

# Consultation on Proposed Financial Crime Return Rules

**Closed 27 Mar 2023**

Opened 13 Feb 2023

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## Contact

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# Results updated 24 May 2023

Following this consultation, the Commission has made the Financial Crime Returns Rules which make mandatory the filing of the annual financial crime risk return, the annual intermediaries return and the quarterly financial flows return.

The Commission is taking a phased approach to the introduction of a fining penalty for late or inaccurate submission of these returns. Their accuracy and timely submission will be monitored but not subject to an administrative penalty for late or inaccurate filing this year.

A feedback paper on the consultation is below.

## Links:

- [Consultation Paper Feedback](#)
  - [Financial Crime Returns Rules, 2023 \(Published\)](#)
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## Overview

This consultation paper proposes the making of rules for the mandatory filing of three existing financial crime returns to which administrative financial penalties will apply for late filings and inaccurate submissions.

The Commission is intending to make rules which will make mandatory the filing of the following returns within the timeframes set:

- The annual financial crime risk return from all licensed firms by 31 October each year;
- The annual intermediary multi-scheme return by administrators of authorised and registered collective investment schemes by 31 May each

year; and

- The quarterly financial flows return completed by banks within two months of quarter end.

A copy of the draft rules is attached to this consultation. The Commission intends to add these returns to the schedule of returns in the Financial Services Commission (Administrative Financial Penalties) (Bailiwick of Guernsey) Regulations issued under section 40 the Financial Services Business (Enforcement Powers) Law to enable a penalty to be applied for late filing. These returns will also be included in the Inaccurate Filing Penalty regime which will come into effect from this year.

The Commission consulted on the inclusion of these financial crime returns in both penalty regimes as part of its consultation last year on the fee rates for 2023. Feedback on that consultation was issued in November 2022 addressing responses to the development on these regimes.

If you would like to provide any feedback regarding the Financial Crime Return Rules for 2023, please complete the survey.

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## Related

[!\[\]\(cbe2492b119e39e02a1dab2af4a4b296\_img.jpg\) Draft Financial Crime Return Rules, 2023](#)

Audiences

Anyone from any background

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# **Feedback on the Commission's consultation on the Financial Crime Returns Rules ("the Rules")**

## **Background**

The Commission issued on 13 February 2023 a consultation on draft Rules which will make mandatory the filing of financial crime returns, consisting of the annual financial crime risk return, the annual intermediaries return, and the quarterly financial flows return.

The consultation closed on 27 March 2023 with 15 responses. The Commission is grateful to everyone who replied. All feedback has been considered in the finalisation of these Rules.

## **Summary**

Respondents identified two areas affecting the fiduciary and insurance sectors where the identity of the licensee required to submit the return was unclear. Considering these comments, we have amended the Rules to make clearer:

1. that insurance managers must file a financial crime risk return (Rule 1.1(1) (b) refers), and
2. that fiduciary businesses which have a primary licensee and a number of secondary licensees under common ownership, must file one consolidated financial crime risk return (Rules 2.1(3) refers).

A number of respondents commented on the challenge of providing accurate information in the financial crime risk return and queried the circumstances where consolidated financial crime risk returns should be submitted. These comments are being considered as part of our next update to our guidance on completing this year's return.

## **Next steps**

The Commission has today issued the Rules which will apply to all financial crime returns. Namely that relevant firms must submit:

- the annual financial crime risk return from all licensed firms by 31 October.
- the annual intermediary multi-scheme return by administrators of authorised and registered collective investment schemes by 31 May; and
- the quarterly financial flows return completed by banks within two months of quarter end, with first quarter data for this year, due by 31 May 2023.

These returns have been in place for a number of years during which the Commission has fed back to licensees who have made errors, omissions or delayed submission of their return. The Commission is, however, taking a phased approach to the introduction of fining penalties for late or inaccurate submissions of these returns. We will continue to monitor these returns for accuracy and timely submission for this year **but** will only introduce administrative penalties for late or inaccurate filing in 2024.

## FINANCIAL CRIME RETURNS RULES, 2023

*Made:* 28<sup>th</sup> April 2023

*Coming into Operation:* 28<sup>th</sup> April 2023

The Guernsey Financial Services Commission (“the Commission”), in exercise of the powers conferred on it by section 39 of The Banking Supervision (Bailiwick of Guernsey) Law, 2022<sup>1</sup>, section 33 of The Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>2</sup>, section 20 of The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002<sup>3</sup>, section 52 of The Protection of Investors (Bailiwick of Guernsey) Law, 2020<sup>4</sup>, section 36 of The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020<sup>5</sup> and section 66 of The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022<sup>6</sup>, makes the following Rules.

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<sup>1</sup> Order in Council No. XX of 2020.

