

CAYMAN ISLANDS



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2013.

BANKS AND TRUST COMPANIES LAW

(2013 Revision)

**BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS AND
FEES) REGULATIONS**

(2013 Revision)

Revised under the authority of the Law Revision Law (1999 Revision).

The Banks and Trust Companies (Licence Applications) Regulations, 1989 made the 9th June, 1989 consolidated with Law 4 of 1997 (part) enacted the 24th March, 1997, and with the-
Banks and Trust Companies (Fees) Regulations, 1989 made the 9th June, 1989
Banks and Trust Companies (Fees) (Amendment) Regulations, 1990 made the 24th July, 1990
Banks and Trust Companies (Fees) (Amendment) Regulations, 1995 made the 3rd March, 1995
Banks and Trust Companies (Licence Applications and Fees) (Amendment) (Applicants' References) Regulations, 2001 made the 12th April, 2001
Banks and Trust Companies (Licence Applications and Fees) (Amendment) (Variation of Fees) Regulations, 2001, made the 29th May, 2001
Banks and Trust Companies (Licence Applications and Fees) (Amendment) (Further Variation of Fees) Regulations, 2001 made the 27th December, 2001
Banks and Trust Companies (Licence Applications and Fees) (Amendment) Regulations, 2002 made the 2nd January, 2002
Banks and Trust Companies (Licence Applications and Fees) (Amendment) Regulations, 2002 made the 16th October, 2002
Banks and Trust Companies (Licence Applications and Fees) (Amendment) Regulations, 2006 made the 30th May, 2006
Banks and Trust Companies (Licence Applications and Fees) (Amendment) (No. 2) Regulations, 2006 made the 12th December, 2006
Banks and Trust Companies (Licence Applications and Fees) (Amendment) Regulations, 2009 made the 27th October, 2009
Banks and Trust Companies (Licence Applications and Fees) (Amendment) Regulations, 2012.

Consolidated and revised this 31st day of July, 2013.

Note (not forming part of the Regulations): This revision replaces the 2011 Revision which should now be discarded.

**BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS AND
FEES) REGULATIONS**

(2013 Revision)

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BANKS AND TRUST COMPANIES (LICENCE APPLICATIONS AND FEES) REGULATIONS

(2013 Revision)

1. These regulations may be cited as the Banks and Trust Companies (Licence Applications and Fees) Regulations (2013 Revision). Citation

2. In these regulations- Definitions

“Private Banking Services” includes banking business conducted with persons of high net worth of over \$800,000 or such other amount as may be determined by the Authority;

“residents” means individuals or businesses that -

 - (a) reside for not less than one year in the Islands;
 - (b) have a physical presence in the Islands; or
 - (c) engage in significant economic activity in the Islands; and

“to provide principal office services” means to provide, for the purposes of section 6(2)(a) of the Law, a place of business, including resources, staff, facilities, books and records.

3. Where an applicant is a branch of a bank or trust company incorporated and licensed in a country specified in the Third Schedule of the Money Laundering Regulations (2013 Revision) the Authority may, in lieu of the information required in paragraph 10 of the Schedule, accept from the applicant such other information as the Authority considers satisfactory. Information to be submitted by branch
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4. The information and particulars to be contained in an application for a licence under section 6, and the details and things which are to accompany them, are set out in the Schedule hereto. Particulars, etc., to be contained in application for licence

5. The following fees are prescribed to be payable on the first grant of a licence under section 6(7)- Fees payable for first grant of licence
 - (a) an “A” licence alone, granted without restrictions as to the carrying on of banking business within the Islands \$600,000
 - (b) an “A” licence alone, 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 \$300,000

