

# THE INVESTMENT BANKING RULES

*It is proposed that the Investment Banking Rules contain the following provisions:*

## **Part I – Preliminary**

### **1. Short Title**

These rules may be cited as the Financial Services (Investment Banking) Rules 2016.

### **2. Interpretation**

‘Act’ means the Financial Services Act

‘Investment Dealer (Full Service Dealer including underwriting)’ means licence issued under S29 of the Securities Act and defined under Rule 4 the Securities (Licensing) Rules

‘Investment Adviser (Unrestricted)’ means licence issued under S30 of the Securities Act and defined under Rule 5 the Securities (Licensing) Rules

‘Investment Adviser (Corporate Finance Advisory)’ means licence issued under S30 of the Securities Act and defined under Rule 5 the Securities (Licensing) Rules

‘Asset Management’ means licence issued under S14 of the Act

‘Distribution of Financial Products’ means licence issued under S14 of the Act

### **3. Application of the Rules**

(1) The Rules shall apply to Investment Banks licensed under the Act

- (2) For the purpose of this Rule, an Investment Bank shall not undertake the following:  
accepting deposits, financing others' businesses.

#### **4. Eligibility**

The Commission shall not grant an Investment Banking licence for the purposes of this section unless the applicant is a company incorporated under the Companies Act, or a registered as branch of a foreign company.

#### **5. Authorized Activities**

- (a) An Investment Bank may by way of business engage, in one or more of the following activities:
- (i) Investment Dealer (Full Service Dealer including underwriting);
  - (ii) Investment Adviser (Unrestricted)
  - (iii) Investment Adviser (Corporate Finance Advisory);
  - (iv) Asset Management;
  - (v) Distribution of Financial Products; or
  - (vi) such similar activities as may be approved by the Commission
- (b) Notwithstanding these Rules, an Investment Bank shall comply with the requirements provided under the relevant Acts, as may be applicable.

### **Part II – Licensing**

#### **6. Application for a licence**

- (1) An application to hold an Investment Banking Licence under these Rules shall be made as set out under FSC Rules and shall include :
- (a) Constitution;
  - (b) personal questionnaire form specified in the FSC Rules for every officer, proposed director, shareholder and beneficial owner of the applicant;
  - (c) copy of internal procedures manual;

- (d) detailed description of systems and procedures to prevent: conflicts of interest, money laundering and financing of terrorism;
- (e) the Company shall have in place adequate corporate governance infrastructure;
- (f) there are adequate safeguards to protect the interests of clients;
- (g) a secretary as defined in the Companies Act, be duly appointed; and
- (h) fees specified in the FSC Rules.

## **7. Grant of a licence**

- (1) The Commission shall not issue a licence unless it is satisfied that -
  - (a) the applicant complies with the provisions of the Act, other relevant Acts, regulations and FSC Rules made under those Acts and codes or guidelines which the Commission may issue from time to time;
  - (b) the applicant has disclosed such bona fide information as the Commission has requested in relation to the proposed business, and to persons who will, upon commencement of the applicant's business, have any proprietary, financial or other interest in, or in connection with, that applicant;
  - (c) the applicant has the financial resources, organisation and management capacities that are necessary to carry on the business which is the subject-matter of the application;
  - (d) the applicant, substantial shareholders, and officers of the proposed investment bank are fit and proper persons to ensure the sound and prudent management of the investment banking business;
  - (e) the applicant will, upon being licensed, be able to comply with and fulfill all requirements under this Rule;
  - (f) no prejudice would be caused or would ensue to the financial services industry or any part thereof or to the public, if the licence is issued.
  
- (2) Without prejudice to the above, the Commission shall, upon issuing a licence, take into account the ability of the company to maintain –
  - (a) adequate internal control systems and processes; and
  - (b) procedures aiming at preventing money laundering.

## **8. Management of an Investment Bank**

- (1) No Investment Bank shall have a board of directors consisting of fewer than 5 natural persons of which 40 per cent shall be independent directors, or such other number and percentage as may be approved by the Commission.
- (2) For the purposes of subsection (2), a director shall be deemed to be independent where, other than being a board member of the Investment Bank, he/ she has no relationship with or interest in the investment bank or its group of companies, which could or could be reasonably perceived to, materially affect the exercise of his judgment in the best interest of the Investment Bank.

## **9. Board sub-committees**

- (1) The Board of directors shall set up such sub-committees as it may deem appropriate in order to ensure that the business of the Investment Bank is being conducted according to sound corporate governance principles.
- (2) A sub-committee referred to under subsection (1) may include, but shall not be restricted to –
  - (a) a corporate governance committee;
  - (b) the audit committee; or
  - (c) a risks management committee.

## **10. Minimum stated unimpaired capital requirements**

- (1) Subject to paragraph (2), the applicant for a licence shall maintain a minimum stated unimpaired capital of at least Mauritian rupees 50 million.
- (2) The minimum stated unimpaired capital shall be fully paid and no amount shall be due or payable.

- (3) Where an Investment Bank licence is granted, it shall demonstrate to the Commission that it has sufficient means to ensure the continuity of its business and the provision of adequate services to its clients.
- (4) The licensee shall inform the Commission immediately where its minimum stated unimpaired capital falls below the minimum required by these Rules.

## **11. Code of Conduct**

For the sound conduct of business, the licensee has to adopt appropriate processes and procedures, in line with its business model, to meet the obligations under the Guiding Principles as set under the Code of Conduct by the Commission.

## **12. Internal Control**

Every Investment Bank shall establish documented rules of internal control.

## **13. Insurance**

Every Investment Bank shall subscribe to an insurance policy to cover the following risks –

- (a) Fraudulent activities of the employees;
- (b) Fraudulent instructions;
- (c) Losses arising from the malicious or fraudulent corruption of electronic data or electronic transactions;
- (d) Legal liability to third parties arising from breaches of professional duties.

## **14. Submission of Annual Report**

- (1) An Investment Bank shall file with the Commission, within 90 days of its balance sheet date, an annual report which shall include –

- (a) a report on the corporate governance policy of the licensee and any other information required by the Commission;
  - (b) an audited report on risk management procedures and their application;
  - (c) audited financial statements prepared in accordance with IFRS and such other standards as may be issued under the Financial Reporting Act 2004;
  - (d) such other requirements as may be specified in FSC Rules; and
  - (e) consolidated financial statements where the investment bank is a holding company or a subsidiary or a branch of a company incorporated abroad.
- (2) Any financial statement to be included in an annual report under subsection (1), shall be audited in accordance with International Standards on Auditing and such other standards as may be issued under the Financial Reporting Act 2004 by an audit firm approved by the Commission.

## **15. Commencement**

These Rules shall come into operation on XXXX