



26th September 2019

NOTICE

Re: Corporate Service Provider Business Act 2012 – Code of Practice and Statement of Principles (revised)

The Bermuda Monetary Authority (the Authority) is posting for consultation its revised Code of Practice (the Code) issued pursuant to the Corporate Service Provider Business Act 2012 (the Act). The Code established duties, requirements and standards to be complied with by corporate service providers licenced pursuant to section 11 of the Act, including the procedures and sound principles to be observed by such persons. Failure to comply with provisions set out in the Code will be a factor taken into account by the Authority in determining whether a licenced undertaking is conducting business in a prudent manner, as required by the minimum criteria for licensing. The consultation comments should be received on or before 28 October 2019.

Brief description of the proposed changes

The substantive changes are as follows:

1. Housekeeping amendments were made to renumber the paragraphs and update references to supplementary documents.
2. Paragraph 14 was amended to require a licenced corporate service provider to verify the source of any monies they may be holding on behalf of client entities, to satisfy themselves that they are not of illicit origin.
3. Paragraph 15 makes additional requirements for client acceptance procedures.
4. Paragraph 17 includes the addition of the expectation that all reasonable steps to manage conflicts to prevent damage to clients' interests are taken and that licenced undertakings' conflict of interest procedures are appropriately documented.

5. The Authority outlined its expectation in paragraph 20 that a licenced undertaking arrange its records in such a way as to allow a timely response to requests.
6. The Authority confirmed in paragraph 21 that it will not allow the use of corporate directors on the board of a licenced corporate service provider.
7. Paragraph 22 confirms that the Authority expects the entire board is ultimately responsible for the compliance function and is aware of the role of the board in ensuring a robust regulatory compliance function is maintained.
8. The Authority outlined its expectations regarding how a licenced undertaking may demonstrate adequate physical presence in Bermuda in paragraphs 23 to 25.
9. The Authority has not taken the step of requiring independent directors for corporate service providers that have shareholder controllers who also sit as directors; however, paragraph 26 requires that the corporate service provider must demonstrate in their risk management frameworks that the risk of undue influence on the board's actions is mitigated.
10. The Authority outlined in paragraph 27 the matters that boards and senior managers should consider regarding functions delegated by the board or partners, and their collective responsibility for ensuring legal and regulatory compliance, particularly with the provisions of the Act.
11. Paragraphs 31 and 32 were amended to address the expectation that policies and procedures are implemented by the licenced corporate service provider to ensure recordkeeping practices and systems keep records accurate and accessible, and protect them from the risk of loss, theft, unauthorised access or destruction.
12. Further to the Notice issued by the Authority in February 2018, paragraph 33 defines material cybersecurity incidents, and reiterates the expectation that such incidents are logged and reported promptly to the Authority.
13. The Authority confirmed in amendments to paragraphs 34 and 35 that staff must receive the necessary supervision appropriate to their roles. The need for up to date staff training and development logs is also highlighted.
14. Additional requirements were made in paragraph 36 for corporate service providers to enhance recruitment practices for all employees, both at initial hiring, and on an ongoing basis.
15. Paragraphs 38 to 42 now require licenced corporate service providers who are holding client money to segregate all client funds from their own funds and to have well documented recordkeeping practices that allow client funds to be clearly identified at all times. Client money is also defined in paragraph 39.

16. Paragraph 45 was revised to ensure that the details of any complaint will be documented in writing and that the complaints handling procedure will be transparent.
17. The Authority's expectation that the board continues to exercise appropriate oversight of the risk management process is confirmed in paragraph 48.
18. Paragraphs 49 and 50 were added to establish requirements regarding the form and content of advertisements.
19. Paragraph 51 was amended to add the requirement that the licenced status of the corporate service provider should be displayed on the licensee's website, if one is maintained.
20. Finally, the list of significant developments which the Authority expects licenced undertakings to proactively bring to its attention was expanded in paragraph 52.

