

# Insurance and Reinsurance in Guernsey: Overview

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A Q&A guide to insurance and reinsurance in Guernsey.

The Q&A gives a high-level overview of: the regulatory framework for insurance and reinsurance activities; rules relating to authorisation of insurers and reinsurers and insurance intermediaries; ownership restrictions; ongoing requirements; penalties for non-compliance with regulatory requirements; sales and marketing of insurance/reinsurance services; transfer of risk; reinsurance contracts and risks; contracts and policies; claims; dispute resolution; insolvency; and tax.

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## Regulatory Framework

1. What is the main legislation and regulatory authorities for insurance and reinsurance activities in your jurisdiction?

### Regulatory Framework

The regulatory framework for insurance and reinsurance activities applies throughout the Bailiwick of Guernsey (Guernsey), which comprises the island of Guernsey and several smaller islands.

**Insurers/reinsurers.** A person must not carry on, or hold themselves out as carrying on, insurance business (which includes reinsurance) in or from within Guernsey without a licence from the [Guernsey Financial Services Commission](#) (GFSC) under the [Insurance Business \(Bailiwick of Guernsey\) Law, 2002](#) (Insurance Law).

This licensing requirement is subject to the "recognised insurer" regime (see below) and certain exceptions (see below, [Exceptions](#)).

For the purposes of the Insurance Law, "insurance business" is the business of accepting risks by effecting or carrying out contracts of insurance (whether directly or through an agent). A "contract of insurance" is any contract the effecting or carrying out of which constitutes the carrying on of insurance business.

The GFSC regulates licensed insurers and the carrying on of insurance business in or from within Guernsey. The GFSC is a signatory to the [Multilateral Memorandum of Understanding of the International Association of Insurance Supervisors](#) and an active member of the offshore [Group of Insurance Supervisors](#).

The Insurance Law governs all categories of insurers conducting insurance business (including reinsurance business) in or from within Guernsey.

The Insurance Law (and underlying regulations, rules, and guidance) sets out:

- The minimum statutory criteria for licensing.
- The prudential requirements.
- The supervisory and reporting requirements.
- The GFSC's authority to regulate the carrying on of insurance business by licensed insurers.

*The Insurance Business Rules and Guidance 2021* (2021 Rules), which apply to licensed insurers, set out rules relating to:

- Applications.
- Annual returns and Audits.
- Public disclosure of information.
- Duties of general representatives (see [Question 4](#) and [Question 11](#)).
- Special purpose insurers.
- Conduct of business.

This Q&A should be read to include reinsurance and reinsurers in any references to insurance and insurers.

**Intermediaries.** The *Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002* (Intermediaries Law) governs insurance managers and insurance intermediaries conducting business in or from within Guernsey (see [Question 4](#)).

**Enforcement.** The GFSC's investigatory and enforcement powers over licensees conducting business under the Insurance Law and the Intermediaries Law are set out in the *Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020* (Enforcement Law).

**"Recognised insurer" regime.** "Recognised insurers" are insurers based and regulated outside of Guernsey, which are on the list of recognised insurers maintained by the GFSC. This list does not name insurers individually but refers to any insurers regulated in certain specified countries and territories (such as the UK and most EU countries).

A recognised insurer does not require a licence to carry on insurance business in Guernsey (with certain limited exceptions) if it:

- Only deals with classes of insurance business for which relevant authorisation is held with its home state regulator.
- Only deals with risks in Guernsey either:
  - through a local broker who is a licensed insurance intermediary under the Intermediaries Law; or
  - on approach from the client.

- Does not maintain a physical presence in Guernsey (that is, through a branch or agents).

The GFSC relies on the home supervisor of a recognised insurer to oversee the insurance business conducted by them.

## Exceptions

**Recognised insurers.** Recognised insurers wishing to offer certain types of motor and maritime insurance in Guernsey must obtain prior specific authorisation from the GFSC.

**Special purpose insurer rules.** The GFSC has published specific lighter-touch rules within the 2021 Rules regarding fully funded special purpose insurers (SPIs).

## Channel Islands Financial Ombudsman

The *Channel Islands Financial Ombudsman* (CIFO) was established by the *Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014* (CIFO Law). The primary role of the CIFO is to resolve consumer complaints about financial services provided in or from within the Channel Islands, including insurance matters (see [Question 31](#)).

## Regulatory Bodies

The GFSC is the regulatory body responsible for supervision and monitoring of compliance and enforcement of the applicable legislation, rules and regulations.

2. Which types of insurance and reinsurance activities and insurers are regulated in your jurisdiction?

All insurers and reinsurers carrying on, or holding themselves out as carrying on, insurance business (which includes reinsurance) in or from within Guernsey are regulated by the GFSC (see [Question 1](#)).

In addition, insurance managers and insurance intermediaries conducting business in or from within Guernsey are regulated by the GFSC.

The Insurance Law distinguishes between "long term business" and "general business", and imposes further obligations on insurers carrying on domestic business.

Long term business includes:

- Life and Annuity.
- Marriage and birth.
- Linked long term.
- Permanent health insurance.

- Capital redemption insurance.
- Pension fund management.
- Credit life insurance.

(Section 2(2)(a), Schedule 1, Insurance Law.)

General business means insurance business other than long term business (section 2(2)(b), Insurance Law).

Insurers in Guernsey can be licensed for either general (non-life) business or long term (life) business. New composite insurers are no longer permitted except where the long term business/general business is incidental in terms of premium income to the principal general business/long term business being written by the licensed insurer, or where the licensed insurer is a protected cell or incorporated cell company.

The Insurance Law places additional requirements on long term insurance licensees in respect of holding assets and the transfer of their business.

## Takaful

Guernsey is familiar with [takaful](#), and was the domicile of choice to facilitate the first securitisation (transacted as a [sukuk](#)) of takaful insurance policies in 2013.

## Authorisation

### Insurers and Reinsurers

3. What authorisations are required to carry out insurance and reinsurance activities in your jurisdiction and how are they obtained?