(ba)	an “A” licence alone, 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 Private Banking Services to residents	\$350,000
(bb)	an “A” licence alone, granted with restrictions as to the carrying on of banking business within the Islands and with permission to provide principal office services to less than five banks and Private Banking Services to residents	\$250,000
(c)	an “A” licence alone, granted with restrictions as to the carrying on of banking business within the Islands	\$160,000
(d)	an “A” licence and a Trust licence, granted without restrictions as to the carrying on of banking business within the Islands	\$600,000
(e)	an “A” licence and a Trust 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	\$300,000
(ea)	an “A” licence and a Trust 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 Private Banking Services to residents	\$350,000
(eb)	an “A” licence and a Trust licence, granted with restrictions as to the carrying on of banking business within the Islands and with permission to provide principal office services to less than five banks and Private Banking Services to residents	\$250,000
(f)	an “A” licence and a Trust licence,	\$160,000

granted with restrictions as to the carrying on of banking business within the Islands

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| (g) a "B" licence alone, | \$70,000 |
| (h) a "B" licence and a Trust licence | \$70,000 |
| (i) a Trust licence alone | \$70,000 |
| (j) a Restricted "B" licence alone | \$45,000 |
| (k) a Restricted "B" licence and a Restricted Trust licence | \$45,000 |
| (l) a Restricted Trust licence alone | \$7,000 |
| (m) a Nominee (Trust) licence | \$7,000. |

6. The following fees are prescribed to be payable, after the first grant of a licence, annually under section 6(8)- Fees payable for renewal of licence

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| (a) an "A" licence alone, granted without restrictions as to the carrying on of banking business within the Islands | \$1,000,000 |
| (b) an "A" licence alone, 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 | \$300,000 |
| (ba) an "A" licence alone, 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 Private Banking Services to residents | \$350,000 |
| (bb) an "A" licence alone, granted with restrictions as to the carrying on of banking business within the Islands and with permission to provide principal office services to less than five banks and Private Banking Services to residents | \$250,000 |
| (c) an "A" licence alone, granted with restrictions as to the carrying on of banking business within the Islands | \$200,000 |
| (d) an "A" licence and a Trust licence, | \$1,000,000 |

- granted without restrictions as to the carrying on of banking business within the Islands
- (e) an “A” licence and a Trust 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 \$300,000
- (ea) an “A” licence and a Trust 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 Private Banking Services to residents \$350,000
- (eb) an “A” licence and a Trust licence, granted with restrictions as to the carrying on of banking business within the Islands and with permission to provide principal office services to less than five banks and Private Banking Services to residents \$250,000
- (f) an “A” licence and a Trust licence, granted with restrictions as to the carrying on of banking business within the Islands \$200,000
- (g) a “B” licence alone, in any case where the licence holder is a branch of a bank licensed in a country or territory outside the Islands -
- (i) for licensees with assets of not more than US\$100 million, a fee of CI\$60,000;
 - (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI\$70,000;
 - (iii) for licensees with assets of more than US\$500 million

- but not more than US\$1.0 billion, a fee of CI\$80,000;
- (iv) for licensees with assets of more than US\$1.0 billion but not more than US\$5.0 billion, a fee of CI\$90,000;
- (v) for licensees with assets of more than US\$5.0 billion, a fee of CI\$100,000,
with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;
- (h) a “B” licence alone, in any case where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands -
 - (i) for licensees with assets of not more than US\$100 million, a fee of CI\$60,000;
 - (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI\$70,000;
 - (iii) for licensees with assets of more than US\$500 million but not more than US\$1.0 billion, a fee of CI\$80,000;
 - (iv) for licensees with assets of more than US\$1.0 billion but not more than US\$5.0 billion, a fee of CI\$90,000;
 - (v) for licensees with assets of more than US\$5.0 billion, a fee of CI\$100,000,
with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;
- (i) a “B” licence alone, in any case where the licence holder is not a

subsidiary or branch of a bank licensed in a country or territory outside the Islands -

- (i) for licensees with assets of not more than US\$100 million, a fee of CI\$60,000;
- (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI\$70,000;
- (iii) for licensees with assets of more than US\$500 million but not more than US\$1.0 billion, a fee of CI\$80,000;
- (iv) for licensees with assets of more than US\$1.0 billion but not more than US\$5.0 billion, a fee of CI\$90,000;
- (v) for licensees with assets of more than US\$5.0 billion, a fee of CI\$100,000,

with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;

