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Government Notice No. 40 of 2007

THE BANKING ACT 2004

Regulations made by the Bank of Mauritius with the approval of the Minister under sections 5(4)(h), 8, 12(4) and 14(2)(b) (5) of the Banking Act 2004

1. These regulations may be cited as the Banking (Processing and Licence Fees) Regulations 2007.
2. In these regulations -

"Act" means the Banking Act 2004.
3. For the purposes of section 5(4)(h) of the Act, the processing fee payable in respect of an application for a banking licence shall be the fee specified in Part I of the Schedule.
4. (1) For the purposes of section 8 of the Act, the annual licence fee payable by the holder of a banking licence shall consist of-
 - (a) the fixed fee specified in Part I of the Schedule; and
 - (b) a fee computed in accordance with the formula set out in Part IV of the Schedule and rounded up to the nearest 10,000 rupees.
- (2) Every existing holder of a banking licence shall pay the full annual licence fee specified in paragraph (1) –
 - (a) on the coming into operation of these regulations; and
 - (b) thereafter, on 1 July of each year.
- (3) (a) Where the central bank notifies an applicant under section 7(5) of the Act that its application for a banking licence has been granted, the applicant shall, at the time of the issue of the banking licence, pay the fixed fee specified in Part I of the Schedule, on a pro-rated basis calculated as from the date of the issue of the licence up to the next 30 June.

- (b) The bank shall, on 1 July of each year following the issue of the banking licence, pay –
 - (i) during the years prior to the year in which the licence fee of the bank is first revised in accordance with regulation 8(1)(b), the fixed fee specified in Part I of the Schedule; and
 - (ii) thereafter, the annual licence fee specified in paragraph (1).

(4) The central bank may, for the purpose of calculating the 3-year average gross operating income and 3-year average total assets of the bank specified in the formula set out in Part IV of the Schedule, assign a nil amount for any year, or fraction thereof, during which the institution was not licensed.

5. (1) For the purposes of section 12(4) of the Act, the annual licence fee payable by a non-bank deposit taking institution licensed to carry on deposit taking business in Mauritius shall consist of -

- (a) the fixed fee specified in Part II of the Schedule; and
- (b) a fee computed in accordance with the formula set out in Part IV of the Schedule and rounded up to the nearest 10,000 rupees.

(2) Every existing holder of a deposit taking business licence shall pay the full annual licence fee referred to in paragraph (1) –

- (a) on the coming into operation of these regulations; and
- (b) thereafter, on 1 July of each year.

6. (1) For the purposes of section 14(2)(b) of the Act, the processing fee payable in respect of an application for a foreign exchange dealer licence or money-changer licence shall be the fee specified in Part III of the Schedule.

(2) For the purposes of section 14(5) of the Act, the annual licence fee payable in respect of a foreign exchange dealer licence or money-changer licence shall be the fixed fee specified in Part III of the Schedule.

(3) Every existing holder of a foreign exchange dealer licence or money-changer licence, as the case may be, shall pay the full annual licence fee referred to in paragraph (2) -

- (a) on the coming into operation of these regulations; and
- (b) thereafter, on 1 July of each year.

- (4) (a) Where the central bank determines to grant a licence under section 14(5) of the Act, the applicant shall, at the time of the issue of the foreign exchange dealer licence or the money-changer licence, as the case may be, pay the annual licence fee referred to in paragraph (2), on a pro-rated basis calculated as from the date of the issue of the licence up to the next 30 June.
- (b) The holder of a foreign exchange dealer licence or money-changer licence shall thereafter pay the annual licence fee referred to in paragraph (2) on 1 July of each year.

7. (1) For the purposes of sections 8, 12(4) and 14(5) of the Act, where a financial institution is taken over by another financial institution or 2 financial institutions merge, the annual licence fee payable by the ensuing financial institution, following the takeover or merger, on 1 July of each year, shall consist of -

- (a) the fixed fee applicable to it; and
- (b) where appropriate, the fee specified in regulation 4(1)(b) or 5(1)(b), as the case may be.

(2) The fee referred to in paragraph (1)(b) shall -

- (a) in the years prior to the year in which the licence fee of the ensuing financial institution is first revised in accordance with regulation 8(1)(b), be computed on the basis of the combined figures of the fees referred to in regulation 4(1)(b) or 5(1)(b), as the case may be, of the individual financial institutions prior to the takeover or merger; and
- (b) thereafter, be computed in accordance with the formula set out in Part IV of the Schedule and rounded up to the nearest 10,000 rupees.

(3) The central bank may, for the purpose of calculating the 3-year average gross operating income and 3-year average total assets specified in the formula set out in Part IV of the Schedule, use the combined figures of the individual financial institutions for any year or fraction thereof, during which the ensuing institution was not licensed.

8. (1) The annual licence fee referred to in regulations 4(1) and 5(1)–

- (a) shall, in respect of every holder of a banking licence or of a licence to carry on deposit taking business, be determined by the central bank and communicated in writing to that bank or non-bank deposit taking institution, as the case may be;

- (b) shall be revised by the central bank after every 3-year period starting as from 1 July 2006; and
- (c) shall not exceed 2 million rupees during the initial 3-year period.

(2) The fees referred to in regulations 4(1)(b) and 5(1)(b) shall be computed by the central bank –

- (a) for the initial 3-year period, on the basis of figures for the years 2003, 2004 and 2005; and
- (b) for subsequent 3-year periods, on the basis of figures for the 3 years preceding the year in which the licence fee is due for revision by the central bank under paragraph (1)(b).

(3) The central bank may, for the purposes of these regulations, take into account any fee which a financial institution may have paid prior to the coming into operation of these regulations.

9. Any processing fee or licence fee referred to in these regulations –

- (a) shall be non-refundable;
- (b) shall be paid to the central bank in Mauritius currency or in US dollars at the rate of 1 US dollar to 33 Mauritius Rupees.

10. These regulations shall come into operation on 15 April 2007.

Made by the Bank of Mauritius with the approval of the Minister on 3 April 2007.

SCHEDULE
(regulations 3, 4, 5, 6 and 7)

PART I

BANKING LICENCE

	<i>Rs</i>
Processing fee	90,000
Fixed fee	600,000
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PART II

DEPOSIT-TAKING BUSINESS LICENCE

	<i>Rs</i>
Fixed fee	300,000
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PART III

FOREIGN EXCHANGE DEALER LICENCE

	<i>Rs</i>
Processing fee	25,000
Fixed fee	300,000

MONEY-CHANGER LICENCE

	<i>Rs</i>
Processing fee	10,000
Fixed fee	150,000
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PART IV

FORMULA

$$\text{Fee (in Rs)} = \left[\frac{\text{3-year average gross operating income of the institution}}{\text{Aggregate 3-year average operating income of banks and NBDTIs}} \right] \times \text{Rs}3\text{mn}$$

$$+ \left[\frac{\text{3-year average total assets of the institution}}{\text{Aggregate 3-year average total assets of banks and NBDTIs}} \right] \times \text{Rs}1.5\text{mn}$$

Where "NBDTIs" means non-bank deposit taking institutions.