



ANGUILLA FINANCIAL SERVICES COMMISSION

Guidelines for Exemption Applications by certain Trust and Corporate Services Providers

(Issued under section 70 of the Trust and Corporate Services Providers Act, 2024
and section 64 of the Financial Services Commission Act, R.S.A. c. F28)

1. STATEMENT OF OBJECTIVE

These guidelines set out the conditions under which the Anguilla Financial Services Commission (the “Commission”) may be willing to exercise its discretion to exempt trust and corporate services providers (“TCSP”) from certain statutory requirements under the Trust and Corporate Services Providers Act, 2024 (the “Act”).

2. STATUTORY REQUIREMENTS

According to section 72(1) of the Act, a holder of a Category A, Category A Type F or Category A Type R licence and its regulated subsidiaries may apply to the Commission to be exempted from any provision of the Act other than section 18 and Part 8. Section 72(2) of the Act allows holders of a Category B or Category C licence and its regulated subsidiaries to apply for an exemption from any provision of the Act.

A written application from the licensee may be considered and an exemption granted where the Commission considers it appropriate, based on the circumstances of the case.

Sections 72(3) and (4) of the Act details how an exemption application should be made and the general factors to be considered by the Commission in its review of the exemption application.

The Commission may, at any time, withdraw an exemption granted under sections 72(1) and (2) of the Act.

3. CRITERIA AND CONDITIONS FOR EXEMPTIONS

ALL categories of licenses and their regulated subsidiaries may apply to the Commission to be exempted from the following provisions of the Act:

3.1. Recognised Agents (Resident Manager) - Exemption under section 15(2)(a) of the Act

Section 15(1)(b) and (2) of the Act provides:



(1) A licensee and a regulated subsidiary company shall—

(b) appoint, as recognised agents, 2 individuals who comply with subsections (2).

(2) For the purposes of subsection (1)(b)—

(a) one recognised agent shall be resident in Anguilla for minimum period of 90 days in aggregate in any relevant year and shall be appointed as the resident manager of the licensee or regulated subsidiary.

(b) one recognised agent shall be appointed as a senior manager of the licensee or regulated subsidiary company.

(c) prior to appointment, each recognised agent shall-

- i. have consented in writing to act as a recognised agent, and*
- ii. be approved in writing as a recognised agent by the Commission*

A. Criteria

The following criteria must be satisfied by the licensee for the Commission to consider an application to be exempted from the requirement to appoint a recognised agent appointed as the resident manager pursuant to section 15(2)(a) of the Act:

- i. the licensee and the regulated subsidiary company are in compliance with the Act, the financial services enactments and the Regulatory Codes; and*
- ii. the licensee and the regulated subsidiary company have a physical presence in Anguilla.*

B. Application Requirements

Generally, as a condition of granting an exemption, the Commission will require the TCSP to provide the Commission with:

- i. a director's resolution:*
 - a. ratifying the request to be exempted from the statutory requirement under section 15(2)(a) of the Act;*
 - b. confirming the rationale for the exemption application; and*
 - c. confirming that the licensee and the regulated subsidiary company have satisfied the criteria listed in section 3.1 A above;*



- ii. documentation and information evidencing each point in the criteria listed in 3.1 A above; and
- iii. any other information and documentation relevant in the circumstances.

ONLY Category B and Category C licensees and their regulated subsidiaries may apply to the Commission to be exempted from the following provisions of the Act:

3.2. Insurance - Exemption under section 18 of the Act

Section 18(1) of the Act provides:

The Commission may by written notice require a licensee and a regulated subsidiary company to effect and maintain a policy of insurance with an insurance company approved by the Commission.

