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Regulatory Policy

Licensing Banks

1. STATEMENT OF OBJECTIVES

- 1.1. This policy sets out the Cayman Islands Monetary Authority's (the "Authority") criteria on licensing banks pursuant to Section 6 of the Banks and Trust Companies Law (2007 Revision) ("BTCL").
- 1.2. The Authority is committed to promoting the safety and stability of the Cayman Islands banking system through the regulation of banking business. The Authority recognises that high standards of licensing are the necessary foundation for effective regulation and supervision of its licensees.
- 1.3. This policy is consistent with the Authority's statutory objectives as prescribed in the Monetary Authority Law (2008 Revision), including:
 - promoting and maintaining a sound financial system in the Islands;
 - promoting and enhancing market confidence, consumer protection and the reputation of the Islands as a financial centre;
 - using its resources in the most efficient and economic way;
 - acting in the best economic interests of the Islands;
 - facilitating innovation in financial services business; and
 - recognising the international character of financial services and markets and the necessity of maintaining the competitive position of the Islands, from the point of view of both consumers and suppliers of financial services, while conforming to internationally applied standards insofar as they are relevant and appropriate to the circumstances of the Islands.



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- 1.4. The Authority licenses and supervises banks in accordance with the Core Principles for Effective Banking Supervision (BCP's) issued by the Basel Committee on Banking Supervision.

2. SCOPE

The Authority will apply this policy, and the requirements of the BTCL as well as the Banks and Trust Companies (Licence Applications and Fees) Regulations (2007 Revision) ("the Regulations") in assessing all applicants seeking to carry on banking business in or from within the Cayman Islands. Banking business means the business of receiving (other than from a bank or trust company) and holding on current, savings, deposit or other similar account money which is repayable by cheque or order and may be invested by way of advances to customers or otherwise. Banking business must not be conducted in or from within the Cayman Islands without the Authority's prior approval.

3. LICENCE APPLICATION

- 3.1. Persons seeking to conduct banking business in or from within the Cayman Islands must make an application in writing to the Authority for the grant of a licence pursuant to section 6 of the BTCL.
- 3.2. The application must be accompanied by such documents and information as set out in the Schedule of the Regulations, and the prescribed fee.

4. LICENSING CATEGORIES

- 4.1. Banking licences are divided into two main categories, namely a "A" banking licence and a "B" banking licence. These two classes of licences differ mainly in regards to their permissible activities.
- 4.2. Pursuant to section 6(5) of the BTCL, the Authority may grant a banking licence to an applicant for the purpose of conducting:



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- (i) banking business within and outside the Islands but subject to such conditions as may be imposed by the Authority, known as “A” licences;
- (ii) banking business with the restrictions on that business mentioned in section 6(6) of the BTCL, known as “B” licences; and
- (iii) banking business with the restrictions on that business mentioned in section 6(6), and incorporating a further restriction that the licensee shall not receive or solicit funds by way of trade or business from persons other than those listed in any undertaking accompanying the application for the licence, known as Restricted “B” licences.

4.3. A holder of a B licence may only conduct banking business with non-residents, an exempted company or, an ordinary non-resident company that is not carrying on business in the Islands. Exceptions to this restriction, include:

- (i) mortgages issued to the licensee’s employees, to Caymanians or persons possessing Caymanian status for the purchase or construction of a owner-occupied residence in the Cayman Islands;
- (ii) banking business conducted with another licensee regulated/registered in the Cayman Islands; and
- (iii) the purchase of bonds or other securities issued by the Cayman Islands Government (“the Government”), a body incorporated by statute, or a company in which the Government is the sole or majority beneficial owner;

4.4. The Regulations further establishes types of A licences based on permissible activities; and types of B licences based on ownership structure.



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i) Types of A licences include:

- (a) an “A” licence granted without restrictions on the carrying on of banking business within the Islands;
- (b) an “A” licence granted with restrictions as to the carrying on of banking business within the Islands and with permission to provide principal office services to five or more other licensees; and
- (c) an “A” licence granted with restrictions as to the carrying on of banking business within the Islands

ii) Types of B licences include:

- (a) a “B” licence ... where the licence holder is a branch of a bank licensed in a country or territory outside the Islands
- (b) a “B” licence...where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands
- (c) a “B” licence ...where the licence holder is *not* a subsidiary or branch of a bank licensed in a country or territory outside the Islands
- (d) a Restricted “B” licence ... where the licence holder is a branch of a bank licensed in a country or territory outside the Islands
- (e) a Restricted “B” licence...where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands
- (f) a Restricted “B” licence ...where the licence holder is *not* a subsidiary or branch of a bank licensed in a country or territory outside the Islands

4.5. The licence holders referred in 4.4ii) (a), (b), (d) and (e) above are host regulated banks, and licence holders referred to 4.4ii) (c) and (f) are home regulated banks.



