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**COMPANY AND TRUST SERVICES PROVIDERS  
ACT NO. 8 OF 2010**

- COMPANY AND TRUST SERVICES PROVIDERS REGULATION ORDER NO. 25 OF 2013



## REPUBLIC OF VANUATU

### COMPANY AND TRUST SERVICES PROVIDERS ACT NO. 8 OF 2010

#### Company and Trust Services Providers Regulation Order No. 25 of 2013

In exercise of the powers conferred on me by section 59 of the Company and Trust Services Providers Act No. 8 of 2010, I, the Honourable STEVEN KALSAKAU Acting Minister of Finance and Economic Management and Minister responsible for Education, on the advice of the Vanuatu Financial Service Commission make the following Regulation.

#### PART 1 - INTERPRETATION

##### 1 Interpretation

In these Regulations, unless the contrary intention appears:

**Act** means the Company and Trust Services Providers Act No. 8 of 2010;

**approved bank** means a bank licensed under the Financial Institutions Act [Cap 254], or approved by the Commission;

**accounting period**, for a licensee, means the accounting period for the licensee under Clause 11;

**auditor's report** means a report prepared under Clause 14;

**client entity** means a company, partnership, trust, foundation or other legal entity for which the licensee performs regulated activities;

**current assets**, for a licensee, means the current assets as shown in the licensee's latest audited accounts;

**current liabilities**, for a licensee, means the current liabilities as shown in the licensee's latest audited accounts;

**designated joint account**, for a licensee, means a bank account used in the name of the licensee that holds client money for 2 or more clients of the licensee if:

- (a) the client agreed in writing to open an account as a joint account; and
- (b) the money in the account is to be used for a joint enterprise;

**financial statements**, for a licensee, means a financial statement prepared in respect of the licensee under Clause 13;

**key person** means a director, controller, partner or manager of a licensee as defined under the Act;

**money** includes cash, cheques and other payable orders and money deposited in an account;

**trust account** means a bank account in the name of the licensee that holds money for 1 or more clients, client entities or persons other than the licensee, but does not include a designated joint account;

**trust money**, for a licensee, means money that is held by a licensee on behalf of a client, client entity or person other than the licensee.

## **PART 2 – APPLICATION FOR A LICENCE AND REQUIREMENTS**

### **2 Application Forms for licences**

For the purposes of Paragraph 13(2)(a) of the Act, the prescribed forms for an application for a licence are set out in Schedule 2.

### **3. Requirements for a licence**

- (1) For the purposes of Subparagraph 13(2)(d)(iv) of the Act, the following requirements are additional requirements for the application of a licence:
  - (a) for a CTSP licence, a special trust licence and a general CSP licence, the applicant must have with the application:
    - (i) the latest audited financial statements of the applicant (if any), the most recent audited accounts of the immediate parent (if any) and the latest consolidated group accounts (if any); and
    - (ii) details of the auditor; and
    - (iii) details of the applicant's internal organisation, internal controls and corporate governance, including details of how trust money is held and dealt with; and
    - (iv) a business plan appropriate to the size and nature of the applicant's business; and
  - (b) for all licences except a special trust licence, a completed Personal Questionnaire as prescribed in Schedule 3 for each key person; and
  - (c) for a special trust licence, a completed Personal Questionnaire as prescribed in Schedule 3 for each person employed by the licensee to manage the affairs of the licensee; and
  - (d) for a company or a partnership, a certified copies of all documents by which the applicant is constituted, including the applicant's Articles and Certificate of Incorporation (if any); and
  - (e) a list of all existing and proposed branch offices, with addresses and telephone numbers; and

- (f) a declaration that the applicant is not aware of any matter that may reasonably cause the Commission to doubt that the applicant and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Act and this Regulation; and
- (g) a declaration by each key person that they are not aware of any matter that may reasonably cause the Commission to doubt that the key person has the competence, integrity or financial standing to be able to fulfil his or her duties in accordance with the Act and this Regulation.

#### **4. Group licences**

For the purposes of Subsection 12(1) of the Act, a CTSP licence, a general CSP licence and a limited CSP licence may be issued as a group licence if:

- (a) the applicant is applying for a CTSP licence, a general CSP licence or a limited CSP licence; and
- (b) the applicant is the leader of a group of entities that operate in 1 business structure; and
- (c) its sole activity is to provide company services as determined by the leader; and
- (d) all the group members have agreed to be part of the arrangement outlined in the application.

