



TRUST AND CORPORATE SERVICES PROVIDERS ACT, 2017
Trust and Corporate Services Providers (Licensing and Operations) Regulations, 2022

**Instruction Guide for Completing and Submitting the
Annual Information Return - Form 13**

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GENERAL

1. A licensee under the Trust and Corporate Service Providers Act (the “TCSP Act”) and also individuals and corporate entities that have submitted an application for a licence is required each year to complete and submit an annual report, the Annual Information Return (“AIR”) to the Financial Services Commission (the “FSC”). The AIR will be used by the FSC in keeping with its risk-based approach to identify entities requiring focused attention, to plan for on-site examinations and oversight, statistical analysis, and contributing to the National Risk Assessment for Jamaica.
2. The Financial Services Commission (the “FSC”) under Regulations 14 and 24 of the Trust and Corporate Services Providers (Licensing and Operations) Regulations, 2022, is empowered to specify the forms to be used when submitting a report, return or other document to the FSC as well as the manner in which such documents are to be submitted. The FSC has determined, with regards to the form and manner of submitting the AIR of a service provider that the AIR should be:
 - completed using the Excel form available on the FSC’s website, printed, signed, dated and uploaded with all other supporting documents as may be applicable through the specified portal on the applicable page of the FSC’s website. **The hard copy signed forms with the original signature(s) are still required to be submitted to the FSC.**
 - If for whatever reason submission via the aforementioned portal is not possible, then the service provider should complete the AIR using the Excel workbook available on the FSC’s website, print, sign, date, and deliver the return with all other required documents and information as may be applicable via the post or by hand to the office of the FSC. **The completed Excel workbook must also be submitted to both of the following email addresses:**

records@fscjamaica.org
RCTS@fscjamaica.org
3. Applicants should be guided by the information provided in this Guide when completing the AIR and other related documents.
4. The FSC will be moving towards an electronic filing system and applicants will be required to submit their applications electronically when the system is operationalized. Where any supporting documents to filing cannot be submitted in electronic form, the hard copies must be submitted at the time or shortly before the submission is made online when this option becomes available.
5. Applicants are encouraged to acquaint themselves with the relevant sections of the TCSP Act, its attendant regulations, the FSC’s guidelines and other publications issued as well as all other applicable enactments.
6. Please contact the FSC, if in doubt about any requirement connected with or contained in the application form and other related documents for licensing or registration.
7. Data should only be entered in the format specified.
8. The term “customer” is used interchangeably with “client”.
9. **Failure to submit the AIR within the stipulated timeframe will attract the administrative penalty set out in the First Schedule of the TCSP Act.**
10. **The AIR is only available in English.**

