



FINANCIAL SERVICES REGULATORY AUTHORITY SAINT LUCIA

GUIDANCE NOTES

INTERNATIONAL BANKS ACT

Prepared by
Financial Services Regulatory Authority
March 30, 2022

PREAMBLE

The Financial Services Regulatory Authority is empowered, under Section 15 of the Financial Services Regulatory Authority Act, No. 13 of 2011, to issue guidelines.

The powers/duties of the Authority are, *inter alia*, set out in Section 18 of the International Banks Act, Chapter 12.17.

This publication has been prepared by the Financial Services Regulatory Authority (FSRA or Authority), Saint Lucia, to provide registered agents and their clients with guidance into the level of detail with which they are required to comply in the conduct of their business in the area of international banking from within St. Lucia. It is intended to cover some of the principal issues contained in the Act and Regulations and give service providers, their clients and their clients' auditors an understanding of the minimum expectations of the FSRA.

For all legal purposes the reader should refer to the official texts of the Acts and the Regulations, and must not depend on this guide as a substitute for either. Appropriate advice on more technical and detailed questions may be obtained from registered agents and qualified members of the legal profession.

For the purposes of these Guidelines, a country designated as a Recognised Country or Jurisdiction pursuant to the International Banks Act Chapter 12.17, shall, where appropriate, be so deemed for this Act.

Further inquiries may be addressed to the office of the Financial Services Regulatory Authority, 6th Floor Francis Compton Building, Waterfront, Castries, St. Lucia. Tel: 1(758) 468 2990, Fax: (1 758) 451 7655.

A. THE APPLICATION PROCESS

1. Procedural Steps

A company cannot engage in the business of international banking from within St. Lucia without first obtaining the requisite licence. As a precursor to its licence application, the Applicant must first seek consent from the Authority under section 5(3) of the International Business Companies Act (IBC Act).

Existing banks incorporated in another jurisdiction wishing to redomicile (to St. Lucia) for the purposes of engaging in international banking business must seek a provisional registration under section 85 of the IBC Act. In the case of a St. Lucia “non-bank” company wishing to engage in international banking business, the Authority’s consent must be obtained to enable it to adopt banking-specific objects clauses.

In practical terms, Applicants would submit the ‘Consent’ application simultaneously with the “draft” substantive application. The prescribed application fee made payable to the Accountant General should also be enclosed.

1.1 Application for Consent to incorporate

This application for consent is necessary to enable due diligence to be carried out on the promoters of the entity. This application should be made on the form enclosed at Appendix 1 and should include as a minimum, the following in respect of each promoter.

- (i) Name (showing any previous name and all aliases);
- (ii) Date and place of birth (evidence: notarised coloured copies of passport or birth certificate);
- (iii) Current Address and supporting utility bill. Private addresses for the past 10 years;

- (iv) Data pages (including photograph) of all passport(s), duly notarised;
- (v) Social Security Number (evidence: social security card);
- (vi) Drivers licence, duly notarised;
- (vii) Curriculum Vitae;
- (viii) A Banker's reference (indicating how many digits for amount held by the bank);
- (ix) Notarized Statutory Declaration. To include picture ID if passport not submitted by applicant;
- (x) Police Clearance
- (xi) Undertaking to provide and set apart the minimum fully paid – up capital, before and at the time business commences, signed by all requisite shareholders.
- (xii) Certified Net Worth of all shareholders or bank statement presenting a balance which is at least equivalent to the required capital and statutory deposit.

Should approval granted to (i) incorporate a new company or (ii) amend the objects clauses of an existing company, a certificate in the form of Appendix 3 will be issued to the Registered Agent for presentation to the Registrar of IBC authorising the Registrar, to effect the transaction as appropriate.

1.2 **Tentative application**

On a strict construction of the Act, an eligible Company must first be incorporated (or continued) in order to apply for a licence. In the interest of commercial efficacy however, a “tentative” substantive application would be made at the same time as the application for consent to incorporate.

1.2.1 **Format of Tentative application**

All applications should be submitted in neatly tabulated files. The sequence of tabulations should be based on the sequence and format of the Regulations, e.g. all the required information in Part 2 of the Regulations should be under Tab 2; and more specifically, “*certified evidence of capital*

and deposit” should be under Tab 2.1, and “*Name, citizenship....*” etc. should be under Tab. 2.2.

There is some direct positive correlation between the neatness of the presentations and the period of time during which the Applicant could expect a reply from the FSRA. Applications which are submitted in an unprofessional manner could expect to be placed at the end of the queue.

In conformity with the Regulations all applications should include a detailed Business Plan and accompanying projections (see under the section headed “Business Plan”).