## Application

Any person wishing to be licensed as an insurer must apply to the GFSC for a licence. Applications are submitted through the GFSC's [Applications and Authorisations Portal](#) (A&A Portal) (or during 2025 only, by email).

The documents needed to support an application for licensing vary depending on the type of business the insurer writes and the structure to be used, but generally include:

- A comprehensive business plan detailing proposed business activities.

- Any other information and documents required by the GFSC for the purpose of determining the application or required under section 6 of the Insurance Law.
- Application fee (currently between GBP4,185 and GBP12,500, and significantly less for a cell of a protected cell company or incorporated cell company, depending on the type of business operated).

All key individuals, including beneficial owners, directors, managers, compliance officers, and money laundering reporting officers must submit a personal questionnaire (PQ) and an online appointment through the GFSC's [PQ Portal](#).

Further guidance can be found under the [insurance applications](#) section on the GFSC website, as well as the [new applicants](#) section.

## Conditions

**Minimum criteria.** Schedule 7 to the Insurance Law sets out the minimum criteria for licensing of insurers. These criteria must be satisfied at the point of application and must continue to be satisfied while the insurer is licensed (see [Question 11](#)). The minimum licensing criteria include:

- The insurer must carry on business with prudence and integrity, professional skill as appropriate, and in a manner that will not bring Guernsey into disrepute.
- The business must be carried out by fit and proper persons that have the necessary probity, competence, experience, soundness of judgement, and necessary professional qualifications (among other things).
- The business must be directed by at least two individuals that have the appropriate standing and experience and are sufficiently independent of each other.
- The insurer's board of directors (board) must include at least one director who is not an associate of the company or its associated parties, nor is responsible for the management of the company's business (unless the GFSC waives this requirement).
- Business must be conducted in a prudent manner, ensuring (among other things) that:
  - a capital base and insurance cover is maintained within an amount considered appropriate by the GFSC; and
  - the business maintains adequate liquidity.

**Minimum capital.** Insurers licensed in Guernsey are subject to capital requirements set out in [the Insurance Business \(Solvency\) Rules and Guidance, 2021](#), which include a minimum capital requirement (MCR) and a prescribed capital requirement (PCR). The MCR sets a baseline level of capital that must be maintained, while the PCR is a more risk-sensitive measure based on the insurer's specific risk profile.

**Solvency.** Insurers must demonstrate solvency through received share capital and/or letters of credit and subordinated loans.

**Policyholder protection.** Insurers providing long term insurance must establish a policyholder protection regime (see [Question 34](#)).

## Key Stages and Timing

The process is as follows:

- **Submission:** completion of the relevant application form and submitting all supporting documents as specified in the application pack electronically through the GFSC's Applications & Authorisations (A&A) Portal (or during 2025 only, by email), including an explanatory cover letter.
- **Assessment:** the GFSC reviews the application pack and may request additional information.
- **Decision:** once all queries are resolved, the application is referred to the Authorisations Division, who are responsible for assessing and determining insurance licence applications.
- **Outcome:** the GFSC issues a formal response which may include the licence certificate, and details of conditions imposed, if any.
- If an application is rejected, the applicant is generally not prohibited from reapplying. However, the GFSC expects the applicant to address the reasons for the initial rejection before submitting a new application.

The GFSC aims to provide in-principle agreement within 28 calendar days of receiving a fully completed application pack (for both insurers and insurance managers/intermediaries). However, the response time can vary depending on the quality and completeness of the application.

## Duration and Renewal

GFSC licences are ongoing and do not have a fixed duration. However, licensees are subject to ongoing supervision and must comply with regulatory requirements including:

- Submitting annual returns.
- Notifying the GFSC of material changes to circumstances such as changes to the business plan, any directors or auditors.

## Insurance Intermediaries

4. How are insurance intermediaries regulated? What authorisations do they require?

The Intermediaries Law regulates insurance managers, insurance intermediaries and insurance representatives carrying on business in or from within Guernsey (see [Question 1](#)). There are no other types of insurance providers that can be authorised in Guernsey.

The Intermediaries Law regulates the carrying on of the following business in Guernsey:

- **Insurance managers.** An insurance manager is anyone (other than an employee) who exercises managerial functions (including administration and underwriting) in relation to an insurer. One of the most important functions performed

by licensed insurance managers is to act as general representative of the licensed insurers under their management (see [Question 11](#)).

- **Insurance intermediaries.** An insurance intermediary is a person (other than an insurance representative) whose business is to advise clients on their insurance requirements or to arrange contracts of insurance between insurers and clients.
- **Insurance representatives.** An insurance representative is an individual who acts on behalf of, and under a contract of agency or employment with, an insurer or insurance intermediary, for the purpose of arranging contracts of insurance for and advising clients.

An authorised insurance representative is one who is authorised by a licensed insurance intermediary, licensed insurer, or licensed insurance manager.

The [Insurance Intermediaries Rules and Guidance 2021](#) (Intermediaries Rules), which apply to licensed insurance intermediaries, and [The Insurance Managers Rules and Guidance 2021](#) (Insurance Managers Rules), which apply to licensed insurance managers, set out the requirements relating to:

- Licensing.
- Annual returns.
- Client monies.
- Minimum capital requirements.
- Approved assets.
- Conduct of business.

Any person wishing to be licensed as an insurance intermediary or an insurance manager must apply to the GFSC for a licence. The application process is similar to that for an insurer (see [Question 3](#)). The application fees are GBP6,920 for insurance managers and GBP6,695 for insurance intermediaries.

Further guidance can be found under the [insurance applications](#) section on the GFSC website, as well as the [new applicants](#) section.

**Minimum criteria.** Schedule 4 to the Intermediaries Law sets out the minimum criteria for licensing of insurance intermediaries and insurance managers. These criteria are parallel to those for insurance and reinsurance providers except that the board must include such number of directors with and without executive responsibility for the management of the business, as the GFSC considers appropriate, having regard to the circumstances of the insurance intermediary and the nature and scale of its operations.