#### **5. Requirements for a Group Licence**

(1) For the purposes of Subsection 12(1) and Subparagraph 13(2)(d)(iv) of the Act the following requirements are additional requirements for an application for a Group licence:

- (a) The applicant applying for the Group licence must:
  - (i) set out the names of all the group members who wish to be covered by the group licence; and
  - (ii) for each group member, set out the same information as may be required if the member is applying for a separate licence; and

- (iii) nominate the same group leader as the applicant for the group licence; and
  - (iv) state that all the group members wish to be covered by the group licence; and
  - (v) ensure that the application is signed by him or her and each group members.
- (2) The group leader nominated under Subparagraph 5(1)(a)(iii) must :
- (a) ensure that the information in the application that relates to each group member is accurate; and
  - (b) ensure that the application is made in accordance with the Act and this Regulation; and
  - (c) respond to any enquiries that the Commission have on the application.
- (3) A group licence issued under the name of a group leader must state the following:
- (a) the name of the group leader ensuring that the group leader is the licensee; and
  - (b) the name of each group member; and
  - (c) the regulated activities authorised by the licence and specifying which group member covered by the licence is authorised to carry out an activity.
- (4) Subject to Clause 4, each group member, other than the group leader is exempted from the following:
- (a) the minimum financial resources under Clause 7; and
  - (b) auditing of the accounts; and
  - (c) lodging of the returns under Clause 22.
- (5) A group leader is jointly responsible with each group member to ensure that a group member complies with the Act and this Regulation.

- (6) The Commission may take appropriate action on a group member if the group member contravenes the Act or this Regulation. The same action would be taken if the Group Leader contravenes the Act or this Regulation.
- (7) Subject to Subclause (1):
  - (a) a person who is applying for or who is a holder of a general CSP licence must not apply for a group licence if a member of a group intending to carry out the activities authorised by a CTSP licence; and
  - (b) a person who is applying for or who is a holder of a limited CSP licence must not apply for a group licence if a member of the group is intending to carry out the activities authorised by a general CSP licence or a CTSP licence.

## **6 Partnerships**

- (1) A member of a partnership may apply for a licence under the Act.
- (2) Subject to Subclause (1), the application must:
  - (a) contain the information and documents for each partner as required under section 13 of the Act and Clause 3 of this Regulation; and
  - (b) nominate 1 partner as the partner responsible for its dealing with the application; and
  - (c) be signed by each partner.
- (3) A licence issued to a partnership must list the names of all the partners.
- (4) If a member of the partnership contravenes the Act or this Regulation:
  - (a) each other partner is taken to have contravened the Act or Regulations, as the case may be; and
  - (b) the Commission may take the same action against each other member of the partnership as it may take against the member who contravened the Act or Regulations.
- (5) If a new partner joins the partnership, he or she must apply for a licence.

- (6) If a partner leaves the partnership:
- (a) the remaining partners must notify the Commission in writing that the partner has left the partnership; and
  - (b) the partner who leaves no longer holds a licence; and
  - (c) the Commission may remove the partner's name from the licence.

**7 Financial resources**

- (1) The holder of a CTSP licence, a special trust licence and a general CSP licence must have:
- (a) the required minimum resources of the amount under Subclause (3) in the form required under Subclause (4); and
  - (b) a surplus of current assets over current liabilities of at least 10%.
- (2) The holder of a limited CSP licence must have a surplus of current assets over current liabilities of at least 10%.
- (3) The required minimum resources amount is:
- (a) VT 20 million for a CTSP licensee; and
  - (b) VT 12.5 million for a special trust licensee; and
  - (c) VT 5 million for a general CSP licensee; and
  - (d) for 2 or more licensees that are regarded as group licensees:
    - (i) for the leader of the group - the amount the leader may otherwise be required to have under this Subclause; and
    - (ii) for each group licensee other than the leader - nil.
- (4) The required minimum resources must be in a form of:
- (a) net shareholder funds, as shown on the latest audited accounts; or
  - (b) for a general CSP licensee who is an individual, net assets of VT 7 million, as shown in independently audited accounts; or



- (c) an amount on deposit with an approved bank; or
  - (d) an irrevocable letter of credit or guarantee issued by an approved bank; or
  - (e) for a general CSP licensee, a guarantee by a person other than the licensee whose net assets are at least VT 7million, as shown in the person's independently audited accounts; or
  - (f) bonds or debentures guaranteed by a Government approved by the Commission; or
  - (g) securities quoted on a stock exchange approved by the Commission, but only to a value not exceeding 70% of the quoted market value.
- (5) The holder of a CTSP licence and a special trust licence must calculate its net current assets at least once every 3 months.
- (6) The holder of a general CSP licence must calculate its net current assets annually.
- (7) A licensee must inform the Commission in writing as soon as it becomes aware that its current assets no longer exceed its current liabilities by 10%.

### **PART 3 – INSURANCE AND SEGREGATION OF TRUST MONEY**

#### **8. Insurance**

- (1) A licensee other than the holder of a director's licence must have adequate insurance cover, including professional indemnity insurance, that:
  - (a) includes directors' and officers' insurance; and
  - (b) provides indemnity for partners and employees, former partners and employees, and consultants.
- (2) The insurance must cover claims relating to:
  - (a) negligence, errors and omissions by the licensee; and
  - (b) employee dishonesty; and
  - (c) loss or theft of documents (including liability for consequential loss and costs of replacement, reinstatement of data and increased costs of working); and
  - (d) the costs of remedying matters that are the subject of a claim; and
  - (e) costs and expenses that may be involved in any litigation.
- (3) A licensee must ensure that insurance is provided for liabilities that may be incurred wherever it does business.
- (4) The minimum insurance cover is VT 5,000,000 for each claim, with an aggregate cover of not less than VT 50,000,000 and a maximum deductible amount of VT 500,000.
- (5) The holder of a director's licence must have adequate directors' and officers' insurance.
- (6) A licensee must give the Commission a copy of its insurance policy within 1 week of receiving the policy.
- (7) A licensee who fails to maintain insurance cover as required under this Clause is guilty of an offence punishable on conviction by a fine not exceeding VT 1 million.

