



British Virgin Islands Financial Services Commission

Guidance on Preparing and Submitting Fiduciary Services Business Annual Return

Any person required to complete and file the Fiduciary Services Business Annual Return (“the Return”) following the Financial Services (Prudential and Statistical Returns) Order, 2009 (“the Order”), should note the pertinent information on the filing of the Return detailed below.

1. Applicable Licensees

A licensee holding any of the following licenses under the Banks and Trust Companies Act, 1990 or the Company Management Act, 1990, is required to complete and file the Return with the Commission annually:

- Class I Trust licence;
- Class II Trust licence;
- Class III licence;
- Class IV trust licence;
- Class V licence;
- Restricted Class II Trust licence;
- Restricted Class III licence; or
- Company Management licence.

2. Completing the Return

- (i) The Return must be completed using the electronic excel document provided on the Commission’s website. The document contains several tabs, with a series of item queries in each tab. Licensees must ensure that it responds to each item query within each tab of the Return.
- (ii) In completing the Return, licensees may be required to check boxes that apply, select from drop boxes or insert relevant data. Licensees must use the appropriate options as required.
- (iii) Where a licensee needs to provide additional information or is required to provide a report in response to a specific item, the licensee must prepare an electronic copy of the information or report, with a label that reflects the query item number to which the licensee is responding.
- (iv) Agreement to the declaration in the last tab of the Return, and the information about the person agreeing to the declaration must be provided as part of a complete Return.

3. Reporting Period

The Return must account for a licensee's business activities for the reporting period of January to December of the previous year. Where relevant, the return may require the licensee to provide information as at the end of the reporting period (i.e. 31st December).

4. Filing the Return

The Return is considered filed, where all item queries are completed and fulfilled, and the excel document and any accompanying information and reports are submitted to the Commission via the following email address: tcspreturns@bvifsc.vg

5. Deadline for Filing the Return

A licensee must file a completed Return on or before January 31st each year, with respect to the previous calendar year.

6. Late Filing or Not Filing a Return

- (i) At least 7 days before the Return submission deadline, a licensee may apply for an extension for the Return filing. The Commission may grant an extension to a licensee for a period of up to 30 days
- (ii) The Commission may levy penalties against a licensee that fails to file a Return on or before the deadline as outlined in Schedule 10 of the Order.

7. Erroneous Return

If a licensee finds or becomes aware of inaccurate information within its Return filed with the Commission, the licensee must notify the Commission of this fact within five days of becoming aware of that fact resubmit a corrected Return within seven days after notifying the Commission.

8. Additional Information

- (i) Where the Return is incomplete or needs further explanation, the Commission will ask that it be clarified or additional information or documentation provided, as appropriate.
- (ii) The Commission reserves the right to request additional data about information provided or not sought initially in the Return.

GENERAL NOTES IN COMPLETING THE RETURN

9. Accounting and Currency Information

- (i) Accounting information in the Return must be completed using the accrual accounting method.
- (ii) All monetary amounts should be reported in US dollars with exact figures, without rounding (i.e. exact to dollars and cents).

10. Date format

Any request for a date must be inputted in the British short format (i.e. dd/mm/yyyy).

11. Responding to Queries that do not Apply

Where a query does not apply to a specific licensee, the licensee must insert the term “N/A” in response or in the case of a numerical request, insert the figure “0”.

GUIDANCE ON SPECIFIC SECTIONS OF THE RETURN

The notes below are intended to assist the licensee in completing certain sections of the Return that may require further clarification.

12. Financials (Item 1)

(i) The table below provides guidance on the information required for completing the Balance Sheet information:

Item	Description of Item	Guidance
1.2	Funds Held for Clients/In Trust	'Client', in relation to a licensee, means a person, whether resident in or outside the Virgin Islands, to whom the licensee provides, agrees to provide or has provided a service that constitutes licensed fiduciary services business.
1.3	Accounts Receivable – Client	
1.17	Funds Due to Clients	
1.7	Other Current Assets	Includes all other current assets which cannot be reported in 1.1 through 1.6.
1.12	Deposit to BVIFSC	Refers to the amount deposited with the Commission as prescribed by the Banks and Trust Companies Act, 1990 and section 157 of the Code. Applicable to Class I, Class II or Class IV trust licensees, or a Class III or Class V licensee only.
1.13	Other Non-Current Assets	Includes all other non-current assets which cannot be reported in 1.9 through 1.12 above.
1.15	Total Assets	Represents the sum of items 1.1 to 1.14, which must equal item 1.33 (total liabilities ¹ and shareholders' equity ²).

¹ Total liabilities should include all payables to related parties.

² Shareholders' equity includes share capital less treasury stock, plus retained earnings and current year's earnings (net income/(loss) and reserves.

