

2012 No 28

**The Regulation of Fiduciaries  
(Fiduciary Advertisements and Annual Returns) Regulations, 2012**

Made: 7 June 2012

Coming into operation: 7 June 2012

**THE GUERNSEY FINANCIAL SERVICES COMMISSION**, in exercise of the powers conferred on it by sections 20, 56 and 61 of The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000<sup>a</sup>, and after consultation with the States Advisory and Finance Committee, the Policy and Finance Committee of the States of Alderney and the General Purposes and Advisory Committee of the Chief Pleas of Sark, hereby makes the following Regulations:

*Citation and commencement*

- 1 These Regulations may be cited as The Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2012 and shall come into force on 7 June 2012.

*Interpretation*

- 2 In these Regulations:

“Annual return period” means the period of one year commencing on 1 July, in each and every year.

“Code of practice” means a code of practice issued from time to time by the Commission under section 35 of the Law,

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<sup>a</sup> Order in Council No. 1 of 2001.

“Commission” means the Guernsey Financial Services Commission established by The Financial Services Commission (Bailiwick of Guernsey) Law, 1987,

“Fiduciary advertisement” has the meaning given in section 20(5) of the Law,

“Full fiduciary licence” means a fiduciary licence granted by the Commission of the category described in section 4(1)(a) of the Law,

“Law” means The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000,

“Licensed fiduciary” means a person who holds a Full fiduciary licence or a Personal fiduciary licence,

“Personal fiduciary licence” means a fiduciary licence granted by the Commission of the category described in section 4(1)(b) of the Law,

“Regulated activity” means an activity described in section 2 of the Law, carried on by way of business,

“Return” means a return required to be made for the Annual return period,

and, unless the context otherwise requires, references to an enactment, or to a Rule or Regulation made under an enactment, are references thereto as amended, re-enacted (with or without modification), extended or applied.

### *Return*

- 3 The Return shall be in the respective forms set out in the Schedule to these Regulations and shall state:
- (a) the name of the licensed fiduciary,
  - (b) his business address(es),
  - (c) his telephone and fax numbers and email and website addresses (where applicable),
  - (d) if the Licensed fiduciary holds a Full fiduciary licence, the names of the directors, controllers, managers and (as the case may be) partners of the Licensed fiduciary, identifying which of them effectively direct the business of the Licensed fiduciary, which of them is to be the Commission’s contact and the Money-Laundering Reporting Officer,

- (e) the number (in full-time equivalent terms) of staff employed by the Licensed fiduciary to carry on his regulated and any other activities or engaged in those activities,
- (f) the activities of the Licensed fiduciary,
- (g) the number of clients of the Licensed fiduciary, broken down by the regulated activity in respect of which they are clients,
- (h) the names of individuals who, in the performance of their duties to the Licensed fiduciary, act as director or other officer of a company or other body or as trustee or protector of a trust or as partner of any partnership, and how many such appointments each such person holds,
- (i) the Licensed fiduciary's estimate of the value of assets by category of structures to which he provides Regulated activity and as more particularly set out in the forms in the Schedule to these Regulations,
- (j) the number of complaints received by the Licensed fiduciary during the Annual return period,
- (k) the number of notifications made by the Licensed fiduciary to its insurers during the Annual return period,
- (l) how many claims were paid by the Licensed fiduciary's insurer during the Annual return period and the total value of such payments,
- (m) whether the Licensed fiduciary has complied with the requirements of the Law, the Codes of Practice (so far as they apply to him), and all legislation relating to money laundering with which he has to comply, and
- (n) whether the Licensed fiduciary is able to meet his liabilities as they fall due at the end of, or where the form so requires, during the Annual return period.

*Fiduciary Licensees*

- 4(1) A person holding a Full fiduciary licence shall, in relation to the Annual return period, make a Return to the Commission of his Regulated activities during that period.
- (2) Where a person holds more than one Full fiduciary licence they may file one Return in respect of the lead licence and all joint licensees
- (3) A person acquiring a Full fiduciary licence during the Annual return period shall make a Return to the Commission of his Regulated activities during that period.