GLOSSARY AND STANDARDS

- 1.1 **Service:** means a corporate service or a trust service.
- 1.2 **Corporate Service:** means a service specified in section 14 of the Act that is provided in or from Jamaica for profit or as a business. A licensee carries on corporate service business if the service provider activities involve:
 - 1.2.1 Acting as a coordinator or an assistant in the formation, management or administration of a firm or company
 - 1.2.2 Acting as (or arranging for another person to act as) a director of a company, an alternate director or a partner of a firm
 - 1.2.3 Acting or arranging for another person to act as a secretary of a company
 - 1.2.4 Providing a registered office, business address, correspondence address or administrative address, for a company or firm, or any other person
 - 1.2.5 Acting as (or arranging for another person to act as) a nominee shareholder for another person
 - 1.2.6 Arranging the establishment of any legal entities not covered by (a) to (d) and providing any of the services set out under (a) to (d) to such entities
 - 1.2.7 Service that the Minister by order published in the Gazette, prescribe as a corporate service
- 1.3 **Trust Service:** means a service specified in section 15 of the Act that is provided in or from Jamaica for profit or as a business. A licensee carries on trust service business if the service provider activities entail:
 - 1.3.1 Creation of a trust
 - 1.3.2 Acting as trustee, executor or administrator in relation to a trust
 - 1.3.3 Arranging for any person to act as trustee in respect of a trust
 - 1.3.4 Administration services in relation to a trust
 - 1.3.5 Service that the Minister by order published in the Gazette, prescribe as a trust service
- 1.4 **Service Provider:** means a person (natural and otherwise) who engages in the business of providing a corporate service or a trust service.
- 1.5 **Dates:** All dates must be inputted in the short format dd/mm/yyyy.
- 1.6 **Completeness:** In completing the AIR, a licensee may be required to select from drop-down lists, check lists that apply, or insert data in fields that are provided. The appropriate options are to be used and all questions must be answered. Where any question does not apply to a particular licensee, this must be indicated by selecting the abbreviation "N/A".
- 1.7 **Incomplete Return:** Any AIR that is not satisfactorily completed or is incomplete may be returned.
- 1.8 **Accuracy:** Due care must be taken when completing the return to ensure all information provide is true, accurate, and complete. If a service provider becomes aware of inaccurate information provided in the AIR filed with the FSC, the licensee must resubmit the corrected AIR under cover of a letter notifying the FSC of this fact within seven days of becoming aware of that fact.
- 1.9 **Filing Deadline:** The completed AIR is to be filed with the FSC within three months of the end of each calendar year. As such licensees may submit the AIR any time from January 1, but no later than March 31 in the year following the reporting period.

- 1.10 **Penalties:** The FSC may levy penalties against a licensee that fails to file the AIR on or before the specified deadline.
- 1.11 **Additional Information:** The FSC reserves the right to request clarification or additional information or documentation, as it considers appropriate.
- 1.12 **Modification of Form:** The form must not be modified.
- 1.13 **Unexecuted Return:** The AIR is not considered complete unless it is duly signed and dated by the Principal Representative.

COVER PAGE

- 2.1 Contact Details:** For proper identification, the licence number of the service provider must be stated in the space provided to support efficient record management of all AIRs that have been submitted to the FSC. Drop-down lists are provided from which the licensee is to select the capacity in which they are authorized by the FSC to provide services and whether they provide services as an individual, firm, or body corporate, etc.
- 2.2 Reporting Period:** The AIR must account for a service provider's business activities for the reporting period of January to December of each year. A licensee should state the calendar year covered by the return (e.g. 01/01/2021 to 31/12/2021). The first report completed by a licensee may only cover part of a calendar year depending on when the service provider was licensed under the TCSP Act. Where applicable, the return may require the inclusion of data as at the end of the previous and current reporting period (i.e. December 31).
- 2.3 Primary Jurisdiction of Operation:** The licensee should list the countries in which its corporate and/or trust services business is primarily based using the drop down list provided.

1. FORM 13: ANNUAL INFORMATION RETURN

In this section, guidance is provided on selected sections of the AIR with commentary on selected items within these sections.

SCHEDULE 13.01 – PRODUCT, SERVICE, AND CUSTOMER

1. Industry Sector

- (i) A sector describes the core business activities being undertaken. A licensee should select the sector that applies from the drop-down lists provided. If a licensee selects "other" the relevant sector should be identified in the space provided.
- (ii) A licensee whose only business activities relate to the provision of corporate and/or trust services should select "Trust and Corporate Services Providers".

2. Product and Services

- 2.1 Customers:** refer to companies and other bodies corporate, partnerships, and trusts to which services have been provided by the licensee. In this return, the words customer and client are used interchangeably.

