

Application Form for a Banking Licence



FINANCIAL SUPERVISION COMMISSION

THE BANKING ACT 1998 - SECTION 6

APPLICATION FORM

FOR A BANKING LICENCE

Completed Applications together with any supporting material should be sent to:-

Banking Supervisor
Financial Supervision Commission
P O Box 58
Finch Hill House
Bucks Road
Douglas
Isle of Man
IM99 1DT

December 2001

Application Form for a Banking Licence

LICENCE APPLICATION - GUIDANCE NOTES

Please read the questions and guidance notes carefully before completing this form. If more space is needed the answers should be written on a separate sheet of paper with the heading "Continuation of Answer to Question". Answers should be written in ink in **BLOCK CAPITALS or typed**.

The staff of the Commission are available to be consulted on a formal or an informal basis in the course of the preparation of an application for a licence and will try to give appropriate guidance where it is sought. However, in order that the role of the staff of the Commission is not misunderstood, the Commission wishes to emphasise that:-

- (i) the preparation and submission of an application for a licence is the responsibility of the Applicant;
- (ii) the decision whether or not to issue a licence is the responsibility of the Commission; and
- (iii) the Commission normally takes legal advice on questions of law that confront it and Applicants for licences must similarly be prepared to seek legal advice on questions of law that confront them.

Please read carefully the Financial Supervision Commission's Regulatory Guide for Banks & Building Societies before making this application.

It should be noted that by virtue of section 27 of the Banking Act 1998 ("the Act"), a person commits an offence if for the purposes of or in connection with any application under the Act he knowingly or recklessly gives any information which is false in a material particular. A person guilty of such an offence is liable:-

- (a) on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both;
- (b) on conviction on information to custody for a term not exceeding 2 years or to a fine, or to both.

It is not necessary for the Declaration contained in Appendix 2 to accompany the initial application. In fact, applicants would have difficulty in signing such a declaration where the details contained in the application have not been effected, eg the company has not yet been formed, directors not yet appointed etc. In such circumstances, whilst the Commission might be prepared to consider the application, a licence will not be issued until the Declaration has been provided.

Failure to commence banking business within 6 months from the date of the licence may result in the licence being withdrawn.

The first expiry date of the licence will be six months after the end of the applicant's accounting period.

Note: Only the application fee should accompany this application. The licence fee will be requested once the licence is issued.

PLEASE NOTE, APPLICATIONS THAT ARE SUBMITTED, WHICH ARE INCOMPLETE OR WHICH DO NOT DISCLOSE ALL INFORMATION WHICH MAY AFFECT THE COMMISSION'S ASSESSMENT, MAY RESULT IN SIGNIFICANT DELAYS IN IT BEING PROCESSED. THE COMMISSION DOES NOT ACCEPT RESPONSIBILITY FOR ANY LOSS CAUSED TO THE APPLICANT BY ANY DELAY.

**Financial Supervision Commission
November 2000**

Application Form for a Banking Licence

FINANCIAL SUPERVISION COMMISSION
APPLICATION FOR A BANKING LICENCE

Name of Applicant:		
Registered Office Address:		
Business Address in the Isle of Man: (if different from above)		
Contact Name		Telephone Number:
		Fax Number:

I hereby apply to be licensed by the Financial Supervision Commission in accordance with section 6 of the Banking Act 1998.

I agree to furnish any further information which the Financial Supervision Commission may require when considering this application.

I agree to notify the Commission of any other information which is material to this application, and also to notify the Commission immediately of any material changes in the information provided in this application which may occur after the date of submission of the application and prior to the Applicant receiving notification of the Commission's decision concerning its application or the date from which a licence is granted, whichever is the later.

Signed _____

Name of Signatory _____

Capacity in which
Application is made _____
(ie Director, Advocate etc)

Date _____

Application Form for a Banking Licence

DETAILS OF APPLICANT

1. Date of Incorporation.	
2. Country of Incorporation.	
3. Company Registration Number.	
4. Authorised Share Capital.	
5. Issued Share Capital.	
6. Paid-Up Share Capital.	
7. Method by which Paid-Up Share Capital was raised.	
8. Amount and nature of Loan Capital.	
9. Name and Address of the Applicant's Auditors (including the name of the partner in charge of the audit) and confirmation that Professional Indemnity Insurance cover is held to a level of at least £20 million. (See Appendix 1).	
10. Name and Address of the Applicant's Isle of Man Advocates (including the contact partner).	