The Authority is also posting for consultation its revised Statement of Principles (SoP) issued pursuant to the Act. The SoP acts as an indication to licenced corporate service providers as to the standards and considerations the Authority will use in determining the matters set out in sections III, IV and V.

Brief description of the proposed changes

The substantive changes are as follows:

1. The SoP was updated to remove references to the 2012 Statement of Principles on the Use of Enforcement Powers and replace them with references to the 2018 Enforcement Guide – Statement of Principles & Guidance on the Exercise of Enforcement Powers which replaced it. Additionally, references to the exercise of enforcement powers were deleted as all information pertaining to these matters can be found in the 2018 Enforcement Guide.
2. Housekeeping amendments were made to the SoP to add more explanation in sections II and III of the Authority's supervisory activities and processes for the information of licensees. Finally, all paragraphs were renumbered.
3. The Authority's expectation that shareholder controllers of corporate service providers are able to demonstrate their source of wealth to the business and to the Authority, both upon the acquisition of shares and on an ongoing basis is outlined in paragraph 26.
4. Additions were made to the explanation of considerations that the Authority takes into account when determining if a licenced corporate service provider is prudently run. The list provided in paragraph 36 is by no means exhaustive but is intended to give clarity on some of the factors routinely considered by the Authority.

5. Paragraphs 43 and 44 were added to confirm that professional indemnity insurance will be required at a minimum to meet the minimum criterion for licensing relating to adequate insurance and to provide licencees with information on how the Authority will review adequacy of cover.



BERMUDA MONETARY AUTHORITY
CORPORATE SERVICE PROVIDER BUSINESS ACT 2012
CODE OF PRACTICE
SEPTEMBER 2019

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I. INTRODUCTION

1. This Code of Practice (the Code) is made pursuant to section 7 of the Corporate Service Provider Business Act 2012 (the Act). Section 7 requires the Bermuda Monetary Authority (the Authority) to publish in such a manner as it thinks fit a Code providing guidance on the duties, requirements, procedures, standards and sound principles to be observed by persons carrying on corporate service provider business. The Code should be read in conjunction with the Statement of Principles and Statement of Principles & Guidance on The Exercise of Enforcement Powers (the Enforcement Guide) issued under section 6 of the Act.

II. OBJECTIVES

2. The objectives of this Code are to provide guidance to licenced corporate service providers on the standards required under the Act and other financial services legislation, as well as to the best practice in the industry.
3. This Code shall be interpreted in the light of the above objectives so as best to give effect thereto. The Act provides that every corporate service provider shall in the conduct of its business have regard to any Code of Practice issued by the Authority.
4. The Authority expects corporate service providers to comply with the letter and the spirit of this Code. Where the Authority has concerns about compliance with the Code, it will bring its concerns to the attention of the corporate service provider, and take account of the comments and representations of the corporate service provider as well as, where relevant, its willingness to make appropriate changes to conduct or practice.

III. DEFINITIONS

5. For the purposes of this Code, the definitions appearing in section 2(2) of the Act shall apply to the interpretation of this Code.

“corporate service provider business” means the provision of any of the following corporate services for profit—

acting as a company formation agent, or agent for the establishment of a partnership;

providing nominee services, including (without limitation) acting as or providing nominee shareholders;

providing administrative and secretarial services to companies or partnerships including one or more of the following services—

providing a registered office;

providing an accommodation, correspondence or administrative address;

maintaining the books¹ and records of a company or partnership;

filing statutory forms, resolutions, returns and notices;

acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a person authorised to accept service of process on behalf of a company or partnership or to accept any notices required to be served on it;

acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a director, officer, secretary, alternate, assistant or deputy secretary of a company or an officer of a partnership;

keeping or making any necessary alteration in the register of members of a company in accordance with section 65 of the Companies Act 1981;

the performance of functions in the capacity of resident representative under the Companies Act 1981, Exempted Partnerships Act 1992 and the Overseas Partnerships Act 1995; and

providing any additional corporate or administrative services as may be specified in regulations.

