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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2394/67 - 2024 ජූලි මස 26 වැනි සිකුරාදා - 2024.07.26

No. 2394/67 - FRIDAY, JULY 26, 2024

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

L.D.-B. 3/2021(III)

THE COLOMBO PORT CITY ECONOMIC COMMISSION ACT, No. 11 OF 2021

REGULATIONS made by the Minister of Investment Promotion, in consultation with the Colombo Port City Economic Commission and with the concurrence of the Central Bank of Sri Lanka, under section 71 of the Colombo Port City Economic Commission Act, No. 11 of 2021, read with section 45 of the aforesaid Act.

RANIL WICKREMESINGHE,
Minister of Investment Promotion.

Colombo,
26th of July, 2024.

Regulations

1. These regulations may be cited as the Colombo Port City (Offshore Banking- Preliminary) Regulations, No. 04 of 2024.

2. These regulations shall apply in relation to offshore banking business of an authorised person carried out in and from the Area of Authority of the Colombo Port City under the Act.

3. (1) Any company specified in sub-regulation (2) may make an application to the Commission for a licence to engage in offshore banking business in and from the Area of Authority of the Colombo Port City in such form and manner as is specified in the Regulations for Registration, Licensing, Authorisation and other Approvals of Authorised Persons No. 01 of 2022 and the Colombo Port City (Registration of Offshore Companies) Regulations No. 1 of 2022.



(2) A company referred to in sub-regulation (1) shall be as follows: -

- (a) a company incorporated in Sri Lanka and licensed under the Banking Act as a licensed commercial bank and willing to engage in offshore banking business through Colombo Port City Branch in and from the Area of Authority of the Colombo Port City;
- (b) a company incorporated outside Sri Lanka and registered in Sri Lanka as an offshore company under the provisions of Companies Act, No. 07 of 2007 and, licensed under the Banking Act as a licensed commercial bank and willing to engage in offshore banking business through Colombo Port City Branch in and from the Area of Authority of the Colombo Port City; or
- (c) a company incorporated outside Sri Lanka and registered in Sri Lanka as an offshore company under the provisions of Companies Act, No. 07 of 2007 and, licensed to engage in banking business under any law, charter, statute, article, of association or other instrument constituting or defining such constitution in another country but not licensed under the Banking Act, and willing to engage in offshore banking business through Colombo Port City Branch in and from the Area of Authority of the Colombo Port City.

4. A company referred to in regulation 3 shall satisfy the following requirements in order to obtain a licence to engage in offshore banking business through Colombo Port City Branch in and from the Area of Authority of the Colombo Port City: -

- (a) in the case of a company referred to in sub-regulation (2) of regulation 3, such company shall provide an assigned capital of USD 15 million or its equivalent amount in any designated foreign currency, to its Colombo Port City Branch to be established within the Area of Authority of Colombo Port City;

and

- (b) in the case of a company referred to in paragraph (b) or (c) of sub-regulation (2) of regulation 3, such company shall submit to the Commission-
 - (i) a certificate from the Regulatory Authority of the country in which the company is incorporated, confirming that it has granted permission to such company to establish a Colombo Port City Branch within the Area of Authority of the Colombo Port City; and
 - (ii) a written undertaking approved by its board of directors to the effect that it will provide the funds as may be required to settle all obligations and liabilities incurred by the Colombo Port City Branch in carrying out offshore banking business in and from the Area of Authority of the Colombo Port City.

5. After considering an application received under regulation 3, the Commission shall, subject to the provisions of section 42 of the Act, recommend to the Minister assigned the subject of Finance, to proceed to issue a licence for such applicant to engage in offshore banking business in and from the Area of Authority of the Colombo Port City, and the Minister assigned the subject of Finance may, with the concurrence of the Central Bank of Sri Lanka, issue a licence to such applicant to engage in offshore banking business in and from the Area of Authority of the Colombo Port City, subject to such terms and conditions as may be specified therein.