- (j) a “B” licence and a Trust licence, in any case where the licence holder is a branch of a bank licensed in a country or territory outside the Islands
 - (i) for licensees with assets of not more than US\$100 million, a fee of CI\$60,000;
 - (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI\$70,000;
 - (iii) for licensees with assets of more than US\$500 million but not more than US\$1.0 billion, a fee of CI\$80,000;
 - (iv) for licensees with assets of more than US\$1.0 billion but

- not more than US\$5.0 billion, a fee of CI\$90,000;
- (v) for licensees with assets of more than US\$5.0 billion, a fee of CI\$100,000,
with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;
- (k) a “B” licence and a Trust licence, in any case where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands
 - (i) for licensees with assets of not more than US\$100 million, a fee of CI\$60,000;
 - (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI\$70,000;
 - (iii) for licensees with assets of more than US\$500 million but not more than US\$1.0 billion, a fee of CI\$80,000;
 - (iv) for licensees with assets of more than US\$1.0 billion but not more than US\$5.0 billion, a fee of CI\$90,000;
 - (v) for licensees with assets of more than US\$5.0 billion, a fee of CI\$100,000,
with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;
- (l) a “B” licence and a Trust licence, in any case where the licence holder is not a subsidiary or branch of a bank licensed in a country or territory outside the Islands

- (i) for licensees with assets of not more than US\$100 million, a fee of CI \$60,000;
- (ii) for licensees with assets of more than US\$100 million but not more than US\$500 million, a fee of CI \$70,000;
- (iii) for licensees with assets of more than US\$500 million but not more than US\$1.0 billion, a fee of CI \$80,000;
- (iv) for licensees with assets of more than US\$1.0 billion but not more than US\$5.0 billion, a fee of CI \$90,000;
- (v) for licensees with assets of more than US\$5.0 billion, a fee of CI \$100,000,

with the calculation of assets for the determination of the relevant fee, based on the average of total assets at the end of each of the four calendar quarters;

- (m) a Trust licence alone, in any case where the licence holder is a branch of a bank licensed in a country or territory outside the Islands \$90,000
- (n) a Trust licence alone, in any case where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands \$90,000
- (o) a Trust licence alone, in any case where the licence holder is not a subsidiary or branch of a bank licensed in a country or territory outside the Islands \$90,000
- (p) a Restricted “B” licence alone, in any case where the licence holder is a branch of a bank licensed in a country or territory outside the Islands \$37,000
- (q) a Restricted “B” licence alone, in \$37,000

any case where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands

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| (r) | a Restricted “B” licence alone, in any case where the licence holder is not a subsidiary or branch of a bank licensed in a country or territory outside the Islands | \$40,000 |
| (s) | a Restricted “B” licence and a Restricted Trust licence, in any case where the licence holder is a branch of a bank licensed in a country or territory outside the Islands | \$37,000 |
| (t) | a Restricted “B” licence and a Restricted Trust licence, in any case where the licence holder is a subsidiary of a bank licensed in a country or territory outside the Islands | \$37,000 |
| (u) | a Restricted “B” licence and a Restricted Trust licence, in any case where the licence holder is not a subsidiary or branch of a bank licensed in a country or territory outside the Islands | \$40,000 |
| (v) | a Restricted Trust licence alone | \$7,000 |
| (w) | a Nominee (Trust) licence | \$6,000. |

7. The following fees are prescribed to be payable for the registration of a controlled subsidiary under section 5(4)-

Fees payable for registration of controlled subsidiary

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| (a) | at the time of registration | \$7,000 |
| (b) | on or before the 31st January every year thereafter during the continuation of the registration | \$7,000 |

7A. The annual fee payable by licensees under section 15A is \$75.

