

GUIDELINES FOR BANK LICENSING

1. The granting of a Banking Licence is discretionary: it is a privilege to be extended or withheld – it is not a right of any applicant. The key point of control in the regulation of the banking sector is when an application is being considered by the Licensing Authority. Applicants should understand that the proper investigation of their application may take some time and they should plan accordingly.
2. The supervision of banks engaged in cross-border operations requires close ongoing co-operation between the respective national supervisory authorities. Overseas Territories have taken steps to ensure that legal gateways exist within their banking legislation to permit a free exchange of regulatory information with other recognised banking supervisory authorities where such information will assist those authorities in carrying out their responsibilities.

LICENSING POLICY

3. The policy with respect to bank licensing, and except where the bank is predominantly locally owned and primarily doing business in the territory and those banks in Anguilla and Montserrat which are the subject to supervision by the Eastern Caribbean Central Bank, is as follows:
 - a) full banking activities will only be permitted by branches or subsidiaries of banks with a well established and proven track record and which are subject to effective consolidated supervision by their home supervisory authority.
 - b) off-shore banking will only be permitted by:
 - (i) branches or subsidiaries of banks with a well established and proven track record which are subject to effective consolidated supervision;
 - (ii) banks which, although not subsidiaries, are closely associated with an overseas bank, and which, by agreement, will be included within the consolidated supervision exercised by the overseas bank's home supervisory authority;
 - (iii) wholly-owned subsidiaries of acceptable non-bank corporations whose shares are quoted on a recognised stock exchange, where the objective of the subsidiary is to undertake in-house treasury operations only, and where such operations are fully consolidated within the published financial statements of the parent company.
4. Banks will only be granted licences if their place of incorporation, mind and management are within the same jurisdiction, or, in the case of a subsidiary, if the mind and management are located in the jurisdiction in which consolidated supervision is being exercised.

5. In line with internationally accepted good practice in relation to bank licence applications, the Licensing Authority should expect as minimum to be satisfied that:
 - a) the management has proven experience in a relevant field of banking;
 - b) the controllers are fit and proper people to undertake the functions envisaged and that the ongoing management will be competent;
 - c) the institution will conduct its business in a prudent fashion;
 - d) the institution has devised an appropriate and sustainable business plan;
 - e) adequate capital and other resources will be provided in relation to that business plan;
 - f) direct confirmation has been received from the supervisory authority in the country in which the institution or its proposed parent is incorporated, that the authority;
 - (i) consents to the establishment of the institution in the host territory;
 - (ii) will exercise consolidated supervision over the institution's overall activities, including within the host territory; and
 - (iii) will cooperate fully in the sharing of regulatory information with the Licensing Authority.
 - g) the applicant will appoint approved auditors who will perform audit work according to internationally accepted auditing standards.
 - h) the applicant will disclose to the Licensing Authority all information that the latter legitimately needs to fulfil its overall supervisory responsibilities.
6. A prerequisite for the maintenance of sound banking standards is careful consideration of the financial standing, overall probity, skills and reputation of new banking applicants. To this end, in addition to obtaining the formal consent referred to in paragraph 5 (f), the Licensing Authority will consult parent supervisory authorities about these aspects in relation to each new applicant seeking to establish a bank in the territory. This consultation is an essential part of the Authority's duty to cooperate with other supervisory bodies.
7. Any subsequent change of ownership once the licence has been granted, will require the prior approval of the Licensing Authority and will be subject to independent verification and checking by the Authority, similar in scope to that required of the original applicant.