

**Regulation of Anguilla: /2002**

Gazetted: , 2002

TRUST COMPANIES AND OFFSHORE BANKING ACT, R.S.A. c. T60

**TRUST COMPANIES AND OFFSHORE  
BANKING REGULATIONS, 2002**

Regulations made by the Governor in Council under section 39 of the Trust Companies and Offshore Banking Act, R.S.A. c. T60

**Interpretation**

1. In these Regulations—

“Act” means the Trust Companies and Offshore Banking Act, R.S.A. c. T60;

“Inspector” has the same meaning as in the Act;

“licensee” has the same meaning as in the Act; and

**Application for licence**

2. (1) An application for a licence—

(a) under section 5 of the Act to carry on offshore banking business; or

(b) under section 11 of the Act to carry on general trust business,

shall be in the form set out in Schedule 1.

(2) An application for a licence under section 11 of the Act to carry on restricted trust business shall be in the form set out in Schedule 2.

**Approval for changing principal office or to appoint agents**

3. Every licensee seeking the approval of the Inspector to change the address of its principal office or to appoint an authorised agent shall make an application in the form set out in Schedule 3.

**Approval for the issue or transfer of shares and other interests**

4. Every licensee seeking the approval of the Governor under section 24 of the Act for the issue, transfer or other disposal of shares or other interests shall make an application for such approval in the form set out in the Schedule 4.

**Approval for directors and other officers**

5. Every licensee seeking the approval of the Inspector under section 25 (2) of the Act for the appointment of a director or other senior officer shall make an application in the form set out in Schedule 5.

**Exemption from approval**

6. Every licensee seeking an exemption under section 25(3) of the Act shall make an application in the form set out in the Schedule 6.

**Advertising restricted**

7. No licensee shall advertise its business in or outside Anguilla unless such licensee has submitted the text of such advertisement to the Inspector and obtained his prior approval.

**Quarterly statement**

8. Every bank licensed under the Act shall furnish to the Inspector quarterly statements of assets and liabilities as determined from time to time by the Inspector in addition to the audited accounts referred to in section 29 of the Act.

**Citation**

9. These Regulations may be cited as the Trust Companies and Offshore Banking Regulations, 2002.

Made by the Governor in Council this                      day of July, 2002

Peter Johnstone  
GOVERNOR OF ANGUILLA



8. Evidence of proper incorporation of any corporate shareholder of the applicant in its home country, if applicable:
  
9. Evidence in writing that the applicant is a fit and proper person to carry on offshore bank or general trust company business as appropriate:
  
10. Evidence in writing regarding the provision of fully paid-up capital as required by the Act:
  
11. Annual audited accounts of the applicant or of the corporate shareholders of the applicant, if any, for the preceding 3 years:
  
12. Names of all subsidiary companies of the applicant with addresses of their registered offices:
  
13. In the case of a foreign company, a copy of the act, charter, certificate of incorporation or memorandum and articles of association or bye-laws or partnership agreement of the applicant, as may be appropriate, verified by an affidavit sworn by a director or partner, together with a certificate of good standing:
  
14. Details of the applicant's main bankers:
  
15. Statement of assets and liabilities at the end of the month immediately prior to the submission of the application, certified by a director or senior officer, if applicable
  
16. Statement of the capital of any other company held, directly or through a subsidiary, as an asset of the applicant:
  
17. Business plan covering the following—
  - (a) Background and experience of the applicant and of the applicant's shareholders if applicable;

- (b) Overview of the proposed business activities, including proposed volumes of business;
- (c) Administration of the business, including proposed staffing levels, due diligence and 'know your customer' controls;
- (d) Reasons for choosing Anguilla to set up the business.

18. Please attach the prescribed application fee (US\$500):

19. Addendum to this Application is to be completed by each shareholder, beneficial shareholder, director and comptroller, if not a director and such other person(s) as Financial Services may require to be filed with this application.

#### ADDENDUM

##### **INFORMATION IN SUPPORT OF AN APPLICATION FOR AN OFFSHORE BANK OR GENERAL TRUST COMPANY LICENCE IN ANGUILLA**

Details required from each shareholder, beneficial shareholder or director of an applicant company, and comptroller, if not a director and such other person(s) as Financial Services may require.