IV. PROPORTIONALITY PRINCIPLE

6. The Authority appreciates that corporate service providers have varying risk profiles arising from the nature, scale and complexity of their business, and that those corporate service providers with higher risk profiles would require more comprehensive governance and risk management frameworks to conduct business in a sound and prudent manner.
7. Accordingly, the Authority will assess the corporate service provider's compliance with the Code in a proportionate manner relative to its nature, scale and complexity. These elements will be considered collectively, rather than individually (e.g. a corporate service provider could be relatively small in scale, but carry out extremely complex business and therefore would still be required to maintain a sophisticated risk management framework).
 - a) Nature includes the relationship between the client entity and the corporate service provider or characteristics of the service provided (e.g. non-executive director versus fully managed office including the provision of directors and officers, etc.)
 - b) Scale includes size aspects such as volume of business conducted or size of the balance sheet in conjunction with materiality considerations
 - c) Complexity includes organisational structures and ease of information transmission
8. In assessing the existence of sound and prudent business conduct, the Authority will have

¹ "Books" means statutory books of the company or partnership

regard for the appropriateness of provisions of the Code in relation to their application to a particular corporate service provider taking into account the corporate service provider's nature, scale and complexity, and the Authority's prudential objectives.

9. Holders of a limited corporate service provider licence in particular should be mindful of the proportionality principle in establishing a sound governance, risk management and internal controls framework, and complying with provisions of the Code, and should be guided by this section in documenting their compliance with the Code.
10. The proportionality principle, discussed above, is applicable to all sections of the Code regardless of whether the principle is explicitly mentioned.

V. APPLICATION

11. This Code applies to all holders of corporate service provider licences granted under section 11 of the Act. The Code is of general application and seeks to take account of the wide diversity of corporate service providers that may be licenced. The Code may be revised from time to time. However, before the Authority makes a material change to the Code, section 7(3) of the Act requires it to first publish a draft of the proposed changes and to consider any representations made to it regarding the contents of the draft.
12. Every corporate service provider licenced under the Act in Bermuda is expected to have regard to the Code as may be amended from time to time. The Code is not a statement of the law and in particular does not affect a licenced corporate service provider's obligations under company or common law. Failure on the part of a licenced corporate service provider to comply with the provisions of this Code is not an offence but is taken into account by the Authority in determining whether or not the business is being conducted in a prudent manner as required by paragraph 3 of Schedule 1 of the Act. Persistent failure by a licenced corporate service provider to abide by the provisions of the Code is likely to result in the Authority taking formal action.

VI. CLIENT DUE DILIGENCE

13. Licenced corporate service providers must have procedures in place to ensure that proper, risk-based due diligence is carried out before a decision is made to act for any new client. At a minimum, licenced corporate service providers need to be able to comply with The Proceeds of Crime Act 1997, The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 and the Anti-Terrorism (Financial and Other Measures) Act 2004, together with any other relevant legislation that may come into force from time to time.
14. To ensure compliance with these requirements, licenced corporate service providers must have adequate policies and procedures in place to confirm that they know on an ongoing basis the current identity of each director, partner or officer, and to the fullest extent possible the current

identity of the beneficial owners of the entities under administration. If the corporate service provider is holding client money, they must also verify the source of any monies they are holding on behalf of client entities, to satisfy themselves that they are not of illicit origin.

15. In addition to their client due diligence obligations, corporate service providers are expected to have a documented policy on new client engagements or acceptances, having regard to their assessment of the quality, nature and scale of the services involved, and the ability of the corporate service provider to provide the services in question. Corporate service providers need to ensure that they document and fully understand the rationale for particular structures, and to be comfortable that the business is suitable on an ongoing basis.

VII. INTEGRITY AND ETHICS

16. A licenced corporate service provider must conduct its business with integrity at all times and should not attempt to avoid or contract out its responsibilities under this Code. It must exercise its corporate service duties prudently and competently, and it should administer each client's affairs in accordance with the law. It must deal fairly with all clients and seek to ensure that they are not misled as to the service being provided, and the duties and obligations of the service provider. A licenced corporate service provider should always act with due care, skill and diligence.