<sup>2</sup> Order in Council No. XXI of 2002.

<sup>3</sup> Order in Council No. XXII of 2002.

<sup>4</sup> Order in Council No. XVIII of 2020.

<sup>5</sup> Order in Council No. XIX of 2020.

<sup>6</sup> Order in Council No. \*\* of 2022.

## PART 1 INTRODUCTION

### 1.1 Application

- (1) These Rules apply to all Licensees apart from –
  - (a) personal fiduciary licence holders;
  - (b) those licensed to carry on -
    - (i) general insurance business only under The Insurance Business (Bailiwick of Guernsey) Law, 2002 (“Insurance Business Law”); or
    - (ii) business as an insurance intermediary in respect of general insurance only under The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (“Insurance Managers and Intermediaries Law”); and
  - (c) those holding a licence to provide ancillary services only under Part II of The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

## PART 2 ANNUAL RETURNS

### 2.1 Financial Crime Risk Return

- (1) A licensee must file a Financial Crime Risk Return with the Commission.
- (2) The Financial Crime Risk Return must be filed by the licensee in such electronic format as the Commission makes available.
- (3) Where a primary fiduciary licence is held under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 ("Fiduciaries Law"), it must file –
  - (a) a return in respect of its activity; or
  - (b) where applicable, a consolidated return, reflecting its own activity and that of all secondary fiduciary licensees for which it is designated as the primary fiduciary licensee.
- (4) Where a Protected Cell Company or Incorporated Cell Company holds a licence under the Insurance Business Law and conducts both life and non-life business it must file one consolidated return covering both the Company and the Cells conducting life business.
- (5) Where a Protected Cell Company or Incorporated Cell Company holds a licence under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 ("Protection of Investors Law") it must file one consolidated return covering both the Company and its Cells.
- (6) The Financial Crime Risk Return must cover the reporting period 1 July to 30 June.
- (7) The Financial Crime Risk Return must be filed, in accordance with these Rules, by the 31 October immediately following the end of the reporting period.

## **2.2 Intermediary Annual Multi-Scheme Return**

- (1) Designated administrators of authorised or registered collective investment schemes, licensed under the Protection of Investors Law, must file an Intermediary Annual Multi-Scheme Return, with the Commission, covering every scheme they provide designated administrator services to.
- (2) The Intermediary Annual Multi-Scheme Return must be filed by the licensee in such electronic format as the Commission makes available.
- (3) The Intermediary Annual Multi-Scheme Return must cover the reporting period 1 April to 31 March.
- (4) The Intermediary Annual Multi-Scheme Return must be filed, in accordance with these Rules, by the 31 May immediately following the end of the reporting period.

## **2.3 Financial Flows Returns**

- (1) The holder of a licence issued under the Banking Supervision (Bailiwick of Guernsey) Law, 2020 must file a Financial Flows Return with the Commission.
- (2) The Financial Flows Return must be filed by the licensee in such electronic format as the Commission makes available.
- (3) The Financial Flows Return must cover the reporting periods, and be filed by the dates, set out in Schedule 1.

## **2.4 Additional matters relating to all licensees**

- (1) Where, during any reporting period, a licensee acquires a book of business from another licensee it must include in its returns, data and information in respect of the acquired business for the entirety of the reporting period.



## PART 3 GENERAL PROVISION

### 3.1 Interpretation

(1) In these rules terms have their ordinary meaning unless specifically defined in the Laws or in these Rules.

(2) In these Rules the following definitions should be followed -

**“Financial Crime Risk Return”** means an annual return of data and information in respect of activities subject to the requirements of the Criminal Justice (Proceeds of Crime)(Bailiwick of Guernsey) Law, 1999;

**“Financial Flows Return”** means a quarterly return of data in respect of the origin, destination, volume, and value of incoming and outgoing financial transactions and other related information;

**“Intermediary Annual Multi-Scheme Return”** means an annual return of data in respect of intermediary relationships on collective investment schemes authorised or registered under section 8 of the Protection of Investors Law; and

**“Laws”** includes -

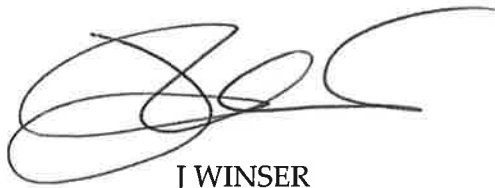
- (a) The Banking Supervision (Bailiwick of Guernsey) Law, 2020;
- (b) The Insurance Business (Bailiwick of Guernsey) Law, 2002;
- (c) The Insurance Managers and Insurance Intermediaries Law, 2002;
- (d) The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022;
- (e) The Protection of Investors (Bailiwick of Guernsey) Law, 2020; and
- (f) The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020.

