

VIRGIN ISLANDS
FINANCIAL SERVICES (MISCELLANEOUS EXEMPTIONS)
(AMENDMENT) REGULATIONS, 2011

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement.
2. Schedule amended.

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2011 NO. 37

**FINANCIAL SERVICES COMMISSION ACT, 2001
(No. 12 of 2001)**

**Financial Services (Miscellaneous Exemptions) (Amendment) Regulations,
2011**

[Gazetted 23rd June, 2011]

The Cabinet, acting on the advice of the Financial Services Commission and in exercise of the powers conferred by sections 40C and 62 of the Financial Services Commission Act, 2001 (No. 12 of 2001), makes these Regulations:

1. These Regulations may be cited as the Financial Services (Miscellaneous Exemptions) (Amendment) Regulations, 2011 and shall be deemed to have come into force on the 28th April, 2011.

2. The Financial Services (Miscellaneous Exemptions) Regulations, 2011 is amended in the Schedule by replacing paragraph (a) with the following:

**“(a) Exemptions Applicable to the Banks and Trust Companies Act, 1990
(No. 9 of 1990)**

1. An applicant for a restricted Class II or restricted Class III trust licence is exempt from providing the following particulars under the Banks and Trust Companies Act, 1990:

- Exemption from providing particulars to be specified in application for Classes II and III restricted trust licences.
No. 9 of 1990
- (a) names and addresses of all officers and managers;
 - (b) names and addresses of solicitors of the applicant, together with a letter from the solicitors confirming that they act for the applicant;
 - (c) names and addresses of auditors of the applicant, together with a letter from the auditors confirming that they act for the applicant;
 - (d) an undertaking in writing to provide and set apart a fully paid up capital, before or at the time the applicant commences business,

- (i) in such amount as the Commission may in its discretion determine; or
 - (ii) by a guarantee under seal of such amount given by a holding or parent or other company approved by the Commission;
- (e) annual accounts of the applicant's holding company, if any, for the preceding three years and thereafter annually duly audited and certified by an independent auditor;
 - (f) names of all subsidiary companies of the applicant with addresses of their registered offices;
 - (g) statement of assets and liabilities at the end of the month prior to the submission of the application certified by a director or senior officer of the applicant; and
 - (h) statement of capital of any company held, directly or through a subsidiary, as an asset of the applicant.

Exemption from appointing an auditor. No. 9 of 1991

2. A trust company that is the holder of a restricted Class II or restricted Class III trust licence is exempt from the requirement of appointing an auditor under section 17G of the Banks and Trust Companies Act, 1990.

Exemption for company providing director, officer and nominee shareholder services only. No. 9 of 1990.

3. (1) Where a company does not undertake any company management business other than the provision of

- (a) directors and officers, and
- (b) nominee shareholders,

for companies, the company is exempt from the requirement to obtain a licence by virtue of section 3 (2A) of the Banks and Trust Companies Act, 1990

(2) The exemption granted under sub-paragraph (1) does not apply to a company that is the subsidiary of a trust company which is the holder of a Class I, Class II or Class III trust licence under the Banks and Trust Companies Act, 1990.

(3) Where a company that is a Class I trust licensee is reclassified as a Class II trust licensee pursuant to section 10A of

the Banks and Trust Companies Act, 1990 and would have qualified for the exemption provided under sub-paragraph (1) but for the reclassification, the company

- (a) shall continue to benefit from the exemption under sub-regulation (1); and
- (b) is exempt from the restriction applicable in respect of a Class II trust licensee to carry out trust business only.”.

Made by the Cabinet this 15th day of June, 2011.

(Sgd.) Otto O’Neal,
Cabinet Secretary.