

**STATE OF ANJOUAN
UNION OF COMOROS**

STATUTORY RULES AND ORDERS

005A of 2005.

(Published February 5th 2005)

IN EXERCISE of the powers conferred by section 26 of the International Banks Act, 005A of 2005, the Minister acting on the advice and recommendation of the Anjouan Offshore Finance Authority makes the following Regulations:-

INTERNATIONAL BANKS REGULATIONS, 005A OF 2005

1. **Citation and commencement:**

These Regulations may be cited as the International Banks Regulations 005A of 2005, and shall come into operation on the 20th day of February 2005.

2. **Interpretation:** In these Regulations:-

“National bank” means the National Bank of Anjouan or any bank appointed by the State from time to time as a central bank of the State;

“Offshore banking business” has the meaning prescribed in section 2 of the Act, but does not include transactions concerning:-

- (a) amounts of money in foreign currencies or in foreign securities;
- (b) personal or movable property situated outside the State;
- (c) real or immovable property situated outside the State; for non resident persons which trust assets, are to be administered, managed or invested or otherwise dealt with for the benefit of such non resident persons and any activities related, incidental or ancillary thereto nor shall a licence under the Act be required for the carrying out or the acceptance in trust of such business unless the person providing such service additionally provides offshore banking services.

3. **Application fees for licensing:**

- (1) An application for a licence under section 4 of the Act, whether for a Class I or Class II licence as described in section 8 of the Act shall be made in duplicate in Form 1 of the Second Schedule and shall be forwarded together with the applicable application fee prescribed in the First Schedule.
- (2) The licence fee payable upon the approval of the application for a licence shall be as prescribed in the First Schedule.

4. **Form of licence:**

A licence granted on an application referred to under regulation 3 shall be in the form prescribed in Form 2 of the Second Schedule.

5. **Display of licence:**

A licence granted on an application referred to under regulation 3 shall be prominently displayed by the licensee on the premises where the offshore banking business is carried on in the State by:-

- (a) posting the licence on a wall in the main entrance, foyer or hall; or
- (b) displaying the licence by some other method whereby the licence may be easily seen upon first entering the premises of the licensee.

6. **Form and fees for renewal of licence:**

- (1) A licensee shall renew its licence on or before the expiry date in each year by submitting in duplicate, Form 3 prescribed in the Second Schedule duly completed together with the appropriate annual renewal fee prescribed in the First Schedule.
- (2) In the event that a licensee fails to renew a licence in the prescribed time, the licensee shall pay a surcharge of one-twelfth of applicable annual renewal fee for each month, or part of a month that the fee is in arrears.
- (3) The Authority shall cause a notice of non-renewal of fees to be issued to a licensee which has failed to file a renewal application with the renewal fee or has filed a renewal application which is deficient by reason of:-
 - (a) improper information;
 - (b) any other deficiency.

- (4) A notice of non-renewal shall be as prescribed in Form 4 of the Second Schedule.
- (5) A licensee who fails a renewal application within the prescribed time together with the required fee shall forfeit its licence and if such licensee continues in offshore banking business commits an offence under section 3 of the Act and shall if convicted be liable to the penalty provided under that section.
- (6) Notwithstanding the provisions of paragraph (5) a licensee who:-
 - (a) Submits a renewal application within thirty days of the date of a notice of non-renewal;
 - (b) Pays a surcharge of one-twelfth of the annual renewal fee shall not forfeit its licence nor be liable under the provisions of section 3 of the Act.

7. Licence for an extended period of time:

A licensee who holds a valid licence for a period of five consecutive years may apply for a renewal of its licence for an extended period not exceeding fifteen years from the date of application by submitting in duplicate Form 5 of the Second Schedule duly completed and by payment of the annual renewal fee prescribed in the First Schedule multiplied by the number of years of required extension and by stating the merits of granting to the licensee a licence for such extended period.

8. Application of registered agent:

An application for a licence under section 4 of the Act shall designate one registered agent who shall not be an official of the applicant and the grant of a licence to the applicant shall signify the approval of the registered agent by the Authority.

9. Notification of change of principal office or agent:

- (1) A licensee shall under section 7(2) of the Act, notify the Authority of any change in the location of its office in the State or of any change of its registered agent within five days of such change by submitting in duplicate Form 6 prescribed in the Second Schedule duly completed.
- (2) A licensee which fails to comply with the provisions of paragraph (1) within the prescribed time shall forfeit its licence and any continuation of offshore banking business shall be in contravention of section 3 of the Act.
- (3) Notwithstanding the provisions of paragraph (2) a licensee:-
 - (a) Submits a notice within thirty days of:-

- (i) Any change in the location of its office in the State;
- (ii) Any change of its registered agent.

(b) Pays a surcharge of one-twelfth of the annual renewal fee, shall not forfeit its licence or be liable under section 3 of the Act.

