

Industry Seminar – 23 November 2017

Fiduciary Supervision Policy and Innovations Division Presentation

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Thank you Gillian, good morning and Happy Thanksgiving Day.

As you will be aware our 2017 Thematic was on Pension arrangements in the Bailiwick.

In summary the pension thematic formed an important part of our fact-finding activities regarding the nature and scale of operations of firms providing services to pension and gratuity schemes in advance of the introduction of Pension Regulation and the associated Rules. The thematic review reaffirmed that, as is common in the fiduciary sector, there really is no ‘one size fits all’ with regard to local Pension Providers.

Pension and gratuity scheme arrangements are of fundamental economic and social importance for long term savings and adequacy of retirement income. Our thematic included a review of transparency of fees and charges to pension members, a crucial element in enabling an assessment of costs, and an area of mixed practice at present. The thematic also reviewed the frequency of bookkeeping and recording of transactions; as in previous thematic reviews the Commission again notes surprise at the low frequency of such records for a handful of firms.

The thematic report and consumer focused Helpsheet was published recently on the Commission’s website and we hope you find it a useful resource.

Before turning to the topic for next year’s thematic let’s quickly remind ourselves of those undertaken in recent years.

Slide: Fiduciary Thematic Reviews

As you will be aware each year each supervisory division selects a different topic to be the focus of a thematic review – they really are a key part of our risk based supervisory approach under PRISM.

In our Industry Presentation we highlight a number of potential topics for the year ahead. Earlier in the presentation we asked you which thematic topic would make you sweat the most. You indicated that Fiduciary duty in respect of tax advice, which received 41% of the votes, would. So let’s take a look at 4 potential themes for next year – so take a good look!

To reiterate a note of caution – not all thematics will follow the same process. This year’s approach involved questionnaires to licensees and onsite visits, however next years may look and feel different and may have a cross-Commission approach – but they always facilitate identification and understanding of emerging risks.

Turning to the second theme of our presentation, Innovation

Slide: Innovation & Opportunities

Earlier in our presentation we touched on the stable nature of the fiduciary sector at present, but cautioned that we are not in a growth phase. In order to grow we need to Innovate and it remains firmly our belief that a complacent industry will not grow.

Our first observation is that Innovation poses both opportunities and challenges. We clearly observe trends towards the increased use of Blockchain, as noted in the slide poll earlier - and as Gillian commented we also note the heightened risk and frequency of cyber and data attacks. This year our Innovation Soundbox has received a number of enquiries regarding Virtual Currencies, and more specifically Initial Coin Offerings – the Commission, in line with other regulators, has a stated policy in respect of virtual currencies on our website and adopts a cautious approach in this area, but none the less are encouraged by the potential future applications of Distributed Ledger Technology.

Our role as a regulator is to help create an environment within the Bailiwick which enables Innovation and Growth. The Lending, Credit and Finance Project represents a significant commitment from the Commission in that regard, and the Consultation Paper specifically highlighted a number of areas of potential opportunity – namely AML/CFT Platforms, Green Investments and Regulation of Electronic Agents.

We have mentioned this before but we are genuinely available for a coffee, and our Innovation Soundbox remains ready to discuss early stages of a new business idea. One such meeting this year was held regarding a potential new substantial piece of business, a philanthropic foundation. The GFSC was part of Guernsey’s red carpet presentation to the key decision makers and their advisors and we understood this contributed to the business eventually coming here.

For a couple of years we have been aware, and encouraged, by the prospect of the concept of a Data Trustee. Data is now clearly an asset, and is something people are willing to pay to protect or indeed to steal. We are open to a Guernsey Fiduciary, with sufficient in house expertise, acting as a Trustee of Data, and we would be interested to see how such a concept might develop.

Slide: Innovation: 2REG Aircraft Registry

One of the other Innovations which we have seen take off this year, excuse the pun, has been 2-Reg. To explain more we sent Chanel up to the airport to meet with Gus Paterson, Director of

Civil Aviation..... [Gus Paterson's video]

What is the aircraft registry?

What does this mean for the fiduciary sector?

Our thanks to Gus for his time.

Moving on to our third theme of the presentation which is international standards.

Slide: International Standards – Lending, Credit and Finance (LCF)

Over the past 12 months the Commission has provided numerous presentations regarding the Lending, Credit and Finance project. I am conscious that some of you here today have attended the presentations or indeed participated in the various focus group and workshops we have conducted. You'll be pleased to hear that I am not going to repeat the content of the speeches made, save for stating the three key project objectives, which are:

To provide a stable regulatory environment that enables the Bailiwick's digital strategic aims for business growth.

Secondly to provide a framework that supports the reputation of the Bailiwick as a financial services jurisdiction and a good place to do business, and;

Thirdly to introduce the regulation of lending, credit and finance with appropriate consumer protection.

Innovation and change is inevitable and indeed moving at quite a pace, for example we have heard anecdotally that UK investment in FinTech has been growing at 50% per annum with revenues from FinTech firms estimated to be currently £20bn per annum and rising. Therefore we consider as a regulator it is important that we create an environment, or a regulatory framework, which can adapt rapidly to accommodate advances in technology utilised by businesses.

However as a mature international finance centre it is perhaps surprising that as it stands credit providers are not regulated for conduct or prudential standards in respect of their lending activities; accordingly there is no statutory or regulatory protection from unscrupulous lending practice or redress against lenders.

In July we issued a consultation paper and are grateful to those who responded. Responses re affirmed a strong level of interest and support for the introduction of legislation.