**9 Segregation of trust money**

- (1) This Clause applies to a licensee who:
  - (a) holds a CTSP licence, a special trust licence or a general CSP licence; and
  - (b) has responsibility for trust money.
- (2) If trust money is trust property, the trust and the beneficiaries under the trust are to be treated as 1 client for the purposes of this Clause.
- (3) A licensee must keep adequate records of trust money held that:
  - (a) show each transaction in a way that allows the transaction to be identified and traced; and
  - (b) are kept in a way that allows the balance due to each client or other person to be identified; and
  - (c) are in a form that allows the records to be reconciled on a timely basis so that any error can be corrected promptly.
- (4) A licensee must ensure that trust money and other money is not mixed.
- (5) A licensee must ensure that trust money belonging to a person is not used for another person without the express authority of all the relevant persons concerned.
- (6) A licensee must ensure that trust money held on behalf of a client or other person is not disbursed unless it is:
  - (a) properly payable to that client or other person; or
  - (b) properly payable by or on behalf of, or in respect of, that client or other person; or
  - (c) otherwise properly transferred in a manner that has the consent of that client or other person.
- (7) A licensee must ensure that:
  - (a) trust money is kept in a trust account; and

- (b) the account is with an approved bank; and
  - (c) the account includes words in its title that clearly indicates it to be a trust account of the licensee.
- (8) A licensee must ensure that a trust account is not knowingly overdrawn.
- (9) A licensee must promptly carry out reconciliation between the records of trust money kept by the licensee and any statement received from a bank in which trust money is kept.
- (10) A licensee who contravenes this Clause is guilty of an offence punishable on conviction by a fine not exceeding VT 1 million.

## **PART 4 – RECORDS, ACCOUNTS AND AUDITORS**

### **10 Keeping books and records**

- (1) A licensee must keep the books and records that are necessary for the orderly administration of its business, for showing compliance with the Act and this Regulation and for the orderly administration of any business of client entities for which the licensee is responsible.
- (2) The books and records of a licensee must be held in Vanuatu in a form that may be readily made available to the Commission.
- (3) The books and records of a licensee must be kept secure to minimise the risk of loss and damage.
- (4) A licensee must retain its books and records for 6 years:
  - (a) from the date of the transaction or event that is the subject of the record; and
  - (b) for information about a client, from the time the client's relationship with the licensee ceases.
- (5) A licensee who contravenes this Clause is guilty of an offence punishable on conviction by a fine not exceeding VT 500,000.

### **11 Accounts**

- (1) This Clause applies to a licensee with a CTSP license, a special trust licence or a general CSP licence.
- (2) An accounting period for a licensee, other than its first accounting period, must be:
  - (a) 12 months; or
  - (b) if the licensee is changing its accounting year, no longer than 18 months.
- (3) Within 28 days after a licence is being issued, the licensee must inform the Commission in writing of the licensee's accounting period.
- (4) A licensee must not change its accounting period without the Commission's approval.

- (5) A licensee must keep accounting records that:
- (a) show and explain each of the licensee's transactions in respect of the regulated activities carried out by the licensee; and
  - (b) enable financial statements to be prepared in respect of the licensee; and
  - (c) are capable of disclosing at any time with reasonable accuracy the licensee's financial position and whether the licensee is complying with Subclause (4).

## **12 Auditors**

- (1) This Clause applies to a licensee with:
- (a) a CTSP licence; and
  - (b) a special trust licence; and
  - (c) a general CSP licence if the licensee is a company.
- (2) A licensee must appoint an independent auditor.
- (3) If a licensee proposes to change its auditor, the licensee must inform the Commission in writing the name, address and qualifications of the new auditor it proposes to appoint.
- (4) The Commission may object to the appointment made under Subclause (3) on the grounds if the proposed auditor is not suitable, having regarded to:
- (a) the nature of the business carried on by the licensee; and
  - (b) the qualifications, competence and integrity of the auditor.
- (5) If the Commission objects to a licensee's auditor, the licensee must not appoint that auditor or, if the appointment is already made, must change its auditor.
- (6) If the appointment of an auditor is terminated by either the licensee or the auditor, other than the Commission objected to the auditor, the auditor must, within 7 days of the termination, give the Commission a statement stating:

- (a) whether there are circumstances relating to the termination that may be brought to the Commission's attention; and
- (b) if there are circumstances and what are those circumstances.