VIII. CONFLICTS OF INTEREST

17. A licenced corporate service provider must have clearly documented and established policies and procedures to manage or avoid situations in which a conflict of interest arises between its business, and that of its clients. Similarly and unless authorised to do so, it should not enter into transactions in which it has a material interest without first disclosing it to the relevant parties. Where conflicts of interest arise, the corporate service provider must keep adequate records of such conflicts and act at all times to ensure it does not unfairly place its own interests above those of its clients. All reasonable steps to manage conflicts to prevent damage to clients' interests must be taken.

IX. DISCLOSURE OF INFORMATION

18. Licenced corporate service providers should observe any obligation of confidentiality that may apply in respect of information communicated by persons concerned with clients (e.g. shareholders, directors, officers, senior executive, controller, partner, associate, and accountants) unless the licenced corporate service provider is given relevant consent to disclose information, is required by applicable law to disclose information or gives information in accordance with the terms of the client constitutional documents or in the ordinary course of

the administration of the client's structure. In maintaining the confidentiality of those persons to whom the corporate service provider has responsibility, the licenced corporate service provider should take particular care not to mislead entitled third parties about the beneficial ownership of its client entities.

19. Employees, partners, officers, directors and other persons who have access to confidential information of the licenced corporate service provider and the client structures it administers should be advised in writing upon their engagement, and reminded periodically thereafter by the licenced corporate service provider of confidentiality issues.

X. INTERNAL MANAGEMENT CONTROLS

Prompt and Timely Execution

20. A licenced corporate service provider should deal effectively and in a timely manner with all requests from those persons to whom the corporate service provider is responsible or accountable, having previously sought and obtained such consents or approvals as may be necessary and should arrange its records in such a way as to allow a timely response.

Board Practices

21. A licenced corporate service provider which is a company must ensure that the board of directors should be solely comprised of individuals; corporate directors are not considered appropriate.
22. All directors should understand the board's collective duty to ensure that robust arrangements for regulatory compliance are maintained. The board is ultimately responsible for the compliance function and should ensure that they are provided with sufficient regular information regarding all legal and regulatory compliance activities to allow them to rectify any shortcomings in the corporate service provider's compliance framework.
23. For the purpose of satisfying the physical presence requirement pursuant to section 4A of the Act, directors should have due regard to the location:
 - a) Where strategic and operational decision-making occurs
 - b) Where the corporate service provider business is carried on
 - c) Where meetings of the board, partners or management occur
 - d) Where directors, controllers or employees reside
24. In order to determine if a corporate service provider (CSP) has sufficient nexus to Bermuda, the Authority will take into consideration the location of the aforementioned activities vis-a-vis the nature, scale and complexity of the business. Ultimately, the objective of this requirement is to ensure that the Authority is capable of exercising the appropriate regulatory influence over the CSP. As such, it is expected that minutes will be kept of all meetings of the

board, partners and management that will evidence who was present, all the relevant strategic and operational decisions taken at the meeting and where the meeting was held.

25. It is understood that a licenced CSP might reasonably require the holding of some meetings or operations outside of Bermuda, or the inclusion of directors, controllers or employees not resident in Bermuda. This is acceptable provided all persons located outside Bermuda remain available to the Authority when required, access is facilitated where necessary by the licenced corporate service provider and the record-keeping provisions of this Code are followed.
26. The board of directors has a key role in assessing the risks to the undertaking's business and should at all times remember the duty they owe to the company. This is especially key in companies where directors may also be shareholders, as this will limit the level of external scrutiny of any actions of the board. While the Authority has not taken the step of requiring independent directors, the company must appropriately manage any risk of undue influence on the board's actions.

