

Guernsey regulatory update

December 2018

The Guernsey Financial Services Commission ("GFSC") has released a series of documents, potentially of interest to a range of financial services businesses. Most commented on amongst these is of course the new [Handbook](#). In this update however, our team take a look at three other recent developments.

GFSC releases Code of Market Conduct

On 5 November 2018, the GFSC published the final Code of Market Conduct ("**Code**"), following the release of the draft Code for consultation in April 2018.

[The Code](#) is prepared and issued under section 41B of the Protection of Investors (Bailiwick of Guernsey) Law, 1987 as amended ("**POI Law**").

Whilst the definition of market abuse in the Code follows that set out in the POI Law, the Code relevant to all persons seeking guidance as to whether or not certain behaviours amount to market abuse as the Code, also lists a number of factors that in the GFSC's opinion should be taken into consideration. An example of this could be, where the individuals involved in a transaction are connected parties or where a bid (or offer) is placed and then removed from the market before it is executed.

It is important to note that the Code does not provide an exhaustive list of factors when considering whether behaviour amounts to market abuse, and it should be used only as guidance with legal advice being sought where appropriate. Nevertheless, the Code provides welcome insight into the Commission's approach and considerations in this area.

Cyber Security – a board-level responsibility

The GFSC has requested a sample of supervised firms to complete a thematic questionnaire on cyber security. The purpose of this is to provide a basis for further amendments to the existing Cyber Security Regulatory Guidance issued by the Commission in 2016. The Commission welcomes any firms not in the sample group to get in touch with them if they would like to complete the questionnaire.

The Commission has also taken the opportunity to remind firms that cyber security is a board-level responsibility which should be taken seriously and included within a firm's overall strategy for risk management. Links to the latest guidance issued by the UK National Cyber Security Centre ("**NCSC**") for boards can be found [here](#).

Guernsey Green Insurance

Lastly, the GFSC has recently released a discussion paper considering how the Bailiwick of Guernsey might become a supportive jurisdiction for green insurance being insurance products that reduce, or mitigate against, climate change.

The discussion paper considers green insurance from a regulatory perspective, including how the GFSC might support green insurance in Guernsey, and an opportunity perspective, discussing those products that may be relevant to the Guernsey market.

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The regulatory discussion centres around capital requirements, with reference to lower capital requirements for insurers who invest in assets that have a reduced impact on the environment, and whether lower risk ratings should be given to green investments.

According to the discussion paper, opportunities presented by green insurance include the potential for investment-based life insurers to have access to green funds, insurance linked securities that relate to climate change, insurance that covers the general risk of climate change globally, local insurance products linked to green credentials, and a green version of the Islamic finance product Takaful.

The Discussion Paper concludes by noting that "the long-term prize usually goes to the jurisdiction that invests at an early stage. At present, this space is unoccupied." Whether there is any demand for this type of insurance product in Guernsey remains to be seen, however, as with the recent introduction of The Guernsey Green Fund, the GFSC continues to make strides in securing Guernsey's position as a leader in the responsible regulation of financial services.

The discussion paper can be found [here](#).

For more information please contact:



Wayne Atkinson

Partner // Guernsey

t: +44 (0) 1481 734225 // e: wayne.atkinson@collascrill.com



Annabel Bishop

Associate // BVI

t: + (1) 284 8526332 // e: annabel.bishop@collascrill.com



Ben Le Page

Senior Associate // Guernsey

t: +44 (0) 1481 734244 // e: ben.lepage@collascrill.com