

FINANCIAL SERVICES BUSINESSES

1. The businesses specified in Part I are financial services businesses for the purposes of this Law except where they are incidental or other activities falling within Part II, however, those businesses specified in paragraphs 2 to ~~4~~18A are only financial services businesses when carried on by way of business [for or on behalf of a customer].

PART I
BUSINESSES

2. Lending (including, without limitation, the provision of consumer credit or mortgage credit, factoring with or without recourse, financing of commercial transactions (including forfeiting) and advancing loans against cheques).

3. Financial leasing.

4. Operating a money service business (including, without limitation, a business providing money or value transmission services, currency exchange (bureau de change) and cheque cashing).

[4A. Buying, selling or arranging the buying or selling of, or otherwise dealing in, bullion or buying or selling postage stamps, except where –

- (a) in the case of buying, selling or arranging the buying or selling of, or otherwise dealing in, bullion, the business consists only of buying, selling or arranging for the buying or selling of bullion, or otherwise dealing in bullion, where the value of each purchase, sale or deal does not exceed £10,000, in total, whether the transaction is executed in a single operation or in two or more operations which appear to be linked,

- (b) in the case of buying postage stamps, the business consists only of buying postage stamps where the value of each purchase does not exceed £10,000, in total, whether the transaction is executed in a single operation or in two or more operations which appear to be linked, and
- (c) in the case of selling postage stamps, the business consists only of selling postage stamps –
 - (i) where the value of each sale does not exceed £10,000, in total, whether the transaction is executed in a single operation or in two or more operations which appear to be linked, or
 - (ii) in the course of –
 - (A) a postal services business carried on under the authority of a licence granted under the Post Office (Bailiwick of Guernsey) Law, 2001, or
 - (B) a business authorized to sell postage stamps by the holder of a licence under that Law.]

5. Facilitating or transmitting money or value through an informal money or value transfer system or network.

6. Issuing, redeeming, managing or administering means of payment, means of payment includes, without limitation, credit, charge and debit cards, cheques, travellers' cheques, money orders and bankers' drafts [and electronic money].

7. Providing financial guarantees or commitments.

8. Trading [...] (by way of spot, forward, swaps, futures, options, etc.) in –

- (a) money market instruments (including, without limitation, cheques, bills and certificates of deposit),
- (b) foreign exchange, exchange, interest rate or index instruments, and
- (c) commodity futures, transferable securities or other negotiable instruments or financial assets[...].

[9. Participating in securities issues and the provision of financial services related to such issues, including, without limitation, underwriting or placement as agent (whether publicly or privately) [...].]

10. Providing settlement or clearing services for financial assets including, without limitation, securities, derivative products or other negotiable instruments.

11. Providing advice to undertakings on capital structure, industrial strategy or related questions, on mergers or the purchase of undertakings[, except where the advice is provided in the course of carrying on the business of a lawyer or accountant].

12. Money broking.

13. Money changing.

14. Providing individual or collective portfolio management services or advice.

15. Providing safe custody services.

16. Providing services for the safekeeping or administration of cash or liquid securities on behalf of clients.

17. Carrying on the business of a credit union.

18. Accepting repayable funds other than deposits.

18A [Otherwise investing, administering or managing funds or money on behalf of other persons.]

19. ...

20. Accepting deposits in the course of carrying on "deposit-taking business" as defined in the Banking Supervision (Bailiwick of Guernsey) Law, 1994.

21. Carrying on "controlled investment business" as defined in the Protection of Investors (Bailiwick of Guernsey) Law, 1987.

[22. Carrying on "insurance business" as defined in the Insurance Business (Bailiwick of Guernsey) Law, 2002 or doing anything which can only lawfully be done under the authority of a licence of the Commission under the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002.]

23. Carrying on "regulated activities" as defined in the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000, in circumstances where the activity is prohibited except under the authority and in accordance with the conditions of a licence granted by the Commission under section 6 of that Law (a "fiduciary licence")[, or carrying on by way of business the activities described in sections 3(1)(g) or (x) of that Law].

~~[23A. Otherwise investing, administering or managing funds or money on behalf of other persons.]~~

PART II INCIDENTAL AND OTHER ACTIVITIES

24. (1) Any [...] business falling within paragraphs 2 to ~~19~~18A carried out in the course of carrying on the profession of –

(a) ...

- (b) ...
- (c) an actuary where such business is incidental to the provision of actuarial advice or services.

(2) For the purposes of this paragraph, business is incidental to the provision of such advice or services, if –

- (a) separate remuneration is not being given for the business as well as for such advice or services,
- (b) such advice or services is not itself [...] business falling within paragraphs 2 [to 18A], and
- (c) the business being carried out is incidental to the main purpose for which that advice or services is provided.

25. The carrying on of any [business in Part I] –

- (a) by way of the provision of in-house legal, accountancy or actuarial advice or services to any business referred to in paragraphs 2 to [23A], or
- (b) in the course of carrying on the profession (respectively) of a lawyer, accountant or actuary for any client carrying on such a business.

26. ...