- (4) A Return by the holder of a Full fiduciary licence shall be made to the Commission on the form contained in Part 1 of the Schedule to these Regulations within one calendar month of the end of the Annual return period to which it relates.

*Personal Licensees*

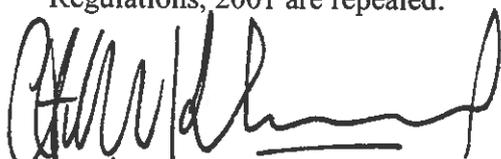
- 5(1) An individual holding a Personal fiduciary licence shall, in relation to the Annual return period make a Return to the Commission of his Regulated activities during that period.
- (2) An individual acquiring a Personal fiduciary licence during the Annual return period shall make a Return to the Commission of his Regulated activities during that period.
- (3) A Return by the holder of a Personal fiduciary licence shall be made to the Commission on the form contained in Part 2 of the Schedule to these Regulations within one calendar month of the end of the Annual return period to which it relates.

*Prohibition on advertising*

- 6 A licensed fiduciary who holds a Personal fiduciary licence shall not issue or cause to be issued any fiduciary advertisement.

*Repeal*

- 7 The Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2001 are repealed.



Dated this 7<sup>th</sup> day of June, 2012.

C A C M Schrauwers  
Chairman of the Guernsey Financial Services Commission  
for and on behalf of the Commission

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EXPLANATORY NOTE

(This note is not part of the Regulations)

The purposes of these Regulations are to:

1. require each Licensed fiduciary to make an annual return to the Commission of their regulated fiduciary activities, and
2. prohibit Licensed fiduciaries who hold a personal fiduciary licence from advertising.



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**THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES  
AND COMPANY DIRECTORS, ETC. (BAILIWICK OF GUERNSEY) LAW,  
2000 AS AMENDED (“THE LAW”)**

**ANNUAL RETURN FOR THE PERIOD 1 JULY 2010 TO 30 JUNE 2011  
BY A HOLDER OF A FULL FIDUCIARY LICENCE**

**NAME OF LICENSEE (OR LEAD LICENSEE)**

*This form is for use by holders of a full fiduciary licence, including a licence granted to more than one company/partnership jointly. There is a separate form for the annual return of an individual who holds a personal fiduciary licence.*

*If you are completing this form on behalf of joint licensees, please list all of them in response to question two and then answer each subsequent question with a single answer showing the combined position in relation to all joint licensees.*

*Please complete all sections fully. If you are completing the Microsoft Word version of this form from the Commission’s website, please expand the space as required for your answer. If you have any difficulty completing this form, please speak to your usual contact in the Fiduciary Services Division.*

*An original signature is required on the completed annual return form. Please send a paper copy of the completed annual return and any supporting documents to:*

Director of Fiduciary Services	Telephone: 01481 712706
Guernsey Financial Services Commission	Fax: 01481 726952
P O Box 128	International dialling code: 44 1481
Glategny Court	Internet: <a href="http://www.gfsc.gg">www.gfsc.gg</a>
Glategny Esplanade	
St Peter Port	
Guernsey	
GY1 3HQ	

For completion by the GFSC:

Date received:		CRM Ref No.	
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**PART A GENERAL DETAILS OF THE LICENSED FIDUCIARY**

1. Name of lead licensed fiduciary:

2. Name of any joint fiduciary licensees:

3. Principal business address:

4. Additional details (where applicable):

<b>Telephone number:</b>	<b>Fax number:</b>	<b>Email address:</b>	<b>Website address :</b>



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**PART B MANAGEMENT, CONTROL AND STAFFING**

5. Have there been any changes to the directors, controllers, managers or partners of the licensed fiduciary during the annual return period?

