

CAYMAN ISLANDS



Supplement No. 2 published with Gazette No. 18
dated 8 September, 2014.

**REGULATORY POLICY
LICENSING AND APPROVING MONEY SERVICES BUSINESS**



September 2014

Regulatory Policy

Licensing and Approving Money Services Business

1. Statement of Objectives

- 1.1. This policy sets out the Cayman Islands Monetary Authority's (the "Authority") criteria for licensing money services businesses and approving agents pursuant to sections 5 and 16 of the Money Services Law (2010 Revision) ("MSL").
- 1.2. The Authority is committed to promoting the safety of the Cayman Islands' money services sector through the regulation of money services business. The Authority recognizes that high standards of licensing are the necessary foundation for effective regulation and supervision of money services operators.
- 1.3. This policy is consistent with the Authority's statutory objectives as prescribed in the Monetary Authority Law (2013 Revision), 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.

2. Scope

- 2.1. The Authority will apply this policy, and the requirements of the MSL, the Money Services Business Regulations and the Money Services Business (Amendment) Regulations in assessing all applicants seeking to carry on money services business as defined in the MSL in or from within the Cayman Islands.
- 2.2. Money Services Business, whether as principal or agent, must not be conducted in or from within the Cayman Islands without the Authority's prior approval.
- 2.3. In assessing the applicant the Authority will satisfy itself that the applicant will be able to comply with the requirements of the Money Laundering Regulations.



September 2014

3. Authorisation of Money Services Business

3.1. Who needs a Licence?

3.1.1 The Authority recognises the primary holder of a franchise or the primary money service operator as the applicant for licensure (also referred to as "the principal" or the "licensee" or the "applicant"). Criteria for license applications are found in sections 4 through 6.

3.2. Who needs Approval?

3.2.1 The person to whom the licensee contracts its functions, requires approval as agent. Criteria for agent applications is found in section 7.

4. Licensing Criteria for Money Services Business

4.1. The Authority will consider each application on its own merits and will take into account all relevant factors, including those listed in 4.2 through 6.1.2 below.

4.2. Corporate Governance

4.2.1 The Board and management of the principal, or management where the applicant is not a corporate entity, should have a sufficient number of members that reflects the size and scope of the principal's business. It should also include an appropriate mix of individuals with relevant knowledge and experience to be able to effectively direct the business. At least one member of the Board should be knowledgeable in accounting or financial management.

4.3. Fit and Proper criteria and Management

4.3.1 Applicants must demonstrate that they are controlled and managed by persons who are fit and proper and who pose no undue risk to the applicant, its shareholders, creditors, the public or the reputation of the Cayman Islands. The Authority will apply the Regulatory Policy and Regulatory Procedure on Fitness and Propriety, when determining whether persons are fit and proper.

4.3.2 The ultimate beneficial owners of, and those exercising control or significant influence over the applicant, must be disclosed. Each person holding or controlling more than a 10% interest must submit a completed due



September 2014

diligence package.

- 4.3.3 Applicants must demonstrate that responsibility for the prudent and successful conduct of the applicant's business rests with competent directors, managers, officers and controllers. This includes those individuals who will ultimately be responsible for running the day-to-day operations of the business such as the Managing Director and/or General Manager and their deputies.
- 4.3.3 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.
- 4.4. Compliance Officer¹ ("CO") and Money Laundering Reporting Officer ("MLRO")
- 4.4.1 The applicant must satisfy the Authority that the individuals being appointed to the roles of CO and/or MLRO are fit and proper. The applicant must identify who will serve as the CO pursuant to the Money Laundering Regulations, as well as the MLRO, as recommended in the Guidance Notes for the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands ("Guidance Notes").
- 4.4.2 Complete due diligence packages for each person serving in the role(s) of MLRO and/or CO must be submitted for approval. One individual can serve in both roles.
- 4.4.3 For those individuals who hold a compliance certification, a copy of the certificate is to be submitted to the Authority (e.g. ACAMs or ICA). If no certification is held, then the individual must possess relevant work experience by having been previously employed in compliance, audit, legal or other such role as the Authority deems appropriate.
- 4.4.4 The Guidance Notes describe the role of the CO as one that:
- Develops and maintain systems and controls (including documented policies and procedures) in line with evolving requirements;
 - Ensures regular audits of the anti-money laundering/counter financing of terrorism (AML/CFT) program;
 - Advises the Board of AML/CFT compliance issues that need to be brought to its attention;
 - Reports periodically, as appropriate, on the Financial Services Provider's

¹ As defined or described in the Money Laundering Regulations and Guidance Notes. The term money laundering compliance officer is commonly used synonymously with the term compliance officer.