2. The Business Plan

At the minimum, and without prejudice to the contents of the Regulations, the Business Plan should contain the following:

A **group structure chart** showing the group structure, where the Applicant is a member of a group;

An **organisational chart** showing the composition of the Board of Directors, Executive Manager, Operational Manager, Compliance Officer and other senior management. (Please note that in the interest of good, corporate governance, shareholders and directors should ideally be different persons.)

An **economic benefits chart** showing the flow of economic benefits where this is not plain and obvious from a reading of the business plan.

A detailed **feasibility study** explaining why the Applicant wishes to establish an international bank, full details of its **market research** and the **assumptions** underlying the financial projections.

A clearly defined list of intended depositors (in the case of applicants for a Class B licence); **all** of whom should be related parties.

A detailed account of how interest income/expense has been calculated, in cases

where the rates offered are in excess of what is available on the international exchanges.

Detailed assumptions (including security measures and risk management procedures) pertaining to derivative contracts, e-banking, etc in which the Applicant may become engaged;

Details of the Applicant's **administrative controls**, showing the division between operational and administrative functions and indicating the checks in place.

A full account of the Applicant's proposed **Investment Strategy** including evidence that the Applicant will maintain a well-balanced and diversified portfolio.

A risk analysis report evidencing that the applicant has analysed the risks inherent in the types of activity proposed.

Detailed information on the bank's correspondent banking relationships, including information on the correspondent banks themselves. Correspondent banks should be licensed and regulated in OECD countries or approved by the FSRA. The bank is prohibited from entering into, or continuing, correspondent banking relationships with shell banks.

Shell bank means a bank that has no physical presence in the country in which it is incorporated and licensed.

Where the Applicant is an existing bank detailed Capital Adequacy Computation Worksheets based on the Assets included in each projected balance sheet and computed in accordance with Basle principles.

Detailed Capital Computation Worksheets based on the Capital items in each projected balance sheet.

Requisite authorisations and consents from the home regulator or that of a parent company, as appropriate, for the establishment of a branch or subsidiary in St. Lucia.

Anti-Money Laundering and Know Your Customers (KYC) manual and procedures. The AML policy must include a detailed risk profile for each product/service being offered, with corresponding risk mitigation measures.

Note all Class “A” Banks will be required to have their “mind and management” and premises in Saint Lucia.

Should the Bank maintain a physical presence in Saint Lucia, it would need to have a place of business at the following street address: xxxx, Saint Lucia, where the Bank employs more than 2 individuals on a full-time basis and maintains operating records related to its banking activities.

The complement of staff must include an operating manager and a compliance officer in keeping with the Money Laundering (Prevention) Act, Cap 12.20.

The Bank would be subject to inspection by the Regulatory Body.

3. The Financial Projections

The projected financial statements which supplement the Business Plan should cover a period of at least 3 years.

The projections should clearly show that the Applicant will remain solvent all times.

4. Meetings

The Authority may find it necessary to convene meetings with applicants and their registered agents following the submission of an application for a licence.

5. Conditions to the Licence

The maintenance of the licence will be subject to satisfaction of said conditions.

*Conditions typically attached to a **Class A** licence*

- I. The Bank must ensure that all policies and procedures manuals (i.e. Money Laundering prevention and anti- terrorism policy, operation policy...) are established and adopted by the Board of Directors before the bank begins operation;
- II. The Bank must ensure that all members to the various committees and boards are identified and be put in place before the commencement of banking operations;
- III. The Bank must obtain prior clearance/approval by the FSRA in respect of the appointment of additional executive officers before and after the opening of the Bank;
- IV. The Bank must give the FSRA at least 60 days prior written notice of its intention to significantly deviate or change from its business plan or operation and shall obtain the FSRA's written determination of no objection before the bank engages in any significant deviation or change from its business plan or operations;
- V. The Bank must have a minimum paid-up capital of USD2.2 million and Statutory Deposit of USD 100,000.
- VI. The Bank must provide the FSRA with evidence of its paid-up capital and statutory deposit before commencement of banking business. The Bank's Tier 1 and Tier 2 Capital over its Risk Weighted Assets must be maintained at not less than 8.5%;
- VII. The Bank must ensure that upon capitalization it provides the FSRA with a certified copy of an open balance sheet certified by an external auditor;
- VIII. The Bank must provide proof of correspondence banking with preferably a bank licensed in the OECD countries;
- IX. The Bank must provide proof of insurance coverage:-
 - (i) Against losses arising out of claims of negligence or breach of duty by the licensee or any of its directors or employees and

- (ii) Against the dishonesty of employees (employee's dishonesty bond) and liability insurance to mitigate any loss it might incur for inadequate or faulty systems;
- X. The Bank must ensure that books and records are kept in English and stored in Saint Lucia at all times;
- XI. Prior to the commencement (at least 14 days) of banking operations, the Bank must notify the Authority. The Authority will conduct a pre-opening inspection of the bank's premises at this point.
- XII. The Board of directors would have to be comprised of at least 5 directors (minimum of 3 nonexecutive directors with at least one with a wealth of banking experience).

