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Form Pension Scheme or Gratuity Scheme Discretionary Exemption 2021

THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES, AND COMPANY DIRECTORS, ETC. (BAILIWICK OF GUERNSEY) LAW, 2020 (“the Law”)

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| APPLICATION IN RESPECT OF A DISCRETIONARY EXEMPTION FOR THE FORMATION, MANAGEMENT OR ADMINISTRATION OF PENSION SCHEME(S) OR GRATUITY SCHEME(S) MADE BY THE HOLDER OF A PRIMARY FIDUCIARY LICENCE WHICH MAY BE A PRIMARY OR A SECONDARY LICENSEE THIS DISCRETIONARY EXEMPTION MAY ONLY BE APPLIED FOR WHERE THE PRIMARY FIDUCIARY LICENSEE IS PROVIDING SERVICES TO PENSION SCHEME(S) OR GRATUITY SCHEME(S) IN EXTREMELY SMALL NUMBERS, I.E. WHERE THE TOTAL NUMBER OF MEMBERS DOES NOT EXCEED 6. THIS MAY COMPRISE OF 1 SCHEME WITH 6 MEMBERS OF 6 SCHEMES WITH 1 MEMBER OR ANY COMBINATION OF SCHEMES PROVIDING THE TOTAL NUMBER OF MEMBERS DOES NOT EXCEED SIX (THIS LIST IS EXHAUSTIVE). |
| ***NOTES ON COMPLETION OF FORM PENSION SCHEME OR GRATUITY SCHEME DISCRETIONARY EXEMPTION 2021***1. Any person or entity wishing to carry out regulated activities as defined under section 2 of the Law must be licenced under the Law. Regulated activities include:
	1. the formation, management or administration of trusts and the provision of advice in relation to the same:
	2. company or corporate administration including, without limitation, the formation, management or administration of companies, partnerships or other unincorporated bodies and the provision of advice in relation to the formation, management or administration of companies, partnerships or other unincorporated bodies, whether incorporated or established in or under the laws of the Bailiwick or elsewhere;
	3. the provision of executorship services including (without limitation) acting as, or accepting an appointment made by will as, an executor of a will or administrator of an estate; and
	4. the formation, management or administration of foundations, and the provision of advice in relation to the formation, management or administration of foundations.
	5. the formation, management or administration of pension schemes or gratuity schemes, and the provision of advice in relation to the formation, management or administration of pensions schemes or gratuity schemes.

However where an activity is exempted under section 3 of the Law it is not a regulated activity. 1. Section 3(1)(ac) allows the Commission, on application by a person, to specifically exempt an activity, transaction or appointment from the operation of section 1 by written instrument.
2. The holder of an existing Primary Fiduciary Licence may, in certain circumstances, make an application for a discretionary exemption using this form Pension Scheme or Gratuity Scheme Discretionary Exemption 2021. Any discretionary exemption granted will provide an exemption in respect of a specific Pension Scheme(s) or Gratuity Scheme(s), where the combined number of members does not exceed 6, for the regulated under section 2(1)(e) of the Law only. Any exemption granted does not exempt the applicant from any regulated activity performed in respect of any other part of section 2 of the Law
3. All questions on this Form Pension Scheme or Gratuity Scheme Discretionary Exemption 2021 should be completed and any forms received unsigned will be returned. Forms received incomplete may also be returned for completion. State “not applicable” where a question does not apply; an explanation of this answer should be provided if it is not immediately obvious from information given elsewhere on this form.
4. Where the answer to a question is unknown, or provisional, or is modified at a later stage in the application process, the applicant should recognise that this may cause delay to the consideration of the application.
5. If there is insufficient space on the form, please append additional sheets and initial each sheet.
6. Please type the information in each box or onto additional sheets where necessary.
7. Please send the completed form and prescribed fee (see the Financial Services Commission (Fees) Regulations, available on the Commission’s website) as follows:

Application form:Scan the fully completed application form signed by the relevant officers and supporting documentation, as itemised in the application form, together with an explanatory covering letter scheduling the contents and send electronically to **authorisations@gfsc.gg**Prescribed fee: Send by BACS to:Bank: HSBC Guernsey BranchAddress: 20-22 High Street, St Peter Port, Guernsey GY1 2LBSort code: 40-22-25Account Number: 91460722IBAN: GB53MIDL40222591460722Swift: MIDLGGS1XXXAccount Name:  Guernsey Financial Services CommissionReference: *“Applicant’s name”***Please see guidance notes at the back of the form.**  |

