



## **1. INTRODUCTION**

In furtherance of its responsibility to regulate and supervise licensees under the Financial Institutions Act, Cap. 324A (FIA) and the International Financial Services Act, 2002-5 Cap. 325 (IFSA), the Central Bank of Barbados, (the Bank), has developed this Framework for licensing of prospective institutions.

The licensing process is central to maintaining a well-respected financial centre. Accordingly, the requirements in this document are based on best practice and the desire for Barbados to remain a competitive jurisdiction that attracts entrants into both the domestic and off-shore sectors, who are capable of contributing to the further development of Barbados as a reputable financial centre.

This document is not a regulatory Guideline. Instead, it sets out the Bank's criteria for licensing persons under the FIA and IFSA; the licensing process; and the customary documentation to be provided by applicants. It is intended to:

- i. Increase transparency so that the processing of applications will be undertaken against clearly defined criteria;
- ii. Provide applicants and service providers with a clear understanding of the criteria for market entry;
- iii. Facilitate an efficient but rigorous licensing process; and
- iv. Permit the efficient use of regulatory resources.

The Bank will reject an application if the specified criteria are not fulfilled; if the applicant fails to provide adequate information; if the proposed application promotes unsound financial practices; or if the Bank determines that approval would not be in the public interest.

The Bank may exercise flexibility in implementing this Framework in order not to stagnate growth of the sector.

## **2. APPLICATION**

This Framework applies to all entities that desire to be incorporated or organised in Barbados for the purpose of being licensed under the FIA or IFSA.

Applicants should note that a licence obtained under the FIA or IFSA relates to activity governed by these pieces of legislation only. It does not preclude the need for licensees to obtain a licence from another regulator if the licensee's activities span more than one regulatory agency. Where a licensee intends to

obtain a licence from or registration with another regulator, whether at licensing or subsequently, it should seek the Bank's non-objection and demonstrate its capacity to effectively manage any risks from the new business line.

### **3. LICENSING**

The Bank is required to vet all applications for licences under the FIA and IFSA and make a recommendation to the Minister of Finance. In this regard, the Bank may determine the type of licence to be issued and what conditions or restrictions should apply to the scope of activities in which the licensee may engage.

The Bank's licensing process involves, inter alia:

- a) A determination of whether the applicant meets the eligibility criteria for a licence (See Sections 4 & 5);
- b) An assessment of the proposed legal, managerial and ownership structures of the licensee and its wider group (See Section 6);
- c) An assessment of the fitness and propriety of the shareholders, including the ultimate beneficial owners, proposed directors and their alternates, and executive officers (See Section 7);
- d) A review of pro forma financial statements and projections, including compliance with prudential indicators and the adequacy of the financial strength to support the proposed business plan (See Section 8);
- e) A review of the financial statements and annual reports of the parent company, or source of wealth in the case of the owners of a private bank;
- f) An assessment of the proposed strategic and operating plans, including systems of governance and risk management; and
- g) An assessment of the impact on and the contribution to the development and reputation of the financial sector.

### **4. WHO NEEDS A LICENCE**

Licensees under the FIA and IFSA carry on banking business or business ancillary to banking business. Under the terms of the legislation, a person shall not carry on banking business from within Barbados or include the word "bank" in its name without a licence issued under the FIA or the IFSA.

Under the FIA there are two classes of licences<sup>1</sup>, one for commercial banks issued under Part II of the Act and the other for financial institutions such as

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<sup>1</sup> The minimum prescribed capital for licensees varies according to the class of licence. Commercial banks under the FIA and third party deposit takers under the IFSA are currently required to hold a minimum of Bds\$4 million in capital, while other licensees under the FIA have a Bds\$2 million floor. Under the IFSA, the floor for other licensees is Bds\$1.0 million. However, all licensees are required to satisfy a minimum 8% capital adequacy ratio, or such other minimum prescribed ratio, at all times.

finance companies, merchant banks and trust companies issued under Part III. An essential difference between Part II and Part III licensees is that the latter is not allowed to offer chequing facilities to its clients.

**“Banking business”** is defined in the FIA as the receipt of money on current, deposit or other similar account, and paying and collecting cheques drawn by or over a period by customers, and making advances to customers; or the receipt of money on a savings account repayable on demand or after not more than 3 months’ notice; and generally any other banking related business, provided that such business has not been specifically prohibited by the Bank.

The **“business of a trust company, a finance company or a merchant bank or similar financial institution”** means banking business; or the business of acquisition of funds by acceptance of deposits, issue of shares, the grant of loans, collection of premiums and investment of such funds; performing the functions of trustee, administrator or executor; and the business of broker, investment analyst, investment adviser and any such business not specifically prohibited by the Bank.