*Conditions typically attached to a **Class B** licence*

- I. The list of entities to be limited to 10.
- II. The entities/persons must be affiliated.
- III. Due diligence must be submitted for all entities/persons.
- IV. The Bank must have a minimum paid-up capital of USD 700,000 and Statutory Deposit of USD 100,000.
- V. An Undertaking from each entity/person to confirm their understanding of the private bank operations.
- VI. An annual meeting to be held with designated Individual/Director of each entity/person to discuss the annual accounts of the private bank.
- VII. The minutes of the annual meeting is to be submitted to the Regulator within 6 months of the financial year end.
- VIII. The annual general meeting of the Board of Directors of the Bank must be held in Saint Lucia.

- IX. Should the bank not be linked to an established bank in another jurisdiction, the Bank is required to have physical presence in Saint Lucia.

Should the Bank maintain a physical presence in Saint Lucia, it would need to have a place of business at the following street address: xxxx, Saint Lucia, where the Bank employs more than 2 individuals on a full-time basis and maintains operating records related to its banking activities.

The complement of staff must include an operating manager and a compliance officer in keeping with the Money Laundering (Prevention) Act, Cap 12.20.

The Bank would be subject to inspection by the Regulatory Body.

B. THE MONITORING PROCESS

Licensees will be monitored and regulated through:

- a. The provision of quarterly and yearly returns,
- b. Undergoing the annual statutory audit;
- c. The notification (to the FSRA) of changes in material particulars;
- d. The maintenance of proper books and records in St. Lucia.

5. Quarterly and Annual Returns

In addition to being subject to periodic on-site inspection by the staff of the FSRA, licensees are required to provide at three monthly intervals (from the commencement of operations), information as required by the forms set out in the booklet referred to in Appendix 2.

Where licensees feel that their performance or the information pertaining thereto, require explanation, such explanation should be provided in a

covering letter accompanying the returns.

6. The Annual Statutory Audit

Auditors of licensees are required to submit copies to their audited accounts and audit report to the Authority and not just to their shareholders. Auditors should note for the avoidance of doubt:

- (a) **that the Authority will place reliance on the audit report in determining whether or not to renew a licensee's licence;**
- (b) that their audit should specifically address (*inter alia*), loans made by the licensee to its Directors, Shareholders, officers or other related parties, specifying:
 - (1) to whom such loans were made;
 - (2) the amount of each of such loans;
 - (3) the repayment terms/conditions;
 - (4) the applicable rate of interest; and
 - (5) whether the loan is repayable on demand.
- (c) that they would be required to verify whether the licensee's last returns (submitted to the FSRA) immediately prior to the year end, were correct in all material respects.

7. Notification of Changes

Licensees and their registered agents should inform the Authority of changes in material particulars and the **reasons** pertaining thereto in the case of each of the following:

- (a) where there has been a change in the senior management personnel of the licensee;

- (b) where there is proposed to be a change in the shareholders of the licensee (see section 13 of the Act);
- (c) where there has been a change in any of the licensee's professional advisers;
- (d) where there is a proposal for the merger or takeover of a correspondent bank of the licensee;
- (e) where there is proposed to be a change in the bank's business address;

Where the licensee seeks to undertake classes of business not included in its original business plan a new/revised business plan (and accompanying projections) must be submitted.

8. Books and Records

Every licenced international bank is expected to maintain permanently at its principal office in St. Lucia such books of accounts and records of its business and financial affairs -

- (a) as will show adequately the nature and extent of its international business carried on by that bank from within St. Lucia; and
- (b) as will enable the Authority, at any time as provided in law to conduct a proper examination of the bank's affairs, to ascertain with reasonable accuracy its financial position, and to verify that it is then in compliance with the law and these Guidelines.

8.1 Books to be Kept.

The books and records to be kept by every licensed bank at its principal office in St. Lucia are likely to include:

- (a) financial statements for the current year and the preceding three years for its banking business as carried on from with St . Lucia.
- (b) a detailed financial record of the bank's operations;

- (c) a register of the bank's directors, officers and managers, showing their names and addresses;
- (d) minutes of all the bank's general meetings, meetings of its board of directors, and meetings of committees of its board of directors.
- (e) general and subsidiary ledgers and general journals;
- (f) an up-to-date list of all the bank's agents; and
- (g) any other registers or records as may be specifically required in writing by the Authority from time to time.