**13 Financial statements and audits**

- (1) This Clause applies to a licensee with:
  - (a) a CTSP licence; and
  - (b) a special trust licence; and
  - (c) a general CSP licence if the licensee is a company.
- (2) A licensee must have its accounts and records of trust money audited.
- (3) A licensee must, not less than 3 months after the end of its accounting period, give its auditor financial statements and its trust records, and a declaration by the licensee under Subclause (7), covering that period.
- (4) The licensee's financial statements and its trust records must cover the same accounting period.
- (5) The financial statements must be prepared in accordance with:
  - (a) International Accounting Standards; or
  - (b) other standards approved by the Commission, having regard to the contents of the standard.
- (6) The financial statements must show a true and fair view of:
  - (a) the state of affairs of the licensee at the end of the relevant accounting period; and
  - (b) the licensee's profit or loss for that period.
- (7) A licensee must make a declaration that, to the best of its knowledge, throughout the relevant accounting period the licensee either:
  - (a) complied with the requirements of the Act and this Regulation as they apply to the licensee, having regard to the nature of the licence

held by the licensee, and has maintained proper accounting records; or

- (b) failed to comply with all the requirements of the Act and this Regulation that apply to the licensee.
- (8) If a licensee's declaration states that the licensee has failed to comply with the Act and this Regulation, it must:
- (a) give details of all material failures; and
  - (b) state the measures taken or to be taken by the licensee to ensure that the failures are not repeated.
- (9) A licensee must give its auditor:
- (a) access at all reasonable times to the licensee's records and documents relating to the licensee's business; and
  - (b) any other information or explanation the auditor considers necessary for the performance of the auditor's duties under this Regulation.
- (10) A licensee or any of the licensee's personnel, acting or purporting to act with the licensee's approval, must not give the auditor information that is false or misleading.

#### **14 Auditor's report**

- (1) This Clause applies to a licensee with:
- (a) a CTSP licence; and
  - (b) a special trust licence; and
  - (c) a general CSP licence if the licensee is a company.
- (2) A licensee's auditor must prepare a report in respect of the licensee's financial statements and trust records and give it to the licensee.
- (3) The auditor's report must:
- (a) state whether or not, in the auditor's opinion, the financial statements show a true and fair view of the licensee's state of



- affairs at the end of the accounting period and of the licensee's profit or loss for that period; and
- (b) if the licensee holds trust money, state whether or not, in the auditor's opinion, the trust money has been properly held and dealt with by the licensee; and
  - (c) state that, as a result of conducting the audit for the purpose of preparing the report, either:
    - (i) in the auditor's opinion, the licensee is in compliance with the Act and this Regulation; or
    - (ii) if the auditor cannot make that financial statement, specify that fact and give the reasons why.
- (4) The auditor must give a copy of his or her report to the Commission if the auditor cannot state that:
- (a) the financial statements show a true and fair view of the licensee's state of affairs at the end of the accounting period and of the licensee's profit or loss for that period; or
  - (b) if the licensee holds trust money, the trust money has been properly held and dealt with by the licensee.
- (5) A licensee must give the Commission financial statements for each accounting period:
- (a) within 4 months of the end of the accounting period; or
  - (b) if before the 4 months expires the licensee has asked for an extension, within a further 2 months.
- (6) The financial statements must have with them:
- (a) a declaration in accordance with Subclause 14(6); and
  - (b) the auditor's report in respect of the financial statements and the declaration; and
  - (c) any report prepared by an external auditor that is available to the licensee and covers a matter relevant to the financial statements.

**15 Accounts and audit – general CSP licensees**

- (1) This Clause applies to the holder of a general CSP licence who is an individual or a partnership.
- (2) If at any time the licensee holds more than VT 2 million in aggregate of trust money for more than 1 month, the licensee must have its records of trust money audited.
- (3) The auditor's report must state whether the licensee has complied with Clause 9.

**16 Group accounts**

If a licensee is a holding company, the Commission may ask the licensee to give the financial statements of its subsidiaries.

## **PART 5 – ADVERTISING AND CONDUCT OF BUSINESS**

### **17 Advertising**

- (1) A person must not publish an advertisement that relates to a licensee:
  - (a) without the permission of the licensee; and
  - (b) unless the advertisement complies with Subclause (2).
- (2) The advertisement:
  - (a) must not be false or misleading; and
  - (b) in particular, must not hold a person out to be a licensee unless the person holds a licence; and
  - (b) must not damage the reputation of Vanuatu as a financial centre.
- (3) If the Commission has reasonable grounds to believe that an advertisement is in conflict with this Clause, it may require the licensee to withdraw the advertisement.
- (4) A person who contravenes this Clause is guilty of an offence punishable on conviction by a fine not exceeding VT 500,000.

### **18 Conduct of business**

- (1) A licensee must act with integrity.
- (2) A licensee must take reasonable steps to determine any action if asked to perform by a client that may cause the licensee, its personnel or any other client for whom they provide services:
  - (a) to contravene the Act or this Regulation; or
  - (b) to knowingly or recklessly break any other applicable law or regulatory requirement.
- (3) If a licensee determines that it is being asked to act in a way described under Subclause (2), the licensee must not accept the client's instructions to take that action.

