

## Registry Update for Industry September 2013

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## Introduction

In what has been another busy and successful year so far for the Registry we are continuing with our programme of improvements designed to provide an enhanced user experience.

There have been changes in personnel with Dave Adams and Jason Farrell joining the team as Registry Officers.

Since last year's update work has continued on system changes and guidance notes as well as the introduction of two new products—Foundations and Image Rights. Once again, I would like to thank the Registry team for their hard work.

Should you wish to provide feedback to the Registry please contact us:

tel: +44 1481 743800

or email: [enquiries@guernseyregistry.com](mailto:enquiries@guernseyregistry.com)

Alan Bougourd  
Registrar of Companies

## Annual Validation - countdown to January 2014

**Please note that the Annual Validation fees are unchanged for 2014**

### Annual Validation—Share Information:

One of the changes that has been made to the annual validation process in 2013/14 is that companies that have share capital will NOT be required to validate details of that share capital on the annual validation form.

Amendments to the online submission form, to remove the need to provide share information, will be made before the form is released to enable draft submission to be prepared from 1 November 2013.

*Please note: companies incorporated after 1 December of the previous year are not required to make an annual validation submission in January*

The following list details the timeline for the annual validation process:

### 31 October 2013

All companies wishing to submit a Voluntary Strike Off application MUST have done so by 31 October 2013 in order to remove the requirement to make an annual validation submission in 2014.

Companies making Voluntary Strike Off submissions received between 1 November and 31 December are required to make an annual validation submission but there will be no charge for the annual validation.

If the annual validation is not made for companies who have made a voluntary strike off submission—the strike off submission will be rejected and the company listed for strike off for being in default of the Law.

### 1 November 2013

AV form available in draft to allow users to complete submissions and save in draft until 1 January 2014.

### 1 December 2013

**Voluntary Liquidation**—If the company has appointed a liquidator BEFORE 1 December and remains on the register as at 31 December, an annual validation submission will be required. However, there will be no charge for this submission.

If the final meeting of the liquidator has been held BY 31 December—there is NO requirement to make an annual validation submission.

**1 January 2014**

AV submissions will be accepted by the Registry together with the appropriate fee.

**N.B Where the status of the company as at 31 December 2013 is as follows:**

- **Voluntary Winding up Part 1**
- **Voluntary Winding up Part 2**
- **Compulsory Winding Up Part 1**
- **Compulsory Winding up Part 2**
- **Winding Up Resolution**
- **Voluntary Strike Off Application**

**No Fee will be charged by the system.**

### Data Download Functionality

Users are reminded that the online services portal allows Corporate Service Providers and Regulated Presenters to export to an excel spreadsheet the data held by the Registrar on each of the companies on their 'watch list'. (Please note this is 'real time' data and may change if similar data is pulled off the system on different days and submissions have been received and processed in the meantime).

This data allows users to ensure that the company data is correct and to make any necessary filings BEFORE 31 December (the date of which the data has to be validated).

**The following details the data that is available in this download:**

Company Details (associated with each watched company)

- Company Number
- Company Name
- Company Status
- Company Type
- Company Classification
- Economic Activity Code (number and description)
- Number of guarantee members
- Aggregate value of guarantee
- Number of cell companies
- Registered Office Address
- Registered Office Email Address

- Audit exempt
- AGM waiver

Director Details (associated with each watched company for each associated director)

- Director ID Number
- Director Name
- Director Type
- Service Address
- Email Address
- Alternate Director

Resident Agent Details (associated with each watched company for each associated resident agent)

- Resident Agent Number
- Resident Agent Name

Incorporated Cells (associated with each watched company for each associated incorporated cell)

- Incorporated Cell Number
- Incorporated Cell Name

Please Note—for a company of Mixed Liability the annual validation process remains the same i.e. paper forms will have to be submitted to the registry with the appropriate fee. An editable pdf form will be made available for this process.

### Other Registry Updates

#### The Companies (Transitional Provisions) (Amendment) Regulations, 2013

In view of the proposed forthcoming amendments to the Companies (Guernsey) Law, 2008, the transitional provisions have been extended until 31 December 2015.

