

APPROVED FORMS AND RELATED GUIDELINES

Meet the Regulator – 15th July, 2010

Panelists:

Brodrick S. Penn, Elton Lettsome, and Simone E. Martin



Overview

- Legislation
- Purpose of the Approved Forms and Guidelines.
- Completing the forms
- Additional information
- Steps to Submission
- Issues that may arise
- Questions



Legislation

- Section 41B of the Financial Services Act, 2001 empowers the Commission to approve forms to compliment regulatory legislation.



Purpose of the Approved Forms

- Updating forms to better reflect the information needed for applications.
- Achieving standardization between regulatory divisions.
- Addressing changes in the regulatory and legislative framework.



Guidelines

- States that Approved Forms are applicable to applicants seeking a regulatory licence.
- Provides relevant definitions and requirements for each section.



Guidelines

- Sets out guidance for effectively completing and submitting the forms.
- Divides the approved forms and clarifies each part to be completed according to regulatory activity.



Completing the Approved Forms

- General Part is applicable to all applicants and sets out the additional parts to be completed in each case!
- Ensure the application form is complete and accurate.
- Append all additional information that is required and label exhibits correctly.



Completing the Approved Forms

- Provide detailed comments where information to be provided is not known, or N/A where the question is not applicable.
- Seek clarification (not legal advice) from the Commission in the event of doubts.
- Don't forget the application fee!



Completing the Approved Forms – General Part

- To be completed by all applicants for a licence or certificate as a financial service provider.
- Classifies and categorizes the type of authorisation being sought.
- Identifies relevant Parts to be completed based on scope of business.



Completing the Approved Forms – Part 1

- To be completed by all applicants for a licence or certificate as a financial service provider.
- Requires
 - General Details (Name, R/A, Address, Constitution)
 - Experience in relevant business
 - Business Record (other jurisdictions, regulatory status)



Completing the Approved Forms – Part 1

- Requires
 - Details of Ownership Structure (name shareholder, number , type and value of shares, % voting rights).
 - Status of Shares – Liens or encumbrances
 - Details of Corporate Shareholders (name, beneficial owners)
 - Ownership by Trusts (copy of trust deed, beneficiaries, settlor(s), trustee(s) etc.



Completing the Approved Forms – Part 1

- Requires
 - Details of all directors and senior officers. Form A of the approved persons regime may be required to be appended.
 - Corporate Directors – name, as well as controlling director or individual (look through)
 - Financial Statements and Audit
 - First Accounting period, Year End
 - Accounting Standards
 - Approved Auditor?



Completing the Approved Forms – Part 1

- Requires
 - Copy of Compliance Procedures (Reg. Code)
 - Financial Resources and Insurance
 - Paid up capital
 - Capital held in other companies
 - Accounts of Holding Company
 - Professional Indemnity Cover (Reg. Code)
 - Business Plan (Reg. Code)



Completing the Approved Forms – Part 1

- Requires
 - Disclosure of regulatory, enforcement or other action.
 - Assessment of fitness and propriety of applicants and any of its officers



Completing the Approved Forms – Banking & Fiduciary Services

For applicants seeking to be licensed under the BTCA, including all Classes of Trust and Banking licences, complete:

- General Part
- Part 1
- Part 2
- Part 6



Completing the Approved Forms – Banking & Fiduciary Services

For applicants seeking to hold a
Company Management licence under
the CMA, complete:

- General Part
- Part 1
- Part 6



Completing the Approved Forms – Investment Business

- For applicants seeking an investment Business Licence, complete:
 - General Part
 - Part 1
 - Part 4 (5*)
 - Part 6



Completing the Approved Forms – Investment Business

- For applicants seeking Recognition as private or professional fund, complete:
 - General Part, Part 1 (Q1-5,10,11,15 & Parts 4, & 6)
- For applicants seeking registration as public fund, complete:
 - General Part, Part 1 (Q1-5, 9,10,11,15 & Parts 4, & 6)



Completing the Approved Forms – Investment Business

- Part 4 – Contents and Requirements
 - Section 1 - Place of Business, Place of Business outside BVI and Authorised Representative
 - Section II – Add'l information for managers/ administrators (includes details regulatory authorities, name & type of fund, details of bankers, resourcing, delegation arrangements)
 - Section III - Details of fund, including constitution details and details of functionaries



Completing the Approved Forms – Investment Business

- Part 4 – Contents and Requirements
 - Section IV - Add'l information Private or professional funds, particularly proof of the category within which it falls. For example constitutional documents restrictions or supporting declarations.
 - Additional details of Segregated portfolio companies such as auditor of SPC, list of portfolios.
 - Section V – Additional details of public funds such as promoters, where financial records kept, copy of agreements.



Fees – Investment Business

- Application Fees
 - SIBA Licensee - \$1000, except fund managers and administrators \$250 until 2011
 - Public Fund - \$500 (\$1000 in 2011)
 - Application fee for each category of licence
- Annual Fees
 - SIBA Licensee - \$1500, except fund managers and administrators \$500 until 2011

**After June 30th initial annual fee reduces by 50%



Completing the Approved Forms – Insurance Business

- Insurance Licence Applicants will need to complete:
 - General Part
 - Part 1 – Application for a Licence or Certificate as a Financial Services Business Provider
 - Part 3 – Additional information required in the case of an Insurance Licence Application
 - Part 5 – Additional Information the Applicant Wishes to Provide (*if needed*)
 - Part 6 - Declaration



Completing the Approved Forms – Insurance Business

- Insurance Intermediary's Licence, Insurance Broker's Licence and Loss Adjuster's Licence Applicants will need to complete:
 - General Part
 - Part 1 – Application for a Licence or Certificate as a Financial Services Business Provider
 - Part 5 – Additional Information the Applicant Wishes to Provide (*if needed*)
 - Part 6 - Declaration



Additional information

- Constitutional Documents
- Form A – for all senior officers and directors, not yet approved
- Professional service providers – Solicitors and Auditor
- Evidence of appropriate experience and adequate resources
- Part 5 Any additional information



Steps to Submission

- Manual / Hard Copies
- Electronic submission



Issues that may arise

- Errors and omissions
- Positive disclosure at Question 16 of the General Part – Fitness and Propriety
- Incomplete submissions



Issues that may arise

- Past negative compliance culture
- Incomplete responses to the Commission's further requests



Thank you!!!

Questions???



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