Application Form for a Banking Licence

11. List below all Directors of the Applicant, identifying the Chairman, Chief Executive or Managing Director and any other Directors with specific title.
 Non-executive Directors should be indicated as such by noting NE under the Director's name. If any Director is to form part of the "4-eyes" requirement of the Banking (General Practice) Regulatory Code this should be indicated in the third column. Please supply a completed Personal Questionnaire ("PQ") and Bankers' Questionnaire ("BQ") for each person.

Names of Directors (including Title)	Address	Date Appointed (4-eyes?)	Completed PQ & BQ attached
(i)			
(ii)			
(iii)			
(iv)			
(v)			
(vi)			
(vii)			

Application Form for a Banking Licence

12. List below all Managers and Controllers or Key Personnel of the Applicant (unless already disclosed in 11 above), indicating job title. If any Manager is to form part of the "4-eyes" requirement this should be indicated in the third column.
Please supply a completed Personal Questionnaire ("PQ") and Bankers' Questionnaire ("BQ") for each person.

Names of Managers or Controllers with area of responsibility	Address	Date Appoint (4-eyes?)	Completed PQ & BQ attached
(i)			
(ii)			
(iii)			
(iv)			

12A. Name of the individual who, in addition to those persons fulfilling the 4-eyes requirements, will be responsible for compliance matters.

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13. Name of Secretary (Note qualification requirement of the Banking (General Practice) Regulatory Code)	Address	Date Appointed	Completed PQ & BQ attached

Application Form for a Banking Licence

<p>14. Amounts outstanding on any existing loans to:-</p> <p>Directors/Managers of the company; Partners; Associates and Controllers. Also, amounts of any proposed loans to the above.</p>	
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15.	(i)	<p>Name of Parent Company</p> <p>_____</p> <p>Registered Office and Principle Business Address, (if different)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Telephone No _____</p>
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15.	(ii)	<p>Name(s) and address(es) of any other shareholder(s). If shares are held by Nominees, state who holds the beneficial interest therein. Please supply a completed PQ and BQ for each person.</p>		
		Name and Address	Number of Shares	PQ & BQ attached
		_____	_____	_____
		_____	_____	_____
		_____	_____	_____

Application Form for a Banking Licence

16. If the Applicant or its parent company is a licensed bank, please provide the name, address and telephone number of the parent licensing/supervisory authority. (The Financial Supervision Commission will approach the authorities named here to ascertain that they are aware of, and have raised no objection to, this application).

Company	Regulatory Authority

17. Is the consent of the authority mentioned in the answer to Question 16 required for your company to establish a branch/subsidiary in the Isle of Man?

YES/NO

18. If the institution is newly incorporated, please provide the names of those banks who have indicated a willingness to provide correspondent facilities or other facilities, (including standbys), to it. This must include the name of the bank in the Isle of Man which will provide clearing facilities.

Name	Address

Application Form for a Banking Licence

19. State the Applicant's financial year end	
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20. Indicate below whether the Applicant has cover in respect of the following:-
(See the Financial Supervision Commission (Financial Resources & Reporting) Regulatory Code 3.4 and the Financial Supervision Commission (Clients' Investments) Regulatory Code 4.5).

	COVER	EXCESS
Professional Indemnity Insurance - Actual		
- Proposed		
Employee Fidelity Insurance - Actual		
- Proposed		
Other Insurance related to fraud and theft - Actual		
- Proposed		

21. Name(s) and Address(es) of Banks with whom office and clients' accounts are maintained or where it is intended to open such accounts. Indicate with an asterisk your main bankers.

Name	Address

Application Form for a Banking Licence

22. Type of Presence:

Full

Managed

(Please tick appropriate box)

23. If the application for the issue of a banking licence is successful, does the Applicant wish the Banking Supervisor to seek to have the name of the applicant added to the list of institutions maintained by the Treasury for the purposes of the Income Tax - Extra-Statutory Concession in respect of Interest Paid to Non-Residents?

YES/NO

(If the name of the institution is added to the list, it is able to pay interest on deposits placed by non-residents of the Isle of Man without deduction of tax ("Gross Interest"). Gross interest is paid to residents of the Isle of Man.)

24. Is exemption from section 144 of the Companies Act 1931, as amended, sought?

YES/NO

(The Financial Supervision Commission may grant exemption from section 144 of the Companies Act, 1931, as amended, "... if special circumstances exist which render it in the opinion of the Financial Supervision Commission expedient that such an exemption should be granted ...". If exemption is sought by the institution, then a separate letter should be enclosed by the Applicant, with the licence application, stating the reasons why exemption is sought.)