6. (1) Upon the issue of a licence as set out in regulation 5 –

- (a) where such applicant is a company referred to in paragraph (a) of sub-regulation (2) of regulation 3, such company may engage in offshore banking business in and from the Area of Authority of the Colombo Port City through a Colombo Port City Branch;

- (b) where such applicant is a company referred to in paragraph (b) of sub-regulation (2) of regulation 3, such company may engage in offshore banking business in and from the Area of Authority of the Colombo Port City through a Colombo Port City Branch of the Head Office of such licensed commercial bank; and
- (c) where such applicant is a company referred to in sub-regulation (2)(c) of regulation 3, such company may engage in offshore banking business in and from the Area of Authority of the Colombo Port City through a Colombo Port City Branch as mandated by Regulatory Authority of the country in which such company has been incorporated,

subject to the terms and conditions as may be specified in such licence, and subject to the provisions of these regulations.

(2) The Colombo Port City Branch in respect of which a licence to engage in offshore banking business in and from the Area of Authority of the Colombo Port City is issued as referred to in sub-regulation (1) shall be known as the “Colombo Port City Branch” of the respective bank.

7. A company referred to in sub-regulation (2) of regulation 3 shall maintain the assigned capital specified in regulation 4(a) at all times on an unimpaired basis.

8. The assets, liabilities and transactions of the Colombo Port City Branch shall be ringfenced and, conducted on an arm’s length basis *vis a vis* the operations of any licensed commercial bank in Sri Lanka outside the Area of Authority of the Colombo Port City, and the conversion of an account holder’s funds into Sri Lanka Rupees is limited to the voluntary action by such account holder and the conversion of Sri Lanka Rupee into designated foreign currency by a Colombo Port City Branch on behalf of an account holder shall not be permitted.

9. Where an account holder of the Colombo Port City Branch-

- (a) is engaged in the business of export of goods sourced from Sri Lanka and files the customs declaration to that effect in accordance with the provisions of the Customs Ordinance (Chapter 235) in respect of the goods so to be exported; and
- (b) is a local supplier within the meaning of the Repatriation of Export Proceeds into Sri Lanka Rules who is eligible to receive payments in foreign currency under such Rules,

such account holder shall be subject to the conversion requirements of the said Repatriation of Export Proceeds into Sri Lanka Rules.

10. (1) The Colombo Port City Branch may engage in following banking business, subject to compliance with such terms and conditions or guidelines, as may be specified from time to time by the Commission, and by the Central Bank of Sri Lanka under the Banking Act from time to time: -

- (a) accept savings, time and demand deposits from any authorised person or a non-resident in any designated foreign currency;
- (b) borrow any sum in a designated foreign currency from any non-resident;
- (c) extend accommodation to any non-resident in any designated foreign currency;
- (d) engage in any transaction in any designated foreign currency with any other offshore unit;
- (e) engage in any other transaction in a designated foreign currency with a non- resident;
- (f) engage in any other transaction as may be envisaged under the Act; or

- (g) engage in any other transaction in any designated foreign currency, authorised by the Commission with the concurrence of the Central Bank of Sri Lanka.

(2) The Colombo Port City Branch shall not engage in any of the banking business specified in sub-regulation (1) as retail transactions.

- (3) For the purpose of this sub-regulation, “retail transactions” shall be transactions of any authorised person or non-resident with the Colombo Port City Branch, having an aggregate deposit balance, or loans and advances, as the case may be, not exceeding five hundred thousand United States Dollars or its equivalent in any designated foreign currency.

11. The Colombo Port City Branch shall, at all times-

- (a) maintain an assigned capital of USD 15 million or its equivalent in any designated foreign currency;
- (b) adhere to capital adequacy requirements as set out under the regulatory requirements issued by the Home Country Regulatory Authority applicable to its Parent Entity relating to Colombo Port City Branch, subject to meeting the minimum capital set out under these regulations, unless the Commission requires otherwise; and
- (c) ensure that at all times funds shall be raised for its operations from Non- Residents as defined in the Act.

12. The Colombo Port City Branch shall maintain Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) on a ring-fenced basis as per the overall regulatory requirements applicable to the Parent Entity relating to Colombo Port City Branch.

13. A minimum leverage ratio as defined under the Basel Framework shall be maintained by the Parent Entity for the Colombo Port City Branch subject to the regulatory requirements applicable to its Parent Entity issued by the Home Country Regulatory Authority, unless the Commission requires otherwise.