Delegation

27. The partners or board of directors of a licenced corporate service provider are responsible for the proper exercise of their powers, and ensuring that the licenced corporate service provider has documented policies, procedures and other arrangements in place. They may delegate the administration of the licenced corporate service provider's duties to directors, officers, partners, employees or committees as they deem appropriate. The board or partners retain ultimate responsibility for delegated functions and must clearly document the functions being delegated. When doing so, decisions should align with authorisation, and signing powers outlined in the corporate service provider's policies and procedures.
28. When delegating its duties and/or granting power of attorney, a licenced corporate service provider should have regard to the client constitutional documents, the services agreement, applicable laws and any internal procedures as appropriate.

Competent and Effective Management

29. A licenced corporate service provider should have effective management, and systems that are commensurate with the nature, scale and complexity of the business it undertakes. It must also have appropriate management resources to control the affairs of the licenced business, including ensuring compliance with legal obligations and standards under the Code.

Accounting and other Record Keeping

30. Licenced corporate service providers must keep and preserve appropriate records in Bermuda,

which will at least include such records as are appropriate for their functions, as required by any applicable law, and that will enable the provision of information to persons interested in the structures being administered and entitled to the information on a timely basis. This should include the identity of shareholders, directors, officers or partners. All records required to be maintained by a licenced corporate service provider, must be accurate and kept current.

31. Records of account must be maintained in line with the laws applicable to each client's structure as well as for the licenced corporate service provider itself in accordance with the laws applicable to it. In cases where such law is silent, records should be maintained for a minimum period of five years from the end of the transaction or cessation of the business relationship. The client accounting records should disclose with accuracy the transactions and commitments of the structures under administration. The corporate service provider's own accounting records should be accurate, current and up to date to reflect its affairs, and should be available in a timely fashion, upon request by the Authority.
32. In order to protect all records from the risk of loss, theft, unauthorised access, alteration or destruction, a licenced corporate service provider must establish and maintain documented policies and procedures to ensure:
 - a) Adequate security and safe-keeping of hard copy records
 - b) Suitable storage and back up for electronic records
 - c) Privacy of all records
 - d) Timely accessibility in Bermuda of any records it maintains in hard copy or electronic format
33. A licenced corporate service provider must maintain a log of all cybersecurity incidents, together with details of actions taken to resolve them. The Authority expects all licenced corporate service providers to report any material cybersecurity incident to the Authority in a timely fashion. Material cybersecurity incidents are generally those that:
 - a) Lead to a significant loss of data or the availability or control of IT systems
 - b) Affect a large number of customers or clients
 - c) Result in unauthorised access to, or installation of malicious software on, the licensee's information and communications systems

Adequate Personnel

34. A licenced corporate service provider must have available suitable numbers of staff who are appropriately trained and competent to discharge its corporate service duties effectively. It should ensure that the responsibilities and authority of each staff member are clear and appropriate to his or her qualifications and experience. An undertaking shall establish procedures to ensure the adequate supervision of staff in their dealings with clients and the management of client structures.
35. A licenced corporate service provider must also formulate and keep up to date logs for staff

training and development and ensure that staff receive the necessary training appropriate for their roles. Staff must be provided with on-the-job training on the undertaking's internal policies, procedures and internal controls. The undertaking should ensure that adequate training is provided specific to the roles and responsibilities that staff members perform. Such training should be provided on an ongoing basis, including training on its AML/ATF responsibilities.

36. A licenced corporate service provider should maintain a high standard of recruitment practices to ensure the probity and competence of all directors, partners and employees. As such, a licenced corporate service provider should have documented policies and procedures to consider any publicly available information pertaining to regulatory censure, professional reprimands and other formal censure, discipline or public criticisms, and the criminal record of a prospective employee. Once an employee has been hired, the licenced corporate service provider should have regard to continually monitor employee fitness and probity.

Adequate Systems and Controls

37. A licenced corporate service provider should ensure that it has in place systems, controls, policies and procedures to ensure that staff members perform their duties in a diligent and proper manner. It is important that staff understand and comply with the established policies and procedures, including those dealing with new business acceptance, financial transactions, confidentiality, conflicts of interest and staff training. The Authority also expects the corporate service provider to have in place a documented business interruption recovery plan, dealing with all of its critical functions. The Authority would also expect a corporate service provider to occupy premises suitable for the purpose of conducting its business.