We fully intend to continue with this engagement and dialogue and therefore please continue to be involved.

So what next? We are currently compiling a Policy Letter for consideration by the States to enable drafting of the new legislation to progress.

Slide: International Standards – GIFCS

Continuing with the theme of international standards we thought it may be useful to provide an update on the activity of GIFCS this year?

GIFCS is the group of international financial centre supervisors, and currently has 20 members including the GFSC – and has a core interest of promoting the adoption of international regulatory standards especially in the fiduciary arena.

In October 2014, GIFCS issued the Standard on the Regulation of Trust and Corporate Service Providers and Guernsey continues to work towards implementation.

The key development for GIFCS this year has been the introduction of the concept of colleges of supervisors for fiduciary firms and I co-chaired the first ever college in April and Gillian co-chaired the second college earlier this month. These colleges provide a useful opportunity to compare notes with other regulators on a specific fiduciary group. And our work with GIFCS will continue going forwards.

Slide: International Standards – Pensions

So turning to pensions.

Following initial engagement between representatives of the pension sector and the Commission during 2015 and early 2016, the Committee for Economic Development requested the GFSC to lead a review with the ultimate objective of modernising the regulatory framework for private pensions in the Bailiwick. Following requests from the States and industry, the Commission issued a discussion paper on the proposed amendment to the fiduciaries law in October 2016 and subsequently a consultation paper in May 2017.

On 30 June this year the Fiduciary Law was updated as detailed on the screen – therefore the forming, managing or administering of defined pension and gratuity schemes became a regulated activity.

There will be a transition period until 30 September 2018 for firms to ensure that they comply with their respective obligations under the new rules.

In this regard, it is important to note that the regulation of pensions in Guernsey is still in its infancy, however we are confident that the enactment of these rules further reinforces the robust reputation of the Bailiwick as a well regulated financial services centre.

The initial data that we have gathered indicates that there are:

- 68 providers locally and
- 2614 schemes

For firms engaged in pension scheme business or gratuity scheme business, the new rules have a number of important obligations that they must adhere to, including:

1. To provide key details of the scheme to the Commission;
2. To assess the suitability and competence of any service provider appointed to the scheme and to provide a summary to new members;
3. Thirdly to provide details of its complaints procedure, including where applicable, details regarding the Channel Islands Financial Ombudsman;
4. To consider all member borne charges to ensure they are reasonable;
5. And to ensure the responsibilities of all relevant parties are understood.

It has been confirmed with the States of Guernsey that Primary Pensions legislation will not progress until at least 2019, in order to embed the newly introduced regulation and rules.

In the interim, the Fiduciary division will continue to supervise pension providers using PRISM and introduce quarterly data returns. The regulation of pensions and gratuity schemes will be fully incorporated into the supervisory activities of the division going forward.

Slide: International standards – Fiduciary Law

So coming towards the end of our presentation we thought we should take stock of The Regulation of Fiduciaries, Administration Businesses and Company Directors etc (Bailiwick of Guernsey) Law, 2000 which is soon to turn 18 and come of age.

So everybody “Happy birthday to us”! – perhaps not.

And as we look back, and some people here today will have been involved since day 1, we can ask ourselves:

How mature is the industry? How far has the sector come? Where will the sector be in the next 18 years?

The truth is the sector is unrecognisable today from 18 years ago in terms of size, sophistication and complexity and things that would once have been considered as innovative have now become the norm. This ability to change, adapt and innovate has served the sector so well over the last 18 years however it is vital for us all, as guardians of the Bailiwicks’s financial sector, to recognize that these key disciplines of adaptability and innovation are needed now more than ever.

So to wrap up. 2017 has been broadly a year of stability and consolidation and has yet again

presented a unique blend of challenges for us all.

Our presentation today has focussed on the Brexit Landscape, Innovation and International Standards.

During the presentation we have considered the types of regulatory issues we see at local fiduciary firms and how those concerns can result in RMPs.

However we should also highlight that we see much good practice during our on-site visits and ongoing assessment of local firms – a fact which doesn't often make the headlines.

We've also talked about potential topics for a thematic review in 2018, and asked you to consider which subject might be least comfortable to you in your business at this time and hopefully that gives you, personally, some food for thought.

I should add at this juncture that my favourite response this year when I asked a local director what keeps him awake at night - he simply said "Cheese"!

We talked about the Lending, Credit and Finance Law and Pensions regulation – and whilst both initiatives have required significant effort they provide strong examples of the Commission, industry, and other key stakeholders, working closely together for the good of the jurisdiction.

Slide: 2017-2018 Overview

So what can we expect in 2018 – well we expect next year to look much like this year as our programme of PRISM visits continues and we seek to finish the Revision of Laws Project and further advance the LCF project and fully implement the Regulation of Pensions. Clearly there is much on the agenda and Gillian and I would like to take this opportunity to thank our team back at the Commission for their support.

To conclude - from our viewpoint it is apparent that as we continue to work together on the significant initiatives mentioned - we will all have opportunities in existing and new areas for good business to be done well. And as Gillian said at the very start of the presentation it is important that we remain nimble in times of change - to ensure we continue to capitalise on opportunities – thus enabling the sector to remain vibrant for the next 18 years and beyond.

Please note that the clock has beaten us today however hopefully as you will know by now Gillian, myself and the team are usually available for questions and indeed you should all have experienced our quarterly open breakfasts which will continue through next year. However we will be around during the coffee break if you have any particular questions as a result of today's presentation. Thank you for listening.