9. Approved Stock Exchanges.

For purposes of these Guidelines, the following are designated as “approved stock exchanges”.

Alberta Stock Network
American Stock Exchange
Australian Stock Exchange
Geneva Stock Exchange
Hong Kong Stock Exchange
London Stock Exchange (or any other EU Stock Exchange)
Mexico Stock Exchange
Montreal Stock Exchange
National Association Securities Dealers Automated
Quotation System (NASDAQ)
New York Stock Exchange
The Philadelphia Stock Exchange
Tokyo Stock Exchange
Toronto Stock Exchange
Vancouver Stock exchange
Vienna Stock Exchange
Any other Exchange approved by the FRSA

10. Restrictions on exposures to related parties

- (1) A licensed International Bank shall not grant or permit to be outstanding an exposure to any of its related parties, unless an exposure is granted on non-preferential terms.
- (2) Before an exposure is granted to any related party, an exposure shall be approved by the board of directors and assessed in accordance with any prudential standards issued by the Financial Services Regulatory Authority (FSRA).
- (3) For the purpose of Guidance Note 10(1) “non-preferential” means a transaction made on substantially the same terms, including interest rates and collateral, as applicable, as those prevailing for comparable transactions with other persons
- (4) A licensed International Bank shall not grant an exposure to a related party where the aggregate of all financial exposures to related parties would exceed 50% of the capital base (Tier 1 Capital) of the licensed International Bank.
- (5) For the purposes of calculating capital adequacy, the amount of exposures that are in excess of the limits under Guidance Note 10(4) shall be deducted from capital.
- (6) For the purpose of Guidance Note 10(5) deductions from capital should be indicated on Form IB 13 WIII, in the Tier II window, line item named “Less deductions”.
- (7) A grandfathering arrangement is allowed for a period of 1 year or any other time approved by the Financial Services Regulatory Authority.
- (8) For the purpose of Guidance Note (10) a “related party” includes —

(a) any financial holding company, subsidiary or other affiliate of a licensed International Bank;

(b) directors, officers, and significant shareholders of a licensed International Bank, financial holding company, subsidiary or other affiliate of a licensed International Bank;

(c) a relative or other members of the households of persons listed in paragraph (b);

(d) any entity that is controlled by a person described in paragraphs (a), (b) and (c); or

(e) any other person or class of persons determined by the Financial Services Regulatory Authority to be a related party because of its past or present interest in or relationship with the licensed International Bank being such that it can reasonably be expected that this person can influence the decision of the licensed International Bank regarding a transaction;

11. Limit on exposures

(1) Except with the approval of the Financial Services Regulatory Authority and subject to such terms and conditions as the Financial Services Regulatory Authority may determine a licensed International Bank shall not directly or indirectly, incur exposures to —

(a) any person;

(b) any member of a borrower group; or

(c) any borrower group,

so that the total value of the exposures in respect of such person, member or group, is at any time more than twenty-five per cent of the aggregate amount of the licensed International Bank's capital base, unless prior approval is

obtained from the Financial Services Regulatory Authority.

- (2) The limitation specified in Guidance Note 11(1) shall not apply to transactions that represent loans to ECCU or CARICOM Governments, or to the boards, agencies, or local government bodies of an ECCU or CARICOM Government which are guaranteed by the ECCU or CARICOM Government.
- (3) In applying Guidance Note 11(1), where the Financial Services Regulatory Authority determines that the interests of 2 or more persons are connected, the total indebtedness of the persons shall be aggregated and deemed to be the indebtedness of a single person.
- (4) In making a determination under Guidance Note 11(3), the Financial Services Regulatory Authority may take into account whether the financial soundness of any of the persons may affect the financial soundness of the other or others, or the same factors may affect the financial soundness of some or all of them, or if as a result of the structure of their relationship the other person is in fact ultimately responsible for, or benefits from, the exposure outstanding.
- (5) A licensed International Bank shall, within fourteen days of exceeding the limit on exposures in Guidance Note 11(1), report such exposures to the Financial Services Regulatory Authority and shall provide a written plan for remedying the breach within 30 days.
- (6) The aggregate of large exposures of a licensed International Bank shall not exceed 400% of its capital base, or such other percentage as the Financial Services Regulatory Authority may determine.
- (7) For the purpose of Guidance Note (11) “exposure” means the amount at risk and includes —
 - (a) credit facilities, investments including equities, participations, guarantees and acceptance;

(b) claims on a counterparty including actual and potential claims that would arise from the drawing down in full of undrawn advised facilities, whether on or off-balance sheet, revocable or irrevocable, conditional or unconditional, that the licensed International Bank has committed itself to provide, arrange, purchase or underwrite;

(8) Notwithstanding Guidance Notes (11(7a) and (7b)), Zero Weighted Assets specified on Form IB 13 WI are exempted from the limits imposed on exposures. Furthermore, with regards to the Financial Services Regulatory Authority's international bank quarterly reporting form, the following are not considered exposure:

- i. Certificates of deposit
- ii. Treasury bills
- iii. Term deposits.