26. **THE FOLLOWING SECTION SHOULD BE COMPLETED BY APPLICANTS WHO WISH TO ACT AS TRUSTEE/CUSTODIAN OF AUTHORISED OR INTERNATIONAL COLLECTIVE INVESTMENT SCHEMES**

GUIDANCE NOTE

Trustees of authorised schemes, in addition to the normal duties and responsibilities of a trustee, are required to undertake detailed supervisory functions imposed on them under the Financial Supervision (Authorised Collective Investment Schemes) Regulations 1998. The trustee's responsibilities include ensuring that the Scheme is managed in complete accord and compliance with:-

Application Form for a Banking Licence

1. the Scheme's constitutional documents;
2. the Financial Supervision (Authorised Collective Investment Schemes) Regulations 1988; and
3. the most recently published Scheme Particulars.

Whilst **trustees of international collective investment schemes** are not required to undertake the same detailed supervisory functions, this does not diminish the fundamental role of trustees as both custodians of Scheme assets and guardians of investors' interests. Indeed, the Commission expects any trustee/custodian agreement to impose upon the trustee a duty to ensure that the Scheme is managed in accordance with the provisions of its constitutional documents (see paragraph 2.2 of the Guidance Notes for Managers and Trustees of International Collective Investment Schemes).

The Commission expects trustees of both authorised and international collective investment schemes to undertake on-site compliance testing on the scheme managers and the adequacy of these arrangements, together with their on-going monitoring programme, will be reviewed by the Commission's officers during their Supervisory Visits on the trustees.

26a. Do you wish to act as trustee of authorised or international collective investment schemes or both?	
26b. List the schemes to which you wish to act as trustee.	
26c. Should you wish to act as trustee of authorised schemes, do you have paid up capital of at least £5mn?	
26d. Please provide details of the systems, controls and procedures to be put in place in relation to the activity of acting as trustee of collective investment schemes.	
26e. Please give details of experience within group of acting in this capacity.	
26f. Please identify the personnel to be involved in the trustee function together with their experience.	

Application Form for a Banking Licence

OTHER INFORMATION**Compensation Scheme for Authorised Schemes**

Where the applicant proposes to act as trustee of authorised schemes, the applicant must become a participant in the Authorised Schemes Compensation by signing the Declaration of Compliance.

Independence of Managers and Trustees of International Collective Investment Schemes

Where it is intended that the manager and trustee of international collective investment schemes are to be bodies corporate having the same ultimate parent company, a letter of comfort must be submitted in accordance with paragraph 1.5(e) of the Guidance Notes for Managers and Trustees of International Collective Investment Schemes.

Application Form for a Banking Licence

**OTHER DOCUMENTATION WHICH FORMS PART OF
THIS APPLICATION**

The following documents and other items should accompany the application:-

- | | Documents Attached |
|---|--------------------|
| 1. <u>Memorandum & Articles of Association.</u> A copy of the Applicant's Memorandum and Articles of Association, and Certificate of Incorporation (if company is already formed). If the Applicant is not a company incorporated in the Isle of Man, confirmation must be given that the Applicant has registered under Part XI of the Companies Acts 1931 to 1986 as an overseas company having a place of business in the Isle of Man | |
| 2. <u>Return of Allotments and Bank Statement.</u> Copy of Return of Allotments and a copy of applicants bank statement showing receipt of the proceeds of the issue of shares for cash. | |
| 3. <u>Personal Questionnaires and Bankers' Questionnaires.</u> Completed Personal Questionnaires and Bankers' Questionnaires in respect of each Director, Controller, Manager and the Company Secretary. | |
| 4. <u>Accounts.</u> A copy of the latest audited accounts of the Applicant and/or its parent company, subsidiaries and fellow subsidiaries as required by the Financial Supervision Commission. | |
| 5. <u>Business Plan.</u> A three year Business Plan which should include statements on the following and should be supported by a letter from the company's auditors in the format provided in Appendix 1. | |
| A. Background. | |
| a) A brief resume of the group's history and aspirations. | |
| b) A group structure chart showing the name and jurisdiction of all subsidiaries and where it is proposed that the Applicant will appear in the group. Indicate also any regulatory authorities to which any group companies report. | |
| c) A brief outline of the major sources of income for the group. | |
| d) The correspondent banks of the group and its wholly owned subsidiaries. | |
| B. The business objectives and philosophy of the Applicant, including the reasons for wishing to establish a presence in the Isle of Man. | |