September 2014

- systems and controls; and
- e) Responds promptly to requests for information by the relevant authorities

4.4.5 The role of the MLRO, as described in the Guidance Notes, is to receive and report suspicious activity and to decide whether onward disclosure is required. The persons who are proposed to be appointed as CO or MLRO should be knowledgeable of the requirements of the Money Laundering Regulations in effect.

4.5. Consolidated Supervision

4.5.1 The managerial and ownership structure of proposed licensee and its wider group must be transparent and must not hinder effective cross-border and consolidated supervision, especially where the applicant is a subsidiary or branch of a regulated overseas entity.

4.5.2 Furthermore, if the applicant is owned by a foreign regulated entity, the Authority will inform the home supervisor of the application, seek non-objection for the establishment of the proposed Principal/Agent and seek confirmation from the home supervisor that it will oversee the activities of the entities or group on a consolidated basis.

5. Operational Requirements

5.1. Internal Systems, Controls and Risk Management

5.1.1 The applicant must demonstrate that it will have in place a comprehensive risk management process and internal controls. It must have in place proposed policies, procedures, manuals, and systems relating to all of the applicant's risk areas and that are appropriate for the size, nature, and complexity of its operations. The applicant must provide a description of its dispute resolution process for the principal, agent and customers.

5.1.2 The use of devices to detect counterfeit currencies is mandatory in a proper risk management system.

5.2. Remittance System

5.2.1 Before licensing an applicant, the Authority must satisfy itself that the remittance system will be able to capture the relevant data needed to report on a quarterly basis and that it maintains adequate AML/know your customer ("KYC") functionality in order to monitor the risks associated with



September 2014

AML/KYC compliance.

5.2.2 At minimum, the system must:

- a) be able to record, transmit and receive information on transactions;
- b) have adequate security controls to prevent unauthorized or fraudulent transactions;
- c) be able to establish an audit trail;
- d) be able to track and aggregate outward remittance transactions conducted by a customer of the licensee and its agents on a real-time basis;
- e) be able to detect cancellation or amendments made to transactions;
- f) be able to track the status of remittance transactions;
- g) be able to generate reports that would allow for velocity monitoring (i.e. ability to track changes in remittance and receipt activity and destination);
- h) be able to generate exception reports.

5.2.3 If the applicant intends to use a third party system (i.e. an international remittance system that provides the payment, clearing and settlement services to the applicant), a copy of the duly signed agreement that specifies the expectations and responsibilities of each party must be submitted to the Authority for approval.

5.2.4 If the applicant intends to use a proprietary system (i.e. a remittance system that is developed either by the applicant or with the assistance of a remittance system vendor) or an off-the-shelf system, the Authority may need to conduct an exploratory visit to obtain confirmations and assurances about the system's functionality and capabilities.

5.3. Business Plan

5.3.1 The Authority will consider whether the applicant's owner has a proven track record in running a business in determining competence and capability. A detailed business plan covering the first three years of projected business activity is required for assessment.

5.3.2 The business plan should generally contain the following:

- a) Rationale for carrying on money service business in the Cayman Islands
- b) Background Information: history, management team, number of expected employees, annual expected income figures, corporate structure, location(s) of facilities, names and percentage of the majority investor(s)
- c) 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.
- d) Financial Projections covering at least three years, identifying assumptions to include:



September 2014

1. Income Statement
2. Balance Sheet

- e) Reports of any feasibility studies carried out to support business plan.
- f) Explanation of strategy for risk management and internal controls within the business
- g) Policies, procedures and guidelines such as corporate governance policies and internal controls to be implemented, including reporting arrangements. This includes the AML training plan for staff and AML policies and procedures.
- h) 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.
- i) Information about contracts with affiliates and outsourcing arrangements, where applicable

5.4. Financial Resources Requirements

5.4.1 The Authority will assess the applicant's source(s) of initial capital and its capital strength in accordance with the requirements of the MSL. The Authority must be satisfied that the applicant has, and will continue to have, financial resources (whether actual or contingent) that are adequate for the nature and scale of the business. The Authority must be satisfied that the applicant's owner(s) has/have sufficient financial strength to support the applicant and in so doing assess the financial strength of the applicant's owner(s).

