ARRANGEMENT OF RULES

Rule

1. Citation and commencement.
2. Schedule amended.
VIRGIN ISLANDS

STATUTORY INSTRUMENT 2015 NO. 66

TRADE MARKS ACT, 2013
(No. 9 of 2013)

Trade Marks (Amendment) Rules, 2015

[Gazetted 28th August, 2015]

The Cabinet acting in accordance with the advice of the Financial Services Commission pursuant to section 134 of the Trade Marks Act, 2013 (No. 9 of 2013), makes these Rules:

Citation and commencement

1. These Rules may be cited as the Trade Marks (Amendment) Rules, 2015 and shall come into force on the date the Trade Marks Act, 2013 is brought into force.

Schedule amended

2. The Schedule of the Trade Marks Rules, 2015 is amended by repealing Form TM22 and substituting the following Forms –

“FORMS TM22-A and TM22-B

[Rule 105 (1)]

APPLICATION FOR APPROVAL AS REGISTERED TRADE MARK AGENT

To the Financial Services Commission

Notes to person filling Form TM22-A or TM22-B

There are two Forms in relation to an application for registration as a trade mark agent. The first (Form TM22-A) relates to an individual who wishes to apply in his or her personal capacity to be approved as a registered trade mark agent. The second (Form TM22-B) relates to a company or partnership that wishes to apply for approval as a registered trade mark agent. It is important, therefore, that an applicant determines,
before filling either Form, in what capacity it wishes to submit an application – that is, either as an individual, or as a company or partnership – and thus ensure that the right Form is filled.

Where an applicant is a company or partnership, it must identify and provide in Form TM22-B the name of one individual within the company or partnership who has an appreciable knowledge of trade mark law. The identified individual must fill in the parts of the Form relative to him or her and make the appropriate declaration (in addition to the declaration by the company or partnership).

Before filling this Form, please ensure that you have read and understood the requirements and functions relative to the office of a registered trade mark agent. Your application will be assessed against the requirements outlined in sections 33 – 35 of the Trade Marks Act, 2013.

The fitness and propriety of an applicant will be assessed against the provisions of Schedule 1A of the Regulatory Code, 2009. A copy of the Code may be accessed on the Internet site of the Financial Services Commission at www.bvifsc.vg.

The question regarding whether an applicant has an appreciable knowledge of trade mark law or is competent to perform the duties of a trade mark agent is a matter to be determined by the Financial Services Commission at its sole discretion.

It is important that you provide an address for service and, in that respect you must have regard to rule 97 of the Trade Marks Rules, 2015. The address for service must be a physical address and only such address will be accepted. Similarly, the applicant filing either Form TM22-A or Form TM22-B must provide a physical address in the BVI.

Unless the filing of either Form is required by electronic means (if and when permitted), you may use additional sheet of paper to provide such additional information as may be required. If you use additional sheet of paper, you must number each additional sheet sequentially and indicate the number of additional sheets used. Other accompanying documents, such as certificates of qualification, must be similarly numbered.

FORM TM22-A
APPLICATION FOR APPROVAL AS TRADE MARK AGENT

Individual

1. Applicant’s Details
Title: ______  Surname: ___________________  First Name: ___________  Middle Name(s): ___________

Date of Birth: _______________  Place of Birth: ___________  Nationality: _______________

mm/dd/yyyy

Address
For service: __________________________________________________________

Passport No.: ___________  Social Security No.: _______________________________

Other Identification No. (Please specify): ______________________________________

Previous Name(s) (if any): ___________________________  Date of Name Change: ___________

mm/dd/yyyy

Reason for change: __________________________________________________________

2. **Is the applicant currently approved/or was approved by the Commission in any position**
   - Yes  
     Title ______________________________
   - No

   Date of Approval  ___________

   mm/dd/yyyy

3. **Education**

   Name of institution(s) attended  Degree/Diploma/Other Qualification  Date of Completion

   ___________________________________________  ___________________________________________  ___________

   ___________________________________________  ___________________________________________  ___________

4. **Membership in Professional Bodies**

   Organisation/Association  Membership Status (e.g. Student, Associate, Fellow, etc.)  Member Since  Membership Number (if applicable)