- (4) A licensee must treat its clients fairly.
- (5) A licensee must organise its affairs competently and conduct its business diligently.
- (6) A licensee must handle complaints speedily and fairly.

**19 Staff and Agent of the licensee**

- (1) In this Clause, staff and agents means officers and employees, agents, persons acting with its instructions and persons it arranges to undertake any function in any jurisdiction.
- (2) A licensee must employ sufficient staff and agents to enable it to fulfil its obligations to its clients and to act in accordance with the Act and this Regulation.
- (3) A licensee must take reasonable steps to ensure that its staff and agents have the integrity, financial standing, qualifications and experience that are appropriate for their role and responsibilities.

**20 Commission to approve changes in key person, etc**

- (1) A licensee with a CTSP licence, a special trust licence or a general CSP licence must, if practicable, give the Commission 14 days notice in writing of a change:
  - (a) in the licensee's name or registered office address; or
  - (b) of a key person; or
  - (c) in shareholding (other than death) that results in a new shareholder controller and whether or not there is also a change of beneficial owner.
- (2) A licensee with a limited CSP licence must, if practicable, give the Commission 14 days notice in writing of:
  - (a) a change in the licensee's name or registered office address; or
  - (b) a change of a key person.

- (3) The licensee must not implement a change described in Subclause (1) or (2) other than a change in name or registered office, without first obtaining a written agreement from the Commission.
- (4) The Commission must respond to a licensee's notice within 14 days of the date of the notice, and may:
  - (a) agree in writing to the proposed change; or
  - (b) refuse to agree in writing to the change; or
  - (c) if the Commission needs further time to complete its enquiries, must inform the licensee that it is withholding approval pending further enquiries.
- (5) The Commission must either agree to or refuse the change within 14 days from the date of its response under Paragraph (4)(c).
- (6) The Commissioner may refuse to agree to a change only if:
  - (a) the new key person is not a fit and proper person to be appointed as key person, having regard to the matters set out in section 14 of the Act; or
  - (b) the new shareholder has been convicted of an offence against anti-money laundering or anti-terrorism laws; or
  - (c) for any other substantial reason, the Commission is of the view that the person may not be appointed or become a shareholder controller.
- (7) The Commissioner must give the licensee written reasons for the refusal.
- (8) A licensee may appeal to the Court against the Commission's refusal.

## **21 Matters to be reported to the Commission**

- (1) A licensee with a CTSP license, a special trust licence or a general CSP licence must inform the Commission in writing immediately it becomes aware of any of the following matters:
  - (a) a material breach of the Act or this Regulation by a licensee or any of its key persons; or

- (b) criminal proceedings or investigations, or investigations or findings by a law enforcement authority, regulatory body or professional association, in respect of the licensee or its key persons, officers or employees, in any jurisdiction where the licensee carries out business, if similar action is to be taken in Vanuatu; or
  - (c) proceedings that may result in the disqualification of a key person or an officer or employee, to be a director of a company in any jurisdiction where the licensee carries out business, if similar action is to be taken in Vanuatu; or
  - (d) an action that may lead to the insolvency or winding up of the company or dissolution of the partnership; or
  - (e) a civil action that could, if successful, threaten the continuation of the business of the licensee; or
  - (f) serious disciplinary action taken by the licensee against key persons of the licensee; or
  - (g) a matter that might reasonably be regarded as likely to affect the Commission's assessment of the fitness and properness of the licensee or its key persons.
- (2) A licensee with a limited CSP licence must inform the Commission in writing immediately it becomes aware of any of the following matters:
- (a) a material breach of the Act or this Regulation by a licensee or any of its key persons; or
  - (b) criminal proceedings against the licensee or its key persons in any jurisdiction where the licensee carries on business, if similar action is to be taken in Vanuatu; or
  - (c) proceedings that may result in disqualification of an officer of the licensee to be a director of a company in any jurisdiction where the licensee carries out business; or
  - (d) an action that may lead to the insolvency or winding up of the company or dissolution of the partnership; or
  - (e) a civil action that could, if successful, threaten the continuation of the business of the licensee; or

- (f) a matter that might reasonably be regarded as likely to affect the Commission's assessment of the fitness and properness of the licensee or its key persons.
- (3) A licensee with a director's licence must, if practicable, give the Commission 14 days notice in writing of any change in the licensee's name or registered office address.
- (4) A licensee with a director's licence must inform the Commission in writing immediately it becomes aware of any of the following matters:
  - (a) a material breach of the Act or this Regulations by a licensee; or
  - (b) criminal proceedings against the licensee in any jurisdiction where the licensee carries out business; or
  - (c) proceedings that may result in disqualification of the licensee to be a director of a company in any jurisdiction where the licensee carries out business; or
  - (e) any matter that might reasonably be regarded as likely to affect an assessment by the Commission of the fitness and properness of the licensee or its key persons.
- (5) A licensee must inform the Commission in writing of any material change in the information previously supplied to the Commission in relation to the licence application, within 7 days of the change.

