

TRUSTS (REGULATION OF TRUST BUSINESS) ACT 2001

APPLICATION

FOR A TRUST BUSINESS LICENCE

Guidance Notes

- 1. This form should be completed by a Senior Executive or other person responsible for the conduct of the business and having legal capacity to sign on behalf of the applicant.**
- 2. Before completing this form, applicants should refer to the Trusts (Regulation of Trust Business) Act 2001 (the Act) and the Statement of Principles, Code of Practice and relevant papers issued by the Authority.**
- 3. This form must be submitted typed or written in BLOCK CAPITALS in ink.**
- 4. The signatory should, on completion of the form, initial each page of the application and any supplementary sheets and sign the declaration on the last page.**
- 5. Completed applications with relevant supporting material should be sent to:-**

**Banking & Trust Department
The Bermuda Monetary Authority
Burnaby House
26 Burnaby Street
Hamilton HM 11
Bermuda**

- 6. If you require further assistance or have any queries in connection with this application please contact the Banking and Trust Department by telephone at 295-5278 or by fax at 292-7471. Additional information may also be found on our website at <http://www.bma.bm>**

Documentation to accompany the Application

The application must be accompanied by the following items (as applicable):-	Document Attached?
1. Memorandum & Articles of Association. A copy of the Applicant's Memorandum and Bye-laws, and (where company is formed outside Bermuda) Certificate of Incorporation. Partnerships should submit a copy of the Partnership Agreement.	
2. Accounts. A copy of the most recent financial statements for the business (audited where available) together with financial statements for its parent company and other members of the group (where relevant).	
3. Clients' Agreements. Copies of any standard trust or management agreements the applicant intends to use.	
4. Confirmation by Auditor. In the case of a company, an auditor's statement that the minimum capital of \$250,000 has been paid up, or is held in escrow, pending the granting of this licence.	
5. Business Plan. A statement setting out the nature and scale of the trust business which is to be carried out by the applicant, and particulars of the arrangement(s) proposed for the operation of that business (see Appendix).	
6. Questionnaires. TC Form 2's completed by all proposed institutional controllers of the company (as defined in Section 4(3) of the Act) together with TC Form 3's completed by all proposed individual controllers and officers of the company.	
7. Group Structure. Licensed institutions forming part of wider groups must provide an up-to-date chart giving full details of the group structure.	
8. Cheque representing the appropriate application fee	

APPLICATION FOR A TRUST BUSINESS LICENCE

Pursuant to Section 11 of the Trusts (Regulation of Trust Business) Act 2001

PART I: DETAILS OF APPLICANT (complete as appropriate)

Name of Applicant	
Type of licence sought	
Address of registered office	Address of Principal Place of Business in Bermuda
Other places of business within Bermuda	Other places of business outside Bermuda
Any other names which the applicant uses or proposes to use for purposes of or in connection with any business carried on	
Date and place of Formation of Company/Partnership	
Amount and currency of the Company's issued and paid-up Share Capital	Amount and currency of the Company's authorized Share Capital
Contact Name	E-Mail Address
Fax Number	Telephone Number

PART I: DETAILS OF APPLICANT (complete as appropriate)

List all controllers of the business within the meaning of section 4

PART II: OPERATIONS OF THE UNDERTAKING

1. Name(s) and address(es) of the applicant's principal banker(s) within the last 10 years.

2. Name(s) and address(es) of banker(s) with whom the applicant proposes to or maintains client accounts.

3. Name(s) and address(es) of the main custodian(s) of the trust assets:
 - securities

 - other

4. Name(s) and address(es) of the primary providers of investment management and/or investment advisory services for the assets of discretionary trusts (where not stipulated by the trust instrument).

5. Name and address of the applicant's auditors (where applicable). Please give the name and professional qualification of the relevant partner(s).

6. Names and addresses of any other regulatory body with responsibility for the applicant.

Part III: Insurance Cover

Indicate below whether the Applicant has cover in respect of the following:-

	Yes	No	Limit	Deductible	Insurer	Broker
Errors & Omissions						
Directors and Officers Liabilities						
Fidelity and Forgery						
Loss of Property						
Computer Crime						
Trust Real Estate (or other tangible assets like art etc.)						
Computer Damage						
Business Interruption						
Office Contents						
Political Risk						

Has any application for insurance by the applicant or any predecessors in business ever been refused?	
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Name(s) and address(es) of insurer(s):
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Part IV: Prior Issues

If the answer to any of the questions below is yes, please give full particulars in the space provided at the back of this questionnaire clearly stating to which question the details relate.

