

**APPENDIX I**

**TRUSTS (REGULATION OF TRUST BUSINESS) ACT 2001**

**APPLICATION FOR A**

**TRUST BUSINESS LICENCE**

**NOVEMBER 2020**

## GUIDANCE NOTES

1. This form should be completed by a senior executive or other person responsible for the conduct of the business and having legal capacity to sign on behalf of the undertaking applying for licensing (the Applicant).
2. Before completing this form, Applicants should refer to the Trusts (Regulation of Trust Business) Act 2001 (the Act) and the Statement of Principles, Guidance Notes, Code of Practice and relevant papers issued by the Authority.
3. This form must be submitted typed or written in **BLOCK CAPITALS** in ink.
4. The signatory should, on completion of the form, initial each page of the application and any supplementary sheets and sign the declaration on the last page.
5. Completed applications with relevant supporting material should be sent to [trust@bma.bm](mailto:trust@bma.bm).

If you require further assistance, or have any queries in connection with this application, please contact the Banking, Trust, Corporate Services and Investment (BTCSI) team via the above email. Additional information may also be found on the Authority's website ([www.bma.bm](http://www.bma.bm)).

6. The application process will be delayed if the information accompanying an application is incomplete. Please ensure all the correct documents are attached when submitting an application. The Authority reserves the right to request additional information in support of any application.

## I. TYPE OF TRUST LICENCE

Please indicate the type of trust licence the Applicant is applying for:	Check as applicable.
By a company for an <b>unlimited trust licence</b> .	<input type="checkbox"/>
By a partnership or an individual for a <b>limited trust licence</b> .	<input type="checkbox"/>

## II. DOCUMENTATION TO ACCOMPANY THE APPLICATION

The application must be accompanied by the following items (as applicable):-	Document Attached?
<p><b>a. Formation documents:</b> A certified copy of the Applicant’s memorandum of association, bylaws, and certificate of incorporation.</p> <p>Partnerships should submit a copy of the partnership agreement.</p>	<input type="checkbox"/>
<p><b>b. Accounts:</b> A copy of the most recent financial statements for the business (audited where available) together with financial statements for its parent company and other members of the group (where relevant).</p>	<input type="checkbox"/>
<p><b>c. Confirmation by auditor:</b> In the case of a company, an auditor’s statement that the minimum capital of \$250,000 has been paid up, or is held in escrow, pending the granting of this licence.</p>	<input type="checkbox"/>
<p><b>d. Clients’ agreements:</b> Copies of any standard trust or management agreements that the Applicant intends to use. An assessment will be made of the content and context within which all these documents will be used.</p>	<input type="checkbox"/>
<p><b>e. Questionnaires:</b> Institutional questionnaires are to be completed by all shareholder controllers of the company together with the personal questionnaire for individual directors, controllers and officers.</p>	<input type="checkbox"/>
<p><b>f. Business plan:</b> A statement setting out the nature and scale of the trust business which is to be carried out by the Applicant, and any particulars of the arrangement(s) proposed for the operation of that business (see Appendix IV for business plan requirements).</p>	<input type="checkbox"/>
<p><b>g. Group structure:</b> Applicants forming part of wider groups must provide an up-to-date chart giving full details of the group structure.</p>	<input type="checkbox"/>
<p><b>h. Fees:</b> A payment (or direct deposit receipt) representing the appropriate application fee (refer to the ‘Fees’ section of the Authority’s website:</p>	<input type="checkbox"/>

www.bma.bm/fees).	
<b>i. Policies and procedures:</b> The Applicant should submit policies and procedures which, at a minimum, should include: <ul style="list-style-type: none"> <li>a) Compliance, including regulatory compliance</li> <li>b) Corporate governance</li> <li>c) Anti-money laundering/anti-terrorist financing</li> <li>d) International sanctions compliance</li> <li>e) Disaster recovery and business continuity plan, including cybersecurity</li> <li>f) Outsourcing arrangements</li> <li>g) Internal systems and controls for day-to-day operations</li> <li>h) Risk management</li> </ul>	<input type="checkbox"/>
<b>j. Insurance:</b> The Applicant should submit evidence of comprehensive insurance coverage as required in the First Schedule of the Act.	<input type="checkbox"/>

### III. DETAILS OF APPLICANT (complete as appropriate)

a. Name of Applicant	
b. Any other names which the Applicant uses, or proposes to use, for purposes of, or in connection with, any business carried out	
c. Date and place of formation of company/partnership	
d. Financial year-end of the Applicant	
e. Amount and currency of the company's issued and paid-up share capital	f. Amount and currency of the company's authorised share capital
g. Contact name	h. Email address

i. Fax number		j. Telephone number	
k. Address of registered office		l. Address of principal place of business in Bermuda	
m. Other offices/business locations within Bermuda		n. Other offices/business locations outside Bermuda	
o. If there is any other foreign regulatory body with responsibility for the Applicant, or subsidiaries of the Applicant, please provide the particulars below:			
<b>Branch/subsidiary name</b>	<b>Jurisdiction</b>	<b>Type of licence and date of issue</b>	<b>Name of regulator</b>

