

**THE BANKS AND TRUST COMPANIES
REGULATION ACT 2000
(No. 38 of 2000)**

**THE BANKS AND TRUST COMPANIES
(LICENCE APPLICATION) (No.1) REGULATIONS, 2001
(Sections 4(2) and 20)**

SI. No. 75 of 2001 -

The Governor of The Central Bank of The Bahamas in the exercise of the powers conferred on him by Section 20 of the Banks and Trust Companies Regulation Act, 2000 makes the following Regulations—

**Citation and
commencement**

1. These Regulations may be cited as the Banks and Trusts Companies (Licence Application) Regulations, 2001 and shall come into force on the 4th day of May, 2001.

No. 37 of 2000

2. In these Regulations “Governor” means the Governor of the Central Bank of The Bahamas appointed under paragraph 1 of the Schedule to the Central Bank of The Bahamas Act, 2000.

3. Any person making application for a licence to carry on banking business or trust business shall supply to the Governor —

- (a) in the case of an application made for the purpose of operating a branch or a representative office of a foreign bank or trust company in The Bahamas;
- (b) in the case of an application made for the purpose of establishing a subsidiary of a bank or trust company;
- (c) in the case of an applicant who is not a bank or trust company;

the information, documents and particulars relating to the applicant set out in the Schedule to these Regulations

**Revocation of S.I. No.
176 of 1965 (Chapter
287)**

4. The Banks and Trust Companies Regulation (Licence Application) Regulations, 1965 are hereby revoked.

SCHEDULE

(Regulation 3)

In this Schedule “applicant” means the applicant for a licence under Section 4 of the Banks and Trust Companies Regulation Act, 2000.

An application for a licence to operate a bank or trust company or a subsidiary, branch or representative office, as the case may be, of a bank or trust company, must be submitted in the English language and is to contain the following minimum information:

1. General Information

(1) In the case of a bank or trust company making application for a licence to operate a subsidiary, branch or representative office or, in the case of a corporate applicant which is not a bank or trust company making application for a licence to operate a bank or trust company, which shall in these Regulations be collectively referred to as “corporate applicants”, the following information is required:

- a) name of the corporate applicant;
- b) address of head office of the corporate applicant including mailing address;
- c) for a subsidiary bank or trust company, the proposed corporate name;
- d) address of the proposed office in The Bahamas;
- e) purpose of opening the subsidiary, branch or representative office as the case may be;
- f) a description of planned business activities in The Bahamas;
- g) where the applicant is a body corporate:
 - (i) history, activity, present structure and organisation;
 - (ii) annual reports (including audited consolidated financial statements) of the applicant for the three consecutive financial years immediately preceding the date of the application;

- (iii) unaudited consolidated financial statements of the applicant as at the end of the most recent quarter prior to submission of the application, certified by a director or senior officer.

- (2) In the case of individual applicants for a license to operate a bank or trust company, applications may be made as a group, and in any case, by no fewer than five individuals who shall in these Regulations be collectively referred to as “group applicants” and in respect of whom the following information is required:
 - a) name of each individual making application;
 - b) business and personal address of each individual including mailing address;
 - c) the proposed corporate name of the bank or trust company;
 - d) address of the proposed office in The Bahamas;
 - e) purpose of opening the bank or trust company;
 - f) a description of planned business activities; and,
 - g) where the application is made by a group of individuals:
 - (i) date of formation, history, present structure and organisation of the applicant group, and details of all business activities of the group;
 - (ii) detailed comments regarding the position within the group, of any dominant member(s) of the group;
 - (iii) current statements of assets and liabilities for each member of the group, certified by public accountants, which should be prepared no earlier than three months prior to the date of application. In addition, the Governor may at his discretion, require certified copies of official tax returns filed with appropriate authorities.

2. Ownership of Applicant and/or proposed Licensee

(1) Corporate Applicants are required to provide:

- a) list of and background information on all direct or indirect shareholders who represent individually or as a group 5% or more of the voting rights and/or shares of the applicant at the time of application whether or not the shares of the applicant are publicly traded;
- b) copy of the act, charter, certificate of incorporation and Memorandum and Articles of Association of the applicant, as may be appropriate, verified by statutory declaration made by a director or the secretary duly authenticated under public seal of the jurisdiction in which the applicant has been incorporated;
- c) organisational chart showing the structure of the direct and indirect shareholding of the applicant analysed according to holdings of voting rights and/or shares; and
- d) particulars concerning the composition of the direct and/or indirect structure of the proposed licensee, including an organisational chart showing the structure of the direct and/or indirect shareholdings analysed according to holdings of voting rights and/or shares.

(2) Group Applicants are required to provide:

- a) Details of the proposed shareholdings of each individual shareholder of the proposed licensee;
- b) For each proposed shareholder, the following information:
 - (i) date and place of birth and nationality;
 - (ii) curriculum vitae incorporating; personal data; educational background; professional education and training; list of previous professional activities and scope of responsibilities, including details of the level and number of subordinates managed.

3. Proposed Board of Directors and Management

(1) Applicants are required to supply the following information in relation to the proposed licensee:

- a) Particulars concerning the composition and organisation of the proposed board of directors and management;
- b) For each proposed director or member of management, as the case may be, the following information is required:
 - (i) full name, date of birth, nationality, and domicile;
 - (ii) curriculum vitae, incorporating: personal data; educational background; professional education and training; list of previous professional activities and scope of responsibilities, including details of the level and number of subordinates managed;
 - (iii) two character references in original form from sources satisfactory to the Governor;
 - (iv) one financial reference in original form from a financial institution acceptable to the Governor; and
 - (v) a police or other certificate in original form, satisfactory to the Governor, confirming that the person has not been convicted of a serious crime or any offence involving dishonesty.

4. Business Rules and Internal Organisation

Applicants are required to supply the following information in relation to the proposed licensee:

- a) Organisational chart detailing reporting lines and responsibilities;
- b) Particulars regarding internal organisation including but not limited to staffing, logistics and information technology and management information systems;

- c) Details regarding arrangements for internal audit including but not limited to reporting lines and scope of the function; and
- d) Compliance program, including but not limited to procedures relating to know-your-customer and anti-money laundering requirements.

5. Business Plan

Applicants are required to provide, in relation to the proposed licensee, a business plan for the first three years of operations. The plan must include but need not be limited to details of the following:

- (a) development of business activities, and customer base;
- (b) projected budgets (capital and current), covering the same time frame, including balance sheet and income statement;
- (c) appropriate arrangements for the maintenance of records in The Bahamas; and
- (d) arrangements for premises.

6. Statutory Auditors

Applicants are required to provide:

- (a) Name and address of the auditor(s) of the proposed licensee; and
- (b) Where appropriate, details of arrangements for review of the operations of the branch or representative office.

7. Consolidated Supervision

A corporate applicant which is a bank or trust company not licensed in The Bahamas is required to provide written confirmation by the relevant home country supervisory authority that the requirements prescribed by Section 4 (4)(b), (c), (d), (e) and (f) of the Banks and Trust Companies Regulation Act, 2000 have been or will be met, as the case may be.

Made this 4th day of May, 2001.

Signed
IULIAN FRANCIS
Governor of the Central Bank of The Bahamas