

LICENSING CRITERIA

Spot Commodity Trading Adviser Licence – FS-1.25

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 the 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 a Spot Commodity Trading Adviser Licence

A. Relevant Forms /Documents

1 Formal application under section 14 of the Financial Services Act 2007 for a Spot Commodity Trading Adviser Licence on the FSOne platform.

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

Licence	Code	Fees	
		Processing	Annual
Spot Commodity Trading Adviser	FS-1.25	USD 1000	USD 2000

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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.

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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>A detailed Business Plan including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Introduction and background of director(s)/beneficial owner(s)/shareholder(s); • Business objective, strategy and proposed activity - The applicant has to demonstrate that the proposed activity is in line with Section xx of the Financial Services Act and Rule 11 of Financial Services (Spot Commodity Market and Intermediaries) Rules 2024 • Organisation chart; • Target market and client profile; • Source of funding; • 3 years’ financial forecasts (Profit & Loss, Cash Flow and Balance sheet); and • Any other relevant information.
7	<p>As per Rule 2 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2024, “spot commodity trading adviser” means any person who -</p> <p>(a) carries on the business of advising others (directly or indirectly, through publications or writings, or by whatever means or media) on the making of spot commodity contracts, including the advisability of trading in any spot commodity contract made or to be made on, or subject to the business rules of, a spot commodity market;</p> <p>(b) as part of a regular business, issues or promulgates analyses or reports concerning the making of spot commodity contracts; or</p> <p>(c) pursuant to a contract or an arrangement with a customer, undertakes on behalf of that customer (whether on a discretionary authority or otherwise granted by the customer) to make any spot commodity contract for the purposes of managing their funds, but does not include -</p> <p>(i) a bank licensed under the Banking Act; and</p> <p>(ii) a spot commodity broker or spot commodity broker’s representative;</p> <p>The following details, amongst others, should be submitted:</p> <p>(i) Details on the commodities on which advice will be provided;</p> <p>(ii) Whether the advice will be binding or non-binding;</p> <p>(iii) The means through which the advice will be provided; and</p> <p>(iv) Details how it will manage portfolio of clients and an indication as to whether the management of portfolios will be on a discretionary or non-discretionary basis (if applicable).</p>
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 by the promoter;
- List of controlling shareholders and directors;
- Latest audited financial statements;
- Corporate Profile - in case latest audited accounts are not available; and
- Confirmation from the applicant/Management Company to the effect that it holds on record 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; and
- For a discretionary trust, a written confirmation from the Management Company/trustee to the effect that it has adequate arrangements in place with the trustee of the trust to make available to the Management Company, 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 terrorist financing in force in Mauritius.

		<p>Limited Partnership:</p> <ul style="list-style-type: none"> • 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; and • 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. <p>Société:</p> <ul style="list-style-type: none"> • Profile of the société (including a copy of the <i>acte de société</i>); and • CDD on the principals, administrators or gérants of the société. <p>The applicant should refer to section 20 of the Financial Services Act for matters related to fit and proper person requirements</p>
E.	Human Resources and Staffing	
9	Directors	<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)]. <p>Note The applicant should to demonstrate compliance with Circular Letter CL280313 on Directorships.</p>
10	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 trading adviser.

11	Spot Commodity Trading Advisory Team	<p>Details of the members of the spot commodity trading advisory team, who will be responsible to handle the operations of the spot commodity trading adviser activity together with the submission of their customer due diligence documents (demonstrating a proven track record in the provision of spot commodity trading Advisory services);</p> <p>The applicant should ensure that at least 2 members be appointed on the sport commodity trading advisory team to ensure business continuity;</p> <p>The applicant needs to indicate as to whether these persons are already regulated or hold a licence from a regulated authority. If in the affirmative, the applicant need to provide evidence of same.</p> <p>The strength of the Spot Commodity Trading advisory team is a key component of the application. Applicants should therefore provide adequate information on its members demonstrating their suitability to discharge their responsibilities</p>
12	Representative of Spot Commodity Trading Adviser	<p>The applicant needs to appoint at least 1 representative together with submission of application form and relevant fees.</p> <p>Please refer to the Commission website for the relevant fees and licensing criteria.</p>
13	Compliance Officer	<p>Details on the Compliance Officer, together with the submission of full CDD details on him/her.</p> <p>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><i>Outsourced compliance function</i></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 applicant with respect to its outsourced function, e.g, 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];</p> <p>(ii) provide the name of the person who will act as compliance officer for the applicant.</p>

14	MLRO /Deputy MLRO	<p>Details on the MLRO and Deputy MLRO, together with the submission of their full CDD details.</p> <p>A 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 Commission.</p> <p>Note: The MLRO and DMLRO should be independent from the Board of Directors.</p>
15	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 the Financial Reporting Council List</p>
F. Prudential and safeguarding Requirements		
16		<p>Draft copy of agreement to be entered into by the applicant with its clients. (accompanied by a legal certificate that the agreement complies with the laws of Mauritius)</p> <p>Note:</p> <p>(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</p> <p>(ii) A confirmation from the applicant's Legal Counsel that the agreement is in line with the laws of Mauritius.</p>
17		<p>Details and assessment on the source of funding (with documentary evidence).</p>
18		<p>Copy of the internal procedures and compliance manual.</p>
19		<p>Detailed description of systems and procedures to prevent money laundering and financing of terrorism.</p>
20		<p>Detailed description of the measures to be put in place by the Company to manage any risks associated with its business and operations prudently.</p>

21	Demonstrate as to how the Company will comply with Rule 18 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2023, in relation to risk disclosures.
22	Undertaking that the Company shall ensure compliance with Rule 16 of the Financial Services (Spot Commodity Market and Intermediaries) Rules 2023, at all times.
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 the amount of professional indemnity insurance cover that the applicant intends to subscribe to, along with a quote from the 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	Draft copy of the Disaster Recovery and Business Continuity Plan.
27	Procedures for complaints handling and indication as to who will be responsible to handle complaints and the time frame within which complaints will be resolved.
28	<p>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>When a person is cumulating different roles in the company (e.g shareholder, Director, member of the spot commodity trading advisory team, spot commodity trading adviser representative...), the applicant needs to indicate what are the measures in place to deal with any potential conflicts of interests that may arise during the course of his duties and to ensure that the person has adequate autonomy and independence.</p>
29	The applicant to demonstrate that it has appropriate and sufficient organisation, technical, financial means and staffing for the efficient operation of its business.

30	Details of IT infrastructure to support the day to day operations of the applicant including frequency of back ups
31	<p>Minimum capital requirement</p> <p>The applicant shall maintain a minimum stated unimpaired capital of Mauritian rupees 600,000 or an equivalent amount 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 600,000 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 600,000 • An undertaking that within one month of the Licence being issued evidence that the proceeds of the share issue amounting to MUR 600,000 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 an spot commodity trading adviser Licence, the following should be submitted:</p> <ul style="list-style-type: none"> • The applicant should ensure that stated capital of MUR 600,000 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
G. Others	
32	Details of the registered office address and a draft copy of the lease agreement (where applicable)
33	In the case the applicant is part of a group of companies, provide details on the systems and procedures put in place to prevent the circulation of non-public information to other members of the group.
34	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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