For the Financial Services Regulatory Authority's reporting purposes, examples of exposures would consist of the following:

- i. Loans
- ii. Bank overdrafts
- iii. Letters of credit
- iv. Any other type of investment

(9) For the purpose of Guidance Note (11) a "Borrower Group" means —

- (a) A family group comprising an individual and that individual's relative where each member of the group is substantially dependent upon the same income sources;
- (b) a company in which the family group indicated in paragraph (a) has control;
- (c) a group of companies which is under a common control;
- (d) a group of persons in which the credit worthiness, ability to generate

funds or the future viability of each, depends on one or other member of the group;

(e) a group of persons in which one member has power directly or indirectly to control the other members;

(f) any other group of persons as may be determined by the Central Bank;

(10) For the purpose of Guidance Note (11) a “large exposure” means an exposure to a person or a borrower group, which amounts to 10% or more of the capital base (Tier 1) of a licensed International Bank;

12. Limitation in the Guidance Notes

1. Areas that are silent in the International Banks Guidance Notes and the International Banks Act, Cap, 12.17 reference for applicable guidance and enforcement should be made to the Banking Act, Cap, 12.01;

APPENDIX 1

International Banks Act

APPLICATION FOR CONSENT TO INCORPORATE AN INTERNATIONAL BANK PURSUANT TO SECTION 5(3) IBC ACT

1. Proposed _____ Name _____ of _____ IBC:

Proposed Class of licence applied for (Please tick).

- (a) A
- (b) B

3. Please provide in respect of each promoter of the entity the following details for due diligence purposes.

- (i) Name (showing any previous name and all aliases);
- (ii) Date and place of birth (evidence: notarised coloured copies of passport or birth certificate);
- (iii) Current Address and supporting utility bill. Private addresses for the past 10 years;
- (iv) Data pages (including photograph) of all passport(s), duly notarised;
- (v) Social Security Number (evidence: social security card);
- (vi) Drivers licence, duly notarised;
- (vii) Curriculum Vitae;
- (viii) A Banker's reference;
- (ix) Notarized Statutory Declaration. To include picture ID if passport not submitted by applicant;
- (x) Police Clearance

(xi) Undertaking to provide and set apart the minimum fully paid – up capital, before and at the time business commences, signed by all requisite shareholders.

(xii) Certified Net Worth of all shareholders or bank statement presenting a balance which is at least equivalent to the required capital.

NOTE: “Promoter” includes Shareholder, director, officers or any person acting as such regardless of how described.

4. (a) Please say how the entity will be capitalised and provide an undertaking supported by sworn affidavit to provide any security deposit required by law.

APPENDIX 2

RETURN FORMS

PLEASE REFER TO ATTACHED BOOKLET (INCLUDING SCHEDULES) ENTITLED *“MANUAL OF OF1 SCHEDULES, INSTRUCTIONS AND PRUDENTIAL GUIDELINES”*.

THIS BOOKLET IS HEREBY INCORPORATED INTO THESE GUIDANCE NOTES AND MUST BE SO READ.

Appendix 2A

CAPITAL ADEQUACY CRITERIA

FOR INTERNATIONAL BANKS

The Financial Services Regulatory Authority of St. Lucia has adopted the risk-based approach to assess the capital adequacy of international banks licensed in St. Lucia under the International Banks.

The framework is as follows:-

- i) All assets recorded on the balance sheet of a financial institution as well as their off-balance sheet exposures are assigned to broad risk categories.
- ii) The total of the risk adjusted assets, both on and off balance sheet, is compared to the level of an institution's capital.
- iii) The qualifying capital comprises Tier I or Core Capital and Tier II or Supplementary Capital.

- iv) The ratio of capital (Tier I plus Tier II) to risk-weighted assets should be a minimum of 8.5% of which the core element (Tier I) should be at least 4.5%.

Detailed below are the Constituents of Capital, the Risk Weights for On-Balance Sheet Assets and the Credit Conversion Factors for Off-Balance Sheet Items and Worksheets for the computation of capital and the risk weighted are attached.