5. CRITERIA FOR LICENSING

5.1. The Authority will consider each application on its own merits and will take into account all relevant factors listed in 5.2 through 5.8 below.

5.2. Fit and Proper criteria and Management

5.2.1 Applicants must demonstrate that they are controlled and managed by persons that are fit and proper and pose no undue risk to the applicant, its shareholders, creditors and the reputation of the Cayman Islands. The Authority will apply the Regulatory Policy and Regulatory Procedure on Fitness and Propriety when determining whether persons are fit and proper.

5.2.2 Applicants must demonstrate that responsibility for the prudent and successful conduct of the applicant's business rests with competent directors, managers, officers and controllers.

5.2.3 Applicants must demonstrate that its staff will provide a sufficient range of skills and experience to manage the applicant's affairs in a sound and prudent manner.

5.3. Ownership and Control

5.3.1 The legal, managerial and ownership structures of the applicant and its wider group must be transparent and must not hinder effective cross-border and consolidated supervision. The ultimate beneficial owners, and those exercising control or significant influence over the applicant, must be disclosed. There are two categories based on the applicant's ownership structure, namely host regulated banks and home regulated banks.



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Host Regulated Banks:

5.3.2 These are banks that are part of a banking group¹ that is subject to consolidated supervision by another banking supervisor. These banks are:

- i) *Subsidiaries* – banks incorporated in the Cayman Islands that are controlled or owned ultimately by a bank or banking group incorporated outside the Cayman Islands that is subject to consolidated supervision by another banking supervisor; and
- ii) *Branches* – banks that are extensions of a foreign bank not incorporated in the Cayman Islands.

5.3.3 The Authority will consider applications from host regulated banks, where supervision of the parent banking group is carried out by the home supervisor in accordance with the BCPs. The home supervisor must give its approval for the establishment of the applicant and the applicant must be included in the consolidated supervision carried out by the home supervisor.

5.3.4 The Authority will assess if the home supervisor performs effective consolidated supervision in accordance with the Authority's Policy on Consolidated Supervision.

¹ "group" means at least one other entity that is connected to the applicant in that one entity legally or beneficially owns and/or controls the other(s) (e.g.: parent–subsidiary relationship); or another entity legally or beneficially owns and/or controls the entities (e.g.: sister companies); or the entities have common director(s) and/or common management.



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Home Regulated banks

5.3.5 These are banks that are not subject to consolidated supervision by another banking supervisor. The Authority will supervise these applicants on a consolidated basis in accordance with the BCPs. Examples of banks within this category are:

- i) Treasury management (in which the applicant will act in a treasury role for its group, i.e: receiving funds from members of the group, and the provision to the group of short and long term funds, management of cash and working capital, and foreign currency risk management); and
- ii) Subsidiary of a non-bank financial institution that is otherwise regulated by a supervisor that adopts relevant international core principles for financial services supervision in accordance with best practise.

5.3.6 The Authority will also consider applicants not falling under 5.3.5 i) or ii) above, and use the criteria listed in 5.2 through 5.8 to assess the strength of the applicant. The Authority will in particular focus on the following factors:

- i) the reasons for applying for a bank licence from the Authority;
- ii) the prior track record, international standing, and reputation of the applicant, and fitness and propriety of its shareholders, beneficial owners, directors, officers and controllers;
- iii) legal, managerial and ownership of the bank and its wider group (if any) to ensure that the proposed structure will not hinder effective supervision;
- iv) sources of capital and availability of adequate resources (financial and non-financial) and the (long-term) commitment of the applicant's shareholders and ability to contribute additional capital, if required;
- v) if any of the applicant's owner(s) have or had a material interest in a bank or banking group, the experience of bank



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regulators of any such banks, and whether the Authority determines that the applicant and its group can be effectively supervised on a consolidated basis in accordance with the BCPs.