Yes  No

If yes, have you already notified the Commission of those changes?

Yes  No

If you have not notified the Commission of those changes, please explain why and please give details of the changes below:

<b>Name:</b>	<b>Date of change:</b>	<b>Nature of change:</b>	<b>Reason:</b>

Please provide a form PQ or form PD for each individual listed above who is a new director, controller, manager or partner during the annual return period.

*Note: For each individual named above as a new director, controller, manager or partner, the Commission should already have received a completed form PQ or form PD. If this is not the case, this annual return should be accompanied by the relevant form(s) PQ or PD (available on the Commission's website or by email on request). If a form PQ or PD has not already been submitted in relation to this licensee but the individual has submitted one in relation to another institution, please state the date on which the form PQ or PD was submitted and the application or institution to which it related.*

6. Please identify the Money Laundering Reporting Officer and his/her email address:

<b>MLRO:</b>	
<b>Email address:</b>	

7. How many members of staff (in full time equivalent terms) were carrying out regulated fiduciary activities as at the end of the annual return period?

	<b>Number of staff:</b>	<b>Employer (if not the licensed fiduciary):</b>
Regulated fiduciary activities:		



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How many members of staff (in full time equivalent terms) were carrying out other activities as at the end of the annual return period?

	Number of staff:	Employer (if not the licensed fiduciary):
Other activities:		

**PART C ACTIVITIES OF THE LICENSED FIDUCIARY**

8. Please describe the main regulated fiduciary activities carried out during the annual return period:

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9. Please provide the following details, as at the end of the annual return period, (including appointments held both by the licensed fiduciary and by its staff in the course of their duties to the licensee):

**a) Trust Related Activities:**

Regulated activity:	Number of appointments or cases:
All trusteeships (including RATS/QROPS)	
Trusteeship of RATS only:	
Trusteeship of QROPS (other than approved RATS):	
Administration of trusts without acting as trustee:	
Protector of a trust:	



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Enforcer of a purpose trust:	
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**b) Company Related Activities:**

<b>Regulated activity:</b>	<b>Companies registered in the Bailiwick of Guernsey</b>	<b>Companies registered in Other Jurisdictions</b>
	<b>Number of appointments or cases</b>	<b>Number of appointments or cases</b>
Directorships <i>(if more than one director is provided, please count as one case):</i>		
Company Administration  <i>Where no director is provided</i>		
Other Company Service Provision  <i>Where activities such as company secretarial or registered office/agent services are provided without the provision of directorships or company administration services.</i>		

**c) Foundation Related Activities:**

<b>Regulated activity:</b>	<b>Number of appointments or cases:</b>
Council Member(s):	
Adviser or Protector or Guardian:	
Founder <i>(where the licensee continues to be involved with the Foundation):</i>	



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**d) Private Trust Company Related Activities:**

How many Private Trust Companies do you administer which **are not** acting by way of business?

<b>Number of Private Trust Companies</b> <i>(Not acting by way of business)</i>	
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How many Private Trust Companies do you administer which **are** acting “by way of business”?

Please provide the following details:

<b>Names of Private Trust Companies</b> <i>(acting by way of business)</i>	<b>Services Provided by Licensee</b>	<b>Activities undertaken by the Private Trust Companies</b>	<b>Jurisdiction of Incorporation</b>	<b>Date of Incorporation and Registration Number:</b>



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**e) Non-Profit Organisation Related Activities:**

Please provide details of all charities and other Non-Profit Organisations (“Other NPO”) (as defined in The Charities and Non-Profit Organisations (Registration) (Guernsey) Law, 2008) that are administered, controlled or operated by the licensed fiduciary:

<b>Name of Charity</b>	<b>Purpose or activities</b>	<b>Asset value (£)</b>	<b>Jurisdiction(s) where assets held or activities conducted</b>

<b>Name of other NPO</b>	<b>Purpose or activities</b>	<b>Asset value (£)</b>	<b>Jurisdiction(s) where assets held or activities conducted</b>