II. CONSTITUENTS OF CAPITAL

A. **Tier 1 Capital or Core Capital** consists of Equity and Disclosed Reserves i.e:

- (i) - Issued and fully paid ordinary shares/common stock and related surplus (share premium).
- (ii) - Fully paid perpetual non-cumulative preference shares and related surplus.
These are preferred shares which:-
 - (a) do not have a maturity date
 - (b) cannot be redeemed at the option of the shareholder
 - (c) gives the issuer the legal right to defer or eliminate preferred dividends
 - (d) have no other provisions that will require future redemption of the issue
- (iii) - Statutory Reserves as required by the Banking Act or the International Banks Act.
- (iv) - Capital Reserves excluding Asset Revaluation Reserves.

- (v) - General Reserves excluding General Reserves or Provisions for losses on assets.
- (vi) - Retained Earnings as stated in the audited financial statements.

B. Tier 2 Capital Or Supplementary Capital (consists of:)

- (i) Fixed asset revaluation reserves arising from a formal revaluation of the financial institution's real estate property but limited to one revaluation every five years and up to 20% of Tier I capital.
- (ii) Securities revaluation reserves which arise from the practice of holding securities in the balance sheet valued at historic cost. The difference between the historic cost and the market value is discounted by 55%.
- (iii) General Provisions or General Reserves for losses on assets i.e. provisions and reserves not ascribed to specific assets. General provisions or general loan loss reserves made for specific assets are not eligible for inclusion in capital. General provisions or general loan loss reserves which qualify for inclusion in Tier II do so subject to a limit of 1.25% of risk-weighted assets.
- (iv) Hybrid debt capital instruments i.e. a range of instruments that combine characteristics of equity capital and of debt e.g. perpetual cumulative preference shares, long term preference shares, perpetual subordinated term debt and mandatory convertible debt instruments, they should meet the following requirements:-
 - they should be unsecured, subordinated and fully paid.
 - they should not be redeemable at the discretion of the holder.
 - they should be available to absorb losses

- service obligations attached to the instrument should be deferrable.
- (v) Subordinated debt includes conventional unsecured subordinated debt capital instruments with a minimum original fixed term to maturity of over five years and limited life redeemable preference shares. Such instruments are subordinated to the claims of both depositors and general creditors and are limited to a maximum of 50% of Tier I capital.

C. **Deductions from Capital**

From Tier 1 - Goodwill arising from the acquisition of assets

From Total Capital - (i) Investments in subsidiaries engaged in banking and financial activities which are not consolidated in national systems (deductions will be made against total capital base and such investments would not be included in total assets).

(ii) Other Intangible Assets e.g. the capitalization of formation and other preliminary expenses.

III. **RISK WEIGHTS FOR ON-BALANCE SHEET ASSETS**

A. **Zero Percent Risk Weight**

- (a) Local and foreign currency.
- (b) Deposits at the ECCB i.e. reserve account balances and special deposits.
- (c) Treasury Bills and other securities issued or guaranteed by Central Government.

- (d) Claims on local governments, statutory boards and other public sector entities in CARICOM and approved foreign countries and loans to these entities, all guaranteed by the central government.
- (e) Claims on CARICOM and approved foreign Central Banks and Central Governments and other obligations fully guaranteed by these entities.
- (f) Claims fully secured by cash on deposit at the reporting institution or central government securities and guarantees.

B. Twenty Per Cent Risk Weight

- (a) Claims on domestic financial institutions and other financial institutions incorporated in CARICOM or approved foreign countries and loans guaranteed by such institutions.
- (b) Claims on multilateral development banks and claims guaranteed or collateralized by securities issued by such banks.
- (c) Bankers' acceptances held as part of an institution's investment portfolio.
- (d) Cash items in the process of collection.

C. Fifty Percent Risk Weight

Loans fully secured by mortgages on residential properties that are or will be occupied by the borrower or that are rented.

D. One Hundred Percent Risk Weight

- (a) Claims on the private sector.
- (b) Other loans and advances.
- (c) Premises, plant and equipment and other fixed assets.
- (d) Real estate and equity investments.
- (e) Capital instruments issued by other financial institutions (unless deducted from capital).
- (f) All other assets.

IV. CREDIT CONVERSION FACTORS FOR OFF-BALANCE SHEET ITEMS

The following credit conversion factors would be multiplied by the weights applicable to the category of the counter party for an on-balance sheet item:-

A. One Hundred Percent Conversion Factor

- (a) Items which substitute for loans and advances e.g. financial guarantees, including standby letters of credit and bankers' acceptances.
- (b) Sale and repurchase agreements with recourse where the credit risk remain financial institution.
- (c) Forward asset purchases, forward deposits and partly-paid shares and securities representing commitments with certain drawdown.

B. Fifty Percent Conversion Factor

- (a) Certain transaction-related contingent items e.g. performance bonds, warranties and standby letters of credit related to particular transactions.
- (b) Note-issuance facilities and revolving underwriting facilities.
- (c) Other commitments (e.g. formal standby facilities and credit lines) with an original maturity of over 1 year.