10. **Class I Licence:**

- (1) A Class I (A Class) onshore Banking Licence shall permit the licensee to provide onshore banking services to residents and non-residents pursuant to section 8(a) of the Act.
- (2) An application for a Class I Onshore Banking Licence shall so designate on the application and provide the information required on Form 1 of the Second Schedule.

11. **Class II Licence:**

A Class II (B Class) Offshore Banking Licence shall permit the licensee to provide offshore banking services to non-residents only pursuant to section 8(b) of the Act:-

- (1) Provided that the licensee may provide offshore banking services only to non-residents specifically named in its application for such licence in Form 1 of the Second Schedule and approved by the Authority.
- (2) A Class II Licensee which desires to provide offshore banking services to non-residents who are not approved by the Authority shall notify and await the approval of the Authority prior to providing offshore banking services to such non-residents.
- (3) A notice and request for approval shall be submitted to the Authority in the form prescribed in Form 7 of the Second Schedule.
- (4) The Authority may approve in its sole discretion any or all of the non-residents and shall notify the licensee of any such approvals by re-delivering to the licensee its submitted Form 7 of which shall be shown any approvals granted.
- (5) A Class II licensee may at any time cease from providing offshore banking services to approved non-residents and shall notify the Authority of such cessation of services on its next renewal application pursuant to regulation 6.

12. **Approval of banking business with residents:-**

A Class I or Class II licensee which desires to carry on any banking business not expressly permitted by the Act or the Regulations shall deliver to the Authority a written undertaking in duplicate stating the merits of, and requesting approval for, providing such banking

services to such Resident and the filing fee for submission of documents prescribed in the First Schedule.

13. Deposit or investment of funds for Class I Licence:-

- (1) An applicant for a Class I licence shall upon or before delivery of its application for an offshore banking licence in addition to the requirements of regulations 3 either:-
 - (i) deposit the sum of at least five hundred thousand dollars in the currency of the United States within the national bank and deliver with its application proof of such deposit in the form of a deposit receipt from the bank in the form customarily delivered by such bank; or
 - (ii) invest the sum of at least five hundred thousand US dollars (US \$500,000.00) in bonds other government securities determined by the Offshore Finance Authority from time to time and deliver with such application proof of such investment in the form of copies of certificates or other receipt issued by the State.
- (2) A Class I Licensee shall at all times maintain the deposit or investment in accordance with paragraph (1) and shall deliver proof of the maintenance of such deposit or investment upon renewal of its licence under regulations 6 and 7 or upon the request of the Authority in the form of a statement of account.

14. Deposit and maintenance and funds for Class II Licence:

- (1) An application for a Class II offshore banking licence shall upon or before delivery of its application for an offshore banking licence in addition to the requirements of regulation 3 either:-
 - (i) deposit the sum of at least one hundred thousand dollars in the currency of the United States within the National Bank and deliver with its application proof of such deposit in the form of a deposit receipt from the bank in the form customarily delivered by such bank; or
 - (ii) invest the sum of at least one hundred thousand US dollars (US \$100,000.00) in bonds other government securities determined by the Offshore Finance Authority from time to time.
- (2) A Class II licensee shall at all times maintain the deposit or investment in accordance with paragraph (I) and shall deliver proof of the maintenance of such deposit upon renewal of its licence under regulations 6 and 7 or upon the request of the Authority in the form of a statement of account or a receipt in the form customarily delivered by such bank.

15. **Certificate of tax exemption:**

- (1) A licensee may at any time apply to the Authority for a certificate of tax exemption pursuant to section 20(6) of the Act by delivering to the Authority a written request in duplicate.
- (2) A certificate shall be in the form prescribed in Form 8 in the Second Schedule and shall be sent free of charge to the licensee by the Authority within thirty days from receipt of the written request.

16. **Savings for certain existing operations, renewal and pro rated fees:-**

- (1) A licensee may apply for renewal of its licence pursuant to regulation 6 upon expiration of an offshore banking licence granted under the Act or it may apply for a licence for an extended period pursuant to regulation 7.
- (2) If the licence referred to in paragraph (1) or (3) will expire prior to the 31st day of December in the year of application the licensee shall pay the applicable annual renewal fee pro rated for the remainder of that year plus the fee for the year next following and such licence if granted shall expire on the 31st day of December of the year next following.
- (3) Upon the expiration of an Offshore Banking Licence granted under the International Companies Act, the licensee shall apply for a renewal of the licence pursuant to regulation 6 or 7.

17. **Revocation of Registered Agent Licence:**

Where the Authority has revoked the licence of a registered agent under the Act, it shall send a notice to the licensee in the form set forth in Form 9 of the Second Schedule.

2. Filing fee for submission of documents to the Offshore Finance Authority
3. Copy or extract of any document submitted to Offshore Finance Authority

There is no fee for an application for Certificate of Tax Exemption.

Form 1

Passed in the Anjouan Parliament this 5th day of February 2005