Under the IFSA, there are also two classes of licences to carry out the business of an international bank - one relates to licensees that accept third party deposits and the other relates to licensees that do not.

**“International banking business”** is the business of receiving foreign funds through the acceptance of foreign money deposits payable upon demand or after a fixed period or after notice; the sale or placement of foreign bonds, foreign certificates, foreign notes or other foreign debt obligations or other foreign securities; or any other similar activity involving foreign money or foreign securities; or any similar activity involving foreign securities; and the business of using the foreign funds so acquired, either in whole or in part, for loans, advances and investments; the activities of the licensee for the account of or at the risk of the licensee; the purchase or placement of foreign bonds, foreign certificates, notes or other foreign debt obligations or other foreign securities; or any other similar activity involving foreign money or foreign securities; or the business of accepting in trust from persons resident outside Barbados or from prescribed persons amounts of money in foreign currencies or in foreign securities or both; foreign personal property or foreign movable property; foreign real property or foreign immovable property.

Where an entity accepts third party funds on a fiduciary basis, whether as a deposit, as assets under management or as assets held in trust, the Bank considers this activity as prima facie evidence that the entity is conducting business that should be licensed under the FIA or IFSA.

A person may be deemed to be engaging in business requiring a licence even where it is not receiving third party funds directly. In this regard, the Bank may require the entity to be licensed where:

- Its parent company receives third party funds and down-streams such funds into a Barbados incorporated company for investment; or
- The parent owns shares in the licensee and consolidated supervision of the group may best be achieved by licensing the parent.

The following entities are not required, simply by virtue of the conduct of the following business, to be licensed under either the FIA or IFSA:

- a) Credit unions, which are regulated under the **Financial Services Commission Act, 2012 – 21**, and any society registered under the **Friendly Societies Act**;
- b) Mutual Funds, domestic or foreign, which are regulated under the **Financial Services Commission Act, 2012 - 21**;
- c) Entities that engage in one off underwriting or arranging of securities, provided that the entity and the issues are registered with the Financial Services Commission and the Commission is satisfied that the entity is adequately capitalised and insured to cover the risks it faces;
- d) Persons who perform brokerage and/or investment advisory services as their sole banking related activities and who are regulated under the **Financial Services Commission Act, 2012 - 21**;
- e) Entities that provide international corporate and trust services as their sole banking related activities and who are regulated under the **International Corporate and Trust Service Providers Act, 2011 - 5**;
- f) Entities that perform a group treasury function where the funds to be invested originate from within the group;
- g) Corporate entities that issue credit cards or provide hire-purchase credit to their customers;
- h) Micro finance enterprises funded by government or private grants; and
- i) Non-resident entities that provide loans to residents or non-residents collateralised by property in Barbados.

## **5. LICENSING CRITERIA**

The Bank has established qualification criteria for the type of applications it will entertain. These are:

- a) Well established regional or international banks or financial institutions or their subsidiaries or affiliates where the international bank or financial institution has a proven track record and is subject to effective consolidated supervision. In the case of such applicants, the written authorisation of the parent supervisory authority should be provided.

- b) Well established domestic financial institutions or their subsidiaries or affiliates where the institution has a proven track record. In the case of such applicants, the written authorisation of the parent supervisory authority should be provided.
- c) Joint venture between well established non financial entities and regulated financial companies where:
  - i. The immediate parent is a financial holding company; and
  - ii. The regulated entity owns at least 40% of the voting shares of the holding company.
- d) Wholly owned subsidiaries of well-established domestic, regional or international non-bank corporations or their subsidiaries or affiliates, provided that their activities:
  - i. Will be limited to intra-group treasury operations; and
  - ii. Will be consolidated in the published financial statements of the parent company.
- e) Applicant or group of high net worth individuals where:
  - i. The applicant or group of applicants, not exceeding five persons<sup>2</sup>, have a combined net worth of at least Bds\$100 million (US\$50 million); and
  - ii. The applicant or group is desirous of managing their own funds.

In the case of a restricted licence (items d) and e) above), an expanded licence will only be considered after a period of three (3) years and with the Bank's satisfaction that the licensee's risk management practices are adequate. A phased approach will be applied e.g. fiduciary business or third party deposit taking specifically to facilitate margin lending.

## 6. CORPORATE STRUCTURES

Under the FIA and IFSA, licensees should be incorporated, or organised as the case may be, in Barbados. However, banks that are incorporated elsewhere but are registered as external companies in Barbados may be permitted to carry on banking business from Barbados.

An International Business Company (IBC) is not permitted to accept funds from third parties, if the receipt of such funds, **directly or indirectly**, would be considered as banking business.

Under the IFSA, a company engaged in banking activity may be formed under a Societies With Restricted Liability (SRL) structure. If the Bank recommends the

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<sup>2</sup> Each shareholder's net worth should be at least Bds\$ 5.0 million (US\$ 2.5m).

granting of a licence to an SRL and the Minister accepts the recommendation, all rules applicable to IFSA licensees become relevant.

