

FINANCIAL SERVICES COMMISSION

GUIDE TO COMPLETING THE APPLICATION FORM FOR A CATEGORY ONE GLOBAL BUSINESS LICENCE

Last Updated on: 3 January 2003

INTRODUCTION

The Financial Services Commission (“FSC”) was established by the Financial Services Development Act, 2001 (“FSD Act”).

The FSC is responsible for licensing, regulation monitoring and supervising the conduct of business activities in the non-banking sector of the financial services industry in Mauritius – which includes inter alia, Global Business Companies conducting Qualified Global Business from within Mauritius.

This booklet is part of a series entitled “Guide To”. The general object of these booklets is to provide a simple overview of certain topics and matters that are relevant to the work of the FSC. The object of this booklet in particular is to assist those who are in the process of submitting an Application for a Category 1 Global Business Licence. Where additional information is required, readers should refer to any officer of the FSC who will be pleased to assist in any way possible. This booklet should be read in conjunction with the Application Form for a Category 1 Global Business Licence

All communication to the FSC should be addressed as follows:-

The Chief Executive
Financial Services Commission
4th Floor, Harbour Front Building
John Kennedy Street
Port Louis
Tel: 210 7000 (32 Lines)
Fax: 208 7172

NOTES ON COMPLETING THIS FORM

1. Application for a Global Business Licence (Category 1) under section 20(2) of the FSD Act must be made on the Approved Form.
2. No application for a Global Business Licence (Category 1) will be accepted by the FSC unless submitted by a Management Company.
3. Applicants and Management Companies are advised to read carefully the “FSD Act” and other relevant legislation and/or Guidelines issued thereunder before submitting an application to the FSC.
4. The completed Application Form and supporting documents may be submitted in either English or French. If supporting documents are in any other language, they should be translated into either of these languages before submission. A qualified translator² should certify that the translation is true and faithful.
5. Applications may be typed or printed. If printed, BLOCK CAPITALS should be used.
6. All questions must be answered on the basis of the information that is known by the Applicant and/or Management Company at the time of submission. Where the information is not available, the Applicant and/or Management Company should say so. **No question should be left unanswered.**
7. Where the Applicant and/or Management Company believes that a question does not apply, the Applicant and/or Management Company should write “Not Applicable”. **No question should be left unanswered.**
8. All Application Forms must be accompanied by the following:
 - 8.1 a Covering Letter (see page 4);
 - 8.2 a copy of the Declaration on page 5 (which confirms that the application has been made with relevant authority) may be signed by the Applicant or by the Applicant’s Management Company. The Declaration should be amended to show which option is selected;
 - 8.3 appropriate fees for processing and licensing. (*Cheques should be made payable to the ‘Financial Services Commission’*);
 - 8.4 a Certificate from a Law Practitioner (*NB: Without this Certificate, the Application shall have no effect. (S20(2)(b) of FSD Act)*);
 - 8.5 a copy of the Confirmation by the Management Company on page 6 (which confirms that the work concerning KYC and advice to the Beneficial Owners has been completed) ;
 - 8.6 supporting documents, if any (see 4 above).
9. The Applicant and/or Management Company should inform the Commission of any changes in the information provided (e.g. concerning the ownership, structure and activities of the Applicant) as soon as the Applicant and/or Management Company becomes aware of the change.
10. The FSC will give as much general assistance as possible concerning the application process. However, professional advice should be sought if and when necessary.
11. The information provided as part of the application process may give rise to additional questions and requirements. Accordingly, the FSC may require the Applicant and/or Management Company to give such further information as may be necessary to determine whether or not a licence should be issued
12. Ordinarily, in respect of the key documents, photocopies or documents submitted by facsimile will not be acceptable. Exceptionally – and by previous arrangement only – photocopies or fax copies may be acceptable subject to the original being available within an agreed time frame.
13. Where insufficient room has been left in the Application Form to answer questions fully, the Applicant and/or Management Company should use additional sheets – suitably cross referenced to the relevant question.
14. Completed Application Forms and all accompanying documents (see 8 above) should be submitted to The Chief Executive at the address shown on Page 2.
15. For further information on any word marked with superscript 1, please refer to pages 7-8 of this Guide and in respect of words marked with superscript 2, please refer to page 9.

COVERING LETTER

Every Application must be supported by a Covering Letter addressed by the Applicant's Management Company to the Financial Services Commission. The template provided below should be used for that purpose.

Date:.....