- 2.2.1** The licensee is required to indicate the number of customers for each of the relevant service/products being provided.
- (ii) **Domestic Customers:** Customers who reside permanently in Jamaica.
 - (iii) **Foreign Customers:** Customers who reside in jurisdictions outside of Jamaica.
 - (iv) **Number of customers at the beginning of the year:** The number of customers, in Jamaica and from other jurisdictions as applicable, should agree with the prior year's closing balance. Where the licensee did not have any customers at the beginning of the reporting period the licensee should enter "0" in all relevant rows and columns.
 - (v) **Number of customers established during the year:** The number of new customers acquired, which were not transferred from another service providers, during the reporting period should be reported as applicable. Where there were no such customers the licensee should enter "0" in all relevant rows and columns.
 - (vi) **Number of customers received from (or transferred to) other service providers during the year:** Where one or more existing customers of the licensee terminated their business arrangements with the service provider with the intention to or consequent on entering into arrangements with another licensee, such customers should be reported using a negative integer. Similarly, if the licensee acquires customers who have terminated their business arrangements with another service provider then such customers likewise should be reported using a positive integer. As such the net result of both numbers must be reported in both columns, as applicable.
 - (vii) **Number of customers terminated during the year:** The number of customers in Jamaica and from other jurisdictions that have been terminated (excluding transfers to other service providers) for whatever reasons should be stated in the columns provided as applicable.
 - (viii) **Number of customers as at the end of the year:** The total number of customers as at December 31, per service/product should be reported in the columns provided as applicable.
- 2.2.5 Legal Form:** An analysis of the licensee's customers on the basis of their legal form must be provided by stating the number of customers per the categories identified in the table. The total number of entities (incorporated in Jamaica plus incorporated in other jurisdictions plus non-incorporated entities) must reconcile with the total shown for item 2.1.
- 2.3** The appropriate response should be selected from the drop-down lists. This also applies to some questions at 2.4, 2.4.2, 2.5, 2.6, 2.7, 3.4, 3.4.2, 3.6, 4.1 and 4.2.
- 2.3.5 Nominee Shareholders:** If a licensee acts, or arranges for a person to act, as a nominee shareholder in the ordinary course of business as a corporate or trust service provider, then the number of these roles the business has must be stated.
- 2.3.3 Bearer Shares:** These are shares owned by the person who holds the physical share certificate at any given time.
- 2.4 Complex Products or Service:** Transactions involving structures and methodologies which are primarily used to conceal the source of funds and beneficial ownership.
- 2.4.2 Complex Structures:** A corporate structure consisting of more than three levels of ownership.

- 2.5 Client Assets:** Please indicate whether the licensee held client funds, accounts, securities, or other assets in relation to trust or corporate services provided during the reporting period. Licensees should answer “yes” if at any point during the reporting period client assets were held regardless of whether such assets were held as at the end of the reporting period.
- 3.1 Customer Due Diligence (“CDD”):** CDD concerns knowing your customer and verifying their identity. This item relates to the customers to whom the licensee has provided corporate services and/or trust services during the reporting period.
- 3.3.5 Politically Exposed Persons (“PEP”):** are individuals (and their family and close associates) who, based on their position in public life, have been deemed to have a high vulnerable to corruption. Licensees should refer to the Guidelines on the Prevention of Money Laundering and Countering the Financing of Terrorism and Proliferation - IER-GUID-19108-0001 (“GPMLCFT”).
- 3.3.6 Item 3.3.6 – High Net Worth Individuals:** The licensee should state the number of its customers (individuals and customers with beneficial owners) who is in the case of:
- (i) an individual, one whose net worth exceeds J\$50M or who earns a gross income of more than J\$10M per annum.
 - (ii) in the case of an entity, one with net assets valued over J\$250M as reflected in its audited financial statements for the most recently completed financial year.
 - (iii) a corporation, one with over 90% of the voting shares owned by a ‘high net worth’ individual.
 - (iv) a trust, one wherein a ‘high net worth’ individual is the sole primary beneficiary.
- 3.3.7 Government Body:** means any government body or agency; including inter-governmental organization.
- 3.5 Non face-to-face Customers:** Refer to customers with whom the licensee and its staff do not have any interactions within each other’s sight or presence. All interactions occur for example via telephone, post, or electronic means.
- 3.6 Cash intensive business:** An entity that receives or makes payment using a significant amount of cash.
- 4.1 FATF High Risk Countries:** Information regarding relevant jurisdictions other than Jamaica can be found at: <https://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/documents/increased-monitoring-february-2021.html>
- 4.2 Beneficial Owner:** Means, under the TCSP Act, in respect of:
- Individuals: The individual on whose behalf shares are held or on whose behalf a share transaction is conducted.
- Firms/Companies: The individual who exercises ultimate ownership or ultimate effective control.
- Trusts:
- (i) The settlor
 - (ii) The trustee
 - (iii) The beneficiary, or where the beneficiary has not yet been determined, the class of persons in whose main interest the trust has been established or operates; or
 - (iv) The person who has control over the trust
- 4.3 (i) Legal Persons:** Means any entities, other than natural persons, that can establish a permanent customer relationship with a Financial Institution or otherwise own property. This can include companies, bodies corporate, foundations, institutions (anstalt), partnerships, or associations, and other relevant similar entities.