C. Twenty Percent Conversion Factor

Short-term self-liquidating trade-related contingencies (such as documentary credits collateralized by the underlying shipments).

D. Zero Percent Conversion Factor

Other commitments e.g. (formal standby facilities and credit lines) with an original maturity of up to 1 year or which can be unconditionally cancelled at any time.

Financial Services Regulatory Authority of St. Lucia

Appendix 2B

LOAN CLASSIFICATION CRITERIA

PROVISIONING & OTHER RELATED GUIDELINES

Outlined below are guidelines for the review of the loan portfolio, the classification of loans, loan loss provisioning, loan renegotiating, the suspension of interest on past due loans and write off procedures, for use in St. Lucia.

A. Loan Portfolio Review

International Banks operating in St. Lucia are required to conduct annual reviews of their loan portfolios. All large credits are to be reviewed, including large off-balance sheet credit commitments. All past due loans, non-performing loans and other loans identified as problem loans are also to be reviewed. A sample of the remaining portfolio should also be selected for review. The loan portfolio review should cover at least 70 per cent of the total amount of loans and advances outstanding. The information reviewed would include:-

- (a) The original amount of the loan/advance, the terms, the interest rate, the current balance and status and the purpose of the loan/advance.
- (b) The business of the borrower, balance sheets, cash flows and other financial data both on the business and the guarantors.
- (c) An evaluation of the project financed.
- (d) The security taken, including up to date appraisals, legal assignments, insurances etc.
- (e) Track record of the borrower including the servicing of previous borrowings.
- (f) If part of a group, the performance of loans/advances to other members of the group.

Following the annual review of the portfolio the loans/advances should be classified by the financial institution, based on the criteria detailed below and the required provision made.

Loan classifications, following inspections by the FSSU, would be based on similar criteria.

B. Loan Classifications

Five classification categories are recommended for loans/advances, following the review of the loan portfolio. These are **Pass, Special Mention (Potential Problem Credits), Substandard, Doubtful and Loss**. The criteria for each classification are as follows:-

I. Pass -

All of the following:-

- (a) The financial condition of the borrower is sound.
- (b) There is adequate credit documentation to support borrowings e.g. current financial statements, cash flows, credit checks.
- (c) The collateral taken for the loan is unimpaired and represents tangible security to cover the financial institution's exposure.

This classification would therefore be assigned to:-

- (i) Up to date loans (both principal and interest) which are fully secured by cash or government securities.
- (ii) Loans with repayments in arrears of up to 1 month.
- (iii) Unsecured credits which are up to date.
- (iv) Overdrafts operating within the approved limits and showing good fluctuations.

**II. Special Mention
(Potential Problem
Credits) -**

Any one or more of the following:-

- (a) The credit is currently up to date but evidence suggests that certain factors could in the future affect the borrower's ability to service the loan properly or impair the collateral.
- (b) There is inadequate credit documentation to support

borrowings or other deviations from prudent lending practices exist.

- (c) Collateral to be taken not fully in place.
- (d) Loans which could deteriorate because of market conditions affecting the sector.
- (e) Renegotiated loans which are up to date and adequately secured for a minimum of 1 year after rescheduling and during which period there would have been no inherent credit weaknesses.
- (f) Loans with repayments in arrears, for 1-3 months and/or non compliance with other terms of the loan.
- (g) Overdrafts which exceed the approved limits for short periods without the prior approval of the financial institution.

III. Substandard -

Any one or more of the following:-

- (a) There are well-defined credit weaknesses e.g. borrower's cash flow insufficient to service the debt as arranged, several renewals with capitalization of interest.
- (b) The primary source of repayment insufficient to service the debt and the financial institution will have to look at secondary sources, such as collateral or refinancing, for repayment.

- (c) The adequately secured portions of loans and advances which would otherwise have been classified doubtful.
- (d) Loans with repayments in arrears for at least 3 months.
- (e) Non-performing loans for which both principal and accumulated interest is fully secured by cash or Government securities/guarantees.
- (f) Adequately secured * overdrafts, which are continuously in excess of the approved limits or with hardcores and fluctuations which do not conform to the business cycle.

*** adequately secured means that the security is sufficient to protect the financial institution from loss of principal and interest following disposal under a forced liquidation program.**

IV. Doubtful -

All the weaknesses of substandard plus any one or more of

- (a) Collection of the debt in full is highly questionable or improbable.
- (b) There is the possibility of a loss, but some factors exist which could improve the situation.
- (c) The unsecured portion of loans 6 months or more in arrears.
- (d) The unsecured portion of overdrafts continuously in excess of their limits, and with minimum activity in the accounts.