Updated guidance on the impact of these provisions can be found here:

<http://www.guernseyregistry.com/article/108687/The-Companies-Transitional-Provisions-Amendment-Regulations-2013> .

#### Audit Waivers

Amendments to the Companies (Guernsey) Law, 2008 being made in 2013 will enable members of certain companies to pass an indefinite audit waiver rather than annually for a specific financial year.

Each year in January the annual validation submission asks a company to declare whether they are audit exempt or not. **The 'audit exempt' box will be pre-populated on the submission if the company has passed a waiver resolution (whether indefinite or not) during the period 1 October 2012 to 31 December 2013.**

**If a company which IS NOT audit exempt has the box pre-populated please notify the Registry prior to submitting the annual validation.**

Further information on audit waivers and, in particular, indefinite audit waivers can be found here : <http://www.guernseyregistry.com/article/103248/Audit-Waiver-Resolutions>

#### Resident Agents

CSPs and RPs are reminded of the legal requirements with regard to resident agents which are detailed here: <http://guernseyregistry.com/article/102795/Resident-Agent-Guidance>.

CSPs and RPs are also reminded that, where they provide company formation only services, that the directors of newly incorporated companies are fully aware of the resident agent regime in Guernsey and the obligations of being a resident agent.

### Filing of resolutions to change a name or voluntarily wind up a company

CSPs and RPs are reminded that using the 'resolution' submission on the online service portal DOES NOT make the necessary changes to the company. It is a submission type to file the resolution with the Registry ONLY.

Companies wishing to change the company name or commence voluntary winding up proceedings should use the submission type:

- 'Change Name'
- 'Voluntary Wind Up'

### Signed Copies of Memorandum

Please be aware that although the Registry does not require signed copies of Memorandum, it is the responsibility of the company to keep signed copies with the company records.

### Voluntary Liquidations & the need for at least one director

The Registry has become aware that some company administrators are filing change director submissions to remove directors from companies which have passed a resolution to go into voluntary liquidation.

Companies, and their administrators, are reminded that companies must have at least one director at any given time, even if they are in liquidation.

Although the powers of the directors cease upon the appointment of a liquidator, the directors still remain directors of the company and may be required to exercise some of their powers if sanctioned to do so by the liquidator or ordinary resolution of the company. In addition directors may be acting as the resident agent.

### Company Name on Incorporation

If a CSP wishes a company to have a name reflected on its incorporation certificate in a certain font or with a mix of upper and lower case text, please email the Registry at [enquiries@guernseyregistry.com](mailto:enquiries@guernseyregistry.com) with the submission number and details of how you would like the name reflected on the certificate. We will then ensure that the certificate of incorporation is generated correctly.

### Registered Office

The Registry has produced guidance to remind companies of the requirements for a registered office, in particular, the use of PO Box addresses.

The address MAY include a PO Box but MUST also include the rest of the physical address. Should companies wish to use a PO Box, then they MUST use the PO Box postcode.

The PO Box postcode should NOT be used if the PO Box does not appear in the address.

Full details of the requirements can be found here:

<http://guernseyregistry.com/article/101036/Registered-Office-Guidance>

**Please note:** The Registry is able to produce a list of entities with a registered office address for CSPs and RPs.

**Where companies have a large number of addresses with an incorrect post code please contact the Registry to undertake a rectification exercise.**

### Company Classifications

A company CANNOT be classified as a non-regulated company for the purpose of annual validation fees if the locally resident director named as the resident agent holds or is deemed to hold a personal fiduciary licence under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000.

In such instances the company should be classified as a financial product company.

### Cross Border Amalgamations

When considering cross border amalgamations, the Registrar would suggest that best practice, where the surviving entity will be in another jurisdiction, would be that a migration application is received to enable the company to then be amalgamated in the new jurisdiction.

### Registry Account Balances

CSPs and RPs are reminded of the payment terms for Registry accounts. The closing balance on the account is due within 30 days of the date of the account statement.