(ii) **Legal Arrangement:** Means any express trusts or other similar legal arrangements. Examples of other similar arrangements (for AML/CFT purposes) include trusts (fiducie), trust agency (treuhand) and escrow (fideicomiso) arrangements.

(iii) **Country:** A drop down list is provided from which to select the relevant countries

SCHEDULE 13.02 – SERVICES PROVIDED TO REGULATED ENTITIES

Concerning item 5 the licensee should indicate whether as a service provider any of the services/products set out in item 2.2.1 (a) through (l) of Schedule 13.01 is being provided to any of the regulated entities stated in the table. Where services are being provided the number of relevant entities must also be stated.

SCHEDULE 13.03 and 13.04 - FINANCIAL RESOURCES AND TRUSTS

(i) Unless stated otherwise, accounting information must be provided on an accrual basis using International Financial Reporting Standards.

(ii) All figures are to be stated in thousands of Jamaica dollars, except where otherwise indicated.

6. Source of Revenue

(iii) Regarding item 6, only the income/fees that are earned from the provision of corporate and/or trust services activities for the reporting period are to be reported for each relevant service listed.

(iv) The portion of such income derived from a local source and from clients in jurisdictions other than Jamaica is to be reported in the relevant columns as applicable.

7. Balance Sheet Summary

Item	Description	Guidance
1.2	Funds held in trust for customers	Customers mean a person, whether resident in or outside of Jamaica, to whom the licensee provides or has provided a service that constitutes a regulated corporate and or trust services business.
1.4	Accounts receivable from customers	
1.16	Funds due to customers	
1.7	Other current assets	Includes all other current assets which cannot be reported in 1.1 through 1.6.
1.12	Other non-current assets	Includes all other non-current assets which cannot be reported in 1.9 through 1.11.
1.14	Total assets	Represents the sum of items 1.1 to 1.13, and must be equal to 1.29.
1.19	Other current liabilities	Includes all other current liabilities which cannot be reported in 1.15 through 1.18.

Item	Description	Guidance
1.22	Other non-current liabilities	Includes all other non-current liabilities which cannot be reported in 1.21.
1.29	Total Liabilities and Shareholders' Equity'	Represents the sum of items 1.24 to 1.28 and must be equal to 1.14

8. Contingent Liabilities

Contingent liabilities refer to liabilities for which the amount and timing for settlement are uncertain and include matters such as claims related to pending litigation and administrative penalties. Where applicable, the contingent liability should be quantified and any potential losses that could be incurred are to be summarized in item 8.1.1. If the licensee is unable to quantify a potential contingent liability it is aware of, this should also be disclosed.

SCHEDULE 13.04 – TRUSTS

9. (i) **Domestic Trusts:** means a trust governed by the laws of Jamaica to which the licensee provides trust services as defined in section 15 of the TCSP Act.

(ii) **Foreign Trusts:** any trusts to which the licensee provides trust services as defined in section 15 of the TCSP Act that is not governed by the laws of Jamaica.