1. Details of the holder of a Primary Fiduciary Licence making the application (“the Applicant”):

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| Name: |
| Address: |

1. Provide details of the Pension Scheme or Gratuity Scheme for whom or in relation to whom the applicant will be acting:

Scheme 1

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| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).*  |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

Scheme 2

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| --- | --- |
| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).* |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

Scheme 3

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| --- | --- |
| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).* |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

Scheme 4

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| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).*  |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

Scheme 5

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| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).*  |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

Scheme 6

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| Pension Scheme or Gratuity Scheme Name: |  |
| Pension Scheme or Gratuity Scheme Classification: |  |
| Pension Scheme or Gratuity Scheme Investment Direction: |  |
| Name of Investment Advisor or Investment Manager |  |
| Scheme Year End: |  |
| Total Value in GBP of Pension Scheme or Gratuity Scheme at the most recent Scheme Year End: |  |
| Percentage of Pension Scheme or Gratuity Scheme Assets held at the most recent Scheme Year End: (i.e. Cash, Listed Securities, Real Estate, Loans Receivable etc.) |  |
| Total Number of Members of the Pension Scheme or Gratuity Scheme at the most recent Scheme Year End:*NB: This number must not exceed six members for the purposes of the discretionary exemption application (or where an for other schemes is sought the total combined number of members of the schemes must not exceed 6).*  |  |
| Names and Country of Residence of the Members of the Pensions Scheme or Gratuity Scheme: |  |

1. Explain the rationale behind the request for an exemption in respect of the regulated activity under section 2(1)(e) of the Law, and the circumstances of the Pension Scheme or Gratuity Scheme that make it suitable for the exemption being sought:

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1. Indicate why the Applicant’s activity is considered to be by way of business as defined in Section 59 of the Law including reference to the level of annual fees received by the applicant in respect of the Pension Scheme or Gratuity Scheme *(an exemption is not required if the applicant is not acting by way of business):*

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1. Any further information in support of this application:

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**DOCUMENTATION SUBMITTED**

In support of the application the following documentation/information must be enclosed with this form:

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| * A structure chart illustrating all entities connected with the Pension Scheme or Gratuity Scheme
 |[ ]
| * The fee as prescribed from time to time by Regulations made under Section 7 of the Law has been made by BACS payment. *(Please see the Commission’s website for the current fees for company/partnership exemptions and individual exemptions)*
 | [ ]  |
| * We affirm that the members and/or beneficiaries of the Pension Scheme or Gratuity Scheme have been adequately informed that their Scheme will not be subject to the Pension Rules and have confirmed, in writing, of the impact this application will have on their Scheme.
 | [ ]  |
| * We affirm that after making careful and appropriate enquiries that, as far as we have reasonably been able to ascertain, the members of the Pension Scheme or Gratuity Scheme are sophisticated investors and consent that the Applicant will not be subject to the Pension Scheme and Gratuity Scheme Rules and Guidance, in respect of the services provided to the Pension Scheme or Gratuity Scheme

The Commission may review correspondence with Member(s)/Beneficiary(ies) during onsite visits. |[ ]

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| Where, the Applicant has existing Pension Schemes or Gratuity Schemes registered with the Commission, the Applicant must complete Form 231 ‘Cancellation of registration of a Pension Scheme or a Gratuity Scheme’ on the Commission’s Online Submissions Portal for each of the Pension Schemes or Gratuity Schemes it administers.  |[ ]

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| Signed |  | Date | DD/MM/YY |
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| Name  |  |
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| Tel No |  |
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| Email address |  |

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**The Data Protection (Bailiwick of Guernsey) Law, 2017**

For the purpose of the Data Protection (Bailiwick of Guernsey) Law, 2017 please note that any personal data provided to the Commission will be used by the Commission to discharge its regulatory activities and statutory functions. Further information, relating to the Commission’s Data Protection policy, can be located on the website at [www.gfsc.gg/data-protection](http://www.gfsc.gg/data-protection)

**GENERAL GUIDANCE INFORMATION**

These notes are for guidance only and are not a substitute for the regulatory Laws or rules and guidance made thereunder and reference should be made to them before completing the Form.

1. There are criteria under the Law upon which the Commission is required to have regard to in determining whether to grant an exemption under section 3(1)(ac) of the Law. Accordingly, the Commission has a wide discretion as to whether it grants such an exemption or not. This will generally be based upon a number of factors including, but not limited to, the particular activity, transaction or appointment which the exemption is being sought in relation to and the number of applications for exemptions which the person applying has previously made.
2. Under the Law the Commission may grant or refuse the application subject to such conditions as the Commission may consider necessary or expedient.
3. Applications made will only be considered in very small numbers