

3<sup>rd</sup> August 2015

**TRUST COMPANIES (LICENSING AND  
SUPERVISION) ORDINANCE**

**TRUST COMPANIES REGULATIONS 2015**

**ARRANGEMENT OF REGULATIONS**

REGULATION

1. Citation and commencement
2. Interpretation
3. Persons exempted from licensing under the Ordinance
4. Restricted trust companies
5. Restricted trust company in breach of licensing condition
6. Fees and charges
7. Transitional provisions

SCHEDULE 1: Licensing Exemptions

SCHEDULE 2: Fees and Charges

SCHEDULE 3: Transitional Provisions

**TRUST COMPANIES (LICENSING AND  
SUPERVISION) ORDINANCE**

**TRUST COMPANIES REGULATIONS 2015**

*(Legal Notice of 2015)*

MADE by the Governor under section 59 of the Trust Companies (Licensing and Supervision) Ordinance.

**Citation and commencement**

1. These Regulations may be cited as the Trust Companies Regulations 2015 and come into force on [date].

**Interpretation**

2. (1) In these Regulations—

“Code” means the Trust Companies Code;

“licensee” means a company that holds a licence issued under section 8 of the Ordinance, but excludes a private trust company;

“Ordinance” means the Trust Companies (Licensing and Supervision) Ordinance;

“restricted trust company” means a company that holds a restricted trust company licence issued in accordance with section 6(1)(b) of the Ordinance;

“unrestricted trust company” means a company that holds an unrestricted trust company licence issued in accordance with section 6(1)(a) of the Ordinance;

(2) Any word or phrase defined in the Ordinance has, unless the context otherwise requires, the same meaning in these Regulations.

**Persons exempted from licensing under the Ordinance**

3. (1) Persons specified in Schedule 1 are exempt from the requirement to obtain a licence under Part II of the Ordinance.

(2) A person ceases to be entitled to the exemption immediately the provisions or conditions specified in Schedule 1 cease to apply to that person.

### **Restricted trust companies**

**4.** (1) A restricted trust licence shall be granted only to a Turks and Caicos qualifying company that is—

- (a) a wholly owned subsidiary of an unrestricted trust company; or
- (b) is managed and administered by an unrestricted trust company.

(2) A restricted trust licence authorises the holder to act as trustee for one or more qualifying trusts.

(3) For the purposes of sub-regulation (2), a qualifying trust is a trust, the settlor of which is a person specified on the most recent list of settlors submitted by the restricted trust company to the Commission.

(4) The list submitted to the Commission under sub-regulation (3)—

- (a) shall contain the names of no more than four persons at any one time; and
- (b) may be amended by written notice submitted to the Commission.

(5) An amendment of the list of settlors to delete a person from the list shall be accompanied by a declaration made by the restricted trust company to the effect that it does not act as trustee of any trust for which the person to be deleted is the settlor.

(6) An amendment of the list of settlors takes effect 14 days after it has been received by the Commission, unless the Commission provides the restricted trust company with a notice of objection to the amendment.

### **Restricted trust company in breach of licencing condition**

**5.** (1) If a restricted trust company does not meet the applicable condition specified in regulation 4(1), it shall immediately notify the Commission in writing.

(2) A restricted trust company that does not meet the applicable condition specified in regulation 4(1) is considered to be in breach of the conditions attached to its licence and shall be subject to enforcement action under the Financial Services Commission Ordinance.

### **Fees and charges**

**6.** The fees and charges specified in Schedule 2 are payable to the Commission.

**Transitional provisions**

7. The transitional provisions in Schedule 3 have effect.

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**SCHEDULE 1**  
**LICENSING EXEMPTIONS**

*(Regulation 3)*

1. In accordance with section 4(3)(b) of the Ordinance, the following persons are exempted from the requirement to obtain a licence under the Ordinance—

- (a) a person, other than a corporation, when acting as the executor or administrator of the estate of a deceased person;
- (b) the trustee in bankruptcy of the estate of a bankrupt person; and
- (c) a person acting as solely as a bare trustee.