**Minimum capital.** Insurance intermediaries and insurance managers licensed in Guernsey are subject to an MCR of GBP25,000, or 125% of its professional indemnity insurance deductible or excess, if higher

**Policyholder protection.** Policyholder protection requirements are provided in the Intermediaries Rules and the Insurance Managers Rules which include provisions aimed at safeguarding client interests.

The key stages and timing of the application process for an insurance intermediary and duration and renewal of licences for insurance intermediaries and managers are similar to those for licensed insurers (see [Question 3](#)).

## Exemptions and Foreign Insurers

5. Are there exemptions or exclusions from authorisation or licensing? Are there specific exemptions or exclusions for foreign entities to carry on insurance or reinsurance business in your jurisdiction?

## Insurance and Reinsurance Providers

The Insurance Law contains exemptions from the general requirement for a licence for:

- Recognised organisations that are representative of employers or employees that only provide provident or strike benefits for members who are Guernsey residents.
- Institutions holding a banking licence under the [Banking Supervision \(Bailiwick of Guernsey\) Law, 2020](#), if their only insurance business is financial loss insurance for the purposes of banking business.

## Insurance and Reinsurance Intermediaries

There are limited exemptions to the general prohibition on carrying on business as an insurance intermediary without a licence under the Intermediaries Rules. These are limited in scope and relate to selling:

- Certain extended warranty insurance products.
- Travel insurance products where such a product is sold as part of an exclusive arrangement originated by a tour operator.
- Credit protection insurance when sold unconditionally as part of an agreement when providing loan or overdraft facilities.
- Licensed managers who advise large clients (those with at least 50 employees or more than GBP500,000 net turnover in their last completed financial year) are not required to be registered as insurance intermediaries (Insurance Managers Rules).

## Foreign Entities

A foreign entity that is a recognised insurer (see [Question 1](#)) regulated in an approved jurisdiction, does not need a licence to operate in Guernsey, provided that it:

- Only deals with classes of insurance for which relevant authorisation is held with its home regulator.

- Only deals with risks in Guernsey either through a Guernsey licensed insurance intermediary, or on approach from the client.
- Has no physical presence in Guernsey (no branches or agents).

## Fronting

6. Is fronting prohibited or are there any limitations to such an insurance arrangement?

- Fronting is not prohibited, but it is subject to regulatory scrutiny by the GFSC.
- Fronting is common practice in the context of captive insurance and insurance-linked securities (ILS) structures, where a licensed insurer issues policies and cedes most or all of the risk to a reinsurer. However, the GFSC requires fronting arrangements to be transparent and properly documented.

## Legal Forms

7. What legal forms are generally used for insurance and reinsurance business? Does a specific corporate form have to be used?

## Insurers/Reinsurers

In practice, insurers take the form of a company or limited partnership. In particular, the following forms can be used:

- Non-cellular companies (limited by shares).
- Cells of protected cell companies.
- Incorporated cells of incorporated cell companies.
- Limited partnerships acting through a corporate general partner.

Guernsey is pioneering hybrid incorporated cell company structures where investment cells of the incorporated cell company are licensed as Guernsey funds, and invest in insurance cells licensed as insurers within the same incorporated cell company structure.

This facilitates the opportunity to operate an insurance linked securities (ILS) investment fund and any number of sub-funds and special purpose insurers in one structure, with one regulator to supervise, one board of directors to govern, one set of service providers, and one auditor.

There are different implications for taxation, regulation, capital requirements, marketing, and administration for each type of structure. Guernsey has a sophisticated managing agent industry that can offer bespoke solutions.

## Intermediaries

In practice, all insurance intermediaries are non-cellular companies or limited liability partnerships.

## Restrictions on Insurance Activities

8. Are there restrictions on the types of insurance activities that authorised entities can carry out? Can insurers and reinsurers carry on non-insurance business?

There are generally few restrictions on a licensed insurer's activities, however:

- The Insurance Law distinguishes between long term business and general business. Insurers operating long term business must:
  - maintain a separate, dedicated account for that business, and all receipts must be entered into this account to form a separate insurance fund with an appropriate name; and
  - maintain accounting and other records necessary to identify both the assets representing the fund and the liabilities attributable to the long term business and its parts.

Any part of the long term business that involves benefits linked to asset values or income must be separately accounted for within the insurance fund.

- Cells of a protected cell company can either provide long term business or general business, but not both.
- The Insurance Law applies certain rules to domestic business that do not apply to international business.
- Insurers can only operate the type of insurance business for which they are specifically authorised (for example, long term business).
- A licensed insurer must not trade in derivatives without the prior written consent of the GFSC.

- Any proposed material changes to a licensed insurer's current business plan (or the business proposed in the application for a licence, if no business plan has yet been submitted) must be notified to the GFSC before implementation.
- A licensed insurer must obtain the GFSC's approval before effecting any portfolio transfer.

## Ownership Restrictions

9. Are there restrictions on the ownership or control of insurance-related entities in your jurisdiction?

There is no prohibition on foreign ownership but the GFSC assesses the jurisdiction, transparency and regulatory standing of foreign owners to ensure that control is not hidden or compromised.

Under both the Insurance Law and the Intermediaries Law and their respective rules, there are regulatory requirements concerning the ownership and control of insurance-related entities. These include:

- Mandatory disclosure of full ownership structures, including ultimate beneficial owners and controllers.
- A fit and proper assessment by the GFSC of all controllers, focusing on integrity, competence, and financial soundness.

10. Must owners or controllers notify or obtain approval before taking, increasing, or reducing their control or ownership of an insurance-related entity?

## Insurance and Reinsurance Providers

Owners or controllers must notify the GFSC of certain changes or appointments.

This applies if one or more of the triggers under the Insurance Law is met (see below). As one event can trigger the requirement to notify under multiple sections of the Insurance Law, the licensed insurer and the incoming (and outgoing) controllers typically make a joint notification in respect of all relevant sections of the Insurance Law.

The notification usually consists of:

- A covering letter.
- A standardised form.

- Supporting materials.

