

Guernsey Statutory Instrument

2013 No 28

**The Regulation of Fiduciaries
(Fiduciary Advertisements and Annual Returns)(Amendment) Regulations,
2013**

Made: 31 May 2013

Coming into operation: 3 June 2013

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^a, 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)(Amendment) Regulations, 2013 and shall come into force on 3rd June 2013.

Amendment

- 2 The Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2012 shall be amended in accordance with the Schedule attached hereto.

^a Order in Council No. 1 of 2001.

SCHEDULE

The Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2012 shall be amended as follows.

Regulation 2

Interpretation

“Annual return period” at the end insert the words “and ending on 30th June each and every following year”,

Between “Fiduciary advertisement” and “Full fiduciary licence” insert

“Foundation official” has the meaning given in section 2 of the Law,

Regulation 3

Return

Replace sub-paragraphs (g) and (h) with

- (g) the number of clients of the Licensed fiduciary, broken down by the category of structures to which he provides Regulated activity and as more particularly set out in the forms in the Schedule to these Regulations,
- (h) the names of individuals who, in the performance of their duties to the Licensed fiduciary, act as director of a company, trustee or protector of a trust, partner of any partnership or as a Foundation official, and how many such appointments each such person holds,

Re-letter (j) to (n) as (l) to (p)

After sub-paragraph (i) insert new sub-paragraphs (j) and (k)

- (j) the breakdown of business by geographical location and breakdown of new business by geographical location,
- (k) the purpose or activity, asset value, jurisdiction(s) where assets are held and where activities are conducted of all charities and other Non-Profit Organisations (“Other NPO”),

Regulation 4

Fiduciary Licensees

4(4) Replace the words “one calendar month” with “two calendar months”.

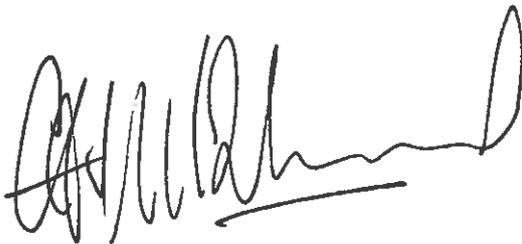
Regulation 5

Personal Licensees

5(3) Replace the words “one calendar month” with “two calendar months”.

Schedule to the 2012 Regulations

Insert the forms in Appendix 1 to these Regulations as a Schedule to the Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations 2012.

A handwritten signature in black ink, appearing to be 'C A C M Schrauwers', with a horizontal line underneath the signature.

Dated this 31 May 2013

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

Appendix 1

Insert the following forms in a Schedule to the Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2012

“Schedule



Guernsey Financial
Services Commission

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

**RETURN FOR THE ANNUAL RETURN PERIOD ENDING 30 JUNE
BY A HOLDER OF A FULL FIDUCIARY LICENCE**

Insert Year

NAME OF LICENSEE (OR LEAD LICENSEE)

This form is for use by companies and partnerships holding a full fiduciary licence including those which hold a joint fiduciary licence. There is a separate form for the annual return of an individual who holds a personal fiduciary licence.

All licensees are required to submit a Return in the prescribed format for the Annual Return Period by 31 August following the end of that Return Period as provided by the Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) (Amendment) Regulations, 2013.

If you are completing this form on behalf of joint licensees, please list all of them in response to the relevant question in Part A 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 Excel 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 send an email with your enquiry to fiduciaryreturn@gfsc.gg

An original signature is required on the completed annual return form therefore we are unable to accept any submissions by email. Please send a paper copy of the completed annual return and any supporting documentation to:

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

Please refer to the Guidance Notes issued on the Commission's website.

PART A GENERAL DETAILS OF THE LICENSED FIDUCIARY

Name of lead licensee:

Name of any joint licensees:

Principal business address:

Additional details (where applicable):

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

Please attach an ownership structure chart for the licensee as at the end of the annual return period including all intermediate vehicles with their place of registration or incorporation and ultimate ownership. A condensed version may be accepted for large groups, subject to the agreement of the Commission.