A prerequisite of the licensing process is that the Bank satisfies itself that the proposed legal, managerial and ownership structures do not hinder solo or consolidated supervision. In this regard,

- a) Shares in the licensee or its parent cannot be held in bearer form.
- b) Where a licensee is owned by a non-regulated entity, or individuals of high net worth, the Bank may require as a condition of its licence, that the immediate parent limits its activities to the ownership of the shares in the licensee and other regulated entities and submits financial statements annually.
- c) Where a licensee is owned by a trust, the trustee, settlor, protector and beneficiaries of the trust must be disclosed to the Bank. Any changes in any parties to the trust must also be drawn to the Bank's attention so that the appropriate due diligence can be carried out.

## **7. FITNESS AND PROPRIETY**

Applicants must demonstrate that they are owned, controlled and managed by persons who are fit and proper. In this regard, the Bank will seek, through information provided to it by the applicant and through its own independent due diligence, to ascertain that persons identified as prospective shareholders, directors and executive officers possess:

- i. Skills and expertise in relevant financial operations commensurate with the intended activities;
- ii. Attributes of honesty, integrity and good repute; and
- iii. Financial soundness.

If the Bank is not satisfied that the individual meets these criteria, it may result in the inability of that person to serve in the proposed capacity. The Bank reserves the right to reassess whether an approved person continues to be fit and proper to hold current or proposed positions.

## **8. FINANCIAL STRENGTH**

An assessment will be conducted of the nature and sufficiency of the financial resources of the applicant and/or its parent as a source of continuing support for the proposed institution. The review will consider the financial condition of the parent company as well as three year's projected financial information on the proposed entity. The Bank will also give consideration to the soundness and feasibility of the applicant's business plan, as well as its viability and consistency with regulatory requirements.

## 9. STRATEGIC GOALS & BUSINESS PLAN

The applicants should outline its goals and the plan to be followed for realization. This should include the following:

- i. Proposed business activities and general objectives, accompanied by pro forma financial statements and projections, including compliance with the minimum statutory capital requirements;
- ii. Specify the targeted geographic markets, customers, distribution channels and products & services;
- iii. Show the intended resources, including employment levels, and place of business and registered office; and
- iv. Describe the governance and risk management framework.

## 10. PROCESSING OF APPLICATION

The processing of an application involves certain fundamental criteria and the assessment occurs in **3 phases**.

### A. Pre- application

In **Phase 1**, to facilitate the application process, preliminary discussions are held with the prospective applicant and the agent/service provider prior to the submission of the application. This serves to identify any possible problem areas thus leading to a more efficient process. Additional meetings may be required during the evaluation of the application.

### B. Application Processing

In **Phase 2**, the applicant is required to make a formal application to the Bank. The application is to be accompanied by the documentation specified in **Appendix 1**. An initial review is immediately undertaken to ensure that all the relevant documents have been submitted. However, the circumstance of each particular application will determine whether additional information is required to complete the process.

The review process is conducted within 3 months of the receipt of **all** relevant documentation for an application. This time frame may be impeded if additional information is required, and responses from the applicant and any relevant external bodies are untimely.

## **C. Acceptance/Denial of an Application**

**Phase 3** will not proceed until **Phase 2** is completed.

An applicant is notified via official correspondence whether the Bank will recommend approval to the Minister or deny the application. The applicant must indicate in writing, its acceptance of any conditions that will accompany the recommendation, after which it will be instructed to proceed to incorporate or organise the entity, as the case may be.

The applicant will thereafter be required to submit the particulars identified in **Appendix 2**. Any changes made subsequent to the date of the submission of the application should be immediately drawn to the Bank's attention.

On submission of these items and in accordance with Section 6 (1) and Section 10 of the FIA and IFSA respectively, the Bank will make positive recommendation to the Minister for the issue of the licence.

### **11. LICENCE FEES**

Once approval is granted for the establishment of a financial institution, a licence fee is payable in accordance with the FIA and IFSA Licence Fees Regulations. Fees must be paid prior to the issue of a licence to the entity and annually on or before January 1 of each subsequent year.

#### **10.1 Part II FIA Licensee**

- i. Where the company has only one branch or representative office in Barbados, an amount of Bds\$250,000;
- ii. Bds\$20,000 for each additional branch; and
- iii. Bds\$1,000 for each stand-alone Automatic Teller Machine

#### **10.2 Part III FIA Licensee**

- i. Where the company does not engage in third party deposit taking – Bds\$50,000; or
- ii. Bds\$100,000 otherwise.

