

BELIZE:

**FINANCIAL SERVICES COMMISSION (CAPITAL
REQUIREMENT) REGULATIONS, 2023.**

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BELIZE:

STATUTORY INSTRUMENT

No. 129 of 2023

REGULATIONS made by the Financial Services Commission, with the approval of the Minister, in exercise of the powers conferred upon it by sections 6, 17 and 76 of the Financial Services Commission Act, Act No. 8 of 2023, and all other powers thereunto it enabling.

(Gazetted 18th November, 2023.)

PART I

Preliminary

1. These Regulations may be cited as the

Citation.

FINANCIAL SERVICES COMMISSION (CAPITAL REQUIREMENT) REGULATIONS, 2023.

2. In these Regulations–

Interpretation.

“capital requirement” means the requirement in respect of capital which must be met by a licensee;

“company” has the meaning assigned under section 3 of Belize Companies Act;

Act No. 11 of 2022.

“dollar” or “\$” means dollar in the currency of the United States of America;

“registrant” means any person registered or required to be registered under Parts III and IV of the Securities Industry Act;

Act No. 46 of 2021.

“sole practitioner” means a person licensed by the Commission to conduct the business of a registered agent who does not in the normal course of doing so act in association with any other person to conduct the business.

Application.

3. These Regulations shall apply to any person licensed under the Act or required to be licensed, but does not include a registrant.

PART II

General Capital Requirement

Deposit of
capital.

4.-(1) An applicant for a licence shall satisfy the Commission that it has fully paid-up and unimpaired capital in the amounts set out in the Schedule in respect of the financial service for which the licence is being applied, and that such capital has been deposited at a bank or financial institution prior to the issuance of a licence in accordance with these Regulations.

(2) The Commission may, at its sole discretion, approve a licence prior to the applicant meeting the capital requirement, with the condition that the applicant meets the capital requirement within 3 months, or within a shorter period as determined by the Commission, of the grant of a licence.

CAP. 273.

(3) If the applicant for a licence is an included entity as defined by the Economic Substance Act, the applicant shall hold its capital in an equivalent amount in Belize dollars at a Bank in Belize.

(4) The applicant for a licence under these Regulations may deposit its capital in a Bank or other licensed financial institution that is located in a Zone A country.

(5) The Commission in satisfying itself that an applicant has fully paid-up an unimpaired capital may consider the

acceptance of an undertaking, in writing in the English language, from a bank or other licensed financial institution that funds equivalent to the amount set out in the Schedule has been attributed or pledged as capital which shall not be removed, reduced or encumbered unless authorised, in writing, by the Commission.

(6) For the purposes of sub-regulation (1), a Zone A country means—

- (a) Belize;
- (b) any other country that is a full member of the Organisation for Economic Cooperation and Development;
- (c) any other country that has concluded special lending arrangements with the International Monetary Fund associated with the general arrangements to borrow; or
- (d) any other country, which the Commission determines to be acceptable for the purposes of a bank or financial institution in that other country qualified to hold the capital deposit of a company intending to or has been carrying on the business of financial service provider.

5.—(1) A bank or financial institution in a country that falls under any one or more of the following criteria shall not qualify to hold the capital deposit of a licensee pursuant to these Regulations:

Excluded countries.

- (a) any country falling within regulation 4(6)(b) or (c) which reschedules its external sovereign debt is precluded from Zone A for a period of five years commencing on the date of its rescheduling;

- (b) a country whose credit rating for its long-term liabilities in foreign currency is lower than its investment grade credit rating;
- (c) a country that has no credit rating of long-term liabilities and whose yield to maturity and remaining duration is not comparable with those of its long-term liabilities with an investment grade credit rating;

(2) For the purposes of sub-regulation (1) “investment grade credit rating” means a rating that falls within the range of an investment grade credit rating as defined by a credit rating agency, namely, Moody’s Investors Service, Standard and Poor’s, Fitch Ratings; or any other appropriate credit rating agency approved by the Commission from time to time.

6.-(1) The quality of investment grade credit rating that may be acceptable by the Commission shall be in accordance with the following—

Acceptable ratings and capital.

- (a) in respect of a high credit quality—
 - (i) Aaa or AAA;
 - (ii) Aaa1 or AA+;
 - (iii) Aa2 or AA;
 - (iv) Aa3 or AA-; or
 - (v) A1 or A+;
- (b) in respect of a medium credit quality—
 - (i) A2 or A;

- (ii) A3 or A-;
 - (iii) Baa1 or BBB+;
 - (iv) Baa2 or BBB; or
 - (v) Baa3 or BBB;
- (c) in respect of any other investment grade credit rating, an equivalent high or medium credit quality.