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**f) Partnership Related Activities:**

<b>Regulated activity:</b>	<b>Number of appointments or cases</b>
Management or administration of partnerships <i>(when not acting as or providing a partner)</i>	
Management or administration of partnerships <i>(when also acting as or providing a partner)</i>	
Acting as a partner <i>(without management or administration provision)</i>	

**g) Estates Related Activities**

<b>Regulated activity:</b>	<b>Number of appointments or cases:</b>
Appointments as executor of a will or administrator of an estate  <i>Please include only those appointments where you are currently acting in this capacity, ignoring appointments not yet in force.</i>	

10. Please name any individuals in your organisation who, as at the end of the annual return period, were performing the following regulated activities on your behalf:

- acting as director
- acting as officer to company or other body;
- acting as a trustee or protector of a trust including a trustee of a RATS or QROPS;
- acting as an enforcer of a purpose trust; or
- acting as a council member, adviser, protector, guardian or founder of a foundation

In each case, please also include details of how many such appointments each such person holds as at the end of the period under review:



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**a) Company related appointments**

<b>Name of individual:</b>	<b>Directorships:</b>	<b>Other Company Officer Appointments:</b>

**b) Trust related appointments**

<b>Name of individual</b>	<b>Trusteeships</b>	<b>Protectorships</b>	<b>Enforcer appointments</b>

**c) Foundations related appointments**

<b>Name of individual:</b>	<b>Council member</b>	<b>Adviser</b>	<b>Protector or Guardian</b>	<b>Founder</b>

11. Please describe any non-fiduciary regulated activities that are carried on by way of business.

Please also indicate whether these activities are authorised by the Commission e.g. under legislation on investment, insurance or deposit-taking business

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**PART D      DECLARATIONS**

I confirm that, during the period 1 July 2010 to 30 June 2011, the licensee(s) on behalf of which this return is made has/have complied with the requirements of the Law, the Codes of Practice made under it (insofar as they are applicable) and all legislation on countering financial crime and terrorist financing with which it has/they have to comply. I confirm that, as at the end of the period covered by this return, it is/they are able to meet its/their liabilities as they fall due.

I confirm that the directors/partners of the licensed fiduciary on behalf of which this return is made have reviewed the insurance cover held by the licensed fiduciary and consider that such cover is adequate and appropriate and that it meets the requirements of the Law and the Codes of Practice made under the Law.

I declare that the information given in and with this annual return is complete and correct to the best of my knowledge and belief and that I am aware of no other facts of which the Commission should be aware.

I am aware that it is an offence under section 46 of the Law knowingly or recklessly to supply information in connection with a requirement imposed by any regulation made under the Law which is false or misleading in a material particular. I am aware of the obligations in sections 14, 21 and 22 of the Law to notify the Commission of changes in the ownership, control and management of fiduciary licensees and all such changes have been notified.

Name and position of signatory:

Signature:

Date:

*Note: The signatory should be:*

*where this form is completed on behalf of a single company, a director,*

*where it is completed on behalf of joint licensees, a director of the lead licensee,*

*where it is completed on behalf of a partnership, a partner.*



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**THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES  
AND COMPANY DIRECTORS, ETC. (BAILIWICK OF GUERNSEY) LAW,  
2000 AS AMENDED ("THE LAW")**

**ANNUAL RETURN FOR THE PERIOD 1 JULY 2010 TO 30 JUNE 2011  
BY A HOLDER OF A PERSONAL FIDUCIARY LICENCE**

**NAME OF LICENSEE:**

*This form is for use by a holder of a personal fiduciary licence. There is a separate form for the annual return of a company or partnership which holds a full fiduciary licence.*

*Please complete all sections fully. If you are completing the Microsoft Word version of this form from the Commission's website, please expand the space as required for your answer. If you have any difficulty completing this form, please speak to your usual contact in the Fiduciary and Intelligence Services Division.*