2. Subject to paragraph 3, for the purposes of paragraph 1(c), a bare trustee is a trustee who holds the trust property for the beneficiaries absolutely.

3. A trustee is not a bare trustee if either of the following apply—

- (a) the trustee has any discretion in relation to the trust property; or
- (b) the trustee has any powers in relation to the trust property beyond those powers necessary—
  - (i) to comply with the directions of the beneficiaries; or
  - (ii) to maintain ownership of the trust property.

4. The following Orders made under the Trustees Licensing Ordinance continue to have effect as if made as Regulations under the Ordinance, notwithstanding their repeal—

- (a) the Trustees Licensing (RBTT) Exemption Order;  
or
- (b) the Trustees Licensing (TCIB) Exemption Order.

**SCHEDULE 2**  
**FEEES AND CHARGES**

*(Regulation 6)*

The following fees and charges are payable under the Ordinance—

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|--|----------|
| 1. On application for an unrestricted trust company licence .....  | \$2,000  |
| 2. On application for a restricted trust company licence.....  | \$1,000  |
| 3. On registration of a private trust company.....   | \$1,000  |
| 4. Annually, on the 31 <sup>st</sup> March during the subsistence of the licence:  |          |
| (a) for an unrestricted licence.....   | \$20,000 |
| (b) for a restricted licence.....  | \$1,500  |
| (c) for a private trust company .....  | \$500    |
| 5. The application fee for an unrestricted or a restricted licence is payable whether the application is refused or granted.   |          |
| 6. If the applicant is a wholly owned subsidiary of a licensed trust company, the fee payable on application shall be one-fifth of the fee otherwise payable; and if a licensed trust company is a wholly owned subsidiary of another licensed trust company, the annual fee, including the proportion payable on grant of the licence, shall be one-tenth of the fee otherwise payable. |          |
| 7. When a licence is first granted, the annual fee payable for the initial year of the company's operations shall be the relevant annual fee indicated above, pro-rated from the month in which the licence is granted to the following 31 <sup>st</sup> March.  |          |

**SCHEDULE 3**  
**TRANSITIONAL PROVISIONS**

*(Regulation 7)*

1. For the purposes of this Schedule—
  - “commencement date” means the date that the Ordinance comes into operation;
  - “former Ordinance licensee” means a company that, immediately prior to the coming into force of the Ordinance, was holding a licence granted under the former Ordinance.
2. A former Ordinance licensee is deemed to have been granted a licence under the Ordinance on the coming into force of the Ordinance, as follows—
  - (a) where the person concerned is a TCI qualifying company that holds an unrestricted licence under the former Ordinance, that person is deemed to have been granted an unrestricted trust company licence under the Ordinance;
  - (b) where the person concerned is a TCI qualifying company that holds a restricted licence under the former Ordinance, that person is deemed to have been granted a restricted trust company licence under the Ordinance.
3. The Commission shall, within three months of the coming into force of the Ordinance, issue each person that is deemed under paragraph 1 to have been granted a licence under the Ordinance with a replacement licence issued under the Ordinance.
4. Section 10 of the Ordinance does not apply to a former Ordinance licensee.
5. The provisions of the Ordinance set out in the first column and described in the second column take effect against a former Ordinance licensee as provided in the third column instead of on the commencement date.

<b>Provision</b>	<b>Description</b>	<b>Takes Effect</b>
Section 21(1)(b), (c) and (e) and (3)	Certain provisions concerning governance framework	6 months after the commencement date
Section 22	Risk management strategy, policies,	6 months after the commencement

3<sup>rd</sup> August 2015

	procedures and controls	date
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MADE by the Governor this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

**PETER BECKINGHAM  
GOVERNOR**

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**EXPLANATORY NOTE**

*(This Note is not part of the Regulations)*

These Regulations prescribe—

- (a) the persons that are exempt from the requirement to obtain a license under the Ordinance; and
- (b) the fees and charges payable for the various licences under the Ordinance.

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