## **22 Regular returns to be made to the Commission**

- (1) For the purposes of this Clause, **anniversary date** means the date of the issuance of licensee's licence under section 19 of the Act.
- (2) A licensee with a CTSP licence, a general CSP licence or a special trust licence must lodge a return each year, within 30 days after the anniversary of the issue of the licensee's licence, setting out the following as at the anniversary date:
  - (a) the name, registered office, contact details and principal activities of the licensee; and
  - (b) the names and addresses of its key persons; and

- (c) the names and addresses of persons who are not officers of the licensee but the licensee has arranged to be directors or trustees of client entities; and
  - (d) the name of the licensee's insurer and the levels of coverage under Clause 8; and
  - (e) the total number of substantial complaints received from clients since the last return and the number of complaints that remain unresolved more than 3 months after being made.
- (3) A licensee with a limited CSP licence must lodge a return each year, within 30 days after the anniversary of the issue of the licensee's licence, setting out the following as at the anniversary date:
- (a) the name, registered office, contact details and principal activities of the licensee; and
  - (b) the names and addresses of its key persons; and
  - (c) the name of the licensee's insurer and the levels of coverage under Clause 8; and
  - (d) the total number of substantial complaints it received from clients since the last return and the number of complaints which remain unresolved more than 3 months after being made.
- (4) A licensee with a director's licence must lodge a return each year, within 30 days after the anniversary of the issue of the licensee's licence, setting out the following as at the anniversary date:
- (a) the name of the licensee's insurer and the levels of coverage under Clause 8; and
  - (b) the total number of substantial complaints the licensee has received since the last return.
- (5) The return lodged by the licensee of a group licence must set out:
- (a) the names of each group member covered by the licence; and
  - (b) the regulated activities carried out by each group member; and



- (c) the same information for each group member that may be required if the group member held a separate licence to carry out those activities.

## PART 6 – MISCELLANEOUS PROVISIONS

### 23 Fees

- (1) For the purposes of section 19 of the Act, the application fees set out in Schedule 1 are prescribed and are payable to the Commission.
- (2) The application fee for a licence must be paid to the Commission when the application is made, and is not refundable if the licence is not granted.
- (3) For the purposes of section 19 and Subparagraph 13(2)(d)(v) of the Act, the licence fees set out in Schedule 1 are prescribed and are payable to the Commission.
- (4) An applicant who at the commencement date holds a licence under the Trust Companies Act [CAP 69] is exempt from paying the application fee.
- (5) The licence fee is payable:
  - (a) if the application for the licence is approved; and
  - (b) on each anniversary of the date of issue of the licence.
- (6) In this Clause, the **commencement date** is the commencement date of the Act which is the 6<sup>th</sup> of September, 2012.

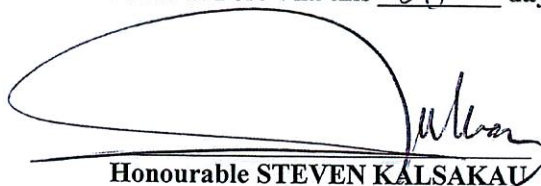
### 24 Forms

The Forms set out in Schedule 2 are prescribed.

### 25 Commencement

This Regulation commences on the day on which it is made.

Made at Port Vila this 28 day of February 2013.



Honourable STEVEN KALSAKAU  
Acting Minister of Finance and Economic Management and Minister  
responsible for Education



## SCHEDULE 1

### FEES

(Clause 23)

#### Application Fees

The following application fees are payable:

For a CTSP licence	VT 50,000
For a special trust licence	VT 10,000
For a general CSP licence	VT 25,000
For a limited CSP licence	VT 10,000
For a director's licence	VT 10,000

#### Licence fees

The following licence fees are payable:

For a CTSP licence	VT 300,000
For a special trust licence	VT 50,000
For a general CSP licence	VT 100,000
For a limited CSP licence	VT 25,000
For a director's licence	VT 25,000

## SCHEDULE 2

### FORMS

#### FORM 1

(Clause 2)

#### APPLICATION FOR CTSP LICENCE

*Use this form to apply for a CTSP licence if you intend to provide both company and trust services.*

*Please complete all sections as fully as possible, giving reasons for non compliance, if any, and attaching additional information where appropriate.*

1. Class of licence applied for:
2. Details of the services to be provided:
3. Name of applicant:
4. Date and place of incorporation:
5. Names and addresses of all directors:
6. Names and addresses of managers:
7. Details of the applicant's controllers:
8. Business address in Vanuatu:
9. Name, address and qualifications of the applicant's auditor:

The following documents are attached:

- (a) the latest audited financial statements of the applicant (if any), the most recent audited accounts of the immediate parent (if any) and the latest consolidated group accounts (if any);
- (b) details of the applicant's internal organisation, internal controls and corporate governance, including details of how trust money is held and dealt with;
- (c) a business plan appropriate to the size and nature of applicant's business;
- (d) a completed Personal Questionnaire for each key person (see Schedule 3);
- (e) a certified copy of the applicant's Certificate of Incorporation, Articles, and any other document by which the applicant is constituted;
- (f) a list of existing and proposed branch offices (if any);
- (g) a declaration by the applicant that it is not aware of any matter that might reasonably cause the Commission to doubt that it and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations;
- (h) a declaration by each key person that he or she is not aware of any matter that might reasonably cause the Commission to doubt that he or she has the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations.