If the licensee is part of a group please provide a group organogram as at the end of the annual return period reflecting the licensee's reporting lines.

PART B MANAGEMENT, CONTROL AND STAFFING

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

 Yes or No

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

 Yes or No

If no, please explain why and give details of the changes below and provide a Form PQ or Form PD for each individual listed below:

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, please send the relevant Form(s) PQ or PD (available on the Commission's website) by separate cover to the Authorisations Unit. For further information, please refer to the Guidance Notes on Personal Questionnaires and Personal Declarations.

Name:	Date of change:	Nature of change:	Reason:

Please identify the most senior primary contact within the organisation and his/her email address:

Primary Contact:	
Email Address:	

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

MLRO:	
Email Address:	

Please state how many members of staff were carrying out regulated fiduciary activities and how many staff were carrying out other activities as at the end of the annual return period, both as a total number of staff and full time equivalent ("FTE") terms.

	Total number of staff:	Number of staff FTE:	Employer (if not the licensed fiduciary):
Regulated fiduciary activities:			
Other activities			

Please provide the licensee's staff organogram including any vacancies as at the end of the annual return period. It should also include consultants and non-executive directors. It should state each individual's name, position and FTE hours and should also indicate which staff are signatories of the licensee.

Please advise how many staff have left the employment of the licensee during the review period.

Please advise how many staff have joined the licensee during the review period.

PART C ACTIVITIES OF THE LICENSED FIDUCIARY

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

Please detail if this represents a change to your business plan. Examples may include, but are not limited to, additional products, new target markets or other changes to the strategic direction of the licensee.

Please identify if any regulated activities or compliance arrangements are outsourced to a third party (in Guernsey or overseas and within the licensee's group or externally). If so please provide details on what is outsourced and to whom.

Please identify if any regulated activities or compliance arrangements are insourced from a third party (in Guernsey or overseas and within the licensee's group or externally). If so please provide details on what is insourced and from whom.

ASSETS UNDER REGULATED ACTIVITIES

PLEASE REFER TO THE GUIDANCE NOTES FOR COMPLETION.

Please provide the following details, as at the end of the annual return period, to include all appointments held both by the licensee and by its staff in the course of their duties to the licensee (all values to be stated in GBP):

Trust Related Activities:

	Number of appointments	Number of members (if multi-member scheme)	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Trusteeships of purpose trusts		N/A						0
Trusteeships of RATS								0
Trusteeships of QROPS - other than approved RATS								0
Trusteeships or administration of other pension categories								0
Trusteeships of Employee Benefit Trusts								0
Trusteeships of other benefit/incentive/savings schemes (see below)								0
All trusteeships (excluding ones listed above)		N/A						0
Administration of trusts without acting as trustee (excluding ones listed above)		N/A						0
Total	0	N/A	0	0	0	0	0	0

If completing "Trusteeships of other pensions/benefit/incentive/savings schemes", please provide details:

Foundation Related Activities:

	Number of appointments	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Councillors (or equivalent)							0
Administration only							0
Registered agent when providing no other services		N/A	N/A	N/A	N/A	N/A	N/A

Other Trust and Foundation Activities:

	Number of appointments	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Appointments as protector of a trust		N/A	N/A	N/A	N/A	N/A	N/A
Appointments as enforcer of a purpose trust		N/A	N/A	N/A	N/A	N/A	N/A
Guardian, adviser or protector of a foundation		N/A	N/A	N/A	N/A	N/A	N/A

Corporate Service Activities:

PLEASE EXCLUDE VALUES FOR UNDERLYING COMPANIES DECLARED ABOVE.