## Notification Requirements

Any changes or appointments to the following roles must be notified to the GFSC:

- **"Approved supervised role"**. This refers to any person who is appointed or becomes a general representative, director, controller (including indirect and shareholder controllers), or partner of a licensed insurer. A "shareholder controller" is any person who, alone or with associates, is entitled to exercise, or control the exercise of, 15% or more of the voting power of that licensed insurer or of any other company of which it is a subsidiary.

The GFSC must give prior confirmation that it has no objection to the proposed appointment or change to the role.

The licensed insurer must also notify the GFSC within 14 days of any person becoming the holder of the role or ceasing to hold it.

A shareholder controller who becomes entitled to exercise, or control the exercise of, a further 5% or more of the voting power must notify the GFSC and obtain its written approval.

A shareholder controller must notify the GFSC if it ceases to be entitled to exercise, or control the exercise of, 5% or more of the voting power

- **"Vetted supervised role"**. This refers to any person who is appointed or becomes a money laundering reporting officer (MLRO) or money laundering compliance officer (MLCO), compliance officer, actuary or supervised manager of a licensed insurer.

The GFSC must give prior confirmation that it has no objection to the proposed appointment or change to the role. Approval is deemed given if the GFSC does not respond within 60 days. However, in practice, the GFSC either "stops the clock" by asking further questions or issues a no-objection statement before the 60-day period expires.

The licensed insurer must also notify the GFSC within 14 days of any person becoming the holder of such a role or ceasing to hold it.

- **"Notified supervised role"**. This is any person who is appointed or becomes a "significant shareholder", an auditor or a company secretary of a licensed insurer. A "significant shareholder" is one who, alone or with a associates, is entitled to exercise, or control the exercise of between 5% and 15% of the voting power of a licensed insurer or of any other company of which it is a subsidiary.

The insurer must notify the GFSC within 14 days of any person becoming the holder of such a role or ceasing to hold it.

Anyone becoming a significant shareholder must also notify the GFSC within 14 days.

The provisions detailed above do not apply to an insurer of a type listed under section 38 of the Insurance Law (such as friendly societies and insurers authorised in the European Economic Area).

## Insurance/Reinsurance Intermediaries

The Intermediaries Law includes an equivalent regime for holders of supervised roles with the same requirements for prior notification, no-objection and post-event requirements.

However, under the Intermediaries Law:

- "**Vetted supervised role**" means any person appointed or who becomes a director, controller (including indirect and shareholder controllers), partner, MLRO, MLCO, or compliance officer of an insurance manager or a licensed insurance intermediary.
- "**Notified supervised role**" means any person appointed or who becomes a significant shareholder, auditor or authorised insurance representative or supervised manager of a licensed insurance manager or an insurance intermediary.
- "**Approved supervised roles**" are only those roles designated by secondary regulation as being so (no such secondary regulation exists to date).

## Ongoing Requirements

11. What are the key ongoing requirements for an authorised entity?

### Insurance/Reinsurance Providers

Schedule 7 to the Insurance Law sets out the minimum criteria for licensing for insurers. These criteria must be met at the point of application and must continue to be satisfied while the insurer maintains a licence (See [Question 3](#)).

Licensed insurers must conduct their business in accordance with the 2021 Rules which, among other things, impose further obligations in the areas of corporate governance, disclosure requirements and risk management.

A licensed insurer must also appoint, and at all times maintain the appointment of, a general representative to:

- Act generally on behalf of the insurer.
- Accept service of any document on the insurer's behalf.

The representative can be an executive director who is ordinarily resident in Guernsey or a licensed insurance manager (section 29, Insurance Law) (see [Question 4](#)).

The insurer must carry on business in a prudent manner, ensuring (among other things) that the minimum capital and liquidity requirements are maintained.

Licensees must at all times act in accordance with:

- Guidance issued by the GFSC.

- The Principles of Conduct of Finance Business.
- The GFSC's Handbook on Countering Financial Crime.
- Any rules, codes, guidance, principles, policies and instructions issued under the Insurance Law and any other relevant law.
- Applicable guidance or international standards issued by a body recognised by the GFSC relating to insurance and regulation.

Insurers must maintain:

- Required levels of capital and insurance cover.
- Adequate liquidity, considering (among others):
  - the ratio of liquid assets and actual and contingent liabilities;
  - the times at which those liabilities will or may fall due and the assets will mature;
  - the nature and scale of the business operations;
  - the risks inherent in the business and in any other company in the same group; and
  - any other factors deemed relevant by the GFSC.
- Adequate provision for depreciation or diminution in value of assets, liabilities and losses.
- Adequate accounting and business recording systems.

(Schedule 7, Insurance Law.)

## **Insurance/Reinsurance Intermediaries**

Licensed insurance intermediaries, any licensed insurer acting as an insurance intermediary, or licensed insurance managers who deal with the public, must:

- Authorise one or more insurance representatives who act on its behalf advising clients on their insurance requirements and arranging contracts of insurance.
- Closely monitor and supervise its authorised representatives, while retaining full responsibility for their actions and conduct.

A licensed insurance intermediary must ensure that its authorised representatives are (and remain) fit and proper at all times (Schedule 4, Intermediaries Law).

Licensed insurance intermediaries are subject to minimum qualification requirements, as prescribed by the GFSC from time to time. Currently, those advising on long term insurance products or services must hold the Chartered Insurance Institute Certificate in Financial Planning (or its equivalent) and a Guernsey-specific qualification, the Guernsey Insurance Certificate.

The minimum criteria for licensing of insurance intermediaries under Schedule 4 to the Intermediaries Law must be satisfied at the point of application and during the period of the licence.

Licensed intermediaries must conduct their business in accordance with the Intermediaries Rules.

Licensed insurance managers must conduct their business in accordance with the Insurance Managers Rules.

## Penalties for Non-Compliance

12. What are the penalties for non-compliance with the regulatory requirements?

### Insurance/Reinsurance Providers

The GFSC has various powers and tools for dealing with licensed insurers that fail to comply with the applicable legal and regulatory requirements, or where there is a risk of harm to policyholders.