**IV. OPERATIONS OF THE APPLICANT**

a. List all directors within the meaning of section 4(2) of the Act. Non-executive directors (if any) are to be identified by an asterisk.
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a. List all shareholder controllers within the meaning of section 5 of the Act. Controllers are to indicate whether they are individual or corporate. The number and type of shares held should also be indicated.

b. Names and positions of the person (or persons) who effectively direct the business for the purposes of paragraph 2 of the First Schedule to the Act.

c. Identify the names of the money laundering reporting officer and person (or persons) responsible for compliance, including regulatory compliance.

d. Name(s) and address(es) of the Applicant's principal banker(s) within the last ten years.

e. Name(s) and address(es) of banker(s) with whom the Applicant proposes to or maintains client accounts.

f. Name(s) and address(es) of the main custodian(s) of the trust assets:

- (i) Securities
- (ii) Other

g. Name(s) and address(es) of the primary providers of investment management and/or investment advisory services for the assets of discretionary trusts (where not stipulated by the trust instrument).

h. Name and address of the Applicant's auditors (where applicable). Please give the name and professional qualifications of the relevant partner(s).

i. Names and addresses of any other regulatory body with responsibility for the Applicant.

**V. INSURANCE COVER**

a. Indicate below what types of insurance cover the Applicant maintains:

<b>Type of insurance</b> (e.g. directors and officers liability)	<b>Limit</b>	<b>Deductible</b>

b. Has any application for insurance by the Applicant or any predecessors in business ever been refused? If yes, please provide details in the space provided below.

c. Insurer detail - name(s) and address(es) of insurer(s):

## VI. PRIOR ISSUES

If the answer to any of the questions below is yes, please give full particulars in the space provided.

	Yes/No
a. Has the Applicant ever applied for and been refused a licence or an equivalent authorisation or registration to conduct corporate service provider, banking, investment, insurance, money service or trust business in Bermuda or elsewhere?	
b. Has the Applicant ever had a registration or authorisation (including an application therefor) which has been revoked, withdrawn, terminated or expelled by a regulatory body or government or by a professional body or association other than on a voluntary basis?	
c. Has the Applicant failed to satisfy a judgement debt under a court order in Bermuda or elsewhere within a year of the making of the order?	

	<b>Yes/No</b>
d. Has the Applicant made any compromise or arrangement with its creditors or otherwise failed to satisfy creditors in full?	
e. Has the Applicant ever had a receiver be appointed over its property (or properties) in Bermuda, or has the substantial equivalent of any such person been appointed in any other jurisdiction?	
f. Has the Applicant ever had a petition for an administration order or the substantial equivalent of such a petition served on it in any jurisdiction?	
g. Has the Applicant ever had a notice of resolution for voluntary liquidation in Bermuda, or had the substantial equivalent of such a notice been given in any other jurisdiction?	
h. Has a petition ever been served in Bermuda for the compulsory liquidation of the Applicant or any related company or had the substantial equivalent of such a petition served on it in any other jurisdiction?	

	<b>Yes/No</b>
i. Has an inspector or other authorised officer of any government department or agency, professional association or other regulatory body appointed under any Bermuda law (e.g. the Companies Act 1981, the Proceeds of Crime Act 1997) or equivalent overseas enactment, ever investigated the affairs of the Applicant or any related company?	
j. Has the Applicant or any related company been required to produce books or records pursuant to section 110 of the Companies Act 1981 or any other applicable domestic or overseas legislation?	
k. Has the Applicant or any related company or partnership ever been sanctioned, censured, reprimanded, prosecuted, or warned as to future conduct, disciplined or publicly criticised by, or made the subject of a court order at the instigation of any supervisory or regulatory authority?	
l. Has the Applicant or any related company or partnership ever been refused entry in Bermuda or elsewhere to any professional body or trade association concerned with banking, trust, investments or other financial services?	
m. Is the Applicant or any related company engaged, or expects to be engaged, in Bermuda or elsewhere in any litigation which may have a material effect on the resources of the Applicant?	

## DECLARATION

This declaration must be completed by the Applicant in block capitals or typed.

I, (full name and address)

confirm that I have read and understand the provisions of the Trusts (Regulation of Trust Business) Act 2001 (the Act) and I declare that the business in respect of which this application is made will be conducted in accordance with the provisions of the Act, the Statement of Principles, the Code of Practice and any relevant Regulations issued by the Authority.

I declare that the particulars supplied in the application are true to the best of my knowledge and belief.

I confirm that I will notify the BMA immediately if there is a material change in the information provided or in case of new facts or any other issues which may impact the ongoing fitness and propriety of myself or the Applicant.

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Signature on behalf of the Applicant

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Position

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Date

**WARNING:** Pursuant to section 52 of the Trusts (Regulation of Trust Business) Act 2001. Any person who, for any purposes of this Act - issues a document, or supplies information, which is false or misleading in a material respect; or signs a document which is false or misleading in a material respect; or takes part in the preparation or issue of a document, or the supplying of information, which is false in a material respect, commits an offence and is liable – on summary conviction to a fine of \$25,000 or to imprisonment for two years or to both; on conviction on indictment to a fine of \$50,000 or to imprisonment for four years or to both.