(2) The Commission may—

- (a) accept the capital held in cash or cash equivalents that is a marketable security with the acceptable investment grade credit rating and maturity of less than ninety days; and
- (b) determine by policy the manner by which capital may be retained by the applicant in respect of any category of licence.

7.-(1) If the licensee or person to whom a licence is to be granted, is a part of a group of companies, such licensee or person may request the Commission to accept a parent company guarantee from the parent company of the group of companies on behalf of a subsidiary for which a licence is granted or is to be granted.

Licensee of
a group of
companies.

(2) The Commission may grant an approval under sub-regulation (1) if the following conditions are met—

- (a) that the parent entity must be—
 - (i) a legal entity established under the laws of Belize or listed on recognized stock exchange acceptable to the Commission;

- (ii) in existence and continuously operating for at least 3 years from the date of request for the approval; and
 - (iii) able to show audited accounts available for the immediately preceding three years.
- (b) that the parent entity is a majority shareholder of the licensee;
- (c) that the parent company guarantee –
 - (i) is issued under a resolution of the Board of Directors of the parent entity;
 - (ii) is legally enforceable in Belize;
 - (iii) reinforces that the parent entity will prevent the licensee's capital from becoming deficient as a result of experiencing a loss on such an exposure (as confirmed by a legal opinion addressed to the licensee); and
 - (iv) is explicit, unconditional, irrevocable and direct agreement;
- (d) that the parent entity will remedy any breach, fulfill any obligations, or cover any losses incurred by the licensee and if necessary, will assume the full amount of the capital exposure;
- (e) that the parent entity must be, in the opinion of the Commission, a continuing source of financial strength for the licensee and can at any time assume the exposure itself without putting itself at risk of insolvency; and

- (f) that the exposure, of the capital requirement, covered by a parent company guarantee should not exceed 25% of the parent's equity.

8.-(1) If the applicant for a licence to carry on the business of a registered agent is a sole practitioner, such applicant may request the Commission to accept proof of indemnity insurance or bond as satisfying the capital requirement, provided that the requirement for indemnity insurance or bond is waived if the applicant for a licence is an attorney at law with a valid Practising Certificate or an accountant in good standing with the Institute of Chartered Accountants of Belize and holds a practising certificate of that institute.

Request for acceptance of proof of indemnity.

(2) The Commission may grant an approval under regulation 8(1) if the following conditions are met-

- (a) the indemnity insurance or indemnity bond must be provided by an insurance provider licensed under the Insurance Act;
- (b) the insurance or bond provider must be a legal entity established under the laws of Belize;
- (c) the indemnity insurance or indemnity bond coverage must be in an amount appropriate to the activities, scale, and complexity of the operations or business activity of the applicant;
- (d) the Commission is an assignee of the policy or an obligee of the bond; and
- (e) the applicant shall provide an undertaking to conduct an annual review of the adequacy of the indemnity of insurance coverage or indemnity bond and report those findings to the Commission.

- (3) The Commission may require a licensee to amend its insurance or bond coverage.

PART III

General

Licensee obligations.

9. A licensee, in respect of a Zone A country in which the bank or financial institution holding its capital pursuant to regulation 4 is located, shall—

- (a) on at least an annual basis, conduct its own assessment of risk of credit worthiness of that country; and
- (b) provide to the Commission, as soon as possible thereafter, a report on the results of the assessment conducted.

Repeal and Savings.

10.—(1) The Financial Services Commission (Capital Requirement) Regulations 2020 is repealed.

(2) A licensee existing prior to the date of commencement of these Regulations that has met the capital requirement pursuant to the provisions of the Financial Services Commission (Capital Requirement) Regulations 2020, may continue to hold its capital established under those Regulations, and such capital shall be deemed to have been established under these Regulations.

SCHEDULE
[regulation 4(1) & (3)]

CAPITAL REQUIREMENTS

<u>Financial service for which the licence is being applied</u>	<u>Paid up and unimpaired capital required</u> <u>US\$</u>
1. Accounting Services	25,000.00
2. Bill Paying Services	75,000.00
3. Financial Advisory or Consultancy Services	75,000.00
4. Financial Leasing	75,000.00
5. Financial Intermediation Services	75,000.00
6. International Asset Protection Management	25,000.00
7. Managing Services in any type of service	50,000.00
8. Money Broking	75,000.00
9. Money Exchange	75,000.00
10. Mortgage Lending	100,000.00
11. Payment Processing Services	75,000.00
12. Registered Agent	25,000.00
13. Safe Custody Services	50,000.00
14. Trading in Commodity-based and Other Financial Instruments	500,000.00

MADE by the Financial Services Commission this 16th day of November, 2023.



JOSEPH WAIGHT

Chairman

Financial Services Commission

APPROVED by the Minister responsible for Financial Services this 16th day of November, 2023.



HON. JOHN BRICEÑO

Prime Minister

(Minister responsible for Financial Services)