	Number of companies	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Directorships of companies registered in Alderney and Guernsey							0
Directorships of companies registered in other jurisdictions							0
Corporate services where no director is provided excluding where registered office only							0
Registered office only when providing no other services		N/A	N/A	N/A	N/A	N/A	N/A

Partnership Related Activities:

	Number of appointments or cases	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Management or administration of partnerships (when not acting as or providing a partner)							0
Management or administration of partnerships (when also acting as or providing a partner)							0
Acting as a partner (without management or administration provision)							0

Estates Related Activities:

	Number of appointments - Bailiwick	Number of appointments - Other Jurisdictions
Current appointments as executor of a will or administrator of an estate.		

Breakdown of Business by Client/Beneficiary Base

Please provide in percentage terms the proportion of the licensee's total fiduciary turnover which comes from the following sources.

	Private Clients	Institutional Clients
%		

Breakdown of Business by Geography

Please provide a break-down of the originating geographical location of the licensee's client base as a percentage of its total fiduciary turnover. Please provide details of any other significant regions or countries over 5% not listed here in the additional box provided. Please note that this should not refer to the location of any introducer.

	Local	UK	Europe	USA	Russia	China	Middle East
%							

Breakdown of New Business by Geography

Please provide a break-down of the originating geographical location of new clients as a percentage of the total of new clients in the last twelve months. Please provide details of any other significant regions or countries over 5% not listed here in the additional box provided. Please note that this should not refer to the location of any introducer.

	Local	UK	Europe	USA	Russia	China	Middle East
%							

Please provide a total number of new clients taken on in the last twelve months:

If more space is needed, the answers should be written on a separate signed and dated sheet of paper and referenced to this question.

Private Trust Company Related Activities:

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

How many Private Trust Companies do you administer which are acting by way of business?

Please provide the following details:

Names of Private Trust Companies (acting by way of business)	Services Provided by Licensee	Number of directorships held by the licensee or staff	Activities undertaken by the Private Trust Companies	Jurisdiction of Incorporation	Number of appointments held by each Private Trust Company

Please confirm that those Private Trust Companies acting by way of business in or from within the Bailwick of Guernsey have been granted an exemption under Section 3 (1) (y) of the Law.

 Yes / No

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.

Number of Charities	Number of other NPOs

Name of Charity	Purpose or activities	Asset value (£)	Jurisdiction(s) where assets are held	Jurisdiction(s) where activities are conducted
	Total asset value:	0		

Name of other NPO	Purpose or activities	Asset value (£)	Jurisdiction(s) where assets are held	Jurisdiction(s) where activities are conducted
	Total asset value:	0		

Registered Businesses:

Do you currently manage or administer any Non-Regulated Financial Services Businesses? For further information on Non-Regulated Financial Services Businesses please click [here](#).

Yes / No

If yes, please provide a full list of company names and confirmation of whether they are registered with the Commission:

Name	Address	Registered Yes or No ?

Do you currently manage or administer any Prescribed Businesses? For further information on Prescribed Businesses please click [here](#).

Yes / No

If yes, please provide a full list of company names and confirmation of whether they are registered with the Commission:

Name	Address	Registered Yes or No ?

If more space is needed, the answers should be written on a separate signed and dated sheet of paper and referenced to this question.

PART D INDIVIDUAL APPOINTMENTS

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 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 councillor, guardian, adviser or protector 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:

Company related appointments

Name of individual:	Directorships- Guernsey	Directorships- other	Total directorships
			0
			0
			0
			0
			0
			0
			0
			0

Trust related appointments

Name of individual	Trusteeships	Protectorships	Enforcer appointments

Foundations related appointments

Name of individual:	Councillor (or equivalent)	Guardian, adviser or protector

If more space is needed, the answers should be written on a separate signed and dated sheet of paper and referenced to this question.

PART E NON-FIDUCIARY RELATED ACTIVITIES

Please describe any non-fiduciary regulated activities that are carried on by way of business. Please also indicate whether these activities are authorised, licensed or registered by the Commission, for example under legislation on investment, insurance, deposit-taking or registered businesses.