	YES/NO
(a) Has the applicant ever applied for and been refused a licence or an equivalent authorisation or registration to conduct banking, investment, insurance or trust business in Bermuda or elsewhere?	
(b) Has the applicant failed to satisfy a judgement debt under a court order in Bermuda or elsewhere within a year of the making of the order?	
(c) Has the applicant made any compromise or arrangement with its creditors or otherwise failed to satisfy creditors in full?	
(d) Has the applicant ever had a receiver appointed over any of its property in Bermuda, or has the substantial equivalent of any such person been appointed in any other jurisdiction? If so, give full particulars.	
(e) Has the applicant ever had a petition for an administration order or the substantial equivalent of such a petition served on it in any jurisdiction?	
(f) Has the applicant ever had a notice of resolution for liquidation in Bermuda, or had the substantial equivalent of such a notice given in any other jurisdiction?	
(g) Has a petition ever been served in Bermuda for the compulsory liquidation of the applicant or any related company or has the substantial equivalent of such a petition ever been served in any other jurisdiction?	
(h) Has an inspector or other authorised officer of any government department or agency, professional association or other regulatory body appointed under any Bermuda law (e.g. the Companies Act 1981) or equivalent overseas enactment, ever investigated the affairs of the applicant or any related company?	
(i) Has the applicant or any related company been required to produce books or records pursuant to section 110 of the Companies Act 1981 or similar provisions of regulatory legislation (e.g. section 40 of the Banks and Deposit Companies Act) within Bermuda or elsewhere?	
(j) Has the applicant or any related company ever been censured, prosecuted, warned as to future conduct, disciplined or publicly criticized by, or made the subject of a court order at the instigation of any supervisory or regulatory authority?	
(k) Has the applicant or any related company ever been refused entry in Bermuda or elsewhere to any professional body or trade association concerned with banking, trust or financial services?	
(l) Is the applicant or any related company engaged or does it expect to be engaged in Bermuda or elsewhere in any litigation which may have a material effect on the resources of the undertaking?	

Declaration

This declaration must be completed by the Applicant in block capitals or typed.

I, (full name and address)

confirm that I have read and understand the provisions of the Trusts (Regulation of Trust Business) Act 2001 (the “Act”) and I declare that the business in respect of which this application is made will be conducted in accordance with the provisions of the Act, Statement of Principles, Code of Practice and any relevant Regulations.

I declare that the particulars supplied in the application are true to the best of my knowledge and belief.

Signature of applicant

Position in undertaking

Date

WARNING Any person who, in relation to an application for a licence, makes a statement or issues a document which he knows to be false or misleading in a material particular or recklessly makes a statement or issues a document(s) which is false or misleading in a material particular shall be guilty of an offence and liable on summary conviction to a fine of \$25,000 and/or to imprisonment for two years or to both on conviction on indictment to a fine of \$50,000 and/or imprisonment for four years pursuant to [Section 52 of the Trusts (Regulation of Trust Business) Act 2001].

APPENDIX

BUSINESS PLAN

Pursuant to Section 11(6)(a) of the Trusts (Regulation of Trust Business) Act 2001

Provide a full statement setting out the nature and scale of the trust business which is to be carried on by the applicant and full particulars of the arrangements proposed for the operation of that business.

Details should cover the first three years of operation and must include, but not necessarily be restricted to, the following:

- Aims and objectives.
- Sources of and nature or scale and business expected. Provide details as to type of business by separating into subcategories such as Institutional and Personal.
- Balance sheet projections for each year.
- Profit & Loss projections for each year.
- Assumptions and basis for the assumptions underlying the projections.
- Staffing requirements. Include information on management requirements, organisational structure, Bermudian vs. non-Bermudian staff, experience and expertise of staff, professional/legal expertise, staff training plans etc.
- Proposed systems for financial accounting, including information on internal audit/compliance arrangements.
- Internal controls, including physical security arrangements.
- Arrangements for ensuring segregation of the clients' assets.
- Premises.
- Fixed assets and equipment.
- Capital structure and any other financing arrangements.
- Proposals to delegate any responsibilities to any other person and/or entity. Include information on the names and addresses of the person(s) and/or entity(ies) and the types of functions they will be performing.