



BULLETIN:

APPLICATION FOR LICENSING OF SERVICE PROVIDERS

The Financial Services Commission
39-43 Barbados Avenue
Kingston 5, Jamaica W.I.
Telephone: (876) 906-3010

May 2022



LEGISLATIVE REFERENCES:	The Trust and Corporate Services Providers TCSP Act, 2017 Section 6
	The Trust and Corporate Services Providers (Licensing and Operations) Regulations, 2022 Regulations 4, 24

1 PURPOSE

- 1.01** Section 5(1) of the Trust and Corporate Services Providers Act, (the “TCSP Act”) provides that, a person shall not provide or hold himself out as being capable of providing corporate services or trust services except where such a person is a licensee operating under and in accordance with a licence issued under the TCSP Act.
- 1.02** Persons applying for a license to provide trust and corporate services are required to appoint a principal representative whose function is to ensure that the licensee complies with the TCSP Act. The principal representative must also be registered by the Financial Services Commission (the “FSC”) pursuant to section 17A of this Act.
- 1.03** The application forms specified by the FSC must be used by every person, firm, or company seeking to be licensed under the TCSP Act and by every principal representative as the case requires pursuant to the powers of the FSC specified in sections 6(1) and 6(2) of the TCSP Act.
- 1.04** The FSC will use the information submitted in an application to determine whether an applicant satisfies the requirements to be licensed or registered as the case requires and also whether the grant of a licence or registration ought to be subject to any terms, conditions, and restrictions in keeping with section 6(7) of the TCSP Act.
- 1.05** The purpose of this bulletin is to assist applicants to submit an application that meets all the requirements for acceptance by the FSC.

2 TRANSITIONAL PROVISION

- 2.01** An individual, firm, or company that was providing corporate and/or trust services immediately before the TCSP Act and the associated Regulations came into force, is permitted to continue business

provided that an application for a licence is made within twelve months after the appointed day which is April 25, 2022, or such other period as may be specified by the FSC.

- 2.02** It is only if a person makes an application as aforesaid, in compliance with section 49(1) of the TCSP Act, that the person may in compliance with the provisions of the TCSP Act continue to provide the relevant service, pending the determination of the application.
- 2.03** Section 5(2) of the TCSP Act makes it an offence for a person to provide or hold himself out as capable of providing corporate services or trust services in contravention of the licensing requirement under section 5(1). A person who commits an offence under section 5(1) is liable on conviction to a fine not exceeding \$2,000,000 or to imprisonment not exceeding two years or to both the fine and imprisonment.

3 ELIGIBILITY CRITERIA FOR LICENSING

- 3.01** Section 6(4) of the TCSP Act sets out the matters with which the FSC must be satisfied before granting a licence, these are that:
- (i) The applicant must be a resident of Jamaica if an individual.
 - (ii) If not an individual, the applicant is:
 - Incorporated under the Companies Act
 - Registered under Part X of the Companies Act
 - Otherwise registered by the Registrar of Companies
 - Otherwise incorporated or formed under the Laws of Jamaica; or
 - Is approved by the Minister, by order, published in the Gazette.
 - (iii) Each relevant person¹ is fit and proper within the meaning of section 7 of the TCSP Act;
 - (iv) The applicant has appointed a Principal Representative who is fit and proper within the meaning of section 7 of the TCSP Act.
- 3.02** Notwithstanding the foregoing, the FSC is empowered under section 6(3) to require an applicant to furnish such additional information or documents as it may specify.

4 MAKING AN APPLICATION

- 4.01** An application for a licence to provide corporate services or trust services must be made using the applicable form (FORM 1:APPL/TCSP or FORM 1A: APPL/TCSP) as the case requires. Similarly, the application for registration of a principal representative appointed by an applicant or licensee must be submitted using FORM 1:APPL/TCSP provided by the FSC.
- 4.02** The application form must be completed in keeping with the instructions contained therein and other guidance provided by the FSC. Submission of the application to the FSC by a person who has been providing a corporate or trust service immediately before April 25, 2022, should be done by the deadline stated in the TCSP legislation or such other date as may be extended by the FSC.

¹ Each officer (director, secretary or senior executive, by whatsoever name called, of the applicant firm, company or other entity); each person beneficially entitled (directly or indirectly and whether alone or in association with others) to the prescribed percentage of the issued shares or other ownership interest in the applicant or a licensee; in the case of a partnership, each general partner; and the applicant's manager, assistant manager and accountant.

