

CAYMAN ISLANDS



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**SECTION 48 OF THE MONETARY AUTHORITY LAW (2013 REVISION)**

**REGULATORY POLICY – LICENSING BANKS**



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# **Regulatory Policy**

## **Licensing Banks**

**Revised March 2016**



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## 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](#) ("BTCL").
- 1.2. The Authority is committed to promoting the safety, soundness 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, 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 and other principles issued by international standard setting bodies with a risk based approach to protecting customers and reducing financial crimes.

## **2. SCOPE**

- 2.1. 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 ("the Regulations") in assessing all applicants seeking to carry on banking business in or from within the Cayman Islands.
- 2.2. 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.
- 2.3. This Policy should be read in conjunction with the BTCL and Regulations, Money laundering Regulations, the Guidance Notes on The Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands and any other relevant law, policy or statement of guidance.



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### 3. LICENCE APPLICATION

- 3.1. Applicants are strongly encouraged to contact the Authority to schedule a meeting to discuss the prospective application and the Authority's requirements prior to submitting an application.
- 3.2. 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.
- 3.3. The application must be accompanied by such documents and information as set out in the Schedule of the Regulations and any other document required by the Authority, along with the prescribed fee.
- 3.4. The typical timeframe for processing an application is 5 weeks for Category "A" applications and 4 weeks for Category "B" applications. The processing timeframe begins when **ALL** required documents and information have been received.
- 3.5. The Authority may reject an application if it believes that granting a license would not be in the best interest of the public or the interests of the proposed customers or creditors.
- 3.6. 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.



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- 3.7. 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.

## 4. LICENSING CATEGORIES

- 4.1. Banking licences are divided into two broad categories (“A” and “B” licenses) which differ mainly in regards to their permissible activities:

### 4.2. “A” banking licence

- 4.2.1 conduct banking business within and outside the Islands but subject to such conditions as may be imposed by the Authority.

### 4.3. “B” banking licence

- 4.3.1 conduct banking business; transactions are generally prohibited with residents in the Cayman Islands (Section 6(6) of the BTCL).

### 4.4. Restricted “B” banking licence

- 4.4.1 conduct banking business with the restrictions on that business (Section 6(6) of the BTCL) with the 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. Generally, a licensee's customer base should be limited to



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related parties<sup>1</sup> and should not exceed 20 customers.

## 5. HOME REGULATED BANKS DEFINED

- 5.1. These are banks that are not subject to consolidated supervision by another banking regulator. The Authority will supervise these applicants on a consolidated basis in accordance with internationally recognized standards or any other standard considered appropriate by the Authority.
- 5.2. The Authority will assess the risks posed to the applicant by the activities of other members in its group. The Authority will assess the appropriateness of the applicant's group structure and procedures for the effective management of group-wide risks.
- 5.3. All applications for banks that are to be solely supervised by the Authority will be assessed using the criteria listed in 7.1 through 7.9 below.

## 6. HOST REGULATED BANKS DEFINED

- 6.1. These are banks that are part of a banking group<sup>2</sup> that is subject to consolidated supervision by another banking regulator. These

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<sup>1</sup> As defined within the Rules on Large Exposures and Credit Risk Concentration for Banks.

<sup>2</sup> "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-subsidary 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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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 regulator; and
- ii) *Branches* – banks that are extensions of a foreign bank not incorporated in the Cayman Islands.

6.2. The Authority will consider applications from host regulated banks, where supervision of the entire group is carried out by the home regulator in accordance with international standards.

6.3. The home regulator must confirm:

- a) that it has no objection to the establishment of the applicant;
- b) that the applicant will be included in the consolidated supervision of the parent entity;
- c) that there are no regulatory concerns with respect to the parent entity or its management;
- d) the frequency and scope of on-site examinations conducted by the home regulator and the date of the bank's most recent examination;
- e) details of any restrictions on cooperating and sharing information with the Cayman Islands, including but not limited to, the assessment, resolution or recovery of financial institutions that fall under its consolidated supervision; and
- f) that the prudential and operational framework of the home regulator assesses such risk areas including corporate governance, capital adequacy, large exposures, related party exposures and liquidity.



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



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## **7. APPLICATION ASSESSMENT CRITERIA – HOME REGULATED BANKS**

- 7.1. The Authority assesses applications with respect to fitness and propriety, ownership and control, financial resources, track record and business plan, internal systems, controls and risk management including anti-money laundering and countering the financing of terrorism (“AML/CFT”), know your customer and record keeping.
- 7.2. The Authority will consider each application on its own merits and will apply a risk based approach to its assessment taking into account all relevant factors listed in 7.3 through 7.9 below.

### **7.3. Fit and Proper criteria and Management**

- 7.3.1 The Authority will apply the Regulatory Policy and Regulatory Procedure on Fitness and Propriety when determining whether persons are fit and proper.
- 7.3.2 Applicants must demonstrate that they are controlled and managed by a sufficient number of directors and senior managers who are fit and proper and pose no undue risk to the applicant, its shareholders, creditors and the reputation of the Cayman Islands.
- 7.3.3 An applicant must demonstrate that its directors and senior management have the necessary skills and experience in relevant



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financial operations commensurate with the intended activities of the bank.

- 7.3.4 An applicant must confirm that there is no record of criminal activities, adverse regulatory judgments or any past actions or conduct that make a director or senior manager unfit to hold such positions in the bank.
- 7.3.5 An applicant must demonstrate that its directors will be able to apply independent judgement to the governance of the bank in an informed way, free from any conflicts of interest.
- 7.3.6 An applicant must ensure that there is a clear division of responsibilities between directors and management (e.g. when a Chief Executive Officer is also the Chairperson of the Board) to ensure balance of power and authority.
- 7.3.7 An applicant must demonstrate that its directors have collective sound knowledge of the material activities that the bank intends to pursue, and the associated risks.
- 7.3.8 At least two directors must have sound banking experience. Generally, the Authority will require each director to have a minimum of five years of relevant experience at a senior level.
- 7.3.9 The Authority may require an applicant to have more than two directors depending on the size, complexity and risks attached



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to the proposed business.

7.3.10 The experience and skills of non-executive or non-banking related directors should be relevant or applicable to the effective operation of the business and such directors must exercise sound objective judgment.

7.3.11 Applicants must demonstrate that their staff will provide a sufficient range of skills and experience to manage the applicant's affairs in a sound and prudent manner evidenced by the attainment of relevant qualifications or by having sufficient relevant experience for the functions they are charged with performing.

7.3.12 Applicants should be guided by the Authority's Statement of Guidance on Corporate Governance with respect to the management of their affairs.

#### **7.4. Ownership and Control**

7.4.1 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 or the effective implementation of corrective measures in the future.

7.4.2 The Authority must be able to identify all intermediate and ultimate owners and, if the structure is overly complex or lacks transparency, the applicant must adequately explain and justify



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the rationale for having such a structure. The Authority will assess the information provided and make a determination. Generally, the Authority will not consider applicants that:

- i) have complex structures that prevent a clear view of their business or the group's business, as applicable;
- ii) do not allow the Authority to clearly determine the ultimate beneficial owner;
- iii) have significant parts of the group's operations being conducted in jurisdictions where supervision and regulation are weak; and
- iv) do not have a clearly identified natural home base for the group.

7.4.3 Where the Authority believes that an applicant has an overly complex or a parallel-owned structure, the Authority may require a change in the group structure as a condition to its license.

7.4.4 Applicants must provide a corporate chart showing all entities under common ownership or management, including non-financial entities.

7.4.5 Applicants may be required to provide further information on any member of the group, including a non-financial entity.

7.4.6 An applicant must ensure that its shareholders fulfil all the requirements prescribed within the Schedule to the Regulations.



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- 7.4.7 Applicants must provide information on shareholders holding 10% or more of the shares or voting power of the bank and the bank's holding company, if applicable. If there are no shareholdings or voting power exceeding 10%, applicants must provide the shareholding or voting power of each of the 10 largest shareholders, identifying family or related shareholders, where possible.
- 7.4.8 Where an applicant is to be held by a trust, the trustee must be regulated in a country satisfactory to the Authority. Applicants must provide the trust deed to the Authority and must disclose:
- i) the trustee(s);
  - ii) the settlor, protector and beneficiaries of the trust; and
  - iii) any person (in relation to the applicant, its administration or ownership) that may influence or have the power to make decisions with respect to the trust.
- 7.4.9 The Authority may require applicants to provide additional information on the legal arrangement of a trust to assess the risks, transparency, know your customer function and the ultimate owner.
- 7.4.10 Applicants must demonstrate that adequate controls will be in place with respect to group shareholders and related entities to avoid undue risks in regard to related party transactions and credit risks.
- 7.4.11 Applicants must demonstrate that proper controls will be place to prevent the shareholder or persons in senior positions from



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overriding policies and procedures in a manner that would be prejudicial to depositors, creditors or the public interest.

7.4.12 The applicant must provide:

- i) a written commitment that there will be an independent audit function; and
- ii) for those applicants with two or less shareholders, details of their succession plan which should aim to minimise disruption to the bank's business operations and any negative impact on the bank's clients. This plan should include, at a minimum, specifics with respect to the:
  - a) death of the shareholder(s); and
  - b) critical illness or incapacity of the shareholder(s).

7.4.13 The applicant must demonstrate that the risk management function will be sufficiently independent of the business units whose activities and exposures it reviews.

7.4.14 The applicant must demonstrate that all significant management decisions will be made by more than one person ("four eyes" principle) (generally, any such decision that could impact the applicant's ability to meet its capital, liquidity, legal and regulatory requirements as well as impact depositors and creditors negatively). The "four eyes" criterion is to be met on a continual basis and those persons must demonstrate a balance of appropriate qualifications, skills and experience and form or be a part of the overall management team.





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7.4.15 The Authority must be satisfied that where “dual hatting” occurs (where resource constraints may make overlapping responsibilities necessary), these roles will be compatible --for example, the Chief Risk Officer may also have lead responsibility for a particular risk area-- and should not weaken checks and balances within the bank.

## **7.5. Financial Resources**

7.5.1 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.

7.5.2 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 its risk profile.

7.5.3 The Authority will assess the financial strength of the applicant’s owner(s) to ensure that the applicant’s owner(s) have sufficient financial strength to support the applicant.

7.5.4 Generally, the Authority will consider applications where a shareholder holding more than 20% of any class of shares or voting rights has a minimum net worth of US\$10 million (not including primary residence) or five times the value of the shares to which each shareholder is subscribing, whichever is greater.



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- 7.5.5 The level of financial resources held by an applicant that is incorporated in the Cayman Islands under the Companies Law 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.
- 7.5.6 The Authority may increase its minimum capital adequacy requirement for the applicant depending on the applicant's risk profile and the complexity of its business.
- 7.5.7 The Authority expects applicants to maintain a minimum of US\$500,000 of its issued capital in cash or cash equivalent at a Category "A" licensed Bank which cannot be pledged without CIMA's approval.
- 7.5.8 The Authority may require a higher amount of cash or cash equivalent being held depending on the size, nature and complexity of the proposed business.

## **7.6. Track Record and Business Plan**

- 7.6.1 The Authority will look for a proven track record in international banking in determining competence and capability of the directors and managers in the absence of the shareholders having banking related experience and knowledge. Shareholders' business acumen may be considered, as applicable.



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- 7.6.2 The Authority must be satisfied that the financial records of shareholders (controlling individual or group) were independently verified and signed off by a public accountant. The financial records should be dated no earlier than three months prior to the date of application.
- 7.6.3 The Authority will require a detailed business plan covering the first three years of projected business activity and which should be reflective of a sound feasible plan. 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.
- 7.6.4 As part of meeting the requirements prescribed within the Schedule to the Regulations, 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 and should contain details, including, but not limited to:
- i) the reasons for wanting to establish an operation in the Islands;
  - ii) background information: history, management team, number of expected employees, corporate structure, location of bank, names and percentage of the majority shareholder(s);
  - iii) financial plan: A discussion of the decision making criteria used to approve the plan internally; summary description of the business to be conducted, including short and long term objectives and how these will be achieved;
  - iv) three-year pro forma financial statements for the business,



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- including balance sheet, income statement, details regarding key assumptions and an identification of major asset, liability, income and expense categories;
- v) reports of any feasibility studies carried out to support its business plan;
  - vi) explanation of strategy for risk management and internal controls within the business;
  - vii) marketing strategy;
  - viii) investment policy;
  - ix) dividend policy, including types of dividends and the mechanics of dividend pay-outs;
  - x) details of its remuneration plan;
  - xi) details and statement of adequacy of domestic operational resources, in particular staff qualifications and experience and information systems including disaster recovery and business continuity arrangements;
  - xii) information about contracts with affiliates;
  - xiii) information about outsourcing arrangements;
  - xiv) corporate governance policy and internal controls to be implemented, including reporting arrangements, where applicable;
  - xv) details of AML/CFT compliance systems and procedures; and
  - xvi) contingency plans for perceived variations to the key assumptions made, including a sensitivity analysis showing the results of changes in key assumptions under a worst case scenario and a discussion of the changes in assumptions.

7.6.5 An applicant must carry out a rigorous, forward-looking stress test that identifies worst case scenarios of possible institution-



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specific and market wide events over a three year period and provide details on its contingency plan particularly as it relates to future capital and liquidity resources and capital and liquidity requirements under adverse scenarios. Results of its stress test must form a part of its business plan submission. In conducting the stress test and on an ongoing basis, following licensing, applicants should be guided by the Authority's Supervisory Review Process (Pillar 2) Rules and Guidelines.

7.6.6 The Authority must be satisfied with the applicant's proposed strategic and operating plans and must be assured that its system of corporate governance, risk management and internal controls are appropriate to the expected size and complexity of the business.

7.6.7 An applicant's operational structure must reflect the scope and degree of sophistication of the proposed activities of the bank.

7.6.8 Applicants must provide details of and the rationale for any outsourcing arrangements with third parties or other group companies. Copies of the agreements in respect of these outsourcing arrangements should also be provided.

## **7.7. Internal Systems, Controls and Risk Management**

7.7.1 The applicant must demonstrate that it will have in place a comprehensive risk management process and internal controls.



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- 7.7.2 The Authority must be satisfied that applicant's proposed policies, procedures, manuals, systems, and internal controls, relating to all areas of the applicant's risk areas are appropriate for the size, nature, and complexity of its operations and comply with good banking practices and all applicable laws and requirements, including the BTCL, all relevant regulations, rules, policies and statements of guidance.
- 7.7.3 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.<sup>3</sup>
- 7.7.4 Applicants must provide an overview of the proposed licensee's information technology governance structure and overview of technology systems and platforms to be used, including type of hardware, type of application software and risk assessment of information technology operations.
- 7.7.5 Applicants must demonstrate that they have effectively developed, with the aim of implementing, their own Internal Capital Adequacy Assessment Process ("ICAAP")<sup>4</sup> for the purpose of setting internal capital targets and developing strategies for achieving those internal targets that are consistent with their

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<sup>3</sup> Available on the Authority's web-site and can be accessed through the following link [[Banking Division – Index of Measures](#)]

<sup>4</sup> ICAAP applies to all banks incorporated in the Cayman Islands and regulated by the Authority under the BTCL.



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complexity, business activities, risk profile and operating environment. They must also be able to demonstrate the reasonableness of their proposed capital plan. Applicants should be guided by the Authority's Supervisory Review Process (Pillar 2) Rules and Guidelines.

7.7.6 Applicants' Money Laundering Reporting Officer ("MLRO") and Compliance Officer<sup>5</sup> should be suitably qualified and experienced members of staff ordinarily resident in the Cayman Islands. The MLRO and Compliance Officer must be at a management level and these functions may not be outsourced.

7.7.7 An applicant's internal controls should demonstrate that proper oversight of any proposed outsourced functions will be in place.

## **7.8. Know Your Customer Policy**

7.8.1 The applicant must demonstrate how it will comply with the requirements of the Proceeds of Crime Law as amended, the Money Laundering Regulations as amended, and demonstrate adequate policies, procedures, and systems consistent with the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands.

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<sup>5</sup> The Compliance Officer may also be the MLRO.



## 7.9. Record Keeping

7.9.1 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.

7.9.2 Generally, the Authority will expect licensees to maintain books, records, and other appropriate resources in the Cayman Islands. The Authority may consider requests to maintain books, records, and other appropriate resources outside the Cayman Islands on a case by case basis depending on the nature, scope, risk and complexity of the proposed activities of the applicant as well as the justification provided by the applicant for making a request to maintain such books and records outside the Cayman Islands. Applicants should refer to the Authority's Statement of Guidance on the Nature, Accessibility and Retention of Records and any additional guidance issued by the Authority on this point.





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## **8. APPLICATION ASSESSMENT CRITERIA – HOST REGULATED BANKS**

8.1. The Authority will consider each application on its own merits and will apply a risk based approach to its assessment taking into account all relevant factors listed in 8.2 through 8.8 below.

### **8.2. Fit and Proper criteria and Management**

8.2.1 The Authority will apply the Regulatory Policy and Regulatory Procedure on Fitness and Propriety when determining whether persons are fit and proper.

8.2.2 Applicants must demonstrate that they are controlled and managed by a sufficient number of directors and senior managers who are fit and proper and pose no undue risk to the applicant, its shareholders, creditors and the reputation of the Cayman Islands.

8.2.3 An applicant must demonstrate that its directors and senior management have the necessary skills and experience in relevant financial operations commensurate with the intended activities of the bank.

8.2.4 An applicant must confirm that there is no record of criminal activities, adverse regulatory judgments or any past actions or conduct that make a person unfit to hold senior positions in the bank including persons who directly report to the Board and the



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person in charge of the Cayman Islands operation.

- 8.2.5 An applicant must demonstrate that its directors will be able to apply independent judgement to the governance of the bank in an informed way, free from any conflicts of interest.
- 8.2.6 For subsidiaries and affiliates, applicants must ensure that there is a clear division of responsibilities between directors and management (e.g. where a chief executive officer is also the chairperson of the Board) to ensure balance of power and authority.
- 8.2.7 An applicant must demonstrate that its directors have collective sound knowledge of the material activities that the bank intends to pursue, and the associated risks.
- 8.2.8 At least two directors must have sound banking experience. Generally, the Authority will require each director to have a minimum of five years of relevant experience at a senior level.
- 8.2.9 The Authority may require an applicant to have more than two directors depending on the size, complexity and risks attached to the proposed business.
- 8.2.10 Generally, the Authority will require that the experience and skills of non-executive or non-banking related directors be relevant or applicable to the effective operation of the business and such directors must exercise sound objective judgment.



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8.2.11 Applicants must demonstrate that their staff will provide a sufficient range of skills and experience to manage the applicant's affairs in a sound and prudent manner evidenced by the attainment of relevant qualifications or by having sufficient relevant experience for the functions they are charged with performing.

8.2.12 Applicants should be guided by the Authority's Statement of Guidance on Corporate Governance with respect to the management of their affairs.

### **8.3. Ownership and Control**

8.3.1 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 or the effective implementation of corrective measures in the future.

8.3.2 The Authority must be able to identify all intermediate and ultimate owners and, if the structure is overly complex or lacks transparency, the applicant must adequately explain and justify the rationale for having such a structure. Generally, the Authority will not consider applicants that:

- i) have complex structures that prevent a clear view of their business or the group's business, as applicable;
- ii) do not allow the Authority to clearly determine the ultimate beneficial owner;



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- iii) have significant parts of the group's operations being conducted in jurisdictions where supervision and regulation are weak; and
- iv) do not have a clearly identified natural home base for the group.

