controlled investment business without a licence issued by the Financial Services Commission, and provides that a licensee may carry on such business in connection with a collective investment scheme only if the scheme is authorised by the Commission. Under section 29 of the Law activities and schemes authorised in designated countries or territories can be exempted from these requirements; in 1989 the United Kingdom, Jersey and the Isle of Man became designated countries/territories in respect of schemes authorised under the laws of those jurisdictions. These Regulations similarly designate the Republic of Ireland, with the effect that:

- (a) a person who (or a body which) does not have a permanent place of business in the Bailiwick, is recognised by the law of the Republic of Ireland as a national of that country, and promotes a Republic of Ireland authorised collective investment scheme there in a manner in which that law permits him to do so, will be entitled to promote the scheme in the Bailiwick without a licence once he has notified the Commission that he intends to do so and complied in other respects with section 3(1) of the Law (which relates to licence applications); and
- (b) a licensee will be free to carry on any restricted activity for which he has a licence in connection with any such authorised collective investment scheme if he observes any requirements subject to which that activity may be carried on in the Republic of Ireland.