*An original signature is required on the completed annual return form. Please send a paper copy of the completed annual return and any supporting documents to:*

Director of Fiduciary Services  
Guernsey Financial Services Commission  
P O Box 128  
Glategny Court  
Glategny Esplanade  
St Peter Port  
Guernsey  
GY1 3HQ

Telephone: 01481 712706  
Fax: 01481 726952  
International dialling code: 44 1481  
Internet: [www.gfsc.gg](http://www.gfsc.gg)

For completion by the GFSC:

Date received:		CRM Ref No.	
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**PART A GENERAL DETAILS OF THE LICENSED FIDUCIARY**

1. Full name:

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2. Principal business address:

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3. Additional details (where applicable):

Telephone number:	Fax number:	Email address:	Website address:

**PART B ACTIVITIES OF THE LICENSED FIDUCIARY**

4. Please provide the following details, as at the end of the period covered by this return:

a) Trust Related Activities

Regulated activity:	Number of appointments or cases:
All trusteeships (including RATS/QROPS)	
Trusteeship of RATS only:	
Trusteeship of QROPS (other than approved RATS):	
Protector of a trust:	



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**b) Company Related Activities:**

<b>Regulated activity:</b>	<b>Companies registered in the Bailiwick of Guernsey</b>	<b>Companies registered in Other Jurisdictions</b>
	<b>Number of appointments or cases</b>	<b>Number of appointments or cases</b>
Directorships:		

**c) Foundation Related Activities:**

<b>Regulated activity:</b>	<b>Number of appointments or cases:</b>
Acting as a council member of foundations:	

**d) Estates Related Activities**

<b>Regulated activity:</b>	<b>Number of appointments or cases:</b>
Appointments as executor/executrix of a will or administrator/administratrix of an estate  <i>Please include only those appointments where you are currently acting in this capacity, ignoring appointments not yet in force.</i>	



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**e) Non-Profit Organisation Related Activities:**

Please provide details of all charities and other Non-Profit Organisations (“Other NPO”) (as defined in The Charities and Non-Profit Organisations (Registration) (Guernsey) Law, 2008) that are administered, controlled or operated by the licensed fiduciary:

<b>Name of Charity</b>	<b>Purpose or activities</b>	<b>Asset value (£)</b>	<b>Jurisdiction(s) where assets held or activities conducted</b>

<b>Name of other NPO</b>	<b>Purpose or activities</b>	<b>Asset value (£)</b>	<b>Jurisdiction(s) where assets held or activities conducted</b>



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**PART C FINANCIAL INFORMATION ON THE LICENSED FIDUCIARY**

5. Please attach or provide below particulars of your financial position in relation to your most recent accounting period. Please note that this may be limited to your financial position so far as it relates to regulated activities carried on by you in the relevant accounting period and need not be in the form of financial statements. A statement of the income from (and any liabilities relating to) your regulated activities for the year to 30 June 2011 (or your accounting period, if different) is therefore sufficient.

6. Please describe any activities that you carry on by way of business, other than regulated fiduciary activities:

**PART D DECLARATIONS**

I confirm that, during the period 1 July 2010 to 30 June 2011, I have complied with the requirements of the Law, the Codes of Practice made under it (insofar as they are applicable) and all legislation on countering financial crime and terrorist financing with which I have to comply. I confirm that, as at the end of the period covered by this return, I am able to meet my liabilities as they fall due.

I confirm that I have reviewed the insurance cover I hold and consider that such cover is adequate and appropriate and that it meets the requirements of the Law and the Codes of Practice made under the Law.

I declare that the information given in and with this annual return is complete and correct to the best of my knowledge and belief and that I am aware of no other facts of which the Commission should be aware.

I am aware that it is an offence under section 46 of the Law knowingly or recklessly to supply information in connection with a requirement imposed by any regulation made under the Law which is false or misleading in a material particular.

Signature:

Date: