



**[JUNE 2018]**

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## **Regulatory Policy**

### **Net Worth and Liquidity – Trust and Corporate Service Providers**

#### **1. Statement of Objectives**

- 1.1. To set out the minimum net worth requirement for Corporate Services Licensees.
- 1.2. To outline the criteria against which the Authority will assess liquidity for Trust Licensees, Restricted Trust Licensees, Companies Management Licensees and Corporate Services Licensees.
- 1.3. To help ensure that licensees maintain adequate assets, that are readily available to them, and that are sufficient to:
  - a) meet expenditures even in fluctuating financial conditions;
  - b) minimise the risk of financial failure; and
  - c) allow for an orderly wind up, if necessary.

#### **2. Introduction**

- 2.1. Pursuant to section 8 of the Banks and Trust Companies Law ("BTCL"), unless exempted
  - 2.1.1 The holder of a Trust Licence must maintain a net worth of not less than four hundred thousand Cayman Islands dollars or its equivalent in other currencies, or such greater sum as may be determined by the Authority.
  - 2.1.2 The holder of a Restricted Trust Licence must maintain a net worth of not less than twenty thousand Cayman Islands dollars or its equivalent in other currencies, or such greater sum as may be determined by the Authority.
- 2.2. Section 10(1) of the Companies Management Law ("CML") provides that where a limited liability company applies for a Companies Management Licence, no licence shall be issued in respect of such company unless the net worth of that company is not less than twenty-five thousand Cayman Islands dollars or such other sum as may be prescribed.
- 2.3. Section 10(2) of the CML provides that the holder of a Companies Management Licence which is a limited liability company shall, during the period of its licence, maintain its net worth at not less than twenty-five thousand Cayman Islands



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dollars or such other sum as may be prescribed.

- 2.4. Pursuant to Section 10(3) of the CML, a limited liability company that applies for a Corporate Services Licence must demonstrate at the time of licensing and maintain for the duration of its licence a minimum net worth of such sum as may be determined by the Authority from time to time.
- 2.5. The Authority acknowledges and expects compliance with the net worth requirements in respect of Trust Licences and Restricted Trust Licences that are issued under the BTCL as well as the net worth requirements under Section 10(1) of the CML for those persons applying for or holding a licence under the CML.
- 2.6. The Authority will use this Regulatory Policy to determine the minimum net worth those Corporate Services Licensees must maintain pursuant to section 10(3) of the CML.
- 2.7. Provisions in law and requirements in other regulatory measures that impose a higher standard will take precedence over this Policy. This Policy should not be used to circumvent the requirements of any other regulatory measure particularly where those requirements are higher.

### **3. Scope of Application**

- 3.1. This Policy applies to holders of Trust Licences and Restricted Trust Licences that have been issued under the BTCL, and Companies Management Licences and Corporate Services Licences that have been issued under the CML.
- 3.2. Part 5 of this Policy relates solely to Corporate Services Licences.
- 3.3. Parts 6, 7, 8 and 9 of this Policy relate to Trust Licensees, Restricted Trust Licensees<sup>1</sup>, Companies Management Licensees and Corporate Services Licensees.
- 3.4. The Authority may exempt a Licensee from the net worth or the liquidity requirements described in this Policy in the situations described in Part 7.

### **4. Definitions**

- 4.1. For the purpose of this Regulatory Policy, the following definitions are provided:

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<sup>1</sup> Excluded: Nominee Trusts and Private Trust Companies.



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- 4.1.1 "Corporate Services Licensee" refers to a licensee holding a licence under section 5(2)(a) of the CML.
- 4.1.2 "Companies Management Licensee" refers to a licensee holding a licence under section 5(2)(b) of the CML.
- 4.1.3 "Licensees" refer to Companies Management Licensees, Corporate Services Licensees, Trust Licensees and Restricted Trust Licensees.
- 4.1.4 "Corporate Services Providers" refer to Companies Management Licensees and Corporate Services Licensee.
- 4.1.5 "Liquid assets" is calculated as follows:
- $$[(\text{Current Assets} - \text{Illiquid Assets}) - \text{Current Liabilities}] + \text{Qualifying Items}$$
- 4.1.6 "Illiquid Assets" refer to any current assets that are considered illiquid, including, but not limited to:
- debtors that exceed 90 days from invoice date.
  - Work in progress which is not receivable within 90 days of the calculation date.
  - Encumbered, pledged or otherwise restricted cash or restricted cash equivalents.
  - Amounts due from related parties.
  - Any other items as permitted by the Authority.
- 4.1.7 "Qualifying items" refer to items that can adjust liquid assets when calculating the liquidity requirement, including, but not limited to:
- Deferred income (i.e. income received which was billed in advance of providing the service).
  - Any other items as permitted by the Authority.
- 4.1.8 "Current Liabilities" refer to liabilities that are payable within one year. The amount of the excess on licensee's professional indemnity insurance should be treated as an additional liability when calculating current liabilities for the purpose of calculating liquid assets. For the avoidance of doubt, the amount of the excess on a licensee's professional indemnity insurance added to the current liabilities is one for each likely excess payment in the forthcoming 3-month period, subject always to a minimum of one.



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4.1.9 "Annual operating expenses" refers to total revenue of any type less net income before appropriation. In the event of a loss, the amount of the loss should be added to total revenue. Taxation, where applicable, forms a part of annual operating expenses.

- a) Annual operating expenses is the higher of:
  - i. the total budgeted expenditure for the current year; and
  - ii. the expenditure as per the latest audited financial statements or, in the case of a Corporate Services Licensee, expenditures reported in regulatory filings made to the Authority.
  
- b) The following items can be deducted from the *annual operating expenses*:
  - i. depreciation and amortisation;
  - ii. bad debt expense;
  - iii. undeclared bonuses payable to employees (including directors) that are entirely discretionary in nature; and
  - iv. exceptional costs which are incurred outside of the day-to-day activities of the licensee and are not expected to recur, and are agreed in advance with the Authority.

## **5. Net Worth – Corporate Services Licensees**

- 5.1. Generally, the Authority expects Corporate Services Licensees to maintain, upon application and during the period of their licence, net worth at not less than fifteen thousand Cayman Islands dollars or such other sum as the Authority deems appropriate.
- 5.2. If a Corporate Services Licensee is of the view that a lower net worth is sufficient, a written request should be made to the Authority for its consideration, which should include the rationale for such request.

## **6. Financial Resources and Liquidity – Trust and Corporate Service Providers**

- 6.1. The Authority expects a licensee to ensure that it is able to meet its liabilities as they fall due.
- 6.2. Licensees should maintain readily realisable liquid assets consistent with the



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distribution of their liquidity needs and in keeping with the liquidity calculation noted in 4.1.2. Licensees should maintain appropriate liquid assets of not less than 25% of annual operating expenses, as may be adjusted pursuant to paragraph 4.1.9 (b).

- 6.3. Licensees should review their liquidity needs frequently and calculate their liquidity per section 4.1.2, at a minimum, once every three months or, where necessary, more frequently. The Authority may impose a condition that such reviews be more frequent, when it deems necessary.
- 6.4. A Licensee should observe and implement this Policy in proportion to the size, nature and complexity of its business.
- 6.5. The Authority expects that a licensee would consider any subsidiary, branch, agency or representative office in its calculation if they impact its liquidity needs.

## **7. Exemptions**

- 7.1. If a licensee is part of a group structure and it can provide evidence or confirmation from the parent company in the group that overall liquidity covers the liquidity needs of the licensee, the Authority will consider an exemption from the liquidity requirements described in paragraph 6.2. The licensee must still assess its liquidity needs at least once every three months or, where necessary, more frequently to ensure that it is being adequately covered by its parent or within the group.
- 7.2. If a licensee that is a Trust Licensee or a Restricted Trust Licensee is also the holder of a bank licence issued under the BTCL and such licensee complies with the liquidity requirements issued by the Authority in respect of banking entities licensed under the BTCL, the Authority may exempt the Trust Licensee or Restricted Trust Licensee from the liquidity requirement of paragraph 6.2.

## **8. Notification/Information to be submitted**

- 8.1. The Authority may require licensees to submit, upon request, confirmation that the minimum net worth and liquidity requirements are being met. The Authority may also request evidence of a licensee's net worth or liquidity calculation.
- 8.2. Licensees should immediately notify the Authority in writing if they fall or anticipate that they will fall below the minimum net worth or liquidity requirements or become unable to meet their obligations. The written notification should provide



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suitable explanation for any shortfalls in net worth or liquidity including documented plans to remedy any shortfalls. Its remedial action plan should be approved by the licensee's Board of Directors. The Authority may place conditions on the licensee, where appropriate, pursuant to the relevant laws.

## **9. Transitional Period**

- 9.1. New applicants should observe and apply this Policy immediately upon its publication.
- 9.2. Licensees holding a licence as of the date of publication should observe and apply this Policy as soon as possible and no later than one year from the date that this Regulatory Policy is published.
- 9.3. Licensees should not unnecessarily delay the implementation of this Regulatory Policy.