

GUERNSEY STATUTORY INSTRUMENT NO.

**FINANCIAL CRIME RETURNS RULES, ~~2023~~2025**

Made: ~~28<sup>th</sup> April 2023~~x

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

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~~, paragraph 3B and paragraph 2(6) of Schedule 5 to the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>7</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.

<sup>7</sup> No. VIII of 1999 (Ordres en Conseil Vol. XXXXIX, p. 137)

# PART 1 INTRODUCTION

## 1.1 Application

- (1) These Rules apply to all Licensees and Registrants apart from –
  - (a) personal fiduciary licence holders;
  - (b) those licensed to carry on –
    - (i) general insurance business only under ~~The~~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 under the LCF Law to provide only
    - (i) ancillary services only under Part II of The Lending, Credit and Finance (Bailiwick the LCF Law; and/or
    - (ii) credit provision in respect of general insurance premium financing; and
  - ~~(e)~~(d) businesses of Guernsey) Law, 2022 the type described in paragraph 6 of Schedule 2 to the Proceeds of Crime Law or paragraph 1 of Schedule 5 to the Proceeds of Crime Law.
- (2) The Commission may in its absolute discretion, by written notice to a licensee or registrant, 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 and a registrant must file a Financial Crime Risk Return with the Commission.
- (2) The Financial Crime Risk Return must be filed by the licensee and the registrant 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)~~ Insurance managers licensed under the IMII Law are required to report on all of the business they conduct. For the avoidance of doubt, this requirement is applicable regardless of the type of insurance business conducted by the insurers managed by the insurance managers.
- ~~(5)~~ In the case of Insurance intermediaries licensed under the IMII Law which conduct both long term and non-long term business, only the business which is subject to Schedule 3 to the Proceeds of Crime Law, which, for the avoidance of doubt, is the long term business, must be reported on.
- ~~(4)~~(6) In the case of insurers licensed under the Insurance Business Law which conduct both long term and non-long term business, only the business which is subject to Schedule 3 to the Proceeds of Crime Law, which, for the avoidance of doubt, is the long term business, must be reported on.

~~(5)(7)~~ 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, IMII Law, Fiduciaries Law or Poi Law,~~ it must file one consolidated return covering both the Company and ~~theits~~ Cells ~~conducting life business.~~ However, where an Incorporated Cell is separately licensed, the Incorporated Cell Company and the licensed Incorporated Cell must submit separate Financial Crime Risk Returns regarding the business that each has conducted.

~~(6)(8)~~ ~~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.~~

~~(7)(9)~~ The Financial Crime Risk Return must cover the reporting period 1 July to 30 June.

~~(8)(10)~~ 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 Prescribed Business Return**

~~(1)~~ A registrant must file a Prescribed Business Return with the Commission.

~~(2)~~ The Prescribed Business Return must be filed by the registrant in such electronic format as the Commission makes available.

~~(3)~~ The Prescribed Business Return must cover the entirety of activities the registrant has undertaken within Schedule 2 to the Proceeds of Crime Law as well as any other information the Commission requires under paragraph 3B of Schedule 5 to the Proceeds of Crime Law.

~~(4)~~ The Prescribed Business Return must cover the period 1 July to 30 June.

~~(5)~~ The Prescribed Business Return must be filed, in accordance with these Rules, by the 31 October immediately following the end of the reporting period.

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

- (1) Designated administrators of authorised or registered collective investment schemes, licensed under the ~~Protection of Investors~~ POI 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.

### **2.32.4 Financial Flows Returns**

- (1) ~~The~~ A Financial Flows Return must be submitted to the Commission by the holder of a licence issued under the Banking Supervision (~~Bailiwick~~ Law or a licensee licensed as a financial firm business under paragraphs 4 and 6 of Guernsey) Law, 2020 must file a Financial Flows Return with the Commission Schedule 1, Part A to the LCF Law, excluding those undertaking only currency exchange (bureau de change), inclusive, or exclusive of cheque cashing.
- (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.

### **2.42.5 Additional matters relating to all licensees and registrants**

- (1) Where, during any reporting period, a licensee or registrant acquires a book of business from another licensee or registrant, 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~~POI Law; ~~and~~

**“Laws”** includes -

- (a) The Banking Supervision (Bailiwick of Guernsey) Law, 2020; ~~(“the Banking Law”);~~
- (b) The Insurance Business (Bailiwick of Guernsey) Law, 2002; ~~(“the Insurance Business Law”);~~
- (c) The Insurance Managers and Insurance Intermediaries Law, 2002; ~~(“the IMII Law”);~~
- (d) The Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022; ~~(“the LCF Law”);~~
- (e) The Protection of Investors (Bailiwick of Guernsey) Law, 2020; ~~and~~ ~~(“the PoI Law”);~~

- (f) The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020 (“the Fiduciaries Law”); and
- (g) The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 (“the Proceeds of Crime Law”).
- (3) “Licence” has the meaning given in Schedule 1 to the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020.
- (4) “Licensee” has the meaning given in section 4 of the Financial Services Business (Enforcement Powers) (Bailiwick of Guernsey) Law, 2020.
- (5) “Prescribed Business Return” means an annual return of data and information in respect of activities undertaken within Schedule 2 to the Proceeds of Crime Law as well as any other information the Commission requires under paragraph 3B of Schedule 5 to the Proceeds of Crime Law.
- (6) “Registrant” means a business holding a registration under Schedule 5 to the Proceeds of Crime Law, except a business of the type described in paragraph 6 of Schedule 2 to the Proceeds of Crime Law.
- (7) “Registration” means a registration issued under Schedule 5 to the Proceeds of Crime Law, except a registration of the type described in paragraph 6 of Schedule 2 to the Proceeds of Crime Law.

## PART 4 REVOCATION

### 4.1 Revocation

(1) The Financial Crime Returns Rules, 2023 are revoked.



## ~~PART 4~~PART 5 CITATION AND COMMENCEMENT

### 4.15.1 Citation and commencement

- (1) These Rules may be cited as the Financial Crime Returns Rules, 2025.
- (2) These Rules come into force on ~~26<sup>th</sup> April 2023~~.x

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

J ~~WINSER~~

ASPDEN 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>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