

Snapshot: investment losses in Guernsey

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If you think that your trustee or investment manager has incurred a loss on your behalf, your first actions should be to:

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Terms of engagement often contain provisions which may purport to set out the services that the trustee or investment manager have agreed to provide, indemnify them (particularly in the case of trustees), release them from liability and limit the amount of the damages that the trustees or investment manager may be required to pay if they become personally liable for any loss.

The general legal position is that trust instruments may provide that the trustee shall be released from liability and indemnified out of the trust fund provided it has acted honestly and in good faith. Based on this approach, it may be possible, subject to statutory restrictions in the applicable jurisdiction, for a trust instrument to relieve a trustee from liability, or even indemnify a trustee out of the trust fund, for loss arising as a result of its own gross negligence.

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It's critical to take the time to research what factors may have an impact on your investments so you can make informed decisions. Understanding what's going on in the market, domestically and globally, is important as it may have an impact on your investments. This can include things such as growth, unemployment rates, interest rates and inflation and even political events.

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The prescription period for contractual and tortious claims is six years from the date upon which the cause of action accrued (save in respect of personal injury, for which the period is three years). For breach of trust claims the limitation period is three years from the date of knowledge of the breach; save that no prescription period will apply to an action brought against a trustee in respect of any fraud to which the trustee was privy or for any action to recover trust property.

Prescription periods are stopped from running at the point at which a Summons is provided to HM Sergeant for service.

There are four reasons why you might not end up having a claim:

For more information on this, we recommend watching Mathew Newman's recent Citywealth interview. Watch it here:

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