To: The Chief Executive
 Financial Services Commission

In terms of section 20(2) of the FSD Act 2001, we hereby apply on behalf of the Applicant for a Category 1 Global Business Licence to conduct qualified global business activities from within Mauritius.

We apply on the basis of the information supplied within the Application Form and on the basis of further information attached or which may be provided in response to requests that may be made by the FSC.

We confirm:

- a. that having made all reasonable enquiries and having conducted all due diligence checks that we considered appropriate, the information supplied is, to the best of our knowledge and belief, accurate in all material respects and does not exclude any information which might reasonably be considered relevant;
- b. where the Applicant is a corporation that exists already, to the best of our knowledge, its financial position shown in the audited accounts and/or other financial statements submitted with this Application or in support of it, has not materially changed since the date thereof except to the extent (if any) disclosed in the Application;
- c. that, if a licence is granted, the Applicant shall conduct only that business for which it is licensed - unless otherwise authorised by the FSC;
- d. that the Applicant will comply with the laws of Mauritius and with the laws of the jurisdiction where the "Qualified Global Business" will be carried out and in particular will not undertake any licensable activity anywhere without the appropriate authorization;
- e. that the Applicant will comply with and be bound by all the terms of the standard licence conditions for financial services (as may be listed in any Guidelines or other document as may be issued by the FSC from time to time) and/or any other special terms and conditions attached to the licence;
- f. that the Applicant will notify the FSC of any further information which is relevant to the Application and of any material changes in the information forming part of this Application (or its supporting documents) which comes to the Applicant's attention during the period in which this Application is being considered or at any time thereafter.

**DECLARATION CONFIRMING THAT THE APPLICATION IS MADE WITH
RELEVANT AUTHORITY** (**Please complete whichever Declaration below is applicable*)

DECLARATION¹ BY “EXISTING” APPLICANT

I/ We certify that a meeting of the Board of Directors (or Partners or duly authorised senior official(s) as the case may be) of the Applicant held on the.....day of.....20....., it was resolved that this Application (supported by the covering letter, the fees, legal certificate and relevant enclosures) should be submitted to the FSC.

Signed by Applicant /Applicant’s Management Company (*strike out whichever is not applicable*)

.....

Signed on (date).....

Name of Signatory (BLOCK CAPITALS)

.....

Capacity of Signatory

(Where the “Declaration” is signed by senior official(s), confirmation of their authority should be submitted).

DECLARATION¹ BY APPLICANT “IN FORMATION”

I/We certify that I/we are in the process of establishing the corporation described in the Application Form as “the Applicant”. I/we undertake to recommend to the Board of Directors that at its first meeting, the Board considers ratifying the decision to make this Application and to confirm the undertaking given in the Covering Letter that accompanies this Application. If the Board declines, I/we undertake to inform the FSC immediately.

Signed by Applicant/Applicant’s Management Company (*strike off whichever is not applicable*)

.....

Signed on (date)

Name of Signatory (BLOCK CAPITALS)

.....

Capacity of Signatory

CONFIRMATION¹ BY THE APPLICANT'S MANAGEMENT COMPANY

We confirm that

- We have, in respect of the beneficial owner(s) performed, to the best of our ability, adequate due diligence. We have applied “know-your-client”¹ principles strictly and intrusively;
- We have informed the beneficial owner(s) of the compliance obligations as regards fees, filing of accounts, guidelines issued or to be issued by the Financial Services Commission and reporting obligations under the Financial Intelligence and Anti-Money Laundering Act 2002 and under such legislation as may be enacted in the future.

Name of Management Company:

.....
.....
.....

Name of Authorised Representative² (BLOCK CAPITALS):

.....
.....
.....

Signature of Authorised Representative:

Capacity of signatory:.....

Date:

NOTES RELEVANT TO PARTICULAR QUESTIONS

(Words Marked In The Application Form/Guide With Superscript 1)

Declaration	An Authorised officer of the Management Company (duly appointed by the Applicant) must sign the Declaration;
Confirmation	An Authorised officer of the Management Company (duly appointed by the Applicant) must sign the Confirmation;
Know Your Client	See Annex (page 10);
2.4	If the Applicant's Secretary is a body corporate, details on its Authorised Representative/Signatory should be provided;
2.6	The Applicant must have at least one Director who shall be ordinarily resident in Mauritius. Corporate Directors are disallowed;
2.10.1	The holder of a Category 2 Banking Licence may only offer a bank account denominated in a currency other than the Mauritian rupee;
2.10.2	The holder of a Category 1 Banking Licence may offer an account in Mauritius currency for day to day transactions (<i>please refer to section 21(2)(a) of FSD Act</i>);
4	<p>(i) The Applicant should identify the beneficial owner(s);</p> <p>(ii) The name and address of each beneficial owner should be provided;</p> <p>(iii) An original bank reference should be attached. Where – abnormally – the application is submitted without the certificate, the date by which the FSC can expect to receive it should be specified;</p> <p>(iv) Where a beneficial owner is a corporate entity, the latest audited accounts/annual reports should be submitted;</p> <p>(v) Where a corporate beneficial owner has been established for 12 months or less, its beneficial owners should be identified;</p>

