



VANUATU FINANCIAL SERVICES COMMISSION

GUIDANCE NOTES

FOR

PERSONS WISHING TO MAKE

AN APPLICATION

FOR A

FINANCIAL DEALERS LICENCE

SUPERVISION DEPARTMENT

1. Statement of objectives

This guideline is issued pursuant to Section 19(A) of the Financial Dealers Licensing Act.

Vanuatu must maintain its reputation as a well regulated and reputable international financial centre hence, it is imperative that all persons required to be licensed under the Financial Dealers Licensing Act are licensed in accordance with a firm and clearly defined licensing criteria.

The Commission recognises that high standard of licensing provides the necessary foundation for effective regulation and supervision. Therefore, it is essential that rigorous criteria must to be applied when processing all applications. The Vanuatu Financial Services Commission (VFSC) expects all licence applicants, representatives and agents to adhere to these Guidelines where applicable, so as to ensure consistency and efficiency in the processing of licence applications.

These Guidelines should be read in conjunction with the provisions of the Financial Dealers Act, as well as written directions, notices and other guidelines that the Commission may issue from time to time.

2. The Application

It is recommended for an applicant to first submit an application in draft form. The draft application will be beneficial to the applicant to deal with any issues that may arise during the course of the application review by the Commission as it is not uncommon for applicants to find that they may need extra time to sort out any issues raised, before finalising their application. It is possible to avoid having a formal application rejected by resolving any difficult issues before applying formally. The draft application should be on the same form as the formal application but unsigned. Once any issues raised on the draft application are resolved, a formal application with any changes to be made may then be submitted. There are no specific time frame by Law for the Commission to deal with the application process, however the Commission should be able to process an applications within three weeks from the date the final details of the application is received.

(a) Application Form

The application must be submitted using the prescribed form issued by the Commission and any other additional information should be attached to the application form. Please realise that short answers to questions may not be helpful to the Commission, hence a full explanation of how and why the company is seeking a Financial Dealers business, so please send as much background information as possible.

All questions must be answered. The client needs to provide complete and accurate information in relation to the questions raised in the application form.

As part of the KYC requirements, the information submitted on the application form is important to the VFSC Supervision Department, as it helps to provide a clear understanding on the nature of the client business activities, and to make sound judgement when it comes to the approval process. The full details of what needs to go into the application are set out later in these notes.

We will process your application, or draft as soon as possible. However, the length of time to complete the process will depend on various factors, including the complexity of your proposal, the content and quality of the application and your response to any questions that may arise.

You may be asked to attend a further meeting if there are any points on which we are not clear.

3. Financial Projection

It would be required that an applicant must produce a financial projection soundly based on reasonable assumption of the business plan.

A three-year financial projection would be reasonable.

4. Legal Requirements

A licence cannot be issued unless;

- You have provided all the information specified in the relevant parts of the Financial Dealers Act 2017; and
- The Commissioner is satisfied, from all the information received, that the licence should be granted. A licence will not be approved if the Commissioner considers that any of the company's directors, officers or proposed managers are not fit and proper to hold their positions, or that their appointment would not be conducive to sound and prudent management of the company.
- Share capital should be paid up and evidence submitted to the Commission together with the application.
 - The evidence should be a certified copy of the Bank statement indicating the capital amount and in the name of the applicant or his/her company bank account.
- A certification on the source of funds for the capital amount has to be provided by the applicant.
- The company will maintains its records (defined in clause 9) in Vanuatu with the Registered Office/Agent of the Vanuatu company and the records are made available to the Commission whenever requested.

- The company meets the required solvency margin which must show that the total assets must exceed the total liabilities of the licensee.
- Compliance with current Money laundering regulations.

5. Ownership and control

A minimum of one director is required on all entities. Any change in directors, officers and managers must be approved by the Commission.

All Financial Dealer companies or their respective representatives must have in place compliance and procedure manuals including complaints procedure manuals, copies of prospectus, and internal controls to ensure effective management.

All Changes in ownership or shareholding of 15% or more must be approved by the Commission.

- Application approval of the new beneficial owner should be submitted first to the Commission
- Upon approval, submission of the certificate of transfer of shares to be stamped by the Commission.
- If prior approval is not granted, client is informed that the Principle and Representative licenses are automatically cancelled in case the clients wants to proceed with the change of owner anyways.

For any change of key person, the following documents must be submitted to the VFSC:

- A notarized copy of the passport
- A notarized copy of the Police clearance dated less than 3 months
- A CV dated and signed
- Two reference letters showing at least three (3) years of professional experience in fund management, securities and investment

6. Capital

- We will need to be satisfied that the applicant will have enough financial resources to support the business proposed and to provide the margin of solvency needed for the first three years.
- All Financial Dealers are required to maintain a deposit of VT 5 million with the Commission. This deposit can be considered as part of the capital.
- The amount of capital should be consistent with the level of business to be undertaken and should also be based on the financial projections provided to the Commission with the application.

- When deciding whether a company applying has sufficient financial resources, we will take into account, probable capital expenditure, expected early losses and possible loss on investments, during the first three years of operation.
- The financing required will depend on the type of business proposed, the expected size of the business and the projected speed of development.

7. Business plan

All the information specified in the Financial Dealers Licensing Rules under (1) (c), (d), (e), (f) and (g) Act must be included in the business plan when submitted with the application otherwise it will delay the processing of the license approval.

The information provided should identify assumptions and qualify accordingly

We expect to receive projected accounts for the first three years and the figures used should be those you expect to appear in the returns to the Commission.

It would be useful to be given separate information on each type of investment products proposed.

