ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

TRUST COMPANIES AND OFFSHORE BANKING ACT R.S.A. c. T60

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

Regulation	Citation	Page
TRUST COMPANIES AND OFFSHORE BANKING REGULATIONS *Revises R.A. 27/2002, in force 31 July 2002*	R.R.A. T60-1 *(15/12/2006)* *(15/12/2014)*	3
TRUST COMPANIES AND OFFSHORE BANKING (FEES) REGULATIONS *Revises R.A. 26/2002, in force 31 July 2002* *Consolidates— R.A. 15/2007, in force 31 July 2007* *R.A. 2/2008, in force 29 February 2008* *R.A. 35/2015, in force 24 December 2015*	R.R.A. T60-2 *(15/12/2006)* *(15/12/2008)* *(15/12/2014)* *(31/12/2022)*	23
PROHIBITION OF LICENSING OF SHELL BANKS REGULATIONS *Revises R.A. 26/2009, in force 30 September 2009*	R.R.A. T60-3 *(15/12/2010)* *(15/12/2014)* *(31/12/2022)*	27

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Revised Regulations of Anguilla: T60-1

TRUST COMPANIES AND OFFSHORE BANKING ACT, R.S.A. c. T60

TRUST COMPANIES AND OFFSHORE BANKING REGULATIONS

Note: These Regulations are enabled under section 33 of the Trust Companies and Offshore Banking Act, R.S.A. c. T60.[1]

(Am. in L.R. 15/12/2014)

Interpretation

1. In these Regulations—

"Act" means the Trust Companies and Offshore Banking Act;

"Inspector" has the same meaning as in the Act; and

"licensee" has the same meaning as in the Act.

Application for licence

2. (1) An application for a licence—

(a) under section 5 of the Act to carry on offshore banking business; or

(b) under section 11 of the Act to carry on general trust business;

shall be in the Form set out in Schedule 1.

(2) An application for a licence under section 11 of the Act to carry on restricted trust business shall be in the Form set out in Schedule 2.

Approval for changing principal office or to appoint agents

3. Every licensee seeking the approval of the Inspector to change the address of its principal office or to appoint an authorised agent shall make an application in the Form set out in Schedule 3.

Approval for the issue or transfer of shares and other interests

4. Every licensee seeking the approval of the Governor under section 22 of the Act[2] for the issue, transfer or other disposal of shares or other interests shall make an application for such approval in the Form set out in Schedule 4.

(Am. in L. R. 15/12/2014)

[1] This Note has been corrected to reflect the renumbering of the Act by Act 4 of 2013.
[2] This section has been corrected to reflect the renumbering of the Act by Act 4 of 2013.

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Approval for directors and other officers

5. Every licensee seeking the approval of the Inspector under section 23(2) of the Act[3] for the appointment of a director or other senior officer shall make an application in the Form set out in Schedule 5.

(Am. in L. R. 15/12/2014)

Exemption from approval

6. Every licensee seeking an exemption under section 23(3) of the Act[4] shall make an application in the Form set out in Schedule 6.

(Am. in L. R. 15/12/2014)

Advertising restricted

7. No licensee shall advertise its business in or outside Anguilla unless such licensee has submitted the text of such advertisement to the Inspector and obtained his prior approval.

Quarterly statement

8. Every bank licensed under the Act shall furnish to the Inspector quarterly statements of assets and liabilities as determined from time to time by the Inspector in addition to the audited accounts referred to in section 28 of the Act[5].

(Am. in L. R. 15/12/2014)

Citation

9. These Regulations may be cited as the Trust Companies and Offshore Banking Regulations, Revised Regulations of Anguilla, T60-1.

_____

[3] This section has been corrected to reflect the renumbering of the Act by Act 4 of 2013.
[4] This section has been corrected to reflect the renumbering of the Act by Act 4 of 2013.
[5] This section has been corrected to reflect the renumbering of the Act by Act 4 of 2013.

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SCHEDULE 1

(Section 2(1))

APPLICATION FOR AN OFFSHORE BANK OR GENERAL TRUST COMPANY LICENCE IN ANGUILLA

1. Name of applicant, who will be carrying on the business:

2. Address in Anguilla of the principal office of the applicant and its registered office:

3. The names of all shareholders, including beneficial shareholders and details of percentage of shareholding:

4. The names of all directors, senior officers and managers:

5. Names and addresses of attorneys of the applicant, together with a letter from such attorneys confirming that they act for the applicant:

6. Names and addresses of auditors of the applicant, together with a letter from such auditors confirming that they act for the applicant:

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7. The name and address of 2 of its officers who are authorised agents in Anguilla to accept on behalf of the applicant service of process and any notices required to be served on it:

8. Evidence of proper incorporation of any corporate shareholder of the applicant in its home country, if applicable:

9. Evidence in writing that the applicant is a fit and proper person to carry on offshore bank or general trust company business as appropriate:

10. Evidence in writing regarding the provision of fully paid-up capital as required by the Act:

11. Annual audited accounts of the applicant or of the corporate shareholders of the applicant, if any, for the preceding 3 years:

12. Names of all subsidiary companies of the applicant with addresses of their registered offices:

13. In the case of a foreign company, a copy of the act, charter, certificate of incorporation or memorandum and articles of association or by-laws or partnership agreement of the applicant, as may be appropriate, verified by an affidavit sworn by a director or partner, together with a certificate of good standing:

14. Details of the applicant's main bankers:

15. Statement of assets and liabilities at the end of the month immediately prior to the submission of the application, certified by a director or senior officer, if applicable:

16. Statement of the capital of any other company held, directly or though a subsidiary, as an asset of the applicant:

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17. Business plan covering the following—

(a) Background and experience of the applicant and of the applicant's shareholders if applicable;

(b) Overview of the proposed business activities, including proposed volumes of business;

(c) Administration of the business, including proposed staffing levels, due diligence and 'know your customer' controls;

(d) Reasons for choosing Anguilla to set up the business.

18. Please attach the prescribed application fee (US$500):

19. Addendum to this Application is to be completed by each shareholder, beneficial shareholder, director and comptroller, if not a director, and such other person(s) as Financial Services may require and to be filed with this application.

ADDENDUM

INFORMATION IN SUPPORT OF AN APPLICATION FOR AN OFFSHORE BANK OR GENERAL TRUST COMPANY LICENCE IN ANGUILLA

Details required from each shareholder, beneficial shareholder or director of an applicant company, and comptroller, if not a director and such other person(s) as Financial Services may require.

1. Full name:

2. Former name (if different from name given above):

3. Date and place of birth:

4. Nationality (if naturalised attach a copy of the naturalisation certificate, and state former nationality):

5. Full home address at present time:

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6. List home addresses in full for previous 5 years where different from that given above, and give the related dates:

7. Marital status. If married give full name of spouse including maiden name of wife:

8. Passport particulars (enclose copy of relevant pages):

9. Give full details of your profession or occupation over the past 10 years; include the names and addresses of all employers and the nature of your employment and give all relevant dates and state briefly the reasons for changes:

10. Give a list of all companies in which you have held or hold an interest of 25% or more during the past 10 years. Give brief particulars of the nature of the business of all such companies:

11. Give details of academic and professional qualifications and date(s) obtained:

12. Have you ever been employed in, or had an interest in—

(a) a financial services activity; or
(b) a gambling activity in any country? (State YES or NO).

13. In relation to the proposed offshore bank or general trust company operation are you acting wholly or partly as a nominee or agent for, or trustee of another person, persons or organisations? (State YES or NO):

If YES, give the name and address of the person, or persons, or organisations and the precise nature of your relationship and/or the arrangement:

14. Give the full details of your financial interest in the proposed offshore bank or general trust company operation, and the percentage ownership that this will represent:

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15. Have you or your spouse ever been declared bankrupt or been the subject of a bankruptcy petition, or ever received a judgment against you in a civil court? (State YES or NO):

If YES give full details:

16. Has any company or firm of which you or your spouse was a partner, director or comptroller been the subject of a winding up petition? (State YES or NO):

17. Have you ever applied for a financial service licence in any other jurisdiction? (State YES or NO):

If YES state type of licence, name of company, location and period held and where granted:

18. Have you ever been refused a financial services licence or had an interest in any group which has been refused a licence or related finding of suitability? (State YES or NO):

If YES to either of the above, state where, when and for what reason:

19. Have you ever appeared before any licensing agency or similar authority for any reason whatsoever? For example, as a witness. (State YES or NO):

If YES provide details:

20. Have you as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a party to a lawsuit as either a plaintiff or defendant as a result of misconduct? (State YES or NO):

If YES give details below: (List all cases without exception, including bankruptcies):

Plaintiff/Defendant:

Court and Case Number:

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Location:

Result:

21. (a) Have you ever been convicted of any criminal offence in any country (excluding MINOR traffic offences); or

(b) Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offence of which the result is still pending:

If you have answered YES to either (a) or (b) please give details. (List all cases without exception):

Date of Conviction or Arrest or Detention or Charge or Indictment or Summons:

Age:

Charge:

Location:

Result:

22. Will you participate actively in the management or operation of the proposed offshore bank or general trust company operation? (State YES or NO):

If YES give full details:

23. Has your interest in the proposed offshore bank or general trust company operation been assigned, pledged or hypothecated to any person, persons, firms, partnerships or companies; or have you entered into any agreement, whereby your interest is to be assigned or pledged or sold either wholly or in part? (State YES or NO):