#### **10.3 IFSA Licensee**

- i. Where the entity does not engage in third party deposit taking - Bds\$50,000; or
- ii. Bds\$100,000 otherwise



A full breakdown of fees payable can be found in the Financial Institutions (Miscellaneous Provisions and Validation) Act, 2009 for FIA licensees and the International Financial Services (Licence Fees) Regulations, 2009 for international banks.

Fees are to be paid to the Accountant General and evidence of payment should be submitted to the Bank.

## **12. ISSUE OF LICENCE**

In accordance with Sections 26 and Section 12 of the FIA and IFSA respectively, a licence will be issued to the applicant duly signed by the Minister. The licence is valid until revoked, suspended or replaced, as the case may be in accordance with the FIA and IFSA.

The licence should be displayed in a prominent position at the financial institution.

## APPENDIX 1

1. Name reservation form approved by the Corporate Affairs and Intellectual Property Office (CAIPO).
2. Applicable corporate documents:
  - i. Draft Memorandum and Articles of Association;
  - ii. Certified copy of the Articles of Incorporation of the foreign bank, where the application is to establish a branch and will therefore register as an external company;
  - iii. Draft Articles of Continuation;
  - iv. Articles of Organisation where the entity intends to organise under the **Societies with Restricted Liability Act, Cap. 318B**; and
  - v. Draft By Laws of the applicant.
3. Certified copy of the parent company's Articles of Association.
4. Complete corporate chart showing the relationship of the proposed entity to other affiliated companies, subsidiaries and partnerships, wherever resident.
5. An organizational chart for the proposed structure of the company.
6. Confidential Statements for all proposed directors, executives officers, including two references. At least one character or financial reference and one business reference, excluding references from relatives and business partners. These forms can be located at [www.centralbank.org.bb/regulatoryframework/licensing\\_and\\_application\\_documentation](http://www.centralbank.org.bb/regulatoryframework/licensing_and_application_documentation).
7. Independently prepared net worth statements for all high net worth applicants or other documented evidence acceptable to the Bank (i.e. bankers certificate, title deeds, independent verification of securities held etc.).
8. The number of shares, their type and the amounts payable thereon by each shareholder owning 5% and more of paid up capital; or each controlling shareholder who either alone or with another person / party is entitled to exercise or control 20% or more of voting rights at the company or its parent level.
9. Particulars of any loans with conversion or voting privileges that are to be allocated to each shareholder.

10. Where the HNW applicant has a holding company or trust in the ownership structure:
  - i. Certified copies of share certificates verifying the shareholders of the holding company;
  - ii. Certified documents verifying the settlor, trustee and beneficial owner; and
  - iii. Audited statements of the holding company, including IBCs, even though these may not be required generally under the IBC Act.
11. Evidence that the licence fees have been paid for the IBCs which are holding companies of the bank.
12. A detailed business plan – covering medium to long term operations of the proposed licensee, that:
  - i. states its objectives, the market it intends to serve and the services it wishes to offer and how its objectives will be achieved;
  - ii. indicates the proposed date of commencement of business;
  - iii. explains the governance and control systems it intends to establish;
  - iv. sets out its plans for physical presence and record keeping;
  - v. identifies proposed outsourcing arrangements;
  - vi. states the proposed initial capital and its source of origin; and
  - vii. demonstrates that the resources, human, technical and financial, it possesses are adequate for the nature and scale of business.
13. Projected financial statements for first three years of operations, in good format. In the case of an applicant who has been carrying on business prior to its application for a licence, a copy of its Profit and Loss Accounts, Balance Sheet, and the auditor's report thereon for the three consecutive years immediately preceding its application.
14. Draft policies/agreements in key risk areas. If these have not been developed at the time of application, they must be presented to the Bank within **6 months** after issue of the licence.
15. In addition to the above items, if a branch/subsidiary of a foreign bank, the written authorisation of the home supervisory authority in the country of incorporation together with a certificate confirming that the proposed bank has complied with its statutory requirements at a date not more than three months prior to the application been provided.
16. Application forms must be signed by at least two of the proposed Directors or the applicant's agent.

**After incorporation of the entity:**

1. Certified copies of the corporate documents comprising:
  - i. Certificate of Incorporation or Registration issued by the Registrar of Corporate Affairs and Intellectual Property Office (CAIPO).
  - ii. Particulars of Directors, Executive Officers, Secretary/Legal Counsel and Auditors in Barbados as filed with the CAIPO at the date of incorporation or registration.
2. Certificate of confirmation from the entity's auditors in Barbados that either the required issued capital has been paid up in cash or the assigned capital represented by such unencumbered assets as approved by the Bank are in place and being held to the order of the entity at the date to which the Certificate applies. The Certificate should be accompanied by an opening balance sheet.
3. Copy of a receipt evidencing payment of the licence fee.
4. Confirmation that a place of business has been established.