14. (1) A prior written approval of the Director of Bank Supervision shall be obtained for every appointment to the office of the Chief Executive Officer, the Chief Risk Officer or any other Officer performing senior management functions of the Colombo Port City Branch, and the Director of Bank Supervision shall grant such approval in consultation with the Commission.

(2) In granting approval for such appointments, the Director of Bank Supervision shall determine whether such persons are fit and proper to hold such respective offices.

(3) In determining the fitness and propriety of persons specified in sub-regulation (2), the criteria specified in subsection (2) of section 42 of the Banking Act shall, *mutatis mutandis* apply for such appointments, as if such criteria are applicable for the appointments of the Chief Executive Officer, Chief Risk Officer or any other Officer performing senior management functions of licensed banks in Sri Lanka, operating outside the Area of Authority of the Colombo Port City.

15. The Deposits of the Colombo Port City Branch shall not be covered under the Sri Lanka Deposit Insurance Scheme.

16. (1) The Director of Bank Supervision may, with notice to the Commission, require the Colombo Port City Branch to furnish such information as are related to its operations within the Colombo Port City in such manner and form, as may be specified by the Director of Bank Supervision.

(2) The Colombo Port City Branch shall maintain its books of accounts, records and documents in a designated foreign currency, as may be declared at the time of making an application for a licence to engage in offshore banking business under regulation 3 or as may be subsequently approved by the Central Bank of Sri Lanka.

17. In these regulations-

- “Act” means the Colombo Port City Economic Commission Act, No. 11 of 2021;
- “assigned capital” means the amount of capital in United States Dollars or in equivalent designated foreign currency assigned to the Colombo Port City Branch by the head office of any company referred to in sub-regulation (2) of regulation 3;
- “Banking Act” means the Banking Act, No. 30 of 1988;
- “branch” means a location other than the main office or Head Office of a company where a business is conducted;
- “Central Bank of Sri Lanka” means the Central Bank of Sri Lanka established under the Central Bank of Sri Lanka Act, No. 16 of 2023;
- “Colombo Port City (Registration of Offshore Companies) Regulations No. 1 of 2022” means the Colombo Port City (Registration of Offshore Companies) Regulations No. 1 of 2022 published in the *Gazette* Extraordinary No. 2306/54 of November 17, 2022;
- “Colombo Port City Branch” means a branch of a company licensed to engaged in offshore banking business in or from the area of authority of the Colombo Poty City in terms of section 42 of the Act;
- “Commission” means the Colombo Port City Economic Commission established under the Act;
- “designated foreign currency” means a foreign currency determined as “designated foreign currency” by the Central Bank, under the Banking Act, No. 30 of 1988;
- “Director of Bank Supervision” shall have the same meaning assigned to such term under the Banking Act, No. 30 of 1988 (as amended);
- “financial institutions” shall have the same meaning as set out in the Central Bank of Sri Lanka Act, No. 16 of 2023;
- “Financial Intelligence Unit of Sri Lanka” shall have the same meaning as set out in the Financial Transactions Reporting Act, No. 6 of 2006;
- “Home Country Regulatory Authority” means the Banking Sector Regulatory Authority of the country in which the Parent Entity of the Colombo Port City Branch of the respective bank has been established;
- “offshore banking business” shall have the same meaning as in the Act;
- “Parent Entity” means the entity which holds the banking licence that makes it eligible for the Colombo Port City Branch to be issued a licence to engage in offshore banking business under the Act;
- “Regulations for Registration, Licensing, Authorisation and other Approvals of Authorised Persons No. 01 of 2022” means Regulations for Registration, Licensing, Authorisation and other Approvals of Authorised Persons No.01 of 2022 published in the *Gazette* Extraordinary No. 2299/46 of September 28, 2022;
- “Repatriation of export proceeds into Sri Lanka Rules” means the Repatriation of Export Proceeds into Sri Lanka Rules No. 1 of 2022 issued by the Monetary Board of the Central Bank of Sri Lanka and published in the *Gazette* (Extraordinary) No. 2270/66 of March 11, 2022, (as amended);
- “resident” and “non-resident” shall have the same meanings as in the Act; and
- “Sri Lanka Deposit Insurance Scheme” means the Sri Lanka Deposit Insurance Scheme established under section 39 of the Banking (Special Provisions) Act, No. 17 of 2023.

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