5.4.2 The Authority will require an applicant that is a branch or subsidiary of an overseas money remittance business to provide written confirmation from its head office/parent that it will provide financial support to enable the applicant to meet its obligations as and when they fall due.

5.5. Physical Presence Requirements

5.5.1 The applicant must have a place of business in the Cayman Islands located in an area zoned for commercial activities. If the building is not owner occupied then proof that the company has secured the location for at least a minimum of one year is required.

5.5.2 In approving a "the place of business" in accordance with the requirements of section 5(5) of the MSL the Authority will have regard to all relevant factors and/or circumstances, including:

1. Whether the place of business is zoned commercial by the Cayman Islands Government



September 2014

2. Whether the proposed place of business is in the following establishments:
 - a) Properties licensed by the Liquor Licensing Board
 - b) Spa, massage or beauty parlor
 - c) Charities or religious organizations
 - d) Construction sites
 - e) Marine vessels
 - f) Pawn stores
 - g) Other places on a case-by-case basis
3. Whether the staff required to adequately perform the services of the principal is to be located in the Cayman Islands.

5.5.3 The Authority may conduct a site visit to the proposed facilities prior to considering an application.

5.5.4 Applicants are encouraged to implement adequate security measures, including the installation of cameras at strategic locations within the premises as a deterrent against risks of physical harm and financial losses to proposed customers.

5.6. Sharing of Premises

5.6.1 If the applicant intends to share premises with other businesses, the applicant must ensure that the criteria for physical presence are met and that there is a clear physical separation between the money service business operations and those of the other businesses. The applicant must satisfy the Authority that there will be proper controls in place to prevent unauthorised access to its systems, records and funds. Also, there must be clearly visible signage in place that easily alerts potential customers to the remittance section. The Authority will also take into consideration the other type(s) of business being conducted from the same location to assess the risk that they pose to the operations of the money services business.

5.7. Record Keeping

5.7.1 The books and records detailing the operations of the principal are to be guided by the Authority's Statement of Guidance on *Nature, accessibility and retention of records*.

5.7.2 As a condition of licensing, the Authority may in its sole discretion require that the books and records are maintained in the Cayman Islands. The Authority must also be satisfied as to how and where the applicant's historical transaction records will be stored (i.e. in the form of



September 2014

original/duplicate documents, scanned form, or computerized/electronic form). Such records should be maintained in a manner that promotes retention and appropriate security and should be adequate to support a proper audit trail.

6. Other Requirements for Money Services Business Licence Application

- 6.1.1 Applicants seeking to be licensed under Section 5 of the MSL should provide the prescribed fee and required documents as outlined in the Money Services Business Regulations as amended.
- 6.1.2 The application should contain the financial statements of the applicant for the preceding two years where applicable.

7. Criteria for Agent Applications

7.1. Corporate Governance

- 7.1.1 The corporate governance requirements for agents are identical to those listed in 4.2.1.

7.2. Fit & Proper Assessment

- 7.2.1 Agents will be subjected to the fitness and propriety criteria outlined in Section 4.3.
- 7.2.2 Since the proposed agent typically is not a financial institution, the Authority must be satisfied that the agent's owner(s) (or if agent is an individual, that person) has/have a proven track record of operating a business successfully or to satisfy the criteria of competence and capability. The proposed agent should have adequate financial and human resources to support effective implementation of anti-money laundering and counter-financing of terrorism measures.

7.3. Operational & Risk Management Requirements

- 7.3.1 The principal-agent relationship must be governed by a written agreement, a copy of which must be submitted to the Authority for its consideration and approval. The agreement must state the responsibilities and expectations of each party, the settlement arrangements, describe the dispute resolution



September 2014

process, obligations to comply with all applicable regulatory requirements, types of services to be provided, hours of operation, and the procedures and grounds for termination of relationship amongst other things.

7.3.2 The Authority must be satisfied that the proposed agent, where it is a sole proprietorship, has a current trade and business licence, and where it is a partnership, that it has a partnership agreement.