5.3.7 Pursuant to section 6(6) of the BTCL, the Authority will require the home regulated bank to establish a place of business in the Cayman Islands with the necessary resources (including staff and facilities), books and records as it considers appropriate having regards to the nature and scale of the business. Applicants should refer to the Authority's Statement of Guidance on the "Minimum Criteria for Maintaining Physical Presence for banks subject to section 6(6) of the BTCL".

5.4. Financial resources

5.4.1 The Authority will assess the applicant's sources of initial capital and its capital strength in accordance with the requirements of the BTCL, relevant regulations, rules, policies and statements of guidance.

5.4.2 The Authority must be satisfied that the applicant will have, and will continue to have, financial resources (whether actual or contingent) that are adequate for the nature and scale of the business and for amount of risks underwritten.

5.4.3 The Authority must be satisfied that the applicant's owner(s) have sufficient financial strength to support the applicant and in so doing assess the financial strength of the applicant's owner(s).

5.4.4 The level of financial resources held must at all times meet the minimum capital adequacy requirements as stipulated at the time of licensing for those banks that are incorporated in the Cayman Islands under the Companies Law. The Authority may revise its



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minimum capital adequacy requirement for the applicant in situations when there is reasonable cause for doing so. Host regulated banking applicants must also demonstrate that the bank and its group meet capital adequacy requirements applied by its home supervisor.

5.4.5 The Authority will require a branch of an overseas banking applicant to provide written confirmation from its head office that the head office will provide financial support to the branch sufficient to enable it to meet its obligations as and when they fall due.

5.5. Track Record and Business Plan

5.5.1 The Authority will look for a proven track record in international banking in determining competence and capability.

5.5.2 The Authority will require a detailed business plan covering the first two years of projected business activity. The information should identify assumptions and qualifications accordingly. The business plan should contain details of the reasons for the business to establish an operation in the Islands, the short and long-term objectives and how these will be achieved.

5.5.3 The applicant must be able to demonstrate in its business plan, that it has adequate resources, in terms of manpower, systems and expertise, to meet its objectives.

5.6. Internal Systems, Controls and Risk Management

5.6.1 The applicant must demonstrate that it will have in place a comprehensive risk management process and internal controls. It must have in place proposed policies, procedures, manuals, systems, and internal controls, relating to all areas of the



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applicant's risk areas and that are appropriate for the size, nature, and complexity of its operations, to ensure that the applicant will comply with good banking practices and all applicable laws and requirements, including the BTCL, all relevant regulations, rules, policies and statements of guidance. Applicants should refer to the Rules and statements of guidance issued by the Authority on internal controls and various risk management topics that focus on and uphold key prudential standards and relevant risk management practices for banks to follow.²

5.7. Know Your Customer Policy

5.7.1 The applicant must comply with the requirements of the Proceeds of Crime Law (2008 Revision), the Money Laundering Regulations (2008 Revision) and any subsequent amendments, and demonstrate adequate policies, procedures, and systems consistent with the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands.

5.8. Record Keeping

5.8.1 The Authority must be satisfied as to how and where management information is stored and accessed. Such records should be maintained in a manner that promotes retention and appropriate security and should be adequate to satisfy the requirements of the Authority and relevant regulations and laws. Applicants must also show that the Authority will have reasonable access to records at all reasonable times. Applicants should refer to the Authority's Statement of Guidance on the Nature, Accessibility and Retention of Records.

² Available on the Authority's web-site and can be accessed through the following link [[Banking Division - Index of Measures](#)]



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5.8.2 The Authority will determine to what extent books, records, and other appropriate resources are required to be maintained on Island in accordance with the nature and scope of the proposed activities of the applicant. Applicants should refer to the Authority’s Statement of Guidance on the “Minimum Criteria for Maintaining Physical Presence for banks subject to section 6(6) of the BTCL” and the Statement of Guidance on the Nature, Accessibility and Retention of Records.

6. OTHER CONSIDERATIONS

- 6.1. As a condition of licensing, the Authority may seek reimbursement for reasonable out-of-pocket expenses and related matters with respect to any on-site inspections outside the Cayman Islands.
- 6.2. All applicants should familiarise themselves with the relevant Rules, Statements of Guidance, Regulatory Policies and Procedures of the Authority and refer to the Authority’s website [[Banking Division – Index of Measures](#)] for a current list.