The GFSC's actions will depend on the particular failure or risk.

They can include:

- Revoking or placing conditions on the licensee's licence.
- Prohibition orders.
- Fines.
- Applying to court:
  - for the repayment of monies or profits obtained from unlawful business;
  - for injunctions; or
  - to wind up the licensed insurer or appoint receivers (as measures of last resort).

Failure to comply with certain provisions of the Insurance Law or the Enforcement Law is a criminal offence that can result in fines and imprisonment on conviction.

The Insurance Law does not specifically provide for a policyholder's direct recourse if they have done business with an unlicensed entity. General common law remedies apply under the laws of contract or tort. Remedies may also be obtained through the CIFO in appropriate cases.

In the course of the winding up of a licensed insurer, on the application of the liquidator or any creditor, shareholder, policyholder or former policyholder of the insurer, the Royal Court of Guernsey (Royal Court) can declare that any person who knowingly

carries on insurance business with the intent to defraud creditors, shareholders, policyholders, former policyholders of the insurer or creditors of any other person, or for any other fraudulent purpose, is personally responsible (without limitation of liability) for the insurer's debts or other liabilities

## Insurance/Reinsurance Intermediaries

The GFSC can use various powers and tools if a licensed insurance manager or intermediary fails to comply with the applicable legal and regulatory requirements under the Intermediaries Law, or where there is a risk of harm to policyholders.

Failure to comply with certain provisions of the Intermediaries Law is also a criminal offence that can lead to fines and imprisonment for individuals.

The Intermediaries Law does not specifically provide policyholders direct recourse if they have done business with an unlicensed intermediary. Therefore, general common law remedies apply under the laws of contract or tort. Remedies may also be available through the CIFO in appropriate cases.

## Sales and Marketing

13. Are there any requirements or restrictions on how insurance/reinsurance services are sold and marketed?

There are no such restrictions, if the insurer:

- Is licensed or complies with the recognised insurer regime.
- Markets or sells only business of the type for which it is licensed (for example, general business, long term business, domestic, international).
- Certain disclosure requirements apply, particularly in relation to sales of long term business.

## Transfer of Risk

14. Are there any restrictions on the transfer of insurance or reinsurance business and risk? Is there a specific mechanism for this?

There are no statutory limits or other restrictions on, or requirements relating to, the transfer of risk. However, if the transfer of risk will constitute a material change to the insurer's business plan filed with the GFSC, those changes must be notified to the GFSC before implementation.

## Transfer of Business

**General business.** *Novation* is the only mechanism available to transfer a portfolio of policies.

**Long term business.** A specific mechanism exists under sections 44 to 48 of the Insurance Law to approve schemes to transfer long term insurance business. The Royal Court must sanction the transfer of long term business, if any of the following apply:

- The transferor or transferee is licensed in Guernsey.
- Any transferring policies are written under Guernsey law.
- Any of the transferring policies were issued to policyholders resident in Guernsey.

## Consent to Portfolio Transfers

Before effecting any portfolio transfer (of either long term business or general business), a licensed insurer must notify the GFSC of the proposed transfer and obtain the GFSC's prior written approval.

A transfer of cellular assets to a third party from the cell of protected cell company can be made to invest cellular assets or otherwise to make payments or transfers from cellular assets in the ordinary course of the business of the cell. Otherwise, a transfer of cellular assets can only be made under the authority of the Royal Court by a cell transfer order. The Royal Court will only make an order if it is satisfied that the creditors who might be entitled to recourse to the cellular assets consent and will not be unfairly prejudiced by the transfer.

The GFSC must be consulted on a proposed transfer of assets before the court grants a cell transfer order.

## Reinsurance Contracts and Risks

15. Is facultative or treaty reinsurance more common? What are the most common clauses in reinsurance policies?

### Facultative/Treaty Reinsurance

Both facultative and treaty reinsurance is available in Guernsey.

### Common Clauses

Limited recourse language is common in reinsurance contracts written by fully funded SPIs.

16. Can insurers cede risks without limitation to foreign reinsurers?

Insurers can cede risks without limitation to foreign reinsurers.

17. Does a reinsurance company typically monitor the claims, settlements and underwriting of the cedant company?

There is no statutory requirement for a reinsurer to monitor these activities of the cedant company beyond the obligation of reinsurers to conduct their business in a prudent manner.

Contractual provisions agreed between the reinsurer and cedant commonly set out the extent to which a reinsurer can monitor claims, settlements and underwriting of the cedant. These can include provisions which ensure the cedant provides regular underwriting information (that is, premium income, notified claims and paid claims), or which provide rights of audit and inspection for the reinsurer.

18. Does the cedant company have disclosure/notification obligations to the reinsurance company?

The policy wording determines notification and disclosure requirements. However, the common law duty to act with utmost good faith and the duty to disclose material facts apply to the cedant company.

## Contracts and Policies

### Content Requirements and Common Clauses

19. What is a contract of insurance for the purposes of the law and regulation? How does it differ from a contract of reinsurance?

A contract of insurance is broadly defined as "any contract the effecting or carrying out of which constitutes the carrying on of insurance business" (section 98(1), Schedule 5, Insurance Law).

A contract of reinsurance is not defined but the definition of "insurance" in the Insurance Law includes "reinsurance". However, a person is not considered to carry on insurance business solely because they effect or carry out a contract of reinsurance with a licensed insurer in Guernsey (unless that person's principal place of business is in Guernsey).

20. What are the main general form and content requirements for insurance policies? What are the most common clauses?

## Form and Content Requirements

Apart from some specific policy types (for example, policies prescribed by the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936), there are no mandatory terms or coverage requirements.

## Common Clauses

Insurance policies typically contain the following clauses, among others:

- Identity of the insured or reinsured.
- Extent of cover.
- Premium.
- Exclusions from cover.
- Warranties and conditions.
- Data protection.
- Governing law and jurisdiction.
- Dispute resolution.

Domestic policies typically include a requirement that the policyholder must co-operate with the insurer, in connection with both the initial claim and any subrogated claim the insurer makes against third parties to recover its outlay.

