

# Financial Services (Miscellaneous Exemptions) Regulations, 2010 and 2011

Kenneth Baker  
Deputy Managing Director, Regulation  
Meet the Regulator  
16 March, 2011



# Compliance Officer Exemptions

- Licensees exempted from appointing a Compliance Officer:

## Insurers

- Captives
- Credit Life

## BVI Funds

- Private
- Professional
- Public

## Recognised Funds

- Foreign Funds

## Fiduciary Licenses

- Class I
- Class II
- Restricted Class II



# Compliance Officers Further Exemptions

- Domestic Insurers incorporated outside BVI;
- Investment Business; and
- Restricted Class II trust:
  - Subject to regulation elsewhere; and
  - Administered in the BVI by a Class I trust





# Exemptions: Insurance Act, 2008

Insurance Intermediaries

- Lloyd's registered broker, cover holder, member or syndicate is not required to be approved

Credit Life companies exempted from appointing an auditor

- Having regards to the nature, size and complexity
- Compliance history
- Best interest of policy holder
- Public interest

Commission may require unaudited financial statements



# Exemptions: Financing and Money Services Act, 2009

- BVI business company not based in BVI exempted licensing requirement:
  - Currency exchange, issuance, sale or redemption of money orders, traveller's cheques; and
  - No business above in the BVI
- BVI business company based in recognised jurisdiction;
- Recognised jurisdiction defined - Schedule 2 AMLTFCP; and
- Exemption without prejudice other exemption



# Exemptions: Securities and Investment Business Act, 2010

- Engaging in incidental business activity:
  - Application for exemption;
  - Provide details:
    - ★ Nature, scope, size and complexity of the activity
  - Commission may refuse to grant exemption;
  - Incidental activities:
    - ★ Minor component and reasonable consequence:
    - ★ Significant component and reasonable consequence; or
    - ★ Reasonably be expected to engage in
  - Any issues arising about qualification determined solely by Commission





# Miscellaneous Exemptions

- Publicly traded licensees exempted from approval for the transfer of shares:

Banks and Trust Companies Act (s.14)

Company Management Act (s.13)

Insurance Act (s.21 and 22)

Financing and Money Services Act (s.14)

Securities and Investment Business Act (s.11)



# Exemptions from submitting audited financial statements:

- Licensees may be exempted from submitting audited financial statements:



- Banks and Trust Companies (s.17b and 17c)



- Company Management Act (s.17b and 17c)



- Insurance Act (s.56 and 57)



- Financing and Money Services Act (s.22 and 23)



- Securities and Investment Business Act (s.70 and 71)





# Financial Services (Miscellaneous Exemptions) Regulations, 2011 (Proposed)



# Exemptions: Banks and Trust Companies Act (Proposed, 2011)

- Applicant - Restricted Class II or III trust exempted from providing particulars:
  - Name and address of all officers and managers;
  - Solicitors;
  - Auditors;
  - Undertaking to provide capital;



# Exemptions: Banks and Trust Companies Act *(Proposed, 2011)*

- Applicants - Restricted Class II or III trust exempted from providing particulars:
  - Annual accounts of holding company;
  - Name of all subsidiary companies;
  - Statement of assets and liabilities;
  - Statement of capital of any subsidiary





# Exemption from Appointing an Auditor

- Licensees exempted from appointing auditor under section 17G of the Banks and Trust Companies Act:

Restricted  
Class II Trust



Restricted  
Class III  
Trust



# Exemption for Providing Director, Officer and Nominee Shareholder Services

- Company exempted from licensing requirement where undertakes no Company Management business other than:
  - Director and officers; and
  - Nominee shareholders
- Exemption not applicable to subsidiary Class I, Class II or Class III trust;
- Class I trust reclassified to Class II trust will benefit from exemption; and
- Regulations 2, 11 to 13 of the BTCR, 1991 will be revoked.



# Exemption for Providing Director, Officer and Nominee Shareholder Services

- Person exempted from licensing requirement where undertakes no Company Management business other than:
  - Directors and officers; and
  - Nominee shareholders
- Exemption not applicable to subsidiary of Company Management Licence; and
- Regulation 2 and 6 of the CMR, 1991 will be revoked