   ___________________________________________  ___________________________________________  ___________

   ___________________________________________  ___________________________________________  ___________

   ___________________________________________  ___________________________________________  ___________
5. Experience (Employment History for past seven years including current position if currently employed) (If there is relevant employment history spanning beyond seven years, that may be included)

(a) Position held: ____________________________ Period: ____________________________

Name of Employer: ____________________________ Nature of Business: ____________________________

Supervisor/Contact Person: ____________________________ Name of Regulator(s) (if any): ____________________________

Address: ____________________________ Outline responsibilities held: ____________________________

Tel: ____________________________ Fax: ____________________________ E-mail: ____________________________

Reason for leaving: Resignation Expiration of Contract Redundancy

Retirement Termination/Dismissal Other

If "Other", please specify:

If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:

_______________________________________________________________________________

_______________________________________________________________________________

(b) Position held: ____________________________ Period: ____________________________

Name of Employer: ____________________________ Nature of Business: ____________________________

Supervisor/Contact Person: ____________________________ Name of Regulator(s) (if any): ____________________________

Address: ____________________________ Outline responsibilities held: ____________________________

Tel: ____________________________ Fax: ____________________________ E-mail: ____________________________

Reason for leaving: Resignation Expiration of Contract Redundancy

Retirement Termination/Dismissal Other

If "Other", please specify:
If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:
_______________________________________________________________________
_______________________________________________________________________
_______________________________________________________________________

(c) Position held: ___________________________ Period: ___________________________

Name of Employer: ___________________________ Nature of Business: _____________________

Supervisor/Contact Person: ______________________ Name of Regulator(s) (if any): __________

Address: __________________________________ Outline responsibilities held: ________________

Tel: ___________________________ Fax: ___________________________ E-mail: __________________________

Reason for leaving: Resignation Expiration of Contract Redundancy
Retirement Termination/Dismissal Other

If "Other", please specify:
_______________________________________________________________________
_______________________________________________________________________
_______________________________________________________________________

If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:
_______________________________________________________________________
_______________________________________________________________________
_______________________________________________________________________

6. Fitness and Propriety

If you answer YES to any of the questions below you must supply full details by way of a written
attachment to the application:

Has an application for your regulatory approval ever been refused?  Yes  No

Have you ever been asked to resign, or been dismissed from any fiduciary position of trust?

Have you been refused, restricted in, or had suspended, the right to carry on a trade,
business or profession for which a specific licence, authorisation, registration,
membership or other permission is required?

Have you at any time been convicted of any criminal offence by any court in the Virgin
Islands or elsewhere?
Are you currently the subject of a criminal investigation or an extradition request?

Have you been found guilty of conducting any unauthorised regulated activity or been investigated for possible conduct of unauthorised regulated activity?

Have you, in the last ten years, been censured or disciplined by any professional body to which you belong or belonged, or been dismissed from office or employment or refused entry to any profession or occupation in the Virgin Islands or elsewhere?

Have you, in the last ten years, filed for bankruptcy or been adjudicated bankrupt by a court in the Virgin Islands or elsewhere?

Have you at any time failed to satisfy any debt due and payable to you as a judgment-debtor under an order of a court in the Virgin Islands or elsewhere?

Have you in the last ten years been found liable in a civil suit which elicited dishonest or unlawful conduct on your part?

Have you, in connection with the formation, control or management of any corporate, partnership or unincorporated institution within the last ten years been adjudged by a court in any jurisdiction civilly liable for any fraud, malfeasance or other misconduct by you towards such a body or company, or towards any members thereof?

Has anybody corporate, partnership or unincorporated institution with which you were associated as a director, shareholder or controller, anywhere, been compulsorily wound up or made any compromise or arrangement with its creditors where they did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it?

Has any body corporate, partnership or unincorporated institution with which you were associated as a director, shareholder or controller, anywhere, been fined or censured by any securities commission, banking commission or any similar regulatory commission or body?

7. **Declaration by Applicant**

I, ________________________________, do hereby declare that the personal information provided in this application is true and accurate and that all documents submitted with this application in respect thereof are authentic. I understand that providing false or misleading information in respect of this application may cause the Commission to deny the application and any subsequent applications which may be submitted on my behalf.