Please note that payments received by the Registry towards the end of each month may not appear on your next statement.

CSPs and RPs are also reminded that if they overpay on an account by BACS the Registry is unable to refund any credit and the credit balance will remain on the account.

Guidance on how to access account statements on line can be found here:

<http://www.guernseyregistry.com/article/103861/Accessing-online-account-statements>

### Training

The Registry would be pleased to offer staff training on the use of the online services portal for both new and existing staff. This training would also provide updates on new products and services or changes to existing processes.

Should you wish to book any training - either at the Registry or at your own offices—please email [enquiries@guernseyregistry.com](mailto:enquiries@guernseyregistry.com)

### Apostilling of Documents

Please note that any documents that have been certified by the Registrar may be apostilled directly by the Greffe without the need for notarisation.

### Limited Partnership Law Consultation

The Registry plans to consult with industry in 2014 regarding the implementation of the Limited Partnership Law—including the possibility of delaying the annual return date in future years (but not next) from 1 January to 31 May each year and undertaking a re-registration exercise for all limited partnerships to integrate the records with the online services portal at the same time.

## Foundations

The Registry received its first application to register a Foundation on 9 January this year. At the time of writing there are now 13 registered Foundations.

Please note that the purpose of the Foundation must be specific enough to enable the Registrar to determine that the purpose complies with the requirements of the legislation. General statements such as 'for the benefit of the beneficiaries' will not be sufficient.

Application forms to register foundations are now available online here:

<http://www.guernseyregistry.com/onlineforms>

We are currently working on regulations for annual validation and strike off of Foundations.

## Limited Liability Partnerships

It is anticipated that the Limited Liability Partnerships legislation will come into force in 2014.

Updates will be posted on the Registry website homepage.

## Email reminder to individual presenters

This year the Registry will be emailing ALL individuals who filed an annual validation for a non-regulated company in 2013 with advice concerning:

- Memorandum and articles
- AGM waiver
- Audit waiver
- Resident agent provisions

Whilst this is not intended as an industry update, it is possible that you will receive such an email if you have made such a filing as an individual on behalf of a non-regulated company.

## Online Services Portal – general housekeeping

As part of its planned programme of system enhancements, the Registry will be introducing an 'archive' and 'search' functionality on its Online Services Portal. Further details will be available in due course.

There will be some changes to document ordering. These will clarify the types of document being ordered and the charges for them. Whilst there will be no increase in fees, there may be changes to ensure that the costs reflect the fee schedule.

<http://www.guernseyregistry.com/article/4001/Fee-information> .

When adding a director to a company using the online services portal you will be required to tick a box to confirm that the necessary consents have been obtained from the director being appointed.



### Intellectual Property Office updates

In December 2012, the Intellectual Property Office launched its new product—Image Rights.

In addition, industry is reminded that the IPO is also responsible for registering and administering the following intellectual property rights in the Bailiwick:

- Trade marks
- Patents
- Design Rights

Information can also be provided on:

- Copyright
- Database rights
- Performers rights
- Plant Variety rights
- Unregistered designs

Information on the benefits of registering your trademark in Guernsey will be released before the end of the year.

### Christmas and New Year Opening Hours

Monday 23 December 2013 - building open as normal

Tuesday 24 December 2013 - building will close to the public at 4pm

Monday 30 December 2013 - building open as normal

Tuesday 31 December 2013-building will close to the public at 4pm

### **The Registry office will be closed on the following days:**

Wednesday 25 December 2013

Thursday 26 December 2013

Friday 27 December 2013- normal incorporations will still be available on this day (not special or rapid incorporations)

Wednesday 1 January 2014

### **The office will open as normal on 2 January 2014**

The Registry is always keen to receive feedback on its services so please do not hesitate to email [enquiries@guernseyregistry.com](mailto:enquiries@guernseyregistry.com) with your comments and suggestions.

*The interpretation of the Companies (Guernsey) Law, 2008 is a matter on which the Guernsey Registry cannot advise and companies need to form their own view on compliance with the legislation.*

*Independent legal advice is advised where there is any uncertainty.*