7.3.3 The Authority must be satisfied that there are adequate security measures in place such as security cameras and a security safe/vault.

7.3.4 The Authority must be satisfied that the type(s) of services the agent intends to offer are not against the public interest and that the agent possesses the capacity to offer these services.

7.4. Physical Presence Requirements

7.4.1 The physical presence requirements and considerations for principals and agents are identical. Please refer to section 5.5.

7.5. General and AML Training Requirements

7.5.1 It is the responsibility of each licensee to have systems and training in place to prevent money laundering and terrorist financing through its agents. It is also the responsibility of the licensee to ensure that the owner(s) and director(s) of its agent, as well as the persons responsible for conducting the remittance transactions at the location where the agent operates, have obtained such training. This anti-money laundering training must be provided by the CO or MLRO of the principal; or alternatively through a recognized third party company that specializes in compliance services. The Authority will require proof to its satisfaction that the owner(s) and director(s) of its agent, as well as the persons responsible for conducting the remittance transactions at the location where the agent operates, have obtained such training.

7.5.2 General training must have been provided to all intended agents and their respective employees to ensure that they are able to carry out their required duties.

8. Requirements for Agent Applications

8.1.1 Licensees seeking to appoint an agent are required to provide the following



September 2014

in writing:

1. Name of proposed agent and employees to be involved in the activity to which the proposed agency relates.
2. Complete physical address (including street address and P.O. Box) of the proposed agent and employees to be involved in the activity to which the proposed agency relates. The licensee should provide either a written affidavit detailing that it owns the premises from which the agent is operating. Where the licensee does not own the premises from which the agent is operating, a leasing/rental agreement between the agent and the lessor/landlord, specifying the terms, should be provided.
3. Telephone number and email address of the proposed agent and employees to be involved in the activity to which the proposed agency relates
4. Copy of the signed agency agreement, specifying the terms of the arrangement and type of service(s) that the agent will provide on behalf of the licensee (the types(s) of money transfer activity to be conducted i.e. would activities be outbound and inbound and/or inter islands and the maximum limit per customer). Details of the settlement arrangements must be included. At a minimum, the agreement must state the responsibilities and expectations of each party, the settlement arrangements, describe the dispute resolution process, obligations to comply with all applicable regulatory requirements, types of services to be provided, hours of operation, and the procedures and grounds for termination of relationship amongst other things
5. Information on the security system to be employed
6. Training certificate(s) that all necessary training has been provided to the proposed agent and the employees that will be involved in the activity to which the proposed agency relates. This includes the AML training plan for staff and AML policies and procedures.
7. Financial statements or other proof of solvency of the agent
8. The owner(s) track record including a summary business plan and services offered
9. For sole proprietorships under a trade name



September 2014

- a) Trade and business licence and copy of last receipt for annual licence fee as proof that the Trade and Business Licence is current
 - b) Complete due diligence package for the owner or beneficial owners. This includes a duly completed Personal Questionnaire form, one Financial Reference, two Character References, and a Police Clearance Certificate/Sworn Affidavit.
10. For partnerships:
- a) Trade and business licence and copy of last receipt for annual licence fee as proof that the Trade and Business Licence is current
 - b) Copy of the partnership agreement
 - c) Complete due diligence package for the limited partners, general partners or directors of general partnerships. This includes a duly completed Personal Questionnaire form, one Financial Reference, two Character References, and a Police Clearance Certificate/Sworn Affidavit.
11. For individuals trading in their own name:
- a) Trade and business licence and copy of last receipt for annual licence fee as proof that the Trade and Business Licence is current
 - b) Complete due diligence package. This includes a duly completed Personal Questionnaire form, one Financial Reference, two Character References, and a Police Clearance Certificate/Sworn Affidavit
12. For corporations:
- a) Trade and business licence and copy of last receipt for annual licence fee as proof that the Trade and Business Licence is current
 - b) Copy of Certificate of Incorporation/Registration and Articles of Incorporation
 - c) Complete due diligence application package for each director and each person holding more than 10% of the shares
 - d) Organisation structure (showing directors and managers)
 - e) Group and ownership structure for the entity (including shareholders and subsidiaries)
-



September 2014

13. Additional information may be required to complete the processing of the application.