

LICENSING CRITERIA SPOT COMMODITY BROKER – FS-1.21

Note to the applicant:

1. This 'Licensing Criteria' aims to provide guidance to applicants with respect to the requirements when applying for a licence.
2. It should be noted that this Licensing Criteria neither derogate nor restrict the powers vested upon the Financial Services Commission, Mauritius (the 'Commission') by statute, and should be read together with the relevant Acts, regulations, rules, guidelines, circulars and codes issued thereunder.
3. An applicant is expected, at the time of submitting an application to the Commission, to be conversant with applicable relevant Acts, regulations, rules, guidelines, circulars and codes which the Commission has issued or may issue from time to time.
4. The Commission requires that all applications be accompanied by a cover letter and by the information and documentation set out in this Licensing Criteria.
5. **Incomplete applications received by the Commission may be returned to the applicant.**
6. The Commission, upon inadequate response or no response within fifteen (15) working days from the date of its first query, shall not proceed further with the application. The applicant will, thereafter, have to submit a fresh application.

**Information/Documents to be submitted with respect to application for an
Spot Commodity Broker Licence**

A. Relevant Forms /Documents

1 Formal application under section 14 of the Financial Services Act (the 'FSA') for Spot Commodity Broker Licence on the FSCOne platform.

Submission of prescribed processing/annual fees
Extract of the Financial Services (Consolidated and Licensing Fees) Rules 2008

Type of Licence	Code	Fees	
		Processing	Annual
Spot Commodity Broker	FS-1.21	USD 1,000**	USD 2,000**

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**For applicant not applying for a Global Business Licence or corporation not holding a Global Business Licence, the corresponding fee in Rupees (Rs.) shall be calculated based on the Indicative Exchange Rate as computed by the Bank of Mauritius as at date of payment.

Note: Payment of annual fee is not mandatory at time the application is submitted to the Commission

3 Duly filled in authority form and written and signed consent of each promoter, officer and/or controller.

4 Certified true copy of the resolution of the board of directors authorising two members of the board to sign the application (not applicable to a Global Business Company).

B. Structure

If the applicant is structured as a company:

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- Copy of the constitution, duly dated and signed, accompanied by a legal certificate.
 - Certified true copies of statutory documents lodged with the Corporate and Business Registration Department (CBRD) with respect to the incorporation of the applicant.

C.	Activity
6	<p>Detailed Business Plan including, but not limited to, the following:</p> <ul style="list-style-type: none"> (i) introduction and background of promoter/shareholder; (ii) detailed procedures of the mode of operation of the spot commodity broker activities; (iii) organization/structure chart and staffing requirements; (iv) target market and client profile; (v) details on the types of commodities (as defined in the Financial Services (Spot Commodity Market and Intermediaries) Rules 2024) that the applicant will trade in; (vi) 3 years' financial forecasts (Profit & Loss, Cash Flow and Balance Sheet); and (vii) any other relevant information.
7	<p>The Applicant to demonstrate its compliance with Rule 18 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2024.</p>
8	<p>If the applicant will act as an intermediary in the execution of instruments transactions for clients, details on the role and function of the Company when orders are received from clients on the platform to finalisation of execution of orders (including a detailed flowchart with all the steps involved) should be submitted.</p> <p>Detailed description of the activity including but not limited to the following should be submitted:</p> <ul style="list-style-type: none"> • Procedures with respect to onboarding and risk profiling of clients; • Details on the trading platform to be used; • Process and transaction flow; • Execution of trades; • Details on trade confirmations to clients as per Rule 15 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2024; and • Details on monitoring of clients activity.

Trading Platform (if applicable)

With respect to trading platforms, the applicant should submit the following:

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- Details on the platform to be used;
 - To indicate as to whether the platform is regulated or linked to a regulated exchange;
 - Details as to how the platform operates;
 - Details as to who will have access on the platform and the rights given to them;
 - Details on the means through which the platform will be accessed; and
 - If the applicant will use the platform of another entity, the following should be submitted:
 - An indication as to whether the platform provider is a regulated entity and if in the affirmative, to provide evidence of same;
 - A draft copy of agreement to be entered between the Company and the platform provider;
 - The corporate profile of the platform provider.

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- (i) Profile and location of the targeted clients.
 - (ii) The applicant has to submit an undertaking that it will seek the necessary approval/authorisation in the jurisdictions where it intends to operate.