1.23	Other Current Liabilities	Includes all other current liabilities which cannot be reported in 1.16 through 1.22 above.
1.26	Other Non-Current Liabilities	Includes all other non-current liabilities which cannot be reported in 1.24 through 1.25 above.
1.33	Total liabilities and Shareholders' Equity'	Represents the sum of items 1.28 to 1.33, which must equal item 1.15 (Total Assets).

- (ii) Contingent liabilities in items 1.34 and 1.35, refer to matters such as pending litigation claims, administrative penalties, etc., that are potential liabilities to the licensee (that were not reported in the licensee's last audited financial statements). In such an instance, the licensee should summarise the contingent liability and the potential losses that could be incurred in item 1.35. Where the licensee is unable to quantify a potential contingent liability it is aware of, it should nevertheless disclose this relevant information in item 1.35.

13. Fitness and Propriety (Item 4)

Concerning item 4.10, if the answer to any of the items 4.1 through 4.9 is 'Yes', the licensee should document the name of the individual who is under investigation or in relation to whom action is taken, by category (e.g. General Partner, Director, Senior Officer, Shareholder, Ultimate Beneficial Owner); the date of commencement of the investigation; relevant jurisdiction(s); the name of the associated regulatory or law enforcement authority; nature of investigation, status of the investigation (e.g. pending, complete, etc.) and the final decision, if applicable. This information can be presented in a separate document, submitted with the Return, labelled "Item 4.10".

14. Internal Audit (Item 7)

- (i) Item 7.1 must be completed by Class I or Class II Trust licensees that hold client monies.
- (ii) Where a Class I or Class II Trust licensee has notified the Commission that it does not require an internal audit function, that licensee shall select a "N/A" from the drop box. The selection of "N/A" also applies to all other licenses that do not require an internal audit function.

15. Business Activities (Item 8)

- (i) Where a licensee has selected the types of activities undertaken in item 8.1, it should indicate the number of clients to which it provided services during the relevant period in, by type of activities as required in item 8.2.
- (ii) The reference to "clients" in this section refers to partnerships, companies and/or trusts in respect of which the services have been provided.

- (iii) The below table indicates the applicable item numbers to which relevant licensees should respond based on licence type:

Licence Type	Relevant Items to Complete
Class I Trust, Class II Trust, restricted Class II Trust & Class IV Trust	8.2.1 thru 8.2.4 and 8.2.16
Class I Trust, Class III, Class V & Company Management	8.2.5 thru 8.2.7
restricted Class III (ONLY)	8.2.8 thru 8.2.15
Class I Trust & Class IV Trust (ONLY)	8.2.17

- (iv) In relation to item 8.2.15 enter the name of the affiliated entity or person and details on how many such appointments each such affiliated entity or person holds at the end of the reporting period. The responses under “In the VI” or “Outside the VI”, should be based on the affiliated entity’s place of operation or the nominee person’s place of residence.

16. Services to Regulated Entities (Item 12)

In relation to item 12.1 indicate whether the licensee provides the following services to other Commission regulated entities:

- (a) acting as Registered Agent/providing Registered Office, Trustee or Protector in respect of a licensee under the Banks and Trust Companies Act, 1990, Company Management Act, 1990, Insurance Act, 2008, Securities and Investment Business Act, 2010, Financing and Money Services Act, 2009 or Investment Business (Approved Managers) Regulations, 2014.
- (b) acting as a Director, nominee shareholder, officer, of a licensee under the Banks and Trust Companies Act, 1990, Company Management Act, 1990, Insurance Act, 2008, Securities and Investment Business Act, 2010, Financing or Money Services Act, 2009 or Investment Business (Approved Managers) Regulations, 2014; and
- (c) carrying on and managing a Managed Trust Company business.

17. Client Base (Item 13)

- (i) In relation to item 13.1, the sum of Introduced Clients and End User Clients above should be equal to 100 percent.
- (ii) In relation to item 13.2 the originating jurisdiction relates to the residency of the underlying client of record (settlor in the case of a trust or beneficial owner(s) in the case of a company).

18. Employees (Item 14)

- (i) In relation to item 14.1, enter in the Table the total number of staff who are involved in the licensee's regulated fiduciary activities and any other activities in or outside the Virgin Islands. This would relate to the total number of permanent and temporary staff, residing in the Virgin Islands or outside the Virgin Islands, but excludes consultants or outsourced positions. Directors and senior management who are responsible for the oversight of the licensee are to be counted as staff. Outside the Virgin Islands also includes staff carrying out regulated fiduciary activities and any other activities in other group offices.
- (ii) **'Regulated fiduciary activities'** would include, for example, those staff engaged in providing administration services to a company or trust, director services, nominee services, and compliance. **'Other activities'** would include, for example, those staff engaged in information technology, human resources, finance, operations and accountancy.
- (iii) If items 14.2, 14.3, 14.4 or 14.5 does not apply to the licensee, please indicate "N/A" and "0" in the relevant fields.

12th February, 2021