The policy wording generally allows the insurer to have absolute control over any decision to pursue or settle a subrogated claim in the name of the policyholder for its own benefit, and full discretion in the conduct of any proceedings.

## CIFO

Domestic retail insurance policies usually incorporate the model complaints handling procedure to minimise the amount of time that a consumer has to bring a claim to the CIFO (see [Question 1](#)).

## Implied Terms

21. Are any terms implied by law or regulation (even if not included in an insurance or reinsurance contract)?

The Guernsey courts can imply terms into an agreement governed by Guernsey law, for example, good faith between parties in relation to the performance of obligations.

There have been no express cases in the Royal Court regarding implied terms of good faith in contracts. However, there have been developments in the English and Jersey courts.

English case law has generally found implied terms of good faith to exist either in respect of a long term agreement, or as present in some types of contracts.

In 2023, the Royal Court of Jersey was prepared to recognise the existence of an implied term of good faith in "relational contracts" (long term contracts where collaboration is central and there is an expectation of mutual trust and loyalty).

The question of whether the Guernsey courts will find that there is a general duty of good faith remains open. Guernsey courts treat both English and Jersey cases as persuasive but not binding.

## Customer Protections

22. How do customer protections in general law affect insurance contracts? What customer protections are generally included in insurance policies to supplement this?

[The Trading Standards \(Fair Trading\) \(Guernsey\) Ordinance, 2023](#) (Fair Trading Ordinance) introduced a statutory framework to protect consumers and ensure fair trading. It includes:

- Requirements for consumer contracts.

- Prohibitions against unfair commercial practices.
- Unfair contract terms and rights to cancel.
- Enforcement powers for the *Trading Standards Service* (TSS).

The provisions of the Fair Trading Ordinance are broadly similar, subject to necessary modifications, to those in force in the UK (in particular, under the Consumer Rights Act 2015). It applies to insurance contracts provided to consumers (individuals acting outside of their business)

The provisions that relate to contracts for services are expressly subject to any enactment that imposes a stricter duty in any particular case. Other requirements, such as under the regulatory laws, continue to apply alongside the Fair Trading Ordinance.

## General Law

In a commercial context (including insurance and reinsurance), the parties have broad freedom to contract on terms as they see fit.

## Insurance Policies

Most insurance business carried on by Guernsey insurers is international insurance and reinsurance for large commercial corporations and therefore the direct impact on local consumers or retail customers is limited.

However, insurers must comply with 2021 Rules and the more general *Principles of Conduct of Financial Services Business*, which require a licensee to (among others):

- Observe high standards of integrity and fair dealing in the conduct of its business.
- Act with due skill, care, and diligence towards its customers and counterparties.

## Standard Policies or Terms

23. What are the main standard policies or terms produced by trade associations or relevant authorities?

There are no standard policies or terms produced by trade associations or relevant authorities for insurers and reinsurers in Guernsey.

## Claims

### Establishing a Claim

24. What must be established to trigger coverage under an insurance policy?

The terms of the insurance policy set out the criteria required to trigger coverage, and this can differ between types of policy.

Policies commonly contain a requirement for the customer to notify the insurer as soon as reasonably possible of an event which may give rise to a claim. However, in some situations, immediate notification may be necessary, for example in regulatory investigations, enforcement actions, legal proceedings and cybersecurity breaches.

Relevant information to be provided to the insurer is likely to include:

- Policy number.
- Date of the incident.
- Details of the loss or damage.
- Cause of the loss or damage.
- Contact details of any parties or witnesses.
- Copies of any relevant documentation.

The UK Insurance Act 2015 does not apply in Guernsey, and there is no equivalent local legislation. This means that there is no statutory requirement for an insurance company to establish prejudice to avoid coverage on the basis of late notice, if the notice condition in the policy has been breached. The policy wording may set out a prejudice requirement. The issue is, as yet, untested in the local courts.

Policies usually include a requirement that the policyholder must co-operate with the insurer in connection with both the initial claim and any subrogated claim made by the insurer against third parties to recover its outlay.

The policy wording generally allows an insurer to have absolute control over any decision to pursue or settle a subrogated claim in the name of the policyholder for its own benefit and full discretion in the conduct of any proceedings.

## Time Limits

25. Is there a time limit outside of which the insured/reinsured is barred from making a claim?

Under Guernsey law, prescription can be pleaded as a defence to any claim issued after the relevant prescription period.

While the principle of limitation in other jurisdictions bars the remedy, prescription extinguishes the right to claim.

The prescription period for a breach of an insurance policy is six years from the date on which the cause of action accrued.

The insurance policy may also include additional contractual time limits, such as requirements for prompt notification of claims or deadlines for submitting supporting documentation.

While such clauses can shorten the time available to take certain procedural steps under the insurance policy, they must not conflict with or extend the statutory prescription period.

## Subrogation

26. Does an insurer have subrogation rights to claim against third parties who have caused loss to the insured? What conditions must be satisfied to do this?

The policy wording generally allows the insurer to pursue or settle a subrogated claim.

## Third Party Claims

27. In what circumstances can third parties claim under an insurance policy?

The *Third Parties (Rights against Insurers) (Guernsey) Law, 1936* (1936 Law) is based on the Third Parties (Rights against Insurers) Act 1930 in England and Wales. There is no equivalent in Guernsey law to the later 2010 Act in England and Wales.

Under the 1936 Law, a third party with a claim against an insolvent insured can pursue its claim directly against the insurer once the insured's liability has been established.

The transfer of rights does not put the third party into any better position than the insured, and therefore:

- The insurer can rely on any defence the policyholder would have had against the third party (such as contributory negligence).
- The third party is subject to the same policy limits and policy defences as the insured.

If the claim is against a corporate entity which has been struck off, it is usually necessary to first apply to restore that entity to the Register of Companies before liability can be established.

28. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

There are no contract law statutes in Guernsey and there is no equivalent of the Contracts (Rights of Third Parties) Act 1999.