4.03 Fees

- (i) The non-refundable fee of \$15,000 must be paid when applying to obtain a trust service provider's licence, a corporate service provider's licence, or a trust and corporate service provider's licence. In respect of a principal representative a non-refundable fee of \$150,000 for registration of the appointed Principal Representative must be paid upon request by the FSC.
- (ii) A licensee shall while the licence continues in force, annually on or before the anniversary of the grant of the licence, pay to the FSC the appropriate fee prescribed in the First Schedule. Payment of the specified amount in full must be accompanied by a declaration in the form (FORM 4) and manner specified by the FSC.
- (iii) The FSC may send to each licensee via email a reminder regarding payment of the annual renewal fees and submission of the completed FORM 4. Notwithstanding this, each licensee and registrant is responsible for complying with the requirements of the legislation to keep their licence or registration in force.

4.04 Attachments and Supporting Documents

Where the information required is in the form of a separate document or is required to be attached to the application, the attachment must be appropriately, and where necessary, sequentially marked through numbering or lettering in the form of exhibits to enable proper reference and to facilitate the consideration of the application.

4.05 References

- (i) A first-time applicant or an applicant currently registered or licensed by the FSC whose previous application was not approved by the FSC within the last five or seven years, as the case requires, are required to submit, as part of their application for registration or licensing the name and full contact details of two character references, who must not be a relative or connected with the applicant's current employer in any capacity other than as a customer.
- (ii) References must be provided in original form, and in the case of a body corporate be provided on the letterhead of the entity with the name and title of the signatory clearly presented and be dated within three months of receipt of the application by the FSC.
- (iii) References from individuals must be signed and give the signatory's name, title, address (including mailing and street addresses), telephone and facsimile numbers, and official email address.
- (iv) In the case of a character or professional reference, the referee must have known the applicant for a period of not less than five years and the nature of the relationship must be disclosed. The reference must address the applicant's honesty, integrity and reputation as well as the competence and capability of the applicant for the proposed role or relevant persons connected with the applicant.
- (v) Where a character reference is provided by an individual, the identity of that individual should be known to the FSC and /or verifiable.

4.06 Certification of Documents

Where any document requires certification, it must be certified as a true copy by any of the following and the certification must not be more than three months before the date of submission of the documents:

- an Attorney-at-law
- a Minister of religion
- a Notary Public (applicants based overseas must only use this category of persons)
- The quorum of the trustees (concerning pension plans only)
- A Superintendent of Police or any rank above that of a superintendent
- Justice of the Peace

4.07 Incomplete Submissions

- (i) **Where an application for registration or licensing submitted to the FSC omits any of the required information or documents or the prescribed fee payable, the package will be deemed not to have satisfied the requirements for an application and hence will be returned as incomplete by the FSC. The application package will be sent to the applicant or their agent as applicable if submitted through the post or hand-delivered; and the non-refundable application fee submitted will be retained by the FSC to recover the cost associated with carrying out the inspection of the application. The applicant will also be informed of the missing information or documentation.**
- (ii) **Where an applicant is unable to provide certain documents or information at the application stage, the applicant must notify the FSC in writing by way of a voluntary declaration of such documents or information and give justification for the inability to provide the same. In such a case, the FSC may require the applicant to provide any other information to facilitate its assessment or to inform the applicant that it is unable to proceed with the assessment of the application in the absence of the required information.**
- (iii) **Where any documents required to be certified, signed, or sealed by designated persons are not certified, signed, or sealed accordingly, the application will be deemed not to have satisfied the requirements and hence also be returned in its entirety, save and except for the application or processing fee paid.**
- (iv) **The applicant may resubmit the application, paying the relevant fee again.**

5 METHODS OF SUBMISSION OF APPLICATIONS

5.01 The following constitute acceptable methods by which applications for registration or a licence may be submitted:

- (a) Post or hand delivery to the offices of the FSC at 39-43 Barbados Avenue, Kingston 5. Application packages must be clearly marked "Application for Registration" or "Application for a Licence" and be directed to the attention of the Registration, Corporate & Trust Services Division ("RCTS"). An application submitted via this method will be treated as being received on the actual date it is received.
- (b) Electronic mail to the specified e-mail address of the FSC for the attention of the RCTS and Records Department together with such documents as are required to be submitted by post or hand-delivered. An application submitted via this mode will be treated as being received on the actual date all required documents are received.

- (c) Online submission via the appropriate systems/portals specified and accessible from the FSC's website. An application made online will be deemed received on the day that the FSC's digital information management system for receipt of applications, when available, records the application as being made.