24. Have you made any arrangements for persons, firms or companies to advance money, or other equity, to you to assist in financing your investment in the proposed offshore bank or general trust company operations? (State YES or NO):

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25. Do your assets exceed your liabilities, including contingent liabilities, and are they likely to remain so for the foreseeable future? (State YES or NO):

26. Explain how you intend to finance your investment in the proposed offshore bank or general trust company operation, if applicable:

27. Give below any further information relating to your finances which you wish to be taken into account:

28. Give the names, addresses and telephone numbers of 3 referees. Referees should not be relatives or business associates. They should be told that the Government of Anguilla might wish to contact them.

Declaration

I certify that to the best of my knowledge and belief the information given in this form is complete and correct.

Date: Signed:

AUTHORISATION TO SEEK ADDITIONAL INFORMATION

I/We hereby authorise you to contact all relevant authorities and authorise said authorities to provide you with whatever information you may request.

(Signed)

_____

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SCHEDULE 2

(Section 2(2))

APPLICATION FOR A RESTRICTED TRUST COMPANY LICENCE IN ANGUILLA

1. Name of applicant, who will be carrying on the business:

2. Address in Anguilla of the principal office of the applicant and its registered office:

3. The names of all shareholders, including beneficial shareholders and details of percentage of shareholding:

4. The names of all directors:

5. The name and address of 2 of its officers or other persons who are authorised agents in Anguilla to accept on behalf of the applicant service of process and any notices required to be served on it:

6. Evidence in writing that the applicant is a fit and proper person to carry on restricted trust company business:

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7. Evidence in writing regarding the provision of fully paid-up capital:

8. Details of the applicant's main bankers:

9. Business plan covering the following—

(a) Background and experience of the applicant and of the applicant's shareholders if applicable;

(b) Administration of the business, including proposed staffing levels and due diligence controls;

(c) Reasons for choosing Anguilla to set up the business.

10. Please attach the prescribed application fee (US$500):

11. Addendum to this Application is to be completed by each director and such other person(s) as Financial Services may require and to be filed with this application.

ADDENDUM

INFORMATION IN SUPPORT OF AN APPLICATION FOR A RESTRICTED TRUST COMPANY LICENCE IN ANGUILLA

Details required from each shareholder, beneficial shareholder or director of an applicant company, and comptroller if not a director and such other person(s) as Financial Services may require.

1. Full name:

2. Former name (if different from name given above):

3. Date and place of birth:

4. Nationality (if naturalised attach a copy of the naturalisation certificate, and state former nationality):

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5. Full home address at present time:

6. List home addresses in full for previous 5 years where different from that given above, and give the related dates:

7. Marital status. If married give full name of spouse including maiden name of wife:

8. Passport particulars (enclose relevant pages).

9. Give full details of your profession or occupation over the past ten (10) years; include the names and addresses of all employers and the nature of your employment and give all relevant dates and state briefly the reasons for changes:

10. Give a list of all companies in which you have held or hold an interest of 25% or more during the past 10 years. Give brief particulars of the nature of the business of all such companies:

11. Give details of academic and professional qualifications and date(s) obtained:

12. Have you ever been employed in, or had an interest in—

(c) a financial services activity; or
(d) a gambling activity in any country? (State YES or NO)

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13. In relation to the proposed restricted trust company operation are you acting wholly or partly as a nominee or agent for, or trustee of another person, persons or organisations? (State YES or NO):

If YES, give the name and address of the person, or persons, or organisations and the precise nature of your relationship and/or the arrangement:

14. Give the full details of your financial interest in the proposed restricted trust company operation, and the percentage ownership that this will represent:

15. Have you or your spouse ever been declared bankrupt or been the subject of a bankruptcy petition, or ever received a judgment against you in a civil court? (State YES or NO):

If YES give full details:

16. Has any company or firm of which you or your spouse was a partner, director or comptroller been the subject of a winding up petition? (State YES or NO):

17. Have you ever applied for a financial services licence in any other jurisdiction? (State YES or NO)

If YES state type of licence, name of company, location and period held and where granted:

18. Have you ever been refused a financial services licence or had an interest in any group which has been refused a licence or related finding of suitability? (State YES or NO):

If YES to either of the above, state where, when and for what reason:

19. Have you ever appeared before any licensing agency or similar authority for any reason whatsoever? For example, as a witness. (State YES or NO):

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If YES provide details:

20. Have you as an individual, member of a partnership, or owner, director or officer of a corporation, ever been a party to a lawsuit as either a plaintiff, or defendant as a result of misconduct? (State YES or NO):

If YES give details below: (List all cases without exception, including bankruptcies):