11 **Number of trusts administered/managed:** All figures are to be stated in millions of Jamaican dollars.

12 **Protector:** The individual(s) or company having certain powers under the trust deed (or by law) who is able to enforce the trust.

12.2.1 A drop down list is provided in Column D, F, G and H from which to select the applicable response. Regarding column D, each different trust should be entered in a different row of the table provided.

A spendthrift trust is a type of property control trust that limits the beneficiary's access to trust principal. This restriction protects trust property from (i) a beneficiary who might squander trust property, and (ii) the beneficiary's creditors.

SCHEDULE 13.06 - GOVERNANCE

(i) Drop-down lists are provided throughout this section from which to select the appropriate responses.

18.2 **Internal Review of Risk Assessment** – A designated person within the service provider's business should check that the risk assessment undertaken by the licensee is current, identifies any weaknesses, and complies with the requirements set out in the Guidelines on the Prevention of Money Laundering and Countering the Financing of Terrorism and Proliferation - IER-GUID-19108-0001 ("GPMLCFT") and Risk Assessment – RCTS-GUI2022/06-0012. The date the last internal review was completed should be stated and if a licensee has not reviewed its risk assessment since it was initially prepared, the date the risk assessment was first prepared should be provided.

18.4 Where the service provider’s risk assessment has not been approved by its Board/Principal/Senior Management as applicable, the informal risk ratings applied to the inherent risks should be provided.

18.7 Independent Audit – An independent systematic check of the risk assessment conducted by the licensee should be carried out by a suitably qualified person and a written report provided to the licensee. Further, the licensee must have regard to the information provided in the GPMLCFT, the guidelines on APPOINTMENT AND CRITERIA FOR AUDITORS – RCTS-GUI2022/06-0008 and GEN-ADVI-21/12-0004 as well as the BULLETIN FOR: FIT AND PROPER ASSESSMENT BY THE FINANCIAL SERVICES COMMISSION - GEN-ADVI-21/05-0004.

19.2 Internal Review of AML/CFT Programme: A designated person within the service provider’s business should check that the AML/CFT Programme developed by the licensee is current, identifies any weaknesses, and complies with the requirements set out in the Guidelines on the Prevention of Money Laundering and Countering the Financing of Terrorism and Proliferation - IER-GUID-19108-0001 (“GPMLCFT”). The date the last internal review was completed should be stated and if a licensee has not reviewed its AML/CFT Programme since it was initially prepared, the date the programme was first prepared should be provided.

19.5 An independent audit of the AML/CFT Programme: An independent systematic check of the programme implemented by the licensee should be carried out by a suitably qualified person and a written report provided to the licensee. Further, the licensee must have regard to the information provided in the GPMLCFT and the guidelines on APPOINTMENT AND CRITERIA FOR AUDITORS – RCTS-GUI2022/06-0008 and GEN-ADVI-21/12-0004 . The date the last audit of the programme was completed should be stated and if a licensee has not had an audit of the AML/CFT Programme done since it was initially developed, the date the programme was first developed should be provided.

SCHEDULE 13.08 – INTERROGATORIES

23. Professional Indemnity Insurance (“PII”): Evidence of the renewal of the PII should be submitted to the FSC in keeping with regulation [3(1)(f) and 21 of the Trust and Corporate Services Providers (Licensing and Operations) Regulations, 2022.

SCHEDULE 13.10 – DECLARATION

- (i) Drop-down lists are provided throughout this section from which to select the appropriate response.
- (ii) Notwithstanding that the Principal Representative has responsibility for signing-off on the AIR, the board, or equivalent, should have oversight of the content of the AIR submitted on behalf of the licensee.

SCHEDULE 13.11 – VALIDATION SHEET

Where all sections of the report have been correctly completed, the Validation Sheet will display “Validated”. The licensee is required to ensure, before submitting the completed AIR, that the Validation Summary at the end of this schedule does not state “Not Validated”.

