

FINANCIAL SUPERVISORY COMMISSION



Cook Islands

PRUDENTIAL STATEMENT

No. 12-2010

ISSUED UNDER SECTION 4(2) OF THE
MONEY-CHANGING AND REMITTANCE BUSINESSES ACT 2009

MONEY-CHANGING AND REMITTANCE BUSINESSES LICENSING REQUIREMENTS, POLICIES AND PROCEDURES

1. Preamble

This Prudential Statement is issued by the Financial Supervisory Commission (FSC) pursuant to Part 2 of the Money-changing and Remittance Businesses Act 2009 (Act) on "Regulation and Supervision of Money-changing and Remittance Businesses". It applies to all proposals where the applicant is seeking to establish a money-changing business, and/or a remittance business.

The purpose of this Prudential Statement is to:

- (i) provide for the standardisation of written applications and minimum information requirements for the licensing of a money-changing business and a remittance business, and
- (ii) promote transparency in licensing requirements not only within the Cook Islands but in the international financial community as well.

Money-changing and remittance businesses licensing is the first step towards effective supervision because it determines the quality of businesses

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participating in the market. In deciding whether to grant a licence, the FSC reviews the application as to.

- **Owners and prospective managers** (Are they “fit and proper” persons for their respective roles?);
- **Capitalisation** (is it realistic and viable for the size and the nature of the proposed business); and
- **Public Interest** (Will it be served by the granting of the money-changer’s licence or the remittance licence).

Once a money-changer or remittance business is licensed, ongoing supervision is directed towards ensuring that the above criteria continue to be met.

The requirements in this Prudential Statement are applicable to all parties undertaking money-changing and remittance businesses in the Cook Islands regardless of the nature and size of their operations unless exempted under Section 28 of the Act.

This Prudential Statement shall be applied in conjunction with Part 2 of the Money-changing and Remittance Businesses Act 2009.

2. Licence to Conduct Money-changing and Remittance Businesses

The Act provides that no person shall carry on money-changing or remittance business of any kind in the Cook Islands without a licence. Under Section 2(1) of the Act, “money-changing business” is defined as the business of buying or selling foreign currency notes and “remittance business” is defined as the business of accepting money for the purpose of transmitting it to persons resident in another country or a territory outside the Cook Islands.

3. Application Forms and Fees

In order to obtain a licence, applicants must complete and submit the following forms and supporting schedules and documentation:

- ***Licence Application (FSC Form MRB-1)*** - to be completed by the applicant.
- ***Personal Affidavit (FSC Form MRB-2)*** - to be completed by each individual who is or will be a significant shareholder, associate, director and/or officer of the applicant.
- ***Corporate Declaration (FSC Form MRB-3)*** - to be completed by each person, other than individuals, who is or will be a significant shareholder/associate.

- **Confidential Financial Statement (FSC Form MRB-4)** - to be completed by each person who is or will be a substantial shareholder of applicant.

- General Instructions are included in the Licence Application form and more specific instructions and notes in each section. The FSC may require the submission of additional information and documents should they be considered necessary.

The prescribed fee must be paid when an application is filed.

4. Filing of Applications

- Applicants are required to file their applications in accordance with this Prudential Statement. The FSC will not accept an application other than in the prescribed form. Applicants should ensure that pertinent requirements are complete before an application is filed.
- Applications lacking specific documents that need to be obtained from government agencies, such as police clearances etc., will be accepted by the FSC provided there is evidence to support that a written request for such document has been made at least a month before the filing of the application. An application, however, will be considered complete only when all required documents are received by the FSC.
- A general checklist of all documents for each prescribed form should accompany an application. All required forms and documents must be properly indexed following the sequence of the checklist.

5. Criteria for the Issue of a Licence

The FSC must determine whether an applicant satisfies the criteria for the issue of a licence under Section 7 and 9 of the Act. To this end, information provided by applicants will be evaluated, confirmed and investigated as may be necessary.

Full details must be provided with respect to the beneficial owners and persons controlling "mind and management" of an applicant. For the FSC, a critical element of the evaluation will be to ensure that all significant shareholders, directors, officers or managers are fit and proper persons for their respective roles.

The FSC must be satisfied that persons concerned possess:

- 1) Honesty, integrity and a good reputation. (Supporting evidence, including references, must be provided and may be subject to further enquiry by the FSC.)

- 2) Competence and capability. (Information must be provided for each individual including full details of their background, qualifications and experience. This must include sufficient information to enable a judgment to be reached on their competence and capacity to adequately perform their specific role.)

Details are also required of the applicant's proposed internal systems and controls. Manuals and written guidelines must be submitted covering such items as record keeping, accounting policies, public information disclosure policies, internal controls, corporate governance, policies and procedures to meet the requirements of the Financial Transactions Reporting Act 2004 and risk management policies and procedures. The latter must include policies and control procedures relating to investment, as well as operational risks.

6. Commencing Business

If a business does not commence within a reasonable period after obtaining a licence or ceases to carry on business for an unreasonable period, the FSC may revoke or suspend its licence.

A condition of any licence issued to a money-changing and remittance businesses will be that they advise the FSC of their planned date to commence operations at least 30 days prior to the date of commencement. This is to enable the FSC to undertake an onsite inspection before or shortly after the opening date.

7. Ongoing Requirements

Applicants should note that all of the requirements that are referred to above and which form the major part of the licence application process are ongoing and will be the subject of regular examination and review by the FSC. New directors, officers and significant shareholders therefore have to comply with applicable forms and documentary requirements and the criteria for a licence. Likewise, the criteria for the issue of a licence under sections 7 and 9 of the Act must be satisfied on an ongoing basis. A standard condition of all licences is that any significant change must be reported immediately and proposed changes of ownership, directors, management and external auditor require prior FSC approval. Failure to meet these conditions may lead to suspension or revocation of an insurer's licence as well as, in some cases, prosecution.

8. This Prudential Statement takes effect from 1 May 2010

JOHN HOBBS
COMMISSIONER, FINANCIAL SUPERVISORY COMMISSION
1 May 2010



Application Document Checklist

Name of Applicant _____

Contact Person:

Name _____

Telephone _____

Email Address _____

please tick

_____ **Licence Application [MRB-1]**

- _____ Annex A – Certified copy of First/Renewal Certificate of Incorporation
- _____ Annex B – Copy of the proposed/latest Articles of Incorporation
- _____ Annex C – Copy of the proposed/latest Bylaws
- _____ Annex D – Proposed/present Organisational Chart
- _____ Annex E – Chart of Group Structure/Significant Shareholding
- _____ Annex F – Manuals/guidelines showing risk management, accounting and internal control systems

Sub-annex Document title

- _____ Annex G – Business Plan/Financial Statements and Projections
- _____ Evidence of supervision/regulation in home country
- _____ Written confirmation from home authority of no objection to Bank operating in Cook Islands
- _____ Home authority statement that Bank is supervised consistent to Basel guidelines
- _____ Written acknowledgement from Bank that Commission may discuss conduct and status with home authority
- _____ Declaration completed

_____ **Personal Affidavit [MRB-2]** _____ (no. of Forms)

- _____ Bank Reference Letter
- _____ 2 x Character Reference Letter
- _____ Copy of passport
- _____ Police Clearance - Only 1 submitted.
- _____ Certification completed

_____ **Corporate Declaration [MRB-3]**

- _____ Declaration completed

_____ **Confidential Financial Statement [MRB-4]** _____ (no. of Forms)

- _____ Financial Statement and Schedules
- _____ Certification completed
- _____ Confirmation Inquiry Part I

Additional Sheets [MRB-AS] ___None___ (no. of additional sheets)

Sheet No. Reference Form and Item No.

Planned Date of Commencement (for new applicants only): _____ (dd/mm/yy)

\$	—	Application Fee		
		Date paid _____	(dd/mm/yy)	Receipt no. _____
\$	—	Licence Fee		
		Date paid _____	(dd/mm/yy)	Receipt no. _____

For FSC use only		
Date Application received _____		
Checked by:		
Deficiencies:		
Action taken:		
By	Date	Comments

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