Application is made for a CTSP licence and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise in support are true and correct.

FOR A GROUP LICENCE (see Regulation 3):

Application is also made for a group licence. All group members listed below wish to be covered by the group licence.

- Names of members of group:
  
- Name of group leader:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ .

Name of applicant: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address of witness: \_\_\_\_\_

**Please return this application and the relevant fee to the Vanuatu Financial Services Commission, Port Vila, Vanuatu.**

## FORM 2

### APPLICATION FOR GENERAL CSP LICENCE

*Use this form to apply for a General CSP licence if you intend to provide all company services.*

*If you intend to provide trust services, please apply for a CTSP licence using Form 1.*

*Please complete all sections as fully as possible, giving reasons for non compliance, if any, and attaching additional information where appropriate.*

1. Class of licence applied for:
2. Details of the services to be provided:
3. Name of applicant:
4. Date and place of incorporation, if a company:
5. Names and addresses of all directors:
6. Names and addresses of managers:
7. Details of the applicant's controllers:
8. Business address in Vanuatu:
9. Name, address and qualifications of the applicant's auditor:

The following documents are attached:

- (a) the latest audited financial statements of the applicant (if any), the most recent audited accounts of the immediate parent (if any) and the latest consolidated group accounts (if any);
- (b) details of the applicant's internal organisation, internal controls and corporate governance, including details of how trust money is held and dealt with;

- (c) a business plan appropriate to the size and nature of applicant's business;
- (d) a completed Personal Questionnaire for each key person (see Schedule 3);
- (e) a certified copy of the applicant's Certificate of Incorporation, Articles, and any other document by which the applicant is constituted;
- (f) a list of existing and proposed branch offices (if any);
- (g) a declaration by the applicant that it is not aware of any matter that might reasonably cause the Commission to doubt that it and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations;
- (h) a declaration by each key person that he or she is not aware of any matter that might reasonably cause the Commission to doubt that he or she has the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations.

Application is made for a General CSP licence and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise in support are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Name of applicant: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_



Occupation: \_\_\_\_\_

Address of witness: \_\_\_\_\_

**Please return this application and the relevant fee to the Vanuatu Financial Services Commission, Port Vila, Vanuatu.**

## FORM 3

### APPLICATION FOR LIMITED CSP LICENCE

*Use this form to apply for a Limited CSP licence if you intend to provide only the limited company services set out in s.2.5 of the Company and Trust Services Providers Act.*

*If you intend to provide all company services, please apply for a General CSP licence using Form 2.*

*If you intend to provide trust services, please apply for a CTSP licence using Form 1.*

*Please complete all sections as fully as possible, giving reasons for non compliance, if any, and attaching additional information where appropriate.*

1. Class of licence applied for:
2. Details of the services to be provided:
3. Name of applicant:
4. Date and place of incorporation, for a company:
5. Names and addresses of all directors, for a company, or partners, for a partnership:
6. Names and addresses of managers:
7. Details of the applicant's controllers:
8. Business address in Vanuatu:
9. Name, address and qualifications of the applicant's auditor:

The following documents are attached:

- (a) the latest audited financial statements of the applicant (if any), the most recent audited accounts of the immediate parent (if any) and the latest consolidated group accounts (if any);
- (b) details of the applicant's internal organisation, internal controls and corporate governance, including details of how trust money is held and dealt with;
- (c) a business plan appropriate to the size and nature of applicant's business;
- (d) a completed Personal Questionnaire for each key person (see Schedule 3);
- (e) a certified copy of the applicant's Certificate of Incorporation, Articles, and any other document by which the applicant is constituted;
- (f) a list of existing and proposed branch offices (if any);
- (g) a declaration by the applicant that it is not aware of any matter that might reasonably cause the Commission to doubt that it and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations;
- (h) a declaration by each key person that he or she is not aware of any matter that might reasonably cause the Commission to doubt that he or she has the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations.

Application is made for a Limited CSP licence and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise in support are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ .

Name of applicant: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address of witness: \_\_\_\_\_

**Please return this application and the relevant fee to the Vanuatu Financial Services Commission, Port Vila, Vanuatu.**

## FORM 4

### APPLICATION FOR DIRECTOR'S LICENCE

*Use this form to apply for a Director's Licence if you intend to act as director of a company by way of business (see s. 2.6 of the Company and Trust Services Providers Act).*

*If you intend to provide only the limited company services set out in s.2.5 of the Act, please apply for a Limited CSP Licence using Form 3.*

*If you intend to provide all company services, please apply for a General CSP licence using Form 2.*

*If you intend to provide trust services, please apply for a CTSP licence using Form 1.*

*Please complete all sections as fully as possible, giving reasons for non compliance, if any, and attaching additional information where appropriate.*

1. Class of licence applied for:
2. Details of the services to be provided:
3. Name of applicant:
4. Date and place of incorporation, for a company:
5. Names and addresses of all directors, for a company:
6. Names and addresses of managers:
7. Details of the applicant's controllers:
8. Business address in Vanuatu:

The following documents are attached:

- (a) a completed Personal Questionnaire for each key person (see Schedule 3);

- (b) a certified copy of the applicant's Certificate of Incorporation, Articles, and any other document by which the applicant is constituted;
- (c) a list of existing and proposed branch offices (if any);
- (d) a declaration by the applicant that it is not aware of any matter that might reasonably cause the Commission to doubt that it and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations.