6 REQUEST FOR ADDITIONAL INFORMATION

- 6.01** It should be noted that the FSC, in the exercise of its general powers to determine fitness and propriety, reserves the right to seek clarification or request additional information from an applicant. Where such a clarification is sought or a request is made, consideration of the relevant application may be suspended until the clarification sought or requested information is received.
- 6.02** **Where an applicant does not provide the requested information or documentation within the timeframe specified in the FSC's letter (90 days of the request), or a revised date agreed in writing by the FSC at the request of the applicant, the application will be closed as incomplete. The applicant may, however, reapply by submitting a new application including all applicable fees.** It is therefore essential that where, for any reason, clarification sought or requested information is not available or cannot be provided, that fact is notified to the FSC as quickly as possible and in any event not later than five days of becoming so aware to enable the FSC to dispose of the application appropriately.

7 PROVIDING ADDITIONAL INFORMATION

- 7.01** Where there is a change in the documents or information of an application, the applicant must no later than five days after such change, inform the FSC of the change and the date on which the change occurred, in the form and manner determined by the FSC.
- 7.02** Full and accurate disclosure is essential to the due processing of an application. In this regard, it is incumbent on an applicant to disclose the details of any change in respect of any matter specified in the application form and the Fit and Proper Questionnaire.

8 EFFECTING CORRECTIONS TO A COMPLETED APPLICATION FORM

- 8.01** If, after applying, an applicant becomes aware that information provided in or in relation to the application has changed or is inaccurate or may be misleading, the applicant is required to notify the FSC of that fact within five days of becoming aware of the change pursuant to regulation 4 of the Trust and Corporate Services Providers (Licensing and Operations) Regulations, 2022. The applicant should identify the changed, inaccurate, or misleading information and provide the changed or accurate information.
- 8.02** Where it comes to the knowledge of the FSC after granting a licence that the applicant had been aware of any changes, inaccurate, or misleading information in or in relation to the application before the granting of the licence which, had the FSC been notified of in a timely manner, might have affected the FSC's decision concerning the application, the FSC may take steps to revoke its grant of the licence in addition to taking any other available enforcement action under, but not limited to, the Financial Services Commission Act, 2001.

9 FITNESS AND PROPRIETY ASSESSMENT

Individual applicants for a licence or registration and persons connected with a corporate applicant who are not required to apply for registration or a licence but must satisfy the fit and proper criteria (see the Guidelines: Fitness

and Propriety – RCTS-GUI2022/05-0007) are required to submit a Fit and Proper Questionnaire together with such other documents as are specified in Part 9 of the relevant application forms for relevant persons, including managers, assistant managers, and the accountant for the FSC's review of their fitness and propriety.

10 INSURANCE COVERAGE

Evidence of insurance coverage must be submitted with an application for the initial grant of a licence. If the coverage is not yet in place, you are required to submit a quote obtained with the application. It should also be noted that a copy of the insurance document is required to be submitted before the issuance of a licence.

11 PROCESSING OF APPLICATION

11.01 Applications received by the FSC will be processed by the Registration, Corporate & Trust Services Division for the consideration of the Board of Commissioners. The FSC will endeavour to process all applications with complete information and communicate its decisions to the applicants in a timely manner within the framework of its Customer Service Standards ("CSS"). However, the time taken to process an application will depend on the particular circumstances of each application taking into account the quality of the documentation submitted, for example about the applicant's internal control environment.

11.02 CSS may vary based on the type of authorization applied for and the complexity of the applicant's business.

12 THE OUTCOME

12.01 Where an applicant has satisfied the requirements for licensing the FSC will approve the application and inform the applicant in writing of the services they are authorized to provide and the licence fee that is payable before the grant of the licence and annually thereafter. Once payment of the licence fee is made the FSC will, in respect of a person who has not been carrying on a service provider business prior to making an application, issue correspondence permitting the person to carry on the services for which authorization was sought while awaiting the issuance of the licence.

12.02 A licence to provide corporate and/or trust services is not transferable.

12.03 If an application is refused, the applicant will be informed in writing of the refusal, the reasons for the refusal, and be offered an opportunity to be heard.

13 DISPLAY OF LICENCE

13.01 A licensee is required to prominently display the licence granted in a part of the principal office to which the public has access. A copy of the licence must also be similarly displayed at each of the licensee's branches in Jamaica as well as on, or on a link from, the home page of any website administered, hosted or supported by the licensee in connection with its corporate and/or trust service provider business.

13.02 It is an offence, without lawful excuse, to fail to display the licence granted as stated above. A licensee who fails to comply is liable on summary conviction in a Parish Court, to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to imprisonment for a term not exceeding three months.

Questions regarding this bulletin may be directed to the:

Registration, Corporate & Trust Services Division

The Financial Services Commission

39-43 Barbados Avenue

Kingston 5

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