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Guernsey Statutory Instrument

2001 No**The Regulation of Fiduciaries
(Fiduciary Advertisements and Annual Returns) Regulations, 2001**

Made: 20 March 2001

Coming into operation: 1 April 2001

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) Regulations, 2001 and shall come into force on 1st April, 2001.

Interpretation

- 2 In these Regulations:

“Annual return” means a return required to be made in accordance with the provisions of Regulation 3,

“Annual return period” means the period of one year commencing on 1 July,

^a Order in Council No. 1 of 2001.

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

“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,

“Liquid assets” means cash, bank deposits, investments quoted on an investment exchange and other investments for which prices or values are published,

“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,

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.

Annual return

- 3(1) A person shall, in relation to each annual return period at any time during which he was a licensed fiduciary, make a return (hereinafter referred to as an “annual return”) to the Commission of his regulated activities during or at the end of that period in accordance with this Regulation.
- (2) An annual return shall be made to the Commission within one calendar month of the end of the annual return period to which it relates.

- (3) An annual return shall be in the form published from time to time by the Commission and shall state:
- (a) the name of the licensed fiduciary,
 - (b) his business address(es),
 - (c) his telephone and fax numbers and email and web site 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 liquid assets of which he is trustee or which are under his administration,
 - (j) 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
 - (k) 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.

Prohibition on advertising

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

Dated this 20th day of March, 2001.

L. C. Morgan
Chairman of the Guernsey Financial Services Commission
for and on behalf of the Commission

EXPLANATORY NOTE

(This note is not part of the Regulations)

The purposes of these Regulations are:

1. to provide for each licensed fiduciary to make an annual return to the Commission of their regulated fiduciary activities, and
2. to prohibit a licensed fiduciaries who holds a personal fiduciary licence from advertising.