Signed by: ________________________________

Name (Print): ________________________________

Date: __________________

mm/dd/yyyy
FORM TM22-B
APPLICATION FOR APPROVAL AS TRADE MARK AGENT
Companies/Partnerships

1. Details of Applicant

Name of Entity: _________________________________________________________

Address for Service: ______________________________________________________

Certificate/Licence No. of Applicant: _________________________________________
(if regulated by the Financial Services Commission)

2. Contact Person(s): (if applicable)

Please provide details of the individual who should be contacted in relation to this application:

Name: _________________________________________________________________

Position: ___________________________ Telephone: ___________________________

Fax: ___________________________ E-mail: _________________________________

3. Details of an individual within the company/partnership who is knowledgeable in trade mark law:

Title: _____  Surname: ______________ First Name: ___________  Middle Name(s): ________

Date of Birth: ______________  Place of Birth: ___________  Nationality: ___________

mm/dd/yyyy

Passport No.: _______________  Social Security No.: ______________________________

Other Identification No. (Please specify): _________________________________

Previous Name(s) (if any): _______________________________ Date of Name Change: ___________

mm/dd/yyyy

Reason for change: _________________________________

Current address: _______________________________ Length of time resident at current address: _________

Date first resided: _______________________________ (mm/dd/yyyy)
Previous address(es): __________________________________ Resided from ___________ until ___________ (within last 10 yrs)
________________________________
________________________________

4. Relationship Between Applicant and Individual

What is the nature of the arrangement between the applicant and the individual identified as knowledgeable in trade mark law:

Employee: FT/PT
Group Employee: __________ Name of Group: ______________

Contract for services: __________ Partner/Sole Trader: __________ Other: __________

If you checked “Other”, or if the individual will be employed on a part-time basis, please provide details of terms of employment:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

5. Relationship with other Entities

Is the individual a director of any other entity? Yes No

If “Yes”, please specify:

a) the number of directorships held in relation to any regulated entities; ________________

b) the name of each regulated entity and the name and address of the regulatory authority under which each entity is licensed:

<table>
<thead>
<tr>
<th>Name of Regulated Entity</th>
<th>Name of Regulatory Authority</th>
<th>Address of Regulatory Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________</td>
<td>_____________________________</td>
<td>_______________________________</td>
</tr>
<tr>
<td>________________________</td>
<td>_____________________________</td>
<td>_______________________________</td>
</tr>
<tr>
<td>________________________</td>
<td>_____________________________</td>
<td>_______________________________</td>
</tr>
</tbody>
</table>


c) the number of directorships held in non-regulated entities: __________________________

d) the total number of directorships held (includes non-regulated entities): ______________

6. Education

<table>
<thead>
<tr>
<th>Name of institution(s) attended</th>
<th>Degree/Diploma/Other Qualification Received</th>
<th>Date of Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>____________________________</td>
<td>____________________________</td>
<td>___________</td>
</tr>
<tr>
<td>____________________________</td>
<td>____________________________</td>
<td>___________</td>
</tr>
</tbody>
</table>
7. Individual’s Membership in Professional Bodies

<table>
<thead>
<tr>
<th>Organisation/Association</th>
<th>Membership Status (e.g. Student, Associate, Fellow, etc.)</th>
<th>Member Since</th>
<th>Membership Number (if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

8. Experience (Employment History for past seven years including current position if currently employed) (If there is relevant employment history spanning beyond seven years, that may be included)

(a) Position held: ________________________________  Period: ________________________________

Name of Employer: ________________________________  Nature of Business: ________________________

Supervisor/Contact Person: ________________________________  Name of Regulator(s) (if any): ________________________

Address: ____________________________________________  Outline responsibilities held: ________________________

Tel: ________________________________  Fax: ________________________________  E-mail: ________________________________

Reason for leaving:  
Resignation  Expiration of Contract  Redundancy  
Retirement  Termination/Dismissal  Other

If "Other", please specify:

If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:

________________________________________________________________________
________________________________________________________________________

(b) Position held: ________________________________  Period: ________________________________

