

**Guernsey Statutory Instrument**

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**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.