Under common law, a person must be party to a contract to be able to enforce the provisions of that contract.

It is theoretically possible for the reinsured to assign its rights against the reinsurer to the original policyholder (subject to a contractual term barring assignment) but this is not common in practice.

Guernsey does not operate a statutory insurance compensation scheme. However, policyholders of long term insurance contracts benefit from enhanced protection under the [Preferred Debts \(Insurance Policyholders\) \(Bailiwick of Guernsey\) Amendment Ordinance, 2023](#) which gives preferential creditor status to certain policyholder claims in an insurer's insolvency.

Specifically, liabilities arising under long term insurance business are treated as preferred debts, ranking above ordinary unsecured creditors but below secured creditors and other statutory preferences.

This protection does not extend to all policyholders or all classes of insurance, and there remains no guarantee scheme to ensure full recovery.

## Insurance of Punitive Damages

29. Are punitive damages insurable? Can punitive damages be reinsured if they are covered by an underlying policy?

There is no local jurisprudence on the insurability of punitive damages. Punitive damages are a concept known to Guernsey law (see, for example, section 79 of [the Data Protection \(Bailiwick of Guernsey\) Law, 2017](#)) but are rarely seen in practice.

Regulatory penalties are arguably uninsurable (section 159, [Companies \(Guernsey\) Law, 2008](#) (Companies Law)). Although the point is untested in the Guernsey courts, it is unlikely that any criminal or similar fine or penalty is insurable, and Guernsey law is likely to follow the reasoning set out in the House of Lords decision of *Gray v Thames Trains* [2009] 1 AC 1339 and to adopt similar principles.

## Remedies for Breach of Policy

30. What remedies are available to the insurer and to the insured for breach of the insurance policy by the other party? On what basis are they claimed?

### **Insurer's Remedies**

The impact of a breach of any policy term depends on the wording of the relevant term and its legal/technical classification (that is, condition precedent or ordinary term).

Depending on the terms and conditions of the policy, a breach of a condition precedent by the insured is likely to mean that the insurer is not liable to pay for the loss in question, the policy is void *ab initio*, or both. This also applies to breaches of the common law duty of utmost good faith (for example, material misrepresentation by the insured when entering into the policy).

If the term is a mere term, and there is no express right reserved to the insurer to allow it to refuse cover, an insurer's usual remedy will be limited to a right to reduce the amount of the claim payable. This will be in proportion to the financial value of the prejudice the insured's breach has caused it.

### **Insured's Remedies**

Subject to the policy terms and conditions, the insurer can indemnify the policyholder when an insured event occurs. If the insurer fails to perform that obligation, the insured can claim damages for breach of contract.

Specific performance is said not to be available as a remedy in Guernsey law. However, the point is untested in the local courts.

An insured has no remedy for an insurer's breach of the common law duty of utmost good faith other than to void the contract.

Section 84 of the Insurance Law provides for the potential establishment of a statutory compensation scheme for the protection and compensation of policyholders where insurance licensees are unable, or are likely to be unable, to satisfy claims by policyholders. No such scheme has been implemented to date.

Guernsey law does not provide a statutory right to damages for late payment of insurance claims. However, an insured party can still claim damages for breach of contract, where an insurer unreasonably delays payment. While the availability of specific performance remains largely untested in Guernsey, this does not affect the insured's ability to recover damages under established contractual principles.

### **Dispute Resolution**

31. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes?

The Royal Court deals with litigated disputes. There is a right of appeal to the Guernsey Court of Appeal and, ultimately, to the Privy Council. There is no separate commercial court.

Complaints can also be made to the CIFO (see [Question 1](#)). It provides an independent complaints handling mechanism for complaints against insurers (and other financial services businesses) carrying on business in Jersey and Guernsey. Consumers, private individuals, and small businesses can use the CIFO.

The scope of eligible complainants to the CIFO is restricted to individual consumers or small businesses employing less than ten people and having a yearly turnover of less than EUR2 million. A complaint can be made to the CIFO about various financial services, including:

- The handling of claims by licensed or recognised insurers.
- The sale of insurance contracts by licensed intermediaries.

For the complaint to fall within the remit of the CIFO, the financial services business must also be carried out in or from within the Bailiwicks of Guernsey or Jersey.

The CIFO has the power to order the insurer to compensate a complainant up to prescribed limits of GBP150,000 for a binding award but can also make a non-binding recommendation for compensation above this limit.

32. Are arbitration clauses in insurance and reinsurance agreements enforceable? Are they commonly used in commercial insurance disputes?

The [Arbitration \(Guernsey\) Law, 2016](#) provides for a flexible, efficient arbitration framework, with a significant measure of control given to the parties.

A domestic arbitration award is enforceable (with leave of the court) in the same way as a Royal Court judgment.

Arbitration clauses in consumer agreements are not binding against a consumer, but this is subject to either:

- Obtaining their specific written agreement to be bound in respect of that dispute.
- The court determining that it would not be detrimental to the consumer for the dispute to be determined in arbitration.

33. Are choice of forum, venue and applicable law clauses in an insurance or reinsurance contract recognised and enforced?

The Royal Court generally respects an express choice of law clause in an insurance contract in the absence of fraud or some matter which is contrary to public policy in Guernsey.

Choice of forum clauses are also generally recognised and enforced subject to the usual *forum non conveniens* rules. Strong reasons are necessary to depart from an apparently valid exclusive jurisdiction clause.

If parallel foreign proceedings are brought, the court will order a stay of the Guernsey proceedings only if the defendant can show that another jurisdiction is clearly and distinctly more appropriate than Guernsey.

Leave of the court is necessary to serve parties resident outside of the jurisdiction.

## Insolvency

34. What is the regulatory framework for distressed or insolvent insurance or reinsurance companies? What protections exist for policyholders if the insurance company is insolvent?

### Licensed Insurers

Under the Insurance Law, the GFSC can apply to wind up a licensed insurer which is a Guernsey company if either:

- At any time, it does not comply with the applicable capital resources requirements (section 72(1), Enforcement Law).
- It is deemed insolvent (using the test set out in the Companies Law that applies to all companies) (section 407, Companies Law).