PART F COMPLAINTS AND CLAIMS

How many complaints did the licensee receive during the annual return period?

How many complaints were resolved within three months of receipt?

How many complaints are over three months old at the end of the annual return period?

How many complaints were over three months old at the end of the previous annual return period?

Were these complaints notified to the Commission?

Yes / No

How many notifications did the licensee make to its insurers during the annual return period?

If applicable, has the Commission been notified?

Yes / No

How many claims were paid by the licensee's insurers during the annual return period and what was the total value of the payments in GBP?

Claims

Value

PART G DECLARATIONS

We confirm that, during the Annual Return Period, the licensee(s) on behalf of which this return is made has/have complied with the requirements of the Law, the Regulations, Rules and 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. We 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.

We confirm that the directors/partners of the licensed fiduciary on behalf of which this Annual 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.

We declare that the information given in and with this annual return, is complete and correct to the best of our knowledge and belief and that we are aware of no other facts of which the Commission should be aware.

We are 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.

We are 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.

Signatory 1

Name	
Position	
Signature	
Date	

Signatory 2

Name	
Position	
Signature	
Date	

Note: The signatory should be:

*where this form is completed on behalf of a single company, two directors,
where it is completed on behalf of joint licensees, two directors of the lead
where it is completed on behalf of a partnership, two partners.*

Checklist

	Yes/No
The Guidance Notes have been reviewed	
All of the questions have been completed correctly	
Ownership structure chart is attached (refer to Part A)	
Group organogram is attached (refer to Part A)	
Staff organogram is attached (refer to Part B)	



Guernsey Financial
Services Commission

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

**RETURN FOR THE ANNUAL RETURN PERIOD ENDING 30 JUNE
BY A HOLDER OF A PERSONAL FIDUCIARY LICENCE**

Insert Year

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.

All licensees are required to submit a Return in the prescribed format for the Annual Return Period by 31 August following the end of that Return Period as provided by the Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) (Amendment) Regulations, 2013.

Please complete all sections fully. If you are completing the Microsoft Excel 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 send an email with your enquiry to fiduciaryreturn@gfsc.gg

An original signature is required on the completed annual return form therefore we are unable to accept any submissions by email. Please send a paper copy of the completed annual return and any supporting documentation to:

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

Please refer to the Guidance Notes issued on the Commission's website.

PART A GENERAL DETAILS OF THE LICENSED FIDUCIARY

Full name:

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Principal business address:

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Additional details (where applicable)

Telephone number:	Fax number:	Email address:

PART B ACTIVITIES OF THE LICENSED FIDUCIARY

ASSETS UNDER REGULATED ACTIVITIES

PLEASE REFER TO THE GUIDANCE NOTES FOR COMPLETION

Please provide the following details for the period under review (all values to be stated in GBP). Please ensure when completing all asset values that you have agreed with any other licensed fiduciaries based in the Bailiwick of Guernsey which party is including the assets in the annual return in order to avoid duplication.

Trust Related Activities:

	Number of appointments	Number of members (if multi-member scheme)	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Trusteeships of purpose trusts		N/A						0
Trusteeships of RATS								0
Trusteeships of QROPS - other than approved RATS								0
Trusteeships or administration of other pension categories								0
Trusteeships of Employee Benefit Trusts								0
Trusteeships of other benefit/incentive/savings schemes (see below)								0
All trusteeships (excluding ones listed above)		N/A						0
Totals	0	N/A	0	0	0	0	0	0

If completing "Trusteeships of other pensions/benefit/incentive/savings schemes", please provide details:

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Foundation Related Activities:

	Number of appointments	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Councillor (or equivalent)							0

Other Trust and Foundation Activities

	Number of appointments	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Appointments as protector of a trust		N/A	N/A	N/A	N/A	N/A	N/A
Appointments as enforcer of a purpose trust		N/A	N/A	N/A	N/A	N/A	N/A
Guardian, adviser or protector of a foundation		N/A	N/A	N/A	N/A	N/A	N/A

Directorship Activities:

Please exclude values for underlying companies declared above.