Application Form for a Banking Licence

	Documents Attached
C. The types of services/products to be offered (including details of any form of investment business proposed).	
D. Marketing strategy and methods, including the markets to which services/products are to be directed.	
E. Management and staff structure of the Applicant, showing key personnel and their responsibilities. (An Applicant requiring a Managed presence must enclose a signed copy of the Management Agreement between the Approved Manager and itself.)	
F. Control procedures (i.e. how work is to be reviewed, separation of function achieved etc.)	
G. Projected profit and loss and balance sheet for the next three years. Income and expenditure account should separately identify different categories of income and expenditure. Income from capital and free resources should be identified separately from income arising on trading.	
H. A summary of the Applicant's approach to the Management of Liquidity - including a contingency arrangement.	
I. Details of any sub-contracting arrangements for services or advice to be bought in from third parties or other group companies.	
6. <u>Supervisory Returns</u> . A completed set of supervisory returns, (enclosed), completed as they might be expected to appear after one year of operation on the basis of the assumptions in the Business Plan.	
7. <u>Application for Exemption from section 144 of the Companies Act 1931, as amended.</u> If exemption from section 144 of the Companies Act 1931, as amended, is required, a separate letter stating the reasons why (see Question 24).	
8. For those banks wishing to undertake investment business:	
A. Clients' Investment Agreement. A copy of the proposed management/investment agreement (if relevant).	
B. Insurance Policies. A copy of any insurance policies taken out by the applicant as described in Question 18 of this form.	

Application Form for a Banking Licence

APPENDIX 1**ACCOUNTANT'S CONFIRMATION IN CONNECTION WITH THE
APPLICATION FOR THE ISSUE OF A LICENCE UNDER SECTION 6 OF THE
BANKING ACT 1998**

Dear Sirs

We refer to the application by _____

("the Company") for the grant of authority to carry on a banking business under section 6 of the Banking Act 1998. A copy of the application form together with the related business plan are attached and initialled for identification purposes.

We would confirm that we:

- 1 are prepared to accept appointment as auditors to the Company and nominate _____ as the partner who will be responsible for signing off on the audit*;
- 2 carry Professional Indemnity Insurance for not less than £20 million;
- 3 consider that the information provided in respect of the business plan has been properly prepared on the basis of the assumptions made by the Directors of the Company for which they are solely responsible.

Yours faithfully

* Where the individual named here has not previously been nominated to, and accepted by, the Financial Supervision Commission as a person who has five years bank audit experience, details of the partner's post-qualification experience in bank auditing should be attached in a separate letter signed by the individual.

Application Form for a Banking Licence

APPENDIX 2

FINANCIAL SUPERVISION COMMISSION

THE BANKING ACT 1998 - SECTION 6

DECLARATION

This Declaration must be completed in ink in BLOCK CAPITALS or typed. It should be signed by two Directors or a Director and Company Secretary of the Applicant.

A Banking Licence under section 6 of the Banking Act 1998, will not be issued until a completed Declaration in this form has been received by the Financial Supervision Commission.

Name of Applicant _____

We declare that the information supplied in the application dated _____

and signed by _____

is complete and correct to the best of our knowledge at the time of this Declaration. We understand that any person who knowingly or recklessly gives information which is false in a material particular for the purpose of obtaining a licence commits an offence under the Banking Act 1998, and is liable to prosecution. We understand also that the provision of such information may invalidate this application or cause the Commission to withdraw any licence which may have been granted on the basis of it.

Signed _____ DIRECTOR

Name _____

Date _____

Signed _____ DIRECTOR/COMPANY SECRETARY

Name _____

Date _____

This Declaration should be returned to:-

Banking Supervisor
 Financial Supervision Commission
 P O Box 58
 Finch Hill House
 Bucks Road
 Douglas
 Isle of Man
 IM99 1DT

Application Form for a Banking Licence

DEFINITIONS

"Associate" in relation to an individual means -

- (a) the wife, husband, son, stepson, daughter, stepdaughter of that individual;
- (b) any body corporate of which that individual is a director; and
- (c) a partner or employee of that individual.

"Chief executive" means an individual who is employed by the banking institution and who either alone or jointly with others is or will be responsible under the immediate authority of the directors for the conduct of its business.

"Controller means" -

- (a) a managing director of a body corporate of which the banking institution is a subsidiary;
- (b) a chief executive of a body corporate of which the banking institution is a subsidiary;
- (c) an individual in accordance with whose directions or instructions one or more of the directors of a body corporate of which the banking institution is a subsidiary are accustomed to act unless the director or directors are accustomed to act by reason only that they do so on advice given by that person in a professional capacity;
- (d) an individual who either alone or with any associate or associates is entitled to exercise or control the exercise of 15% or more of the voting power at any general meeting of the banking institution or of another body corporate of which it is a subsidiary.

"Director" includes -

- (a) any individual occupying the position of director by whatever name called;
- (b) any individual in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity.

"Manager" means an individual employed by the banking institution who, under the immediate authority of a director or its chief executive -

- (a) exercises managerial functions; or
- (b) is responsible for maintaining the accounts or other records of the banking institution.