NOTICE TO ALL FULL FIDUCIARY LICENSEES

Re-Categorisation of Full Fiduciary Licences upon Implementation of the Regulation of Fiduciaries, Administration Business and Company Directors, etc (Bailiwick of Guernsey) Law, 2020[[1]](#footnote-1) (the “2020 Fiduciaries Law”)

**Lead Licensees**

On the commencement of the 2020 Fiduciaries Law on the 1 November 2021 all full fiduciary licensees categorised as Lead Licensees will convert to primary fiduciary licensees.

**Joint Licensees**

All licensed fiduciaries are hereby notified that on the 1 November 2021 the Commission will use its powers under Section 61(1)(b) of the 2020 Fiduciaries Law and Rule 1A.1(1)(b) of the proposed Fiduciary Rules, 2021 (upon the commencement of this legislation on the same day) to convert the fiduciary licences of entities categorised as Joint Licensees as at 31 October to secondary fiduciary licences.

Please note that, if the Commission has not received clear communication from a current Joint Licensee by 31 October 2021 advising that it does not wish to be re-categorised as a secondary licensee, the licensee will be deemed to have agreed:

1) to the conversion under Section 61(1)(b) of the 2020 Fiduciaries Law (upon its coming into operation) and Rule 1A.1(1)(b) of the proposed Fiduciary Rules, 2021, and

2) that it meets the requirements of Section 4(3)(a) of the 2020 Fiduciaries Law (upon its coming into operation) and Rule 1A.2(2) of the proposed Fiduciary Rules, 2021 regarding trading actively.

Following conversion of a licensee from a Joint Licensee to a secondary fiduciary licensee, the Commission will also designate the entity which prior to conversion was recorded as the Lead Licensee for that Joint Licensee, as the designated primary fiduciary licensee to the new secondary fiduciary licensee, provided the Commission does not receive notification to the contrary prior to the commencement date.

Explanatory Note

**What is happening?**

On the 1 November 2021 when the new revised Fiduciaries Law comes into force Lead Licensees will be re-categorised as primary fiduciary licensees and Joint Licensees will be re-categorised as secondary fiduciary licensees. These changes reflect the proposals made in the Commission’s Consultation Paper issued on 17 June 2021[[2]](#footnote-2).

**Do licensees need to communicate with the Commission?**

In most cases no action is required by licensees as re-categorisation will occur automatically. Licensees should contact the Commission if they wish to convert a joint/secondary fiduciary licensee to a lead/primary fiduciary licensee or vice versa, or if they have any questions about the re-categorisation process.

If a Joint Licensee advises the Commission that it does not wish to be re-categorised as a secondary fiduciary licensee from 1 November 2021 a new licence application would be required to be made to the Commission evidencing the significant changes in business model and operations necessary to satisfy the Commission that the licensee would meet the criteria to continue to be licensed under the 2020 Fiduciaries Law and categorised as a primary fiduciary licensee.

**How do I establish the current categorisation of a fiduciary licensee?**

A Lead Licensee is the entity identified as the lead applicant at the time of a licence application made jointly with other applicants. The other applicants are categorised as Joint Licensees.

A Lead Licensee is the entity which completes a consolidated annual fiduciary return which includes their joint licensees.

If you are uncertain as to the current categorisation of a licensee, please refer to the Commission’s website (<https://www.gfsc.gg/industry-sectors/fiduciary/regulated-entities>) or contact the Commission.

**Contact the Commission**

If you have any questions about the re-categorisation process, please contact the Commission at the following email address: ifpd@gfsc.gg.

1. <https://www.guernseylegalresources.gg/laws/guernsey-bailiwick/f/financial-services/regulation-of-fiduciaries-administration-businesses-and-company-directors-etc-bailiwick-of-guernsey-law-2020/> [↑](#footnote-ref-1)
2. [Guernsey Financial Services Commission - Citizen Space (gfsc.gg)](https://consultationhub.gfsc.gg/) [↑](#footnote-ref-2)