8.3.3 Where the Authority believes that an applicant has an overly complex structure, the Authority may require a change in the group structure as a condition to its license.

8.3.4 Applicants must provide a corporate chart showing all entities under common ownership or management, including non-financial entities.

8.3.5 Applicants may be required to provide further information on any member of the group, including a non-financial entity.

8.3.6 An applicant must ensure that its shareholders fulfil all the requirements prescribed within the Schedule to the Regulations.

8.3.7 Applicants must provide information on shareholders holding 10% or more of the shares or voting power of the bank and the bank's holding company, if applicable. If there are no shareholdings or voting power exceeding 10%, applicants must provide the shareholding or voting power of each of the 10 largest shareholders, identifying family or related shareholders, where possible.



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- 8.3.8 Where an applicant is to be held by a trust, the trustee must be regulated in a country satisfactory to the Authority. Applicants must provide the trust deed to the Authority and must disclose:
- i) the trustee(s);
  - ii) the settlor, protector and beneficiaries of the trust; and
  - iii) any person (in relation to the applicant, its administration or ownership) that may influence or have the power to make decisions with respect to the trust.
- 8.3.9 The Authority may require applicants to provide additional information on the legal arrangement of a trust to assess the risks, transparency, know your customer function and the ultimate owner.
- 8.3.10 Applicants must demonstrate that adequate controls will be in place with respect to group shareholders and related entities to avoid undue risks in regard to related party transactions and credit risks.
- 8.3.11 Applicants must demonstrate that proper controls will be in place to prevent the shareholder or persons in senior positions from overriding policies and procedures in a manner that would be prejudicial to depositors, creditors or the public interest.
- 8.3.12 Applicants must provide a written commitment that there will be an independent audit function.
- 8.3.13 The applicant must demonstrate that the risk management



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function will be sufficiently independent of the business units whose activities and exposures it reviews.

8.3.14 The applicant must demonstrate that all significant management decisions will be made by more than one person (“four eyes” principle) (generally, any such decision that could impact the applicant’s ability to meet its capital, liquidity, legal and regulatory requirements as well as impact depositors and creditors negatively). The “four eyes” criterion is to be met on a continual basis and those persons must demonstrate a balance of appropriate qualifications, skills and experience and form or be a part of the overall management team.

8.3.15 The Authority must be satisfied that where “dual hatting” occurs (where resource constraints may make overlapping responsibilities necessary), these roles will be compatible --for example, the Chief Risk Officer may also have lead responsibility for a particular risk area-- and should not weaken checks and balances within the bank.

#### **8.4. Financial Resources**

8.4.1 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.

8.4.2 The Authority must be satisfied that the applicant will have, and



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will continue to have, financial resources (whether actual or contingent) that are adequate for the nature and scale of the business and for its risk profile.

- 8.4.3 The Authority will assess the financial strength of the applicant's owner(s) to ensure that the applicant's owner(s) have sufficient financial strength to support the applicant.
- 8.4.4 The level of financial resources held by an applicant that is incorporated in the Cayman Islands under the Companies Law 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.
- 8.4.5 The Authority may increase its minimum capital adequacy requirement for the applicant depending on the applicant's risk profile and the complexity of its business.
- 8.4.6 Applicants must demonstrate that the bank and its group meet the capital adequacy requirements applied by its home regulator.
- 8.4.7 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.



## 8.5. Track Record and Business Plan

- 8.5.1 The Authority will look for proven track record in international banking in determining the applicant's competence and capability.
- 8.5.2 The Authority will look at a satisfactory audit history of the applicant as demonstrated by the audit reports provided in its financial statements and management letter, or those of its ultimate and intermediate parents.
- 8.5.3 The Authority will require a detailed business plan covering the first three years of projected business activity and which should be reflective of a sound feasible plan. 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.
- 8.5.4 As part of meeting the requirements prescribed within the Schedule to the Regulations, 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 and should contain details, including, but not limited to:
- i) the reasons for wanting to establish an operation in the Islands;
  - ii) background information: history, management team, number of expected employees, corporate structure,





- location of bank, names and percentage of the majority shareholder(s);
- iii) financial plan: A discussion of the decision making criteria used to approve the plan internally; summary description of the business to be conducted, including short and long term objectives and how these will be achieved;
- iv) three-year pro forma financial statements for the business, including balance sheet, income statement, details regarding key assumptions and an identification of major asset, liability, income and expense categories;
- v) reports of any feasibility studies carried out to support its business plan;
- vi) explanation of strategy for risk management and internal controls within the business;
- vii) marketing strategy;
- viii) investment policy;
- ix) dividend policy, including types of dividends and the mechanics of dividend pay-outs;
- x) details of its remuneration plan;
- xi) details and statement of adequacy of domestic operational resources, in particular staff qualifications and experience and information systems including disaster recovery and business continuity arrangements;
- xii) information about contracts with affiliates;
- xiii) Information about outsourcing arrangements;
- xiv) corporate governance policy and internal controls to be implemented, including reporting arrangements, where applicable;
- xv) details of AML/CFT compliance systems and procedures; and
- xvi) contingency plans for perceived variations to the key assumptions made, including a sensitivity analysis showing



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the results of changes in key assumptions under a worst case scenario and a discussion of the changes in assumptions.

8.5.5 The Authority must be satisfied with the applicant's proposed strategic and operating plans and must be assured that its system of corporate governance, risk management and internal controls are appropriate to the expected size and complexity of the business.

8.5.6 An applicant's operational structure must reflect the scope and degree of sophistication of the proposed activities of the bank.

8.5.7 Applicants must provide details of and the rationale for any outsourcing arrangements with third parties or other group companies. Copies of the agreements in respect of these outsourcing arrangements should also be provided.

## **8.6. Internal Systems, Controls and Risk Management**

8.6.1 The applicant must demonstrate that it will have in place a comprehensive risk management process and internal controls.

8.6.2 The Authority must be satisfied that applicant's proposed policies, procedures, manuals, systems, and internal controls, relating to all areas of the applicant's risk areas are appropriate for the size, nature, and complexity of its operations and comply with good banking practices and all applicable laws and



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requirements, including the BTCL, all relevant regulations, rules, policies and statements of guidance.

8.6.3 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.<sup>6</sup>

8.6.4 Applicants must provide an overview of the proposed licensee's information technology governance structure and overview of technology systems and platforms to be used, including type of hardware, type of application software and risk assessment of information technology operations.

8.6.5 Applicants must demonstrate that they have effectively developed, with the aim of implementing, their own ICAAP<sup>7</sup> for the purpose of setting internal capital targets and developing strategies for achieving those internal targets that are consistent with their complexity, business activities, risk profile and operating environment. They must also be able to demonstrate the reasonableness of their proposed capital plan and must reflect their own circumstances and group-wide data. Applicants should be guided by the Authority's Supervisory Review Process (Pillar 2) Rules and Guidelines.

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<sup>6</sup> Available on the Authority's web-site and can be accessed through the following link [[Banking Division – Index of Measures](#)]

<sup>7</sup> ICAAP applies to all banks incorporated in the Cayman Islands and regulated by the Authority under the BTCL.



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8.6.6 Applicants' Money Laundering Reporting Officer ("MLRO") and Compliance Officer<sup>8</sup> should be suitably qualified and experienced members of staff ordinarily resident in the Cayman Islands. The MLRO and Compliance Officer must be at a management level and these functions may not be outsourced.

8.6.7 An applicant's internal controls should demonstrate that proper oversight of any proposed outsourced functions will be in place.

## **8.7. Know Your Customer Policy**

8.7.1 The applicant must demonstrate how it will comply with the requirements of the Proceeds of Crime Law as amended, the Money Laundering Regulations as amended, and demonstrate adequate policies, procedures, and systems consistent with the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands.

## **8.8. Record Keeping**

8.8.1 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

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<sup>8</sup> The Compliance Officer may also be the MLRO.



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reasonable access to records at all reasonable times.

- 8.8.2 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 Nature, Accessibility and Retention of Records and any additional guidance issued by the Authority on this point.