

**The Trust and Corporate
Services Providers Act, 2017
And
The Trust and Corporate
Services Providers
(Licensing and Operations)
Regulations, 2022**

**LICENSING AND
REGISTRATION**

**THE FINANCIAL SERVICES
COMMISSION'S ROLE IN THE
TRUST AND CORPORATE SERVICES
PROVIDERS INDUSTRY**

The Financial Services Commission (the "FSC") is responsible for the administration of the Trust and Corporate Services Providers Act, 2017 ("TCSP Act").

Pursuant to section 4 of the TCSP Act the FSC's responsibilities include, among other things:

- (i) establishing and maintaining a licensing scheme for service providers; and
- (ii) receiving applications and issuing licences.

The Registration, Corporate & Trust Services Division ("RCTS") has been established within the FSC to oversee the licensing and supervision of service providers.

TYPES OF LICENCES

Service providers may apply to conduct business under three (3) types of licences:

- (i) A Trust Service Provider Licence;
- (ii) A Corporate Service Provider Licence; and
- (iii) A Trust and Corporate Service Provider Licence.

WHO MAY APPLY?

Pursuant to section 2A of the TCSP Act, the following persons who intend to provide a trust or corporate service as a business must be licensed to do so:

- (i) An individual
- (ii) A firm
- (iii) A company

APPLICATION FOR LICENCE

Any person who wishes to obtain one of the three types of licences must:

- ❖ Apply to the FSC, using the standard application form (Form 1: APPL/TCSP);
- ❖ Refer to the Guide to Completing and Submitting the Application Form for a Licence or Registration;
- ❖ Read the other guidelines and bulletins referenced in the application form. These guidelines and bulletins are available on the

FSC's website at www.fscjamaica.org

- ❖ Provide such information and documents as may be required by the FSC; and
- ❖ Pay the non-refundable application fee of fifteen thousand dollars (\$15,000.00).

CONDITIONS FOR LICENSING

Before being granted a licence, applicants must successfully satisfy certain conditions which include:

- (i) Each individual applicant must be a resident of Jamaica.
- (ii) If not an individual, the applicant must be:
 - (A) incorporated under the Companies Act;
 - (B) registered under Part X of the Companies Act;
 - (C) otherwise registered by the Registrar of Companies;
 - (D) otherwise incorporated or formed under the Laws of Jamaica; or
 - (E) approved by the Minister, by order, published in the Gazette.

(iii) Fitness and propriety of each relevant person.

(iv) Meeting prescribed financial requirement(s), if any.

Complying with the standards set out in the Second Schedule to the TCSP Act and the guidelines issued by the FSC.

FIT AND PROPER CRITERIA

In determining whether an applicant, a principal representative of the applicant or a relevant person meets the criteria to be considered fit and proper, the FSC will consider a wide range of factors that fall within the following three (3) broad and universally accepted assessment categories:

Honesty, Integrity, and Reputation

The applicant or any of its relevant persons has not been convicted of an offence involving dishonesty;

- The employment record of the applicant or any of its relevant persons does not give the FSC reason to believe that any acts involving impropriety in the handling of monies were committed.

Competence and Capability

- Each individual applicant and any relevant person of an applicant (individual and corporate entity) has the required educational and professional qualifications and whether he/she is a member of a professional body and is in good standing with that body.
- Each individual applicant or any relevant person of an applicant has practical experience gained through practice and professional experience.

Financial Soundness

- In Jamaica or elsewhere, the applicant and any of its relevant persons is not an undischarged bankrupt;
- In the FSC's opinion, the applicant or its relevant persons are of sound probity, able to exercise competence and sound judgement to fulfil the responsibilities of their position and whose relationship with the licensed service provider will not threaten the interest of clients or potential clients.

PRINCIPAL REPRESENTATIVE

Pursuant to section 6(4) of the TCSP Act, an applicant for any licence category, is required to appoint a Principal Representative. The Principal Representative must be registered by the FSC in keeping with section 17A (2) of the TCSP Act and is the person who is primarily responsible for ensuring

that the licensee fully conforms with the requirements of the TCSP Act.

An application for the registration of the Principal Representative must be submitted to the FSC by the applicant within 30 days of the appointment being made.

TRANSITIONAL PERIOD

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 on or before April 24, 2023; that is, within twelve months after the appointed day which is April 25, 2022.

RESTRICTION ON THE PROVISION OF SERVICE

Section 5 of the TCSP Act, restricts a person from providing or holding himself out as one capable of providing a service (a corporate service or a trust service) in or from Jamaica; except where that person is a licensee operating under and in accordance with a licence issued under the TCSP Act.

A person who contravenes section 5 of the TCSP Act, commits an offence and is liable on summary conviction in a Parish Court to a fine not exceeding two million dollars or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

GENERAL NOTE

This brochure is not a definitive nor a comprehensive statement of the TCSP

legislation and is not intended to provide advice or purport to do so.

Individuals, firms, and companies should seek independent legal advice if in doubt about any of their obligations under the TCSP Act and associated regulations.

For more information regarding this brochure, kindly contact:

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