1. Full name:
2. Former name (if different from name given above):
3. Date and place of birth:
4. Nationality (if naturalised attach a copy of the naturalisation certificate, and state former nationality):
5. Full home address at present time:
6. List home addresses in full for previous five years where different from that given above, and give the related dates:



15. Have you or your spouse ever been declared bankrupt or been the subject of a bankruptcy petition, or ever received a judgement against you in a civil court? (State YES or NO):

If YES give full details:

16. Has any company or firm of which you or your spouse was a partner, director or comptroller been the subject of a winding up petition? (State YES or NO):

17. Have you ever applied for a financial service licence in any other jurisdiction? (State YES or NO).

If YES state type of licence, name of company, location and period held and where granted:

18. Have you ever been refused a financial services licence or had an interest in any group which has been refused a licence or related finding of suitability? (State YES or NO):

If YES to either of the above, state where, when and for what reason:

19. Have you ever appeared before any licensing agency or similar authority for any reason whatsoever? For example, as a witness. (State YES or NO):

If YES provide details:

20. Have you as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a party to a lawsuit as either a plaintiff, or defendant as a result of misconduct? (State YES or NO):

If YES give details below: (List all cases without exception, including bankruptcies):

Plaintiff/Defendant:

Court and Case Number:

Location:

Result:

21. (i) Have you ever been convicted of any criminal offence in any country (excluding MINOR traffic offences); OR

(ii) Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offence of which the result is still pending:

If you have answered YES to either (i) or (ii) please give details. (List all cases without exception):

Date of Conviction or Arrest or Detention or Charge or Indictment or Summons:

Age

Charge

Location

Result

22. Will you participate actively in the management or operation of the proposed offshore bank or general trust company operation? (State YES or NO):

If YES give full details:

23. Has your interest in the proposed offshore bank or general trust company operation been assigned, pledged or hypothecated to any person, persons, firms, partnerships or companies; or have you entered into any agreement, whereby your interest is to be assigned or pledged or sold either wholly or in part? (State YES or NO):

24. Have you made any arrangements for persons, firms or companies to advance money, or other equity, to you to assist in financing your investment in the proposed offshore bank or general trust company operations? (State YES or NO):

25. Do your assets exceed your liabilities, including contingent liabilities, and are they likely to remain so for the foreseeable future? (State YES or NO):

26. Explain how you intend to finance your investment in the proposed offshore bank or general trust company operation, if applicable:

27. Give below any further information relating to your finances which you wish to be taken into account:

28. Give the names, addresses and telephone numbers of three referees. Referees should not be relatives or business associates. They should be told that the Government of Anguilla might wish to contact them.

Declaration

I certify that to the best of my knowledge and belief the information given in this form is complete and correct.

Date:

Signed:

AUTHORISATION TO SEEK ADDITIONAL INFORMATION

I/We hereby authorise you to contact all relevant authorities and authorise said authorities to provide you with whatever information you may request.

(Signed)



8. Details of the applicant's main bankers:
  
9. Business plan covering the following—
  - (a) Background and experience of the applicant and of the applicant's shareholders if applicable;
  - (b) Administration of the business, including proposed staffing levels and due diligence controls;
  - (c) Reasons for choosing Anguilla to set up the business.
  
10. Please attach the prescribed application fee (US\$500):
  
11. Addendum to this Application is to be completed by each director and such other person(s) as Financial Services may require and to be filed with this application.

#### ADDENDUM

#### **INFORMATION IN SUPPORT OF AN APPLICATION FOR A RESTRICTED TRUST COMPANY LICENCE IN ANGUILLA**

Details required from each shareholder, beneficial shareholder or director of an applicant company, and comptroller if not a director and such other person(s) as Financial Services may require.

1. Full name:
  
2. Former name (if different from name given above):
  
3. Date and place of birth:
  
4. Nationality (if naturalised attach a copy of the naturalisation certificate, and state former nationality):



If YES, give the name and address of the person, or persons, or organisations and the precise nature of your relationship and/or the arrangement:

14. Give the full details of your financial interest in the proposed restricted trust company operation, and the percentage ownership that this will represent:

15. Have you or your spouse ever been declared bankrupt or been the subject of a bankruptcy petition, or ever received a judgement against you in a civil court? (State YES or NO):

If YES give full details:

16. Has any company or firm of which you or your spouse was a partner, director or comptroller been the subject of a winding up petition? (State YES or NO):

17. Have you ever applied for a financial services licence in any other jurisdiction? (State YES or NO).

If YES state type of licence, name of company, location and period held and where granted:

18. Have you ever been refused a financial services licence or had an interest in any group which has been refused a licence or related finding of suitability? (State YES or NO):

If YES to either of the above, state where, when and for what reason:

19. Have you ever appeared before any licensing agency or similar authority for any reason whatsoever? For example, as a witness. (State YES or NO):

If YES provide details:

20. Have you as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a party to a lawsuit as either a plaintiff, or defendant as a result of misconduct? (State YES or NO):

If YES give details below: (List all cases without exception, including bankruptcies):

Plaintiff/Defendant:

Court and Case Number:

Location:

Result:

21. (i) Have you ever been convicted of any criminal offence in any country (excluding MINOR traffic offences); OR

(ii) Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offence of which the result is still pending:

If you have answered YES to either (i) or (ii) please give details. (List all cases without exception):

Date of Conviction or Arrest or Detention or Charge or Indictment or Summons

Age

Charge

Location

Result

22. Will you participate actively in the management or operation of the proposed restricted trust company? (State YES or NO):

If YES give full details:

23. Has your interest in the proposed restricted trust company operation been assigned, pledged or hypothecated to any person, persons, firms, partnerships or companies; or have you entered into any agreement, whereby your interest is to be assigned or pledged or sold either wholly or in part? (State YES or NO):

24. Have you made any arrangements for persons, firms or companies to advance money, or other equity, to you to assist in financing your investment in the proposed restricted trust company operations? (State YES or NO):

25. Do your assets exceed your liabilities, including contingent liabilities, and are they likely to remain so for the foreseeable future? (State YES or NO):

26. Explain how you intend to finance your investment in the proposed restricted trust company operation:

27. Give below any further information relating to your finances which you wish to be taken into account:

28. Give the names, addresses and telephone numbers of three referees. Referees should not be relatives or business associates. They should be told that the Government of Anguilla might wish to contact them.

#### Declaration

I certify that to the best of my knowledge and belief the information given in this form is complete and correct:

Date:

Signed:

AUTHORISATION TO SEEK ADDITIONAL INFORMATION

I/We hereby authorise you to contact all relevant authorities and authorise said authorities to provide you with whatever information you may request.

(Signed)

SCHEDULE 3

**NOTICE OF PRINCIPAL OFFICE AND AUTHORIZED AGENTS**

Date: \_\_\_\_\_

Ref: \_\_\_\_\_

To: Inspector of Trust Companies and Offshore Banks  
Financial Services  
P.O. Box 60  
The Valley  
Anguilla

Dear Sir,

Re:

We hereby notify you that we propose to change our principal office and/or authorised agents in Anguilla as follows.

Approval is requested for these changes.

1. Principal office:
2. Authorised agents (two):
  - a) Name:  
Address:
  - b) Name  
Address:

We enclose herewith from each of the above-named persons a written consent to act as an authorised agent.

Yours faithfully,

SCHEDULE 4

**APPLICATION FOR APPROVAL OF ISSUE OR TRANSFER  
OF SHARES OR OTHER INTERESTS**

Date: \_\_\_\_\_

Ref: \_\_\_\_\_

Inspector of Trust Companies and Offshore Banks  
Ministry of Finance  
P.O. Box 60  
The Valley  
Anguilla

Dear Sir

Re:

We apply herewith for approval of the issue/transfer/ other dispositions\* of shares/ other interests\* in the above-mentioned company.

Name and address of allottee or transferee of shares or other interests\*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the interests being \_\_\_\_\_  
issued, transferred or \_\_\_\_\_  
otherwise disposed of \_\_\_\_\_  
are not shares, please \_\_\_\_\_  
give a description \_\_\_\_\_  
thereof\* \_\_\_\_\_

Number of shares and \_\_\_\_\_  
percentage of total \_\_\_\_\_  
interests to which \_\_\_\_\_  
Application relates \_\_\_\_\_

Addendum to Schedule 1 of these Regulations may need to be completed by any new allottee or transferee.

Yours faithfully

\* Complete and/or delete as appropriate.

SCHEDULE 5

**APPLICATION FOR APPROVAL OF DIRECTORS AND OTHER OFFICERS**

Date: \_\_\_\_\_

Ref: \_\_\_\_\_

Inspector of Trust Companies and Offshore Banks  
Financial Services  
P.O. Box 60  
The Valley  
Anguilla

Dear Sir,

Re:

We apply herewith for your written approval for the appointment of

\_\_\_\_\_ \* as a director of this licensed institution

\_\_\_\_\_ \* as a senior officer of this licensed  
institution to hold the title of

\_\_\_\_\_ \*

We attach herewith Addendum to Schedule 1 of these Regulations, completed with respect to the aforementioned person(s).

Yours faithfully

\* Completed and /or delete as appropriate

SCHEDULE 6

**APPLICATION FOR AN EXEMPTION UNDER SECTION 25(3)**

Date: \_\_\_\_\_

Ref: \_\_\_\_\_

Inspector of Trust Companies and Offshore Banks  
Financial Services  
P.O. Box 60  
The Valley  
Anguilla

Dear Sir

Re:

We apply herewith for an exemption from the provisions of Section 25(2) of the Act which requires the prior written approval of the Inspector to appoint a director or other senior officer.

The reasons for this application are as follows:

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Yours faithfully,