Annual fees in relation to provision of registered office services

8. The Governor may, from time to time, waive or reduce any or all of the fees specified in these regulations in relation to any person or group of persons in Cayman Brac or Little Cayman.

Waiver of fees: Cayman Brac, Little Cayman

SCHEDULE

Application for a Licence

1. The name of the bank or trust company (hereinafter referred to as “the applicant”) in respect of which the licence is sought.
2. Evidence of the granting and currency of any approval required under section 9 to the use of any word in the title or description of the applicant.
3. If not within the Islands, the address of the principal office of the applicant and of its registered office if it is different.
4. The names and addresses of the two individuals or the body authorised under section 6(2) to be the agents in the Islands of the applicant.
5. If the applicant is a company to which Part IX of the Companies Law (2013 Revision) applies, the names and addresses of some one or more persons authorised under paragraph (c) of section 204(1) of that law to accept service on its behalf of process or notices.
6. If the applicant is a company, evidence of its incorporation in the Islands, or outside them, as the case may be.
7. A copy of the memorandum and articles of association, act, statute, charter, partnership agreement or other instrument constituting and defining the constitution of the applicant verified by a statutory declaration made by one of its directors, partners or its secretary and-
 - (a) in the case of an applicant which is a company incorporated in the Islands, certified under section 27 of the Companies Law (2013 Revision); and
 - (b) in the case of an applicant which is incorporated under any law other than the law of the Islands, certified and authenticated under the public seal of the country, city or place under the law of which it is incorporated and, if such instrument is not written in the English language, a certified English translation thereof.
8. Where appropriate, a statement in writing in a form acceptable to the Inspector from the authority responsible for the administration of the laws relating to banking or trust businesses, as the case may be, and the supervision of such businesses, in the country in which the applicant or its parent company is incorporated that such authority is aware of the application.
9. If the applicant is a company incorporated in the Islands-

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- (a) the full names, addresses and nationalities of each shareholder who holds more than ten per cent of the applicant's issued share capital or total voting rights;
- (b) the annual accounts, for the two years immediately preceding the year of application, of each shareholder which is a body corporate holding more than ten per cent of the applicant's issued share capital or total voting rights, together with similar accounts for the parent body, if any, of each such body corporate;
- (c) not less than three references acceptable to the Authority, including one character reference for, and one reference verifying the good financial standing of-
 - (i) each director, manager and officer of the applicant; and
 - (ii) each shareholder and each beneficial shareholder who is a natural person holding more than ten per cent of the applicant's issued share capital or total voting rights,and, for each such director, manager, officer or shareholder, a police or other certificate satisfactory to the Authority that such director, manager, officer or shareholder has not been convicted of a serious crime or any offence involving dishonesty;
- (d) the full names, addresses and nationalities of all directors, managers and officers of the applicant;
- (e) a questionnaire approved by the Authority and completed by all the directors, managers and officers of the applicant;
- (f) a questionnaire approved by the Authority and completed by each shareholder or beneficial shareholder who is a natural person holding more than ten per cent of the applicant's issued share capital or total voting rights;
- (g) evidence acceptable to the Authority of the availability to the applicant at all times of adequate professional knowledge and experience in the banking or trust business, as the case may be, and the names of at least two of its directors actively engaged in the business of the applicant, one of whom shall possess a sound professional knowledge of, and experience in, the banking or trust business, as the case may be;
- (h) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each such company constitutes an asset of the applicant;
- (i) the name and address of the firm of auditors practising in the Islands and approved by the Authority appointed to audit the accounts of the applicant;
- (j) a statement giving the date for the drawing up of the annual accounts of the applicant;