(vi) where beneficial owner is a trust, details of the settlor, trustees, beneficiaries and contributors to the trust, if any, should be submitted;

5 Where the answer to any question in this section is “yes”, further information should be added using additional sheets – suitably cross referenced to the relevant questions;

6.2 Authorised/Stated Capital to be shown where appropriate;

7. If the Accounting Reference Date has not yet been determined, the Applicant must advise the FSC of the date within 30 days of the date of the Application;

8 If the Applicant has made or will make application for another licence, full information should be provided using additional sheets – suitably cross referenced to the relevant question;

9 The Business Plan should include:

- i. Three years’ forecasts of business (expected to be achieved), revenue and expenditure on an annual basis. Please also provide any supporting documentation that contains additional information about the Applicant and the proposed qualified global business activity;
- ii. The Business Plan should include both qualitative and quantitative information;
- iii. Where members of the Applicant’s staff (actual or proposed) have previous experience of conducting the Qualified Global Business for which the licence is sought, please supply precise details. If none, please respond accordingly;
- iv. Please provide details of initial working capital;
- v. Please specify when it is hoped to commence business;
- vi. Please provide an Organisation Chart showing all roles and the name of the person in each role. Where the person is not yet appointed, please note this on the chart.

GLOSSARY

(Words Marked In The Application Form/Guide With Superscript 2)

Applicant	means the Corporation in whose name the licence will be issued. “Applicant” should not be interpreted to mean “Promoter” (the original shareholder) or the Management Company (who is merely the agent of the Applicant) who will submit the application on behalf of the Applicant.
In Formation	means an Applicant that has not yet been incorporated or registered.
Existing Applicant	means an applicant that has already been incorporated or registered as provided under the Companies Act 2001.
Address	means the permanent, residential address. Please note that the address required is not the postal address so a P.O. Box number is not acceptable.
Legal Advisor	means the Law Practitioner qualified under the Law Practitioners Act 1984 who will provide legal services to the Applicant by signing the legal certificate and/or by supplying legal advice on an on-going basis in the future.
Beneficial Owner	means the ultimate owner.
Authorised Representative	includes a Director or any other duly authorised member of staff of the Management Company.
Qualified Translator	means a person who has appropriate knowledge and experience in the language.

ANNEX

KNOW YOUR CLIENT¹

It is the duty of a Management Company to “know” all clients adequately. Before a new client is accepted, the Management Company must carry out such vetting procedures on beneficial owners¹⁺², promoters, controllers, directors or shareholders of an applicant company as may be appropriate. (In this context, a controller is defined as meaning in relation to a body corporate, a person who either alone or with any associate or associates, is entitled to exercise or control the voting power at any general meeting of that body corporate or another body corporate of which it is a subsidiary). Detailed records of due diligence undertaken must be retained on file together with copies of all relevant documentation. Ordinarily, a copy of the material pages of the passport of relevant individuals should be obtained, together with further relevant documentation evidencing residence status as may be appropriate. The Management Company (“MC”) should obtain from clients, relevant information about the circumstances and investment objectives – and such other information as might reasonably be expected to be relevant in enabling the MC to fulfill its responsibilities. Ordinarily, the FSC will only want to ensure that appropriate due diligence has been undertaken without requiring copies – which will only be necessary where prudential reasons dictate that copies should be obtained.

An introduction by an overseas introducer, does not of itself constitute adequate vetting. The MC must satisfy itself about the Fitness and Propriety of the introducer. This should be based on actual experience demonstrating that the overseas introducer should be treated as a trusted professional source.

Potential clients from an unsolicited source (e.g. press advertising) must be carefully vetted before being accepted as clients.

Deliberate concealment of a nominee structure by an MC will be regarded as a serious scenario – and as such may be a matter for disciplinary action. The MC should seek to probe further where it is known or where it ought to be known that the structure proposed conceals a nominee arrangement.