



GFSC proposes to revise the Bailiwick's financial regulatory infrastructure

September 2016

The Guernsey Financial Services Commission currently has a discussion paper circulating on [*Proposals to Revise the Bailiwick's Financial Regulatory Infrastructure for Lending, Credit and Finance*](#) that, in all likelihood, will be followed in hot pursuit by a consultation paper.

The purpose of the paper is to put forward the proposal to repeal the Non-Regulated Financial Services Business (Bailiwick of Guernsey) Law, 2008, (NRFSB Law) and to introduce a new Lending, Credit and Finance Law, the regulator's concern being that the NRFSB Law does not include specific provisions for prudential stability, consumer credit or supervisory oversight.

The Commission sets out the rationale for this change is to reform the current regulatory framework in favour of one which enhances both the interests of consumers and the competitiveness of the Bailiwick, a rationale that in principle is well founded and makes sense.

However, as with all new initiatives, unless peer/competitor experience is drawn upon and the drafting and ultimate introduction of the new law is carefully considered and implemented, there is significant risk that the introduction of a new regulatory law will have unintended consequences and potentially capture parties that were never meant to fall under any regulatory regime. It goes without saying that this will only create uncertainty and frustration in an industry that is already working in difficult economic conditions. The Commission needs to be clear on exactly what sort of businesses the new law intends to capture and have clear and unambiguous carve outs and exemptions for those that should not be caught. (As an aside, while we commend the red, blue and green milk analogy in the proposal, we can only hope that our UK friends are not reading this discussion paper where milk is coded blue for full fat, green for half fat and red for skimmed - that would be too confusing).

While it may well be the case that firms already hosting a wide range of licences, and offering these services as part of their product package, are supportive of the proposals in order to bring alignment between them and lending, credit and finance firms currently not subject to rigorous regulatory controls (and we fully understand that), it is also clear that a balance needs to be struck whereby those services that would be captured under the new law are not driven out of the market due to the cost of regulation being a burden too heavy to carry or the creation of an uneven playing field whereby (as we have seen in other sectors) to the detriment of financial services businesses in the island, consumers have simply chosen to go elsewhere. It has not gone unnoticed that this paper already includes phrases such as *formal adoption of ... best practice measure; [a] strong lending, credit and finance regime; and, enforcement powers*.

The Commission has raised a number of specific questions that it invites replies to by Monday 24 October 2016, should you wish to

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share your view on the implementation of this proposed new law.

The full paper can be found on the [GFSC website](#).

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