Application is made for a Director's licence and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise in support are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ .

Name of applicant: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address of witness: \_\_\_\_\_

**Please return this application and the relevant fee to the Vanuatu Financial Services Commission, Port Vila, Vanuatu.**

## FORM 5

### APPLICATION FOR SPECIAL TRUST LICENCE

*Use this form to apply for a Special Trust Licence if you provide company and trust services in administering customary land.*

*Please complete all sections as fully as possible, giving reasons for non compliance, if any, and attaching additional information where appropriate.*

1. Class of licence applied for:
2. Details of the services to be provided:
3. Name of applicant:
4. Date and place of incorporation:
5. Names and addresses of all directors:
6. Names and addresses of managers:
7. Details of the applicant's controllers:
8. Business address in Vanuatu:
9. Name, address and qualifications of the applicant's auditor:

The following documents are attached:

- (a) the latest audited financial statements of the applicant (if any), the most recent audited accounts of the immediate parent (if any) and the latest consolidated group accounts (if any);
- (b) details of the applicant's internal organisation, internal controls and corporate governance, including details of how trust money is held and dealt with;

- (c) a business plan appropriate to the size and nature of applicant's business;
- (d) a completed Personal Questionnaire for each person employed by the applicant to manage the applicant's affairs (see Schedule 3);
- (e) a certified copy of the applicant's Certificate of Incorporation, Articles, and any other document by which the applicant is constituted;
- (f) a list of existing and proposed branch offices (if any);
- (g) a declaration by the applicant that it is not aware of any matter that might reasonably cause the Commission to doubt that it and its key persons have the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations;
- (h) a declaration by each key person that he or she is not aware of any matter that might reasonably cause the Commission to doubt that he or she has the competence, integrity or financial resources to be able to undertake business in accordance with the Company and Trust Services Providers Act and Regulations.

Application is made for a Special Trust licence and it is certified that all the particulars contained in this application and in the documents accompanying it or otherwise in support are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ .

Name of applicant: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_



Address of witness: \_\_\_\_\_

**Please return this application and the relevant fee to the Vanuatu Financial Services Commission, Port Vila, Vanuatu.**

## SCHEDULE 3

### PERSONAL QUESTIONNAIRE

(Paragraphs 3(1)(b) and (c))

*This Personal Questionnaire must be completed by each key person of an applicant for a CTSP, General CSP, Limited CSP or Director's licence.*

*For a Special Trust Licence, this form must be completed by each manager.*

1. Name of applicant:
2. Name and address of person completing questionnaire:
3. Position held:
4. Details of directorships held:
5. Details of shareholdings greater than 15%:
6. Have you ever:
  - (a) been declared bankrupt:
  - (b) entered into any arrangement that resulted in a failure to meet your financial obligations in full and on time:
  - (c) been subject to a court order concerning financial obligations that have not been met:
7. Have you ever:
  - (a) been convicted of any offence involving fraud or dishonesty:

- (b) been found by any regulatory authority or professional association to have engaged in any activity that has led to disciplinary action that would cause the Commission to have reasonable doubts about your integrity:

8. Are you:

- (a) currently subject to an investigation by a law enforcement agency, regulatory authority or professional association in circumstances that would cause the Commission to have reasonable doubts about your integrity:

- (b) currently a defendant in civil litigation of a nature that may cause the Commission to have reasonable doubts about your integrity:

9. To the best of your knowledge, has the applicant ever:

- (a) been declared bankrupt:

- (b) been placed in administration:

- (c) entered into any arrangement that resulted in a failure to meet financial obligations in full and on time:

- (d) been subject to a court order concerning financial obligations that have not been met:

10. To the best of your knowledge, has the applicant ever:

- (a) been convicted of any offence involving fraud or dishonesty:

- (b) been found by any regulatory authority or professional association to have engaged in any activity that has led to disciplinary action

that would cause the Commission to have reasonable doubts about the integrity of the applicant:

11. To the best of your knowledge, is the applicant:
- (a) currently subject to an investigation by a law enforcement agency, regulatory authority or professional association in circumstances that would cause the Commission to have reasonable doubts about the integrity of the applicant:
  - (b) currently a defendant in civil litigation of a nature that may cause the Commission to have reasonable doubts about the integrity of the applicant:

I certify that the information given in this questionnaire is true and correct.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature of witness: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address of witness: \_\_\_\_\_