A. Criteria

The following criteria must be satisfied by the licensee for the Commission to consider an application to be exempted from the requirement to effect and maintain a policy of insurance:

- i. the licensee and the regulated subsidiary company are in compliance with the Act, the financial services enactments and the Regulatory Codes;
- ii. all companies under the management of the licensee and the regulated subsidiary company are assigned risk ratings of low;
- iii. the licensee and the regulated subsidiary company have no prior history of non-compliance with solvency and capital adequacy requirements, where applicable;
- iv. the licensee and the regulated subsidiary have submitted evidence of adequate net assets or reserves for self-insurance capabilities or alternative protections;
- v. the licensee and the regulated subsidiary are regulated in another jurisdiction with equivalent or greater insurance requirements, and the insurance coverage in that jurisdiction extends to the business undertaken in Anguilla, if applicable; and
- vi. the licensee and the regulated subsidiary are part of a larger regulated group with a group-wide insurance or indemnity scheme, if applicable.

B. Application Requirements

Generally, as a condition of granting an exemption, the Commission will require the TCSP to provide the Commission with:

- i. a director's resolution:



- a. ratifying the request to be exempted from the statutory requirement under section 18(1) of the Act;
- b. confirming the rationale for the exemption application; and
- c. confirming that the licensee and the regulated subsidiary company have satisfied the criteria listed in section 3.4 A above;
- ii. unaudited accounts for the calendar quarter preceding the date of the exemption application, certified by the licensee's accountant and signed by the directors of the TCSP;
- iii. a list of all companies to include the assigned risk rating and the intended nature of business;
- iv. proof of alternatives protections (e.g. group cover arrangements, professional bonds or guarantees);
- v. any other documentation and information evidencing each point in the criteria listed in 3.4 A above; and
- vi. any other information and documentation relevant in the circumstances.

ONLY Category B licensees and their regulated subsidiaries may apply to the Commission to be exempted from the following provisions of the Act:

3.3. Annual Accounts- Exemption under sections 51(1) and (4) of the Act

An exemption from the requirement to prepare and forward annual accounts to the Commission applies only to the financial year in question.

Section 51(1) and (4) of the Act provides:

(1) Within 3 months after the end of each financial year, a licensee and a regulated subsidiary company shall prepare annual accounts on an accrual basis and in accordance with generally accepted principles acceptable to the Commission...

(4) A licensee and a regulated subsidiary company shall forward the audited accounts to the Commission within 6 months after the end of the financial year unless prior written approval for an extension has been granted by the Commission; and, upon receipt of the audited accounts, the Commission may require the licensee or regulated subsidiary company to forward to the Commission such additional records, financial statements and documents as the Commission may consider relevant.

A. Criteria

The following criteria must be satisfied by the licensee for the Commission to consider an application to be exempted from the requirement to prepare and forward annual accounts for a particular financial year:



- i. the licensee and the regulated subsidiary company are in compliance with the Act, the financial services enactments and the Regulatory Codes;
- ii. the licensee and the regulated subsidiary company only conduct fiduciary services business specified in section 2(a), (b) and (d) of the Act;
- iii. the licensee and the regulated subsidiary company have no prior history of non-compliance with solvency and capital adequacy requirements, where applicable; and
- iv. the licensee and the regulated subsidiary company do not have more than twenty (20) companies under management for the current reporting period. The companies should all have an assigned risk rating of low.

B. Application Requirements

Generally, as a condition of granting an exemption, the Commission will require the TCSP to provide the Commission with:

- i. a director's resolution:
 - a. ratifying the request to be exempted from the statutory requirement under section 51(1) and (4) of the Act;
 - b. confirming the rationale for the exemption application; and
 - c. confirming that the licensee and the regulated subsidiary company have satisfied the criteria listed in section 3.5 A of these guidelines.
- ii. unaudited accounts for the relevant financial year, certified by the licensee's accountant and signed by the directors of the TCSP;
- iii. confirmation from the directors that the licensee and the regulated subsidiary company are not holding or administering any assets on behalf of any company under its management; and
- iv. any other information and documentation relevant in the circumstances.

An application will need to be filed with the Commission for each year an exemption is being requested.

4. CONCLUSION

Please note that this document sets out a general approach and is intended to provide guidance. However, the Commission must assess each application for exemption on its merits, in light of the circumstances of the particular case. Taking those circumstances into account, the Commission may, for example, ask for information that is not specified above, refuse the application, or impose additional conditions. The Commission may amend or withdraw this document at any time.

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