Segregation of Funds and Treatment of Client Money

38. On the occasion where a licenced corporate service provider is holding client monies, at a minimum it must ensure that those funds are kept, at all times, separately from those of the licenced corporate service provider.
39. Client money includes all monies held, received on behalf of or owed to clients or client structures by the licenced corporate service provider. At all times, the licensee must maintain up to date and accurate records to show the monies it received, held or paid on account of its clients, and must clearly distinguish monies of each client from one another and from the licensee's own monies.
40. Where client monies are held in a pooled client money account, documentation must be provided to the client, as appropriate, setting out the terms on which that money is held, and full records must be available at all times which confirm the beneficial ownership of the pooled monies. These records should be reconciled at least monthly, or more frequently according to

the corporate service provider's own internal controls.

41. A licenced corporate service provider must have documented and established policies, systems and controls over the use of client money and the operation of client money accounts. Particularly, the corporate service provider must have internal controls to ensure that remittances of client monies adhere to a suitable procedure. Where client money is being used to pay the corporate service provider's own fees, such transfers should only be made in accordance with the client agreement in place. The client money policies, systems and controls must be reviewed at least annually.
42. A licenced corporate service provider which also holds a trust business licence issued by the Authority pursuant to section 12 of the Trusts (Regulation of Trust Business) Act 2001 (the TBA), may utilise the same client account for all of its clients, provided that the Client Money requirements of the Code of Practice issued pursuant to section 7 of the TBA are also followed. The Authority expects that each licenced undertaking that is a separate legal entity will operate its own client money accounts.

Fees and Remuneration

43. A licenced corporate service provider must agree a clear fee structure with each relevant person on behalf of the client in advance of taking on an appointment and ensure that the fees charged are transparent at all times. Licenced corporate service providers should also ensure that adequate notice is given before any material change in the fee structure is introduced.

Client Agreements

44. To ensure clients are dealt with fairly and are informed, corporate service providers should discuss terms of business with each prospective client and keep a written record of the terms of the agreement with each client, including evidence of the client's agreement to those terms. That agreement should include, but not be limited to, the following provisions:
 - a) A clear description of the services to be provided, fees to be charged and the basis for those fees and the manner in which fees are expected to be deducted or paid
 - b) A general description of how and by whom requests for action are to be given
 - c) A general description of the process for the termination of the agreement, including provisions for a reasonable notice period, and the consequences of termination, including any termination fees which may be charged
 - d) A statement that the corporate service provider is licenced by the Authority including the type of licence issued

Complaint Procedures

45. A licenced corporate service provider should ensure its complaints handling process is transparent. When complaints are made, the corporate service provider should ensure that complaints are properly handled and addressed on a timely basis. A licenced corporate service provider should ensure that a record of the details of the complaint includes the licenced corporate service provider's response and any action taken as a result is maintained in writing.

Nominee Shareholder Agreements

46. Where a licenced corporate service provider acts as, provides or arranges for others to provide, a nominee shareholder (whether as a registered shareholder or otherwise to hold shares on behalf of another) for the beneficial owner of a client structure, the corporate service provider shall ensure that there is a written nominee agreement (or other such document that forms a nominee agreement) that will identify the beneficial owner. The licenced corporate service provider shall retain a copy of such in its records.

Risk Management Framework

47. A licenced corporate service provider must implement an appropriate risk management framework commensurate with the scale and risk profile of its business, its objectives, structure, operations, processes, services and assets.

48. Risk identification and management forms a part of any business and as such the Authority expects the licenced corporate service provider to have an appropriate risk control framework in place for the benefit of its stakeholders. This includes ensuring that the board (or similar) exercises appropriate oversight of the risk management process to ensure it continues to align with the risk appetite and risk tolerance set by the board.