## PART 4 CITATION AND COMMENCEMENT

### 4.1 Citation and commencement

- (1) These Rules may be cited as the Financial Crime Returns Rules.
- (2) These Rules come into force on 26<sup>th</sup> April 2023.

Dated this 28<sup>th</sup> day of April, 2023

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

J WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

## **SCHEDULE 1**

### **Reporting periods and submission dates for Financial Flows Returns**

<b>Reporting period (dates are inclusive)</b>	<b>Filing date</b>
1 January – 31 March	31 May
1 April – 30 June	31 August
1 July – 30 September	30 November
1 October to 31 December	Last day of February

GUERNSEY STATUTORY INSTRUMENT NO.

**FINANCIAL CRIME RETURNS RULES, 2023**

*Made:*

*Coming into Operation:*

The Guernsey Financial Services Commission (“the Commission”), in exercise of the powers conferred on it by section 39 of The Banking Supervision (Bailiwick of Guernsey) Law, 2020<sup>1</sup>, section 33 of The Insurance Business (Bailiwick of Guernsey) Law, 2002<sup>2</sup>, section 20 of The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002<sup>3</sup>, section 52 of The Protection of Investors (Bailiwick of Guernsey) Law, 2020<sup>4</sup>, section 36 of The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020<sup>5</sup> and section 66 of The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022<sup>6</sup>, makes the following Rules.

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<sup>5</sup> Order in Council No. XIX of 2020.

<sup>6</sup> Order in Council No. \*\* of 2022.

## PART 1 INTRODUCTION

### 1.1 Application

- (1) These Rules apply to all Licensees apart from –
  - (a) personal fiduciary licence holders;
  - (b) those licensed to carry on general insurance business under either The Insurance Business Law (Bailiwick of Guernsey) Law, 2002 (“Insurance Business Law”) or The Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002 (“Insurance Managers and Intermediaries Law”); and
  - (c) those holding a licence to provide ancillary services only under Part II of The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022.
- (2) The Commission may in its absolute discretion, by written notice to a licensee, exclude or modify the application of any provision of these Rules.
- (3) The Commission may issue supplementary guidance regarding the standards of conduct and practice expected in relation to any aspect of the regulatory framework. Such guidance will not constitute rules of the Commission.

## PART 2 ANNUAL RETURNS

### 2.1 Financial Crime Risk Return

- (1) A licensee must file a Financial Crime Risk Return with the Commission.
- (2) The Financial Crime Risk Return must be filed by the licensee in such electronic format as the Commission makes available.
- (3) Where an entity is licensed under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020, and holds both primary and secondary fiduciary licences it must file one consolidated return.
- (4) Where a Protected Cell Company or Incorporated Cell Company holds a licence under the Insurance Business Law and conducts both life and non-life business it must file one consolidated return covering both the Company and the Cells conducting life business.
- (5) Where a Protected Cell Company or Incorporated Cell Company holds a licence under the Protection of Investors (Bailiwick of Guernsey) Law, 2020 ("Protection of Investors Law") it must file one consolidated return covering both the Company and its Cells.
- (6) The Financial Crime Risk Return must cover the reporting period 1 July to 30 June.
- (7) The Financial Crime Risk must be filed, in accordance with these Rules, by the 31 October immediately following the end of the reporting period.

## **2.2 Intermediary Annual Multi-Scheme Return**

- (1) Designated administrators of authorised or registered collective investment schemes, licensed under the Protection of Investors Law, must file an Intermediary Annual Multi-Scheme Return, with the Commission, covering every scheme they provide designated administrator services to.
- (2) The Intermediary Annual Multi-Scheme Return must be filed by the licensee in such electronic format as the Commission makes available.
- (3) The Intermediary Annual Multi-Scheme Return must cover the reporting period 1 April to 31 March.
- (4) The Intermediary Annual Multi-Scheme Return must be filed, in accordance with these Rules, by the 31 May immediately following the end of the reporting period.

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- (1) Where, during any reporting period, a licensee acquires a book of business from another licensee it must include in its returns, data and information in respect of the acquired business for the entirety of the reporting period.

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## PART 4 CITATION AND COMMENCEMENT

### 4.1 Citation and commencement

- (1) These Rules may be cited as the Financial Crime Returns Rules.
- (2) These Rules come into force on \*\*\*\*\*.

Dated this

J WINSER

Chairman of the Guernsey Financial Services Commission

For and on behalf of the Commission

## SCHEDULE 1

### Reporting periods and submission dates for Financial Flows Returns

<b>Reporting period</b> (dates are inclusive)	<b>Cut off date for submission</b>
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1 April – 30 June	31 August
1 July – 30 September	30 November
1 October to 31 December	Last day of February