- (k) details of the current business activities, if any, of the applicant and its proposed activities if the licence applied for is granted including-
 - (i) its business aims;
 - (ii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the two years next succeeding the date of such grant together with an estimate of expected income;
 - (iii) particulars of its management structure and personnel;
 - (iv) a statement as to its customer base, including, in the case of an application for a Restricted licence, the names and addresses of its customers; and
 - (v) a copy of its most recent balance sheet and details of its fee earnings, if any; and
 - (l) requests for any exemption from the requirements of the Law sought by the applicant.
10. If the applicant is a company incorporated outside the Islands-
- (a) a list certified by its secretary containing the names, addresses and nationalities of its directors and corporate officers;
 - (b) a questionnaire approved by the Authority and completed by all the directors, managers and officers of the applicant;
 - (c) a questionnaire approved by the Authority and completed by each shareholder or beneficial shareholder who is a natural person holding more than ten per cent of the applicant's issued share capital or total voting rights;
 - (d) a chart showing the relationship to its subsidiaries and affiliates and any holding company;
 - (e) the name and address of its auditor;
 - (f) a statement giving the date for the drawing up of its annual accounts;
 - (g) a copy of its latest annual accounts and those of its holding company, if any;
 - (h) a letter, or letters, addressed to the Governor under the hand of its presiding officer containing-
 - (i) a statement describing in outline the history of the applicant and its present business activities;
 - (ii) a brief description of each of its subsidiaries and affiliates;
 - (iii) the reasons for wishing to obtain the licence sought and its business aims for the applicant;
 - (iv) evidence acceptable to the Authority of the professional knowledge of and experience in banking or trust business, as the case may be, of the directors and managers;

- (v) confirmation in writing under the hand of the presiding officer of the applicant and the presiding officer of its parent body, if any, that they concur in the making of the application; and
- (vi) requests for any exemption from the requirements of the Law sought by the applicant;
- (i) the annual accounts, for the two years immediately preceding the year of application, of each shareholder which is a body corporate holding more than ten per cent of the applicant's issued share capital or total voting rights, together with similar accounts for the parent body, if any, of each such body corporate;
- (j) not less than three references acceptable to the Authority, including one character reference for, and one reference verifying the good financial standing of-
 - (i) each director, manager and officer of the applicant; and
 - (ii) each shareholder and each beneficial shareholder who is a natural person holding more than ten per cent of the applicant's issued share capital or total voting rights;and, for each such director, manager, officer or shareholder, a police or other certificate satisfactory to the Authority that such director, manager, officer or shareholder has not been convicted of a serious crime or any offence involving dishonesty; and
- (k) a statement in writing in a form acceptable to the Authority accepting legal responsibility for the obligations and liabilities of the applicant executed by and binding on the parent company, if any, of the applicant.

11. Each application for a Restricted "B" licence shall be accompanied by an undertaking in a form acceptable to the Authority that the applicant shall not receive or solicit by way of trade or business from persons other than those whose names and addresses are listed in the undertaking as required by paragraph (d) of section 6(5).

12. Each application for a Restricted Trust licence shall be accompanied by an undertaking in a form acceptable to the Authority that the applicant shall not undertake trust business for persons other than those whose names and addresses are listed in the undertaking as required by paragraph (e) of section 6(5).

13. Each applicant for an "A", a "B" or a Trust licence shall furnish evidence acceptable to the Authority that it has a fully paid-up capital of not less than four hundred thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

14. Each applicant for a Restricted "B" or a Restricted Trust licence shall furnish evidence acceptable to the Authority that it has a fully paid-up capital of

not less than twenty thousand dollars or its equivalent in other currencies, or such greater sum as may be determined by the Governor.

15. Each applicant for a Nominee (Trust) licence shall furnish a guarantee in a form approved by the Authority from the licensee of which the applicant is the wholly-owned subsidiary, guaranteeing to meet the liabilities of the applicant up to the sum of two hundred thousand dollars. Such guarantee shall, among other things, expressly provide that its formal validity, effect and interpretation, and the rights and liabilities of the parties thereto, are governed exclusively by the law of the Islands and that the Courts (including the Court of Appeal) of the Islands shall have exclusive jurisdiction in respect of all or any of those matters.

16. An application fee of two thousand dollars.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 3rd day of September, 2013.

Carmena Watler
Acting Clerk of Cabinet

(Price \$ 4.00)