[27. Activities constituting the restricted activities of dealing, advising and promotion for the purposes of Schedule 2 to the Protection of Investors (Bailiwick of Guernsey) Law, 1987 provided that –

- (a) such activities are carried on by a person who is not incorporated or registered in the Bailiwick,
- (b) such activities are carried on by a person who does not maintain a physical presence in the Bailiwick,
- (c) such activities are carried on from a country or territory listed in Appendix C to the Handbook,
- (d) the conduct of such activities is subject to requirements to forestall, prevent and detect money laundering and terrorist financing that are consistent with those in the Financial Action Task Force Recommendations on Money Laundering in respect of such activities, and
- (e) the conduct of such activities is supervised for compliance with the requirements referred to in item (d), by an overseas regulatory authority.

28. Any business falling within paragraph 22 which is –

- (a) carried on by a person who is licensed in the Bailiwick solely to carry on general insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002,
- (b) carried on by a person who is not incorporated or registered in the Bailiwick,
- (c) carried on by a person who does not maintain a physical presence in the Bailiwick,
- (d) not managed in or from within the Bailiwick, and

- (e) subject to authorisation and supervision by the United Kingdom Financial Services Authority.

29. A business falling within paragraphs 2 to 18A of Part I provided that –

- (a) the total turnover of that business, plus that of any other business falling within Part I carried on by the same person, does not exceed £50,000 per annum,
- (b) no occasional transactions are carried out in the course of such business, that is to say, any transaction involving more than £10,000, where no business relationship has been proposed or established, including such transactions carried out in a single operation or two or more operations that appear to be linked,
- (c) the turnover of such business does not exceed 5% of the total turnover of the person carrying on such business,
- (d) the business is ancillary, and directly related, to the main activity of the person carrying on the business,
- (e) in the course of such business, money or value is not transmitted or such transmission is not facilitated by any means,
- (f) the main activity of the person carrying on the business is not that of a business falling within Part I,
- (g) the business is provided only to customers of the main activity of the person carrying on the business and is not offered to the public, and
- (h) the business is not carried on by a person who also carries on a business falling within paragraphs 20 to [23A] of Part I.]]

[SCHEDULE 2
RELEVANT BUSINESSES

Section 49A

1. The businesses specified in the following paragraphs of this Schedule are relevant businesses for the purposes of this Law.

However, a business is not a relevant business if it is financial services business within the meaning of section 49(1) and Schedule 1.

2. **High value dealing.**

Trading in goods when there is received, in respect of any transaction, a payment or payments in cash of at least £7,500 in total, whether the transaction is executed in a single operation or in two or more operations which appear to be linked.

3. **Estate agency.**

[Acting, in the course of a business, on behalf of others in the acquisition or disposal of real property or any interest therein] –

- (a) for the purpose of or with a view to effecting the introduction to the client of a third person who wishes to acquire or (as the case may be) dispose of such an interest, and
- (b) after such an introduction has been effected in the course of that business, for the purpose of securing the disposal or (as the case may be) the acquisition of that interest.

Estate agency does not include any business specified in paragraph 5.

4. **Casinos and organised gambling.**

The provision or carrying on by way of business of any service or activity which, under the provisions of –

- (a) the Gambling (Guernsey) Law, 1971^{za} or any Ordinance made under it,
- (b) the Hotel Casino Concession (Guernsey) Law, 2001^{zb},
- (c) the Gambling (Alderney) Law, 1999^{zc} or any Ordinance made under it, or
- (d) the Gambling (Sark) Law, 2002^{zd},

is prohibited except where provided or carried on under the authority of a licence, concession or other authorisation granted under any of those Laws or any Ordinance made under them.

[**5. Legal and accountancy services.**

The business of lawyer, notary or other independent legal professional, when they prepare for or carry out transactions for a client in relation to the following activities –

- (a) the acquisition or disposal of an interest in or in respect of real property ~~(including for the avoidance of doubt a leasehold interest)~~,
- (b) the management of client money, securities or other assets,
- (c) the management of bank, savings or securities accounts,

^{za} Ordres en Conseil Vol. XXIII, p. 109; Vol. XXIV, p. 400; No. XXVII of 1997; no. II of 2001.

^{zb} Order in Council No. XI of 2002.

^{zc} Order in Council No. XIV of 1999; No. XXVII of 2001.

^{zd} Order in Council No. VIII of 2002; No. XXIX of 2003.

- (d) the organisation of contributions for the creation, operation, management or administration of companies, or
- (e) the creation, operation, management or administration of legal persons or arrangements, and the acquisition or disposal of business entities,

or the business of auditor, external accountant, insolvency practitioner or tax adviser.

For the purposes of this paragraph, an **"independent legal professional"** does not include legal professionals employed by –

- (a) public authorities, or
- (b) undertakings which do not by way of business provide legal services to third parties,

an **"auditor"** means any person who, by way of business, provides audit services pursuant to any function under an enactment,

"external accountant" means any person who, by way of business, provides accountancy services to third parties and does not include accountants employed by –

- (a) public authorities, or
- (b) undertakings which do not by way of business provide accountancy services to third parties,

"insolvency practitioner" means any person who, by way of business, provides services which include acceptance of appointment as an administrator, liquidator or receiver under the Companies (Guernsey) Law,

2008, the Limited Partnerships (Guernsey) Law, 1995 or any other similar enactment,

"tax adviser" means any person who, by way of business, provides advice about the tax affairs of other persons,

and, for the avoidance of doubt, in each case, does not include an employed person whose duties relate solely to the provision of audit services or accountancy services or services of a type described in the above definitions of insolvency practitioner or tax adviser, as the case may be, to his employer.]]