D. Fitness and Propriety of Promoters/ Beneficial Owners/ Shareholders

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- Promoters/
Beneficial
Owners/
Shareholders**
- Individual:**
- CV ;
 - PQ Form;
 - Valid passport copy or National Identity Card; and
 - Proof of address [E.g. A recent utility bill issued or a recent bank or credit card statement or a recent bank reference (proof of address must not be more than 6 months old)].
- Corporate Body:**
- Certificate of incorporation;
 - Certificate of current standing (where applicable)
 - Certified true copy of any licence/registration/authorisation held
 - List of controlling shareholders and directors
 - Latest audited financial statements
 - Corporate Profile - in case latest audited accounts are not available
 - Confirmation from the applicant/Management Company to the effect that it holds on records CDD documents on the controlling shareholders of the corporate body and that these will be made available to the Commission.

Trust:

- A certified true copy of the trust deed
- Name of the trust, its date and place of registration
- An indication of the value of assets held by the trust
- CDD documents on the -
 - (a) settlor/contributor and the trustee
 - (b) beneficiaries, or confirmation from the management company/trustee(s) that it holds on record comfort on the beneficiaries, that has been obtained from a recognized source
- For a discretionary trust, a written confirmation from the applicant to the effect that it has adequate arrangements in place with the trustee of the trust to make available the CDD documents on the beneficiaries at the time of distributions to beneficiaries of the trust and that it is comfortable that these arrangements will enable it to satisfy its obligation in accordance with the requirements of the laws governing anti-money laundering and terrorism financing in force in Mauritius.

Limited Partnership:

- Certificate of registration/establishment/good standing of the limited partnership and its general partner
- Latest audited financial statements of the limited partnership and its general partner
- Corporate profile – in case latest audited accounts are not available
- Confirmation from the Management Company/applicant to the effect that it holds on record CDD documents on the significant limited partners of the limited partnership and that these will be made available to the Commission upon request

Société:

- Profile of the société (including a copy of the *acte de société*); and
- CDD on the principals, administrators or gérants of the société.

The applicant should refer to section 20 of the Financial Services Act for Matters related to fit and proper person requirements

12	Directors (where applicable)	<ul style="list-style-type: none"> • CV; • PQ Form; • Valid passport copy or National Identity Card; and • Proof of address [E.g. a recent utility bill issued or a recent bank or credit card statement or a recent bank reference (proof of address must not be more than 6 months old)].
13	Officers	The applicant shall ensure that it has at all times two officers based full time and who are conversant with the operations of the spot commodity broker services.
14	Spot Commodity Broker Team	<p>Details of the members of the spot commodity team, who will be responsible to handle the operations of spot commodity broker activity together with the submission of their PQ forms and CV (demonstrating a proven track record in the provision of the spot commodity broker services);</p> <p>The applicant should ensure that at least 2 members are appointed on the spot commodity broker team to ensure business continuity; and</p> <p>The applicant needs to indicate as to whether these persons are regulated or hold a licence from a regulated authority. If in the affirmative, to provide evidence of same.</p> <p>The strength of the spot commodity broker team is a key component of the application. The applicant needs to demonstrate that it has appropriate and competent staff commensurate with the size, nature and complexity of the business activity. Applicants should therefore provide adequate information on its members, demonstrating their suitability to discharge their responsibilities.</p>
15	Representative of Spot Commodity Broker	<p>The applicant needs to appoint at least 1 representative together with submission of application form and relevant fees.</p> <p>Please refer to FSC website for the relevant application form, relevant fees and licensing criteria.</p>