Advertising

49. The Authority expects licenced corporate service providers to demonstrate a high level of responsibility in the advertisement of all of their services. In particular, a licensee must have due regard to Bermuda's reputation and ensure that the manner in which it advertises its services does not violate any local or international laws.

50. The form and content of advertisements must:

- a) Be clear and ethical
- b) Not violate any standards of prudence and fairness
- c) Not promote any breach of the Act or other local or international laws

XI. DISCLOSURE OF LICENSING BODY

51. A licenced corporate service provider should ensure that its status as a licenced undertaking is published on its website, if it maintains one, and is disclosed in all advertisements and correspondence. The following wording is suggested:

“Licenced to conduct Corporate Service Provider Business by the Bermuda Monetary Authority.”

XII. COOPERATION WITH REGULATORY AUTHORITIES

52. A licenced corporate service provider is expected to deal openly and in a spirit of cooperation with the Authority, and any other relevant regulatory authorities. Licenced corporate service providers should alert the Authority to any proposal to extend their business materially and, in particular, if it is proposed to undertake non-corporate service business within the licenced entity. Licenced corporate service providers should also be proactive in alerting the Authority to any significant developments relevant to its business such as:

- a) Its staffing
- b) Its systems and controls environment
- c) Any material insurance claims for damages arising from acts, omissions or breaches of professional duty
- d) Its involvement in criminal proceedings either in Bermuda or abroad
- e) The amalgamation with or acquisition of another firm
- f) The sale of the CSP business
- g) Any material cybersecurity incidents
- h) Issues affecting its ability to meet or continue meeting the minimum licensing criteria or other breaches of expected standards of behaviour.

(In this regard the Authority would draw the attention of licenced corporate service providers to sections 12, 22, 45, and 46 of the Act.)



BERMUDA MONETARY AUTHORITY

CORPORATE SERVICE PROVIDER BUSINESS ACT 2012

STATEMENT OF PRINCIPLES

SEPTEMBER 2019

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I. INTRODUCTION

1. This Statement of Principles (the Principles) is made pursuant to section 6 of the Corporate Service Provider Business Act 2012 (the Act) which requires the Bermuda Monetary Authority (the Authority) to publish in such a manner as it thinks fit a statement of principles in accordance with which it is acting or proposing to act:
 - a) In interpreting the minimum criteria specified in Schedule 1 of the Act and the grounds for revocation specified in section 15
 - b) In exercising its power to grant, revoke or restrict a licence
 - c) In exercising its power to obtain information, reports and to require production of documents
 - d) In exercising other enforcement powers
2. The Principles are of general application and seek to take into account the wide diversity of Corporate Service Providers (CSPs) that may be licenced under the Act, and of the prospect of institutional and market changes. As a consequence of this, the Principles may likely need to be revised and further developed over time. If the Authority makes a material change in the Principles, section 6(2) of the Act provides that the change is published or a revised version of the Principles issued. The Principles should be read in conjunction with any Guidance Notes which are issued pursuant to section 5(2) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 (SEA Act 2008); and in accordance with section 49M of the Proceeds of Crime Act 1997 (POCA 1997), and section 12O of the Anti-Terrorism (Financial and Other Measures) Act 2004 (ATFA 2004) and section 6(3) of the Act.
3. This document is also to be read in conjunction with the Statement of Principles & Guidance on the Exercise of Enforcement Powers (the Enforcement Guide). The Enforcement Guide, also made pursuant to section 6 of the Act, sets out the Principles in accordance with which the Authority acts or proposes to act in exercising its formal enforcement powers set out under the relevant Acts¹. Where there are any differences in relation to use of these powers between the Enforcement Guide and the Principles, then the content of the Enforcement Guide will prevail.