	Number of appointments or cases	Liquid and near liquid assets	Real estate	Private company shares and other trading assets	Works of art and antiques	Other diverse assets	Total of assets
Companies registered in Alderney and Guernsey							0
Companies registered in other jurisdictions							0

Are you a director of any trust companies? Yes / No

If yes, how many of these are:

Private

Regulated

Please complete the following section if you are a director of any Private Trust Companies.

Name of each Private Trust Company	Activities undertaken by each Private Trust Company	Jurisdiction of Incorporation	Number of appointments held by each Private Trust Company

Please confirm that those Private Trust Companies acting by way of business in or from within the Bailiwick of Guernsey have been granted an exemption under Section 3 (1) (y) of the Law.

Yes / No

Estates Related Activities:

	Number of appointments or cases - Bailiwick	Number of appointments or cases - Other Jurisdictions
Current appointments as executor of a will or administrator of an estate.		

Breakdown of Business by Client/Beneficiary Base

Please provide in percentage terms the proportion of the licensee's total fiduciary turnover which comes from the following sources.

	Private Client	Institutional Client
%		

Breakdown of Business by Geography

Please provide a break-down of the originating geographical location of the licensee's client base as a percentage of its total fiduciary turnover. Please provide details of any other significant regions or countries over 5% not listed here in the additional box provided. Please note that this should not refer to the location of any introducer.

	Local	UK	Europe	USA	Russia	China	Middle East	
%								

Breakdown of New Business by Geography

Please provide a break-down of the originating geographical location of new clients as a percentage of the total of new clients in the last twelve months. Please provide details of any other significant regions or countries over 5% not listed here in the additional box provided. Please note that this should not refer to the location of any introducer.

	Local	UK	Europe	USA	Russia	China	Middle East	
%								

Please provide a total number of new clients taken on in the last twelve months

If more space is needed, the answers should be written on a separate signed and dated sheet of paper and referenced to this question.

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](#)) to which you provide regulated activities.

Number of Charities	Number of other NPOs
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Name of Charity	Purpose or activities	Asset value (£)	Jurisdiction(s) where assets are held	Jurisdiction(s) where activities are conducted
Total asset value:		£0		

Name of other NPO	Purpose or activities	Asset value (£)	Jurisdiction(s) where assets are held	Jurisdiction(s) where activities are conducted
Total asset value:		£0		

PART C FINANCIAL INFORMATION ON THE LICENSED FIDUCIARY

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 Annual Return Period (or your accounting period, if different) is therefore sufficient.

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

PART D COMPLAINTS AND CLAIMS

How many complaints did you receive during the annual return period?

How many complaints were resolved within three months of receipt?

How many complaints are over three months old at the end of the annual return period?

How many complaints were over three months old at the end of the previous annual return period?

Were these complaints notified to the Commission?

Yes / No

How many notifications did you make to your insurers during the annual return period?

If applicable, has the Commission been notified?

Yes / No

How many claims were paid by your insurers during the annual return period and what was the total value of the payments in GBP?

Claims

Value

PART E DECLARATIONS

I confirm that, during the Annual Return Period, I have complied with the requirements of the Law, the Regulations, Rules and 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.

Name	
Signature	
Date	

Checklist:

Yes or No

The Guidance Notes have been reviewed	
All of the questions have been completed correctly	
Where trusteeship is shared with other licensees in Guernsey, I confirm that I have agreed with them which party will declare asset values	

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EXPLANATORY NOTE

(This note is not part of the Regulations)

The purposes of these Regulations are to:

Amend in some respects the Regulation of Fiduciaries (Fiduciary Advertisements and Annual Returns) Regulations, 2012 including extending the time for making an annual return to the Commission.