V. Loss - Any one or more of the following:-

- (a) Loans considered uncollectible.
- (b) The unsecured portion of loans 12 months or more in arrears.
- (c) Loans which may have some recovery value but it is not considered practical nor desirable to defer write off.

C. Provisioning Guidelines

In order to determine an adequate level of provision to be made by financial institutions for anticipated losses on loans, a minimum provision should be assigned to each of the loan classification categories above, following the annual review of the loan portfolio. The following minimum levels of provisions are proposed for use in St. Lucia:-

<u>Classification</u>	<u>Level of Provision</u>
Pass	0%
Special Mention	0%
Substandard (loans and advances fully secured by cash or government securities/guarantees*)	0%

***This category would include non-performing loans to government entities which are fully guaranteed (principal and interest) by the Government (Letters of Comfort not included).**

<u>Classification</u>	<u>Level of Provision</u>
Substandard residential mortgage loans up to a maximum of six months past due	0%
Substandard (Other)	10%

Doubtful	50%
Loss	100%

It is also recommended that international banks be required to make a provision of at least 1% for the balance of the loan portfolio (not reviewed during the past 12 months).

International banks should also be advised that they could be required to make larger provisions for loan losses, if this is considered warranted by the FSRA. Factors which could influence the FSRA, include its own review of the financial institution's loan portfolio, economic trends, changes in lending practices, the loss experience of the particular institution and the quality of its management.

D. Renegotiated Loans

Renegotiated loans and advances are credits which have been refinanced, rescheduled, rolled over or otherwise modified because of weaknesses in the borrower's financial position and/or the non repayment of the debt as arranged. Loans should only be renegotiated under the following conditions:-

- (a) the existing financial position of the borrower can service the debt under the new conditions.
- (b) loans classified doubtful or loss should not be renegotiated unless an up front cash payment is made or there is an improvement in the security taken.
- (c) Commercial loans should not be renegotiated more than twice over the life of the original loan and mortgage and personal loans not more than twice in a five year period.

- (d) Renegotiated loans should not be reclassified upward for a minimum of 1 year following the new arrangements.
- (e) The security for renegotiated loans inclusive of capitalized interest, should cover the full amount of the renegotiated loan.

E. Suspension of Interest

Interest should not be accrued on loans classified as non-performing (i.e. where principal and interest have not been paid for ninety days or more, except in the case of residential mortgage loans where the period shall be extended to one hundred and eighty days) unless such loans are adequately secured and full collection is expected within three months. Neither should interest be accrued on overdrafts when the approved limit has been reached and/or when credits to the account are insufficient to cover interest accruals for at least a three month period.

Interest on loans to Government and loans guaranteed by Government, would continue to accrue up to the limit of the guarantee.

A non accrual loan may be restored to accrual status when all arrears of principal and interest have been paid or when it otherwise becomes well secured and in the process of collection. In the case of overdrafts, accrual status is restored when the account is operating within the limit and all interest arrears have been cleared or when it otherwise becomes well secured and in the process of collection.

Accrued, uncollected interest should be reflected in an "interest in suspense" account on the balance sheet.

F. Write-Off Procedures

Loans must be written off to a memorandum account, three months after being classified as a loss.

Completed banking schedules are to be submitted to:

**The Executive Director
Financial Services Regulatory Authority
6th Floor, Francis Compton Building
Waterfront
Castries.**

Tel: 468 2990

Before submitting the returns, the completed forms should be examined for data validation - to ensure that, sub-totals add to totals and total assets and liabilities are equal.

Form 3

APPENDIX 3

**APPLICATION PURSUANT TO SECTION 5 OR SECTION 9
INTERNATIONAL BUSINESS COMPANIES ACT**

CONSENT GRANTED THIS _____ DAY OF _____, 20__.

TO THE PROMOTERS OF _____

DELETE (A) OR (B) AS APPROPRIATE.

TO INCORPORATE THE PROPOSED ENTITY AS AN INTERNATIONAL BUSINESS COMPANY, or

(B) TO AMEND THE OBJECTS CLAUSE OF AN EXISTING COMPANY:

For the purposes of providing international banking business.

**THIS CONSENT IS VOID IF AN APPLICATION FOR A LICENCE IS NOT MADE WITHIN 90 DAYS
OF THE DATE THIS CONSENT IS GRANTED.**

**ANY MATERIAL CHANGE IN THE PARTICULARS SET OUT IN THIS APPLICATION MAY, IN THE
DISCRETION OF THE AUTHORITY VOID THIS CONSENT.**

FINANCIAL SERVICES REGULATORY AUTHORITY