Name of Employer: ________________________________  Nature of Business: ________________________

Supervisor/Contact Person: ________________________________  Name of Regulator(s) (if any): ________________________

Address: ____________________________________________  Outline responsibilities held: ________________________
Tel: ______________________________ Fax: ___________________________ E-mail: ____________________________

Reason for leaving: Resignation Expiration of Contract Redundancy
Retirement Termination/Dismissal Other

If "Other", please specify:

If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:

_______________________________________________________________________
_______________________________________________________________________

(c) Position held: ______________________________ Period: ______________________________

Name of Employer: ______________________________ Nature of Business: ______________________________

Supervisor/Contact Person: ______________________________ Name of Regulator(s) (if any): _____________

Address: ______________________________ Outline responsibilities held: ______________________________

Tel: ______________________________ Fax: ___________________________ E-mail: ____________________________

Reason for leaving: Resignation Expiration of Contract Redundancy
Retirement Termination/Dismissal Other

If "Other", please specify:

If "Termination/Dismissal", please state the reason(s) for the termination or dismissal:

_______________________________________________________________________
_______________________________________________________________________

9. **Fitness and Propriety** *(To be completed by the individual identified as knowledgeable in trade mark law)*

If you answer YES to any of the questions below you must supply full details by way of a written attachment to the application:

Yes No
Has an application for your regulatory approval ever been refused?

Have you ever been asked to resign, or been dismissed from any fiduciary position of trust?

Have you been refused, restricted in, or had suspended, the right to carry on a trade, business or profession for which a specific licence, authorisation, registration, membership or other permission is required?

Have you at any time been convicted of any criminal offence by any court in the Virgin Islands or elsewhere?

Are you currently the subject of a criminal investigation or an extradition request?

Have you been found guilty of conducting any unauthorised regulated activity or been investigated for possible conduct of unauthorised regulated activity?

Have you, in the last ten years, been censured or disciplined by any professional body to which you belong or belonged, or been dismissed from office or employment or refused entry to any profession or occupation in the Virgin Islands or elsewhere?

Have you, in the last ten years, filed for bankruptcy or been adjudicated bankrupt by a court in the Virgin Islands or elsewhere?

Have you at any time failed to satisfy any debt due and payable to you as a judgment-debtor under an order of a court in the Virgin Islands or elsewhere?

Have you in the last ten years been found liable in a civil suit which elicited dishonest or unlawful conduct on your part?

Have you, in connection with the formation, control or management of any corporate, partnership or unincorporated institution within the last ten years been adjudged by a court in any jurisdiction civilly liable for any fraud, malfeasance or other misconduct by you towards such a body or company, or towards any members thereof?

Has anybody corporate, partnership or unincorporated institution with which you were associated as a director, shareholder or controller, anywhere, been compulsorily wound up or made any compromise or arrangement with its creditors where they did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it?

Has any body corporate, partnership or unincorporated institution with which you were associated as a director, shareholder or controller, anywhere, been fined or censured by any securities commission, banking commission or any similar regulatory commission or body?
10. Declaration by the Individual identified as Knowledgeable in Trade Mark Law

I, __________________________________, do hereby declare that the personal information provided in this application is true and accurate and that all documents submitted with this application in respect thereof are authentic. I understand that providing false or misleading information in respect of this application may cause the Commission to deny the application and any subsequent applications which may be submitted on my behalf.

Signed by: ______________________________

Name (Print): _____________________________

Date: __________

mm/dd/yyyy

11. Declaration by Applicant

I, __________________________________ , do hereby declare, on behalf of _____________________________ (name of entity) that the information provided in this application is, to our knowledge and belief, true and accurate and that all documents submitted with this application with respect to the applicant have been verified as authentic. I understand that providing false or misleading information in respect of this application may cause the Commission to deny the application and any subsequent applications which may be submitted on behalf of this applicant, and may cause enforcement action to be taken against us.

Signed by: ______________________________

Name (Print): _____________________________

On behalf of: ______________________________

Date: __________

mm/dd/yyyy"

Made by Cabinet this 28th day of August, 2015.

(Sgd.) Sandra Ward,
Cabinet Secretary.