*The Preferred Debts (Guernsey) Law, 1983* includes "preferred insurance debts" as a category of preferred debts.

A preferred insurance debt is a debt to which a licensed insurer is or may become liable under an insurance contract to a policyholder (or any person with a direct right of action against that insurer) and includes any premium paid in connection with that contract which the insurer is liable to refund.

### Licensed Insurers Conducting Long Term Business

An insurer that writes long term business cannot be wound up voluntarily. In any winding-up or other dissolution of a Guernsey licensed long term insurer:

- The assets representing the fund that the insurer maintains in respect of its long term business will be available only for meeting the liabilities of the insurer attributable to that business.
- The other assets of the insurer will be available only for meeting the liabilities of the insurer attributable to its other business.

Under the Insurance Law, a liquidator must carry on the long term business of the insurer (with a view to it being transferred as a going concern to another body). It must not enter into any new contracts of insurance. This is the case unless the Royal Court determines otherwise.

Insurers writing long term business must put in place a policyholder protection regime that includes the appointment of an independent, Guernsey-based trustee with a duty to report directly to the GFSC. The trustee must hold at least 90% of the insurer's assets representing policyholder liabilities. This requirement is imposed by a standard condition on the insurer's licence.

## Licensed Intermediaries

The GFSC can apply for the winding-up of a licensed insurance intermediary on the ground that it has:

- Persistently, wilfully, or seriously contravened any regulatory provision.
- Breached any condition of its licence.

The application can be submitted if (after investigation) it appears to the GFSC that a licensed insurance intermediary either:

- Has breached a condition of its licence.
- Is contravening, has contravened, or is likely to contravene any provision of:
  - the Intermediaries Law (or any ordinance, regulation, or rule under it); or
  - any applicable conduct of business rules or code (including a provision requiring the insurance intermediary to ensure that its authorised insurance representatives comply).

## Recovery and Resolution Planning

There is no formal requirement on licensed insurers to prepare recovery or resolution plans. However:

- The GFSC expects insurers to maintain robust governance, risk management, and solvency monitoring frameworks.
- Insurers must submit annual returns and maintain adequate capital and solvency margins under the 2021 Rules.

The GFSC has the authority to intervene where there are concerns about an insurer's financial position or governance, including through conditions on licences or enforcement action.

While not labelled as "resolution planning", these requirements serve as a preventive function and support early supervisory intervention.

## Policyholder Protections and Rights

Guernsey has a strong policyholder protection regime for insurers licensed for long term business who must:

- Appoint an independent, Guernsey-based trustee to hold at least 90% of policyholder liabilities in trust. This trust arrangement is a licence condition and is designed to ring-fence assets for the benefit of policyholders. The trustee has a duty to report directly to the GFSC if there are concerns about the insurer's solvency or conduct (see [Question 3](#)).
- Treat policyholders fairly, provide clear disclosures, and manage conflicts of interest.

35. Can excess insurance policies "drop down" to provide coverage if the primary insurer goes into insolvency?

Under a typical excess insurance contract, the excess insurer will only be liable for coverage once the primary layer coverage has been exhausted.

Whether or not an excess insurance policy can provide drop-down coverage in the event of the primary insurer's insolvency depends on the terms of the policy.

36. Is a right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or reinsurer?

The right to set-off mutual debts is recognised (section 419, Companies Law). There are no specific statutory provisions for insurers and no mandatory set-off rules in the event of an insolvency.

Contractual set-off is recognised under the [Law of Property \(Miscellaneous Provisions\) \(Guernsey\) Law, 1979](#).

## Tax

37. What is the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance services?

All of the following are taxed at the intermediate income tax rate (10%):

- Licensed insurers (for domestic business).
- Licensed insurance intermediaries.
- Licensed insurance managers.

A standard rate of 0% applies to most other companies that are tax resident in Guernsey.

**Economic substance.** The [Income Tax \(Substance Requirements\) \(Implementation\) Regulations, 2021](#) (Substance Regulations) impose economic substance requirements on insurers licensed in Guernsey that:

- Are tax resident in Guernsey or are incorporated in Guernsey and are tax exempt.
- Have income from carrying on a relevant activity in respect of accounting periods commencing on or after 1 January 2019 (and every following accounting period).

For the purposes of the Substance Regulations, insurance business carried on by a licensee is a "relevant activity." The activities of insurance brokers, other intermediaries, or providers of other services to insurers (such as insurance managers), which are not insurers, do not fall within the definition of "relevant activities" (regulation 3(a), Substance Regulations).

An insurer within the scope of the Substance Regulations must demonstrate, in each accounting period where the requirements apply, that it has adequate substance in Guernsey by:

- Being directed and managed in Guernsey proportionate to the level of activity carried on in Guernsey.
- Having adequate appropriately qualified employees, premises, and expenditure in Guernsey.
- Conducting core income generating activities (CIGA) in Guernsey.

For insurance, CIGA includes:

- Predicting and calculating risk, which includes:
  - oversight of the determination of the quantification and likelihood of an insured event occurring and the likely costs; and
  - ensuring that the premiums charged are commensurate with the risks accepted.
- Insuring or re-insuring against risk.
- Providing client services, which include:
  - taking strategic decisions regarding the commissioning of client services relevant to insurance; and
  - ensuring oversight of systems and processes put in place for the provision of support services.

## Contributor Profiles

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#### Recent transactions

- Guernsey court approved scheme to effect the transfer of insurance business between life insurance companies.
- Sale of rated licensed reinsurer.
- Establishment of new captive insurer as a limited liability company and, separately, as the cell of a protected cell company.
- Acquisition of insurance intermediaries by a global insurance and risk advisor.

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**Recent transactions**

- Defence of a professional indemnity claim brought against a legal professional to Privy Council level.
- Appeals to Royal Court and Court of Appeal regarding regulatory enforcement action taken against financial professional.
- Policy coverage advice for Guernsey domiciled insurers in connection with high value first party claims in Latin America.

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