Plaintiff/Defendant:

Court and Case Number:

Location:

Result:

21. (a) Have you ever been convicted of any criminal offence in any country (excluding MINOR traffic offences); or

(b) Have you ever been arrested, detained, charged, indicted or summoned to answer for any criminal offence of which the result is still pending:

If you have answered YES to either (a) or (b) please give details. (List all cases without exception):

Date of Conviction or Arrest or Detention or Charge or Indictment or Summons

Age:

Charge:

Location:

Result:

22. Will you participate actively in the management or operation of the proposed restricted trust company? (State YES or NO):

If YES give full details:

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23. Has your interest in the proposed restricted trust company operation been assigned, pledged or hypothecated to any person, persons, firms, partnerships or companies; or have you entered into any agreement, whereby your interest is to be assigned or pledged or sold either wholly or in part? (State YES or NO):

24. Have you made any arrangements for persons, firms or companies to advance money, or other equity, to you to assist in financing your investment in the proposed restricted trust company operations? (State YES or NO):

25. Do your assets exceed your liabilities, including contingent liabilities, and are they likely to remain so for the foreseeable future? (State YES or NO):

26. Explain how you intend to finance your investment in the proposed restricted trust company operation:

27. Give below any further information relating to your finances which you wish to be taken into account:

28. Give the names, addresses and telephone numbers of 3 referees. Referees should not be relatives or business associates. They should be told that the Government of Anguilla might wish to contact them.

Declaration

I certify that to the best of my knowledge and belief the information given in this form is complete and correct:

Date: Signed:

AUTHORISATION TO SEEK ADDITIONAL INFORMATION

I/We hereby authorise you to contact all relevant authorities and authorise said authorities to provide you with whatever information you may request.

(Signed)

_____

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SCHEDULE 3

(Section 3)

NOTICE OF PRINCIPAL OFFICE AND AUTHORISED AGENTS

Date: _____

Ref: _____

To: Inspector of Trust Companies and Offshore Banks
Financial Services
P.O. Box 60
The Valley
Anguilla

Dear Sir,

Re:

We hereby notify you that we propose to change our principal office and/or authorised agents in Anguilla as follows.

Approval is requested for these changes.

1. Principal office:

2. Authorised agents (2):

   a) Name:

      Address:

   b) Name:

      Address:

We enclose herewith from each of the above-named persons a written consent to act as an authorised agent.

Yours faithfully,

_____

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SCHEDULE 4

(Section 4)

APPLICATION FOR APPROVAL OF ISSUE OR TRANSFER OF SHARES OR OTHER INTERESTS

Date: _____

Ref: _____

Inspector of Trust Companies and Offshore Banks
Ministry of Finance
P.O. Box 60
The Valley
Anguilla

Dear Sir,

Re:

We apply herewith for approval of the issue/transfer/other dispositions* of shares/other interests* in the above-mentioned company.

Name and address of allottee or transferee of shares or other interests*

_____

_____

_____

If the interests being issued, transferred or otherwise disposed of are not shares, please give a description thereof*

_____

_____

_____

Number of shares and percentage of total interests to which application relates

_____

_____

Addendum to Schedule 1 of these Regulations may need to be completed by any new allottee or transferee.

Yours faithfully,

* Complete and/or delete as appropriate.

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SCHEDULE 5

(Section 5)

APPLICATION FOR APPROVAL OF DIRECTORS AND OTHER OFFICERS

Date: _____

Ref: _____

Inspector of Trust Companies and Offshore Banks
Financial Services
P.O. Box 60
The Valley
Anguilla

Dear Sir,

Re:

We apply herewith for your written approval for the appointment of

_____* as a director of this licensed institution

_____* as a senior officer of this licensed institution to hold the title of

_____*

We attach herewith Addendum to Schedule 1 of these Regulations, completed with respect to the aforementioned person(s).

Yours faithfully,

* Complete and/or delete as appropriate

_____

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SCHEDULE 6

(Section 6)

APPLICATION FOR AN EXEMPTION UNDER SECTION 23(3) OF THE ACT[6]

Date: _____

Ref: _____

Inspector of Trust Companies and Offshore Banks
Financial Services
P.O. Box 60
The Valley
Anguilla

Dear Sir,

Re:

We apply herewith for an exemption from the provisions of section 23(2) of the Act[7] which requires the prior written approval of the Inspector to appoint a director or other senior officer.

The reasons for this application are as follows:

_____

_____

_____

_____

_____

Yours faithfully,

(Am. in L. R. 15/12/2014)

_____

[6] This Schedule has been corrected to reflect the renumbering of the Act by Act 4 of 2013.
[7] This Schedule has been corrected to reflect the renumbering of the Act by Act 4 of 2013.

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