16	Compliance Officer	<p>Details on the Compliance Officer, together with submission of full CDD details on him/her. Written confirmation that the Compliance Officer meet the requirements of Regulation 22(1)(a) of the Financial Intelligence and Anti-Money Laundering Regulations .</p> <p>Outsourced compliance function</p> <p>Where the compliance function is being outsourced to another company, the applicant should:</p> <p>(i) provide details on the checks and balances put in place by the Company with respect to this outsourced function, that is, how the board will satisfy itself that the outsourced function is meeting the expectations of the Board [such as, by way of reviewing and validating the process employed by the service provider, periodic reporting to the Board by the service provider, periodic review of the process by the Board]; and</p> <p>(ii) Name of the person who will act as compliance officer for the applicant.</p>
17	MLRO /Deputy MLRO	<p>(i) Details on the MLRO and Deputy MLRO, together with the submission of their full CDD.</p> <p>(ii) A written confirmation that the MLRO and Deputy MLRO meet the requirements of Regulation 26(4) of the Financial Intelligence and Anti-Money Laundering Regulations as well as the requirements of the competency standards issued by the Commission.</p> <p>Note: The MLRO and DMLRO should be independent from the Board of Directors.</p>
18	Auditor	<p>The applicant to seek the approval of the Commission with respect to the appointment of the auditor.</p> <ul style="list-style-type: none"> • Details on the auditor to be appointed should be provided; • The audit firm should be approved by the Financial Reporting Council (FRC); and • Details on the signing partner within the audit firm should also be provided and the latter should be registered with The Mauritius Institute of Professional Accountants (MIPA) <p>Note: The names of the auditor and signing partner should be as per FRC list.</p>
<p>F. Prudential and Safeguarding Requirements</p>		

19	<p>Draft copy of agreement to be entered into by the applicant with its clients (accompanied by a legal certificate certifying that the agreement complies with the laws of Mauritius).</p> <p>Note:</p> <ul style="list-style-type: none"> (i) The agreement should detail the scope of services and responsibilities of the Company vis-à-vis its clients (the services to be provided should be in line with the licence sought); and (ii) A confirmation from the applicant’s legal counsel that the agreement is in line with the laws of Mauritius.
20	Details and assessment on the source of funding (with documentary evidence).
21	Copy of the internal procedures and compliance manual.
22	Detailed description of systems and procedures to prevent money laundering and financing of terrorism.
23	An indication as to who will be responsible to conduct due diligence checks on clients of the applicant and confirmation that all supporting documentation will be kept at its registered office address
24	An indication of amount of Professional Indemnity Insurance Cover that the applicant intends to subscribe to along with a quote from an insurer.
25	Detailed description of measures to be put in place with regard to the infrastructure surrounding confidentiality, security and safety of client information and records.
26	Details on the risk management policy of the applicant.
27	Disaster Recovery and Business Continuity Plan.
28	Procedures for complaints handling and an indication as to who will be responsible to handle complaints and the time frame within which complaints will be resolved

29	<p>(i) Detailed description of systems and procedures to prevent and deal with any conflicts of interest that may arise during the course of the business.</p> <p>(ii) Additionally, when a person is cumulating different roles in the company (e.g shareholder, Director, member of the spot commodity broker team, Representative of the spot commodity broker...), the applicant needs to indicate what are the measures in place to deal with any conflict of interest that may arise during the course of his duties and also to ensure that the person has adequate autonomy and independence.</p>
30	<p>The applicant to demonstrate that it has appropriate and sufficient organisation, technical and financial means and staffing for the efficient operation of its business.</p>
31	<p>Details of IT infrastructure to support the day-to-day operations of the applicant including frequency of back ups.</p>
32	<p>Minimum Capital Requirement</p> <p>The applicant shall maintain a minimum stated unimpaired capital of Mauritian rupees 700,000 or its equivalent in any other currency, or such higher amount as the Commission may determine and submit evidence pertaining thereto.</p> <p>For a Global Business Company, the following should be submitted:</p> <ul style="list-style-type: none"> • An undertaking that the applicant shall at all times maintain the prescribed minimum stated unimpaired capital (currently, MUR 700,000 or its equivalent in another currency). • An undertaking that the applicant will not start its operations, trade, or incur any liabilities prior to meeting its minimum unimpaired stated capital of MUR 700,000 • An undertaking that within one month of the Licence being issued evidence that the proceeds of the share issue amounting to MUR 700,000 or its equivalent have been credited to the applicant’s bank account will be submitted to the Commission. <p>For a domestic company applying for Spot Commodity Licence, the following should be submitted:</p> <ul style="list-style-type: none"> • The applicant should ensure that stated capital of MUR 700,000 is injected prior to the licence being issued. • Certified true copies of statutory filings with respect to the share capital. • Confirmation that the stated capital is fully paid.

33	Segregation of clients funds	Details on measures put in place with respect to segregation of clients' funds as per Rule 19 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2024.
G Others		
34	Details of the registered office address and a draft copy of lease agreement (where applicable).	
35	An indication of the financial year end date of the applicant.	

Disclaimer: The above list is provided for guidance and is not exhaustive. The Commission will assess the information provided on its own merits and may require additional information to determine the application.

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