II. EXPLANATION FOR THE STATEMENT OF PRINCIPLES

4. The Principles, along with the Enforcement Guide, are relevant to the Authority's decisions on whether to licence a CSP (company, partnership or sole proprietor) or to revoke or restrict a licence once granted. The Principles set out in both documents encapsulate the minimum standards the Authority considers when conducting its supervision of CSPs. The functions of CSP supervision include monitoring and verifying the ongoing compliance of CSPs with these minimum standards, and other obligations imposed under the Act, the CSP's own policies and procedures, and compliance with

¹ In the case of licenced CSPs this is the Act, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 (SEA), and the Bermuda Monetary Authority Act 1969 (BMA Act).

Anti-Money Laundering/Anti-Terrorist Financing requirements².

5. Section III of the Principles considers the interpretation of each of the licensing criteria in Schedule 1 of the Act. Section IV sets out the considerations relevant to the Authority's exercise of its discretion to grant a licence. Section V sets out the Principles underlying the exercise of the Authority's power to obtain information and reports and to require the production of documents.
6. The Principles include references to various policy and guidance papers issued by the Authority from time to time. Copies of the relevant material are available from the Authority's website: www.bma.bm.
7. If there are concerns in the course of supervision of licenced CSPs, the Authority will consider what steps should be taken to address the issue and where appropriate, it will seek remedial action by persuasion and encouragement. Where persuasion and encouragement fail, the Authority may look to stronger measures to ensure compliance. The process by which the Authority may take enforcement action is set out in the Enforcement Guide.
8. The Enforcement Guide generally sets out the Principles of enforcement which underpin the Authority's decisions to use any formal enforcement power. It also clarifies the circumstances where the Authority may decide to impose restrictions on a licence (section 14 of the Act), including in cases of urgency (section 18) or ultimately revoke a licence (section 15).
9. It is most likely that the Authority would exercise its powers to restrict or revoke a licence in the context of the enforcement process. The Authority may also exercise its discretion to utilise such powers in a supervisory context (e.g. to impose additional reporting requirements or where an institution ceases operations or conducts limited scope business). These powers might also be used to protect the interests of the public in connection with an external threat unconnected with the CSP's conduct in accordance with section 19 of the Act.

III. SCHEDULE 1: MINIMUM CRITERIA FOR LICENSING

Introduction

10. Before a CSP may be granted a licence, the Authority has to be satisfied that all the criteria in Schedule 1 of the Act are (or are capable of) being fulfilled by the applicant. Once licenced, CSPs are subject to ongoing assessment against the criteria for licensing by means of the Authority's continuing supervision and regulation. CSPs are required to submit information about their business, at intervals determined by the Authority, in accordance with the Act and any related regulations, rules, guidance notes or codes.

² These requirements are set out in the Proceeds of Crime Act 1997, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 (SEA) and the relevant Regulations.

Where a CSP fails to meet a criterion, the Authority can and may take action in accordance with the powers vested under the relevant Acts, and as detailed in these Principles and the Enforcement Guide.

11. The Act sets out the framework for minimum criteria to be met and complied with by licenced CSPs. These criteria are interpreted and applied in the context of the particular circumstances of individual CSPs, and developments in the sector generally. The Authority ensures adherence to the criteria through the following supervisory activities:
 - a) Periodic and occasional regulatory reports as determined by the Authority in accordance with the Act and any related regulations, rules, guidance notes or codes
 - b) Detailed prudential discussions with CSPs' senior management as required
 - c) Routine compliance visits made to the CSP's premises
12. The Authority shall determine the frequency of supervisory activities using a risk-based approach considering the nature, scale, complexity and risks undertaken by the CSP and the conduct of its business.
13. Where a CSP becomes aware of breaches or potential breaches, it is expected that the CSP will alert the Authority forthwith so that any necessary remedial action can quickly be agreed upon. Similarly, the CSP must alert the Authority to any proposed material change in its business. This will allow the Authority to assess whether the changes impact the CSP's ability to fulfil the minimum criteria for licensing.
14. This part of the Principles sets out the Authority's interpretation of the statutory licensing criteria.

Schedule 1 Paragraph 1: "Controllers and Officers, to be fit and proper persons"

Controllers and Officers

15. This paragraph provides that every person who is or is to be a controller or officer (as defined under section 2 of the