(a) Details to be included in plan of operations;

- **The sources of business (for example, brokers, agents, own employees, independent salesmen or direct selling)**
- **The types or classes of investment products, e.g, dealing in securities, trading in futures contract, collective investment schemes, life policies, options, swaps, etc.**
- **The type of platform or software system to be used. Please provide evidence or print out copy of the software system. If the platform or software is to be supplied by another provider, please provide copy of service agreement with another provider.**
- **Amount of Capital (as defined in clause 6) proposed. Capital in this context means paying the bond deposit and funds required to set the financial business**

8. Additional Documents to be submitted with the Business Plan

- **Risk Management Strategy; (this should identify all risk that the entity is expose to and the mitigating factors).**
- **Investment Policy;**
- **Copies of proposed agency or broker agreements**
- **Copy of proposed management agreement if appropriate**
- **Copy of proposed authority for main agents if applicable.**
- **Copies of prospectus**

- **Copy of complaints procedure manual**
- **Copy of AML/CFT procedure manual**
- **Copy AML/CFT External audit report (if applicable)**
- **Copy of AML/CFT Internal audit report (if applicable)**

Any changes to the Business Plan or the Prospectus must be approved by the Commission.

9. Management and Internal Systems

A licensed Financial Dealers is expected to be managed by competent and suitably qualified and experienced people. Therefore, it is essential that the applicant must provide in detail, the type of platform to be used, details of the ICT systems to be used, the type of reports to be generated from the platform either to the management or client. Submission of the ICT policy to the Commission at licensing stage would be beneficial.

Whilst we will consider each case on its merits it is expected that at least one member of the board will have substantial and recent experience in Financial Dealers affairs. In determining whether a person is fit and proper all relevant circumstances will be considered and will include that those persons possess:

- a. Honesty, integrity and good reputation,
- b. Competence and capability
- c. Financial soundness

Applicants may refer to the Statement of Guidance on Fitness and Propriety for further details on the criteria used by the Commission

Similar requirements relating to experience and propriety apply, however the applicant may not also be the auditor of the company.

All Financial Dealers or their respective managers or management companies must have in place, compliance and procedures and internal control systems, to ensure effective management and compliance with the relevant law.

10. Record keeping

Management information should be both timely and accurate and supported by full and accessible records. Such records may be in electronic form and should be accessible by the Commission. Approval is required from the Commissioner to locate records overseas.

The following records are required;

- Clients register;
 - Complaints register
 - Complaints procedure manuals
 - Current prospectus;
 - Agency or brokers agreements
 - Other agreements - management, investment management, custodian and other service agreements
 - Statutory records - board meeting minutes and up to date business plan;
 - Management Accounts and Audited Accounts.
 - Copy of AML/CFT procedure manual
 - AML/CFT Internal audit report
 - AML/CFT External audit report
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- **Insurance including professional indemnity showing cover of the appointed representative and other officers of the applicant**

11. Bond

The Commission will not accept bond payment until the applicant is assessed to be fit and proper, and that its business plan, risk assessments and risks mitigating factors, internal control systems, complaint procedure manual, prospectus are acceptable to the Commission.

The Commission will inform the applicant to remit the bond once it is satisfied that the applicant had met all the above mentioned criteria. Bond should be remitted to the following account:

Account Name: VANUATU FINANCIAL SER COM TST

Account Number: 193685881

Account Type: COMM CHQ ACCS GOVT BI-VUV

Swift Code: BOSPUVX

Bank Address: Bank of South Pacific (BSP)

P O Box 32

PORT VILA.

12. License Application Fee

The License Application fee must be paid upon the presentation of the application to The Commission.

13. Auditors

An applicant will have to appoint an approved auditor in Vanuatu who is experienced in the auditing of Financial Dealers and who complies with the requirements of the Financial Dealers Act and his/her audit must satisfy the requirements of International Standard on Auditing (ISA) 600.

(a) Auditor Independence

Auditor must be a separate firm from the registered office and agent.

(b) Audited financial statements

The audited financial statements should be no different to those required by local companies under the Companies Act 2012. That is, that they should be prepared in accordance with International Financial Reporting Standards (IFRS) and International Auditing Standards (IAS). This provides consistency; and the ability for the VFSC or external user (such as a lender) to more easily compare and analyse results across companies and the sector generally.

(c) AML/CTF Audits

Audits required by the FIU pursuant to AML/CTF legislation fulfil a different objective to a standard financial statement audit, and encompass a slightly wider scope of activities or functions. One of the functions subject to scrutiny under an AML/CTF audit is the role of the registered agent, and their compliance with the relevant legislation relating to "Know Your Customer" and other AML/CTF requirements. It would therefore be inappropriate for an AML/CTF audit to be performed by a registered auditor who is also the registered agent of the company being audited. It is required that a licensee must submit internal and external risk reports to FIU and the copies of these reports must be forwarded by licensee to VFSC.

14. Other Activities

Under the Financial Dealers Act licensed Financial Dealers must not carry on activities other than those approved by the Act and in connection with the Financial Dealers business for which they are licensed.

If the applicant is uncertain whether a particular activity is prohibited you should discuss with us before you apply for a license.

15.Licence decision

The Commission will advise you of its decision within three weeks of receiving all the necessary information that is required.

When we are satisfied that you have complied with all requirements (share capital paid in, incorporation etc.) a licence will be issued. At that stage we would ask that you inform us in writing, of the date on which you commence business operations.

The licensee will be expected to commence business as soon as possible and we must advise you that if business has not commenced within three months of the date of issuing the licence, the licence may be withdrawn.

Please contact the following person should you have any questions:

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