

BAILIWICK MIND AND MANAGEMENT CONSULTATION PAPER

The Protection of Investors (Bailiwick of Guernsey) Law, 2020
The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc
(Bailiwick of Guernsey) Law, 2020

7 FEBRUARY 2022



Guernsey Financial
Services Commission

Bailiwick Substantial Mind and Management

The Protection of Investors (Bailiwick of Guernsey) Law, 2020

The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (together “the Supervisory Laws”)

The purpose of this Consultation Paper is to seek feedback from all interested parties on proposals to issue guidance under the Supervisory Laws. The proposed guidance seeks to clarify that, in line with the current practice of the Commission, maintenance of local mind and management is a relevant factor in the Commission’s assessment of the prudent conduct of business of a licensee.

In considering applications for and the ongoing retention of a licence issued under the Supervisory Laws, the Commission must be satisfied that the statutory minimum criteria for licensing will be met on an ongoing basis.

It is a minimum criterion for licensing that a licensee will conduct business in a prudent manner.

In prudently conducting licensed business in or from within the Bailiwick, the Commission expects that licensees will ensure that there is a level of local oversight and management of operations within the Bailiwick commensurate with the scale and nature of the activity carried out.

Accordingly, the Commission proposes to add the following guidance to both the Licensees (Conduct of Business) Rules and Guidance, 2021¹ and the Fiduciary Rules and Guidance, 2021².

Bailiwick Substantial Mind and Management

“When assessing the adequacy and effectiveness of management oversight and control of a licensee, the Commission will take into account the number of senior executives resident in the Bailiwick, having regard to the nature, size and complexity of the licensee.”

Q1: Do you have any comments on the proposed amendment to the Licensees (Conduct of Business) Rules and Guidance, 2021?

Q2: Do you have any comments on the proposed amendment to the Fiduciary Rules and Guidance, 2021?

¹ Guidance will be added to section 2.1

² Guidance will be added to section 2.1

Providing Feedback

Responses to this Consultation Paper are requested by 21 March 2022.

Responses should be submitted through the Commission's Consultation Hub, which can be found at <https://consultationhub.gfsc.gg/>.

Next Steps

This Consultation will be open for a period of 6 weeks, with a closing date for responses of 21 March 2022.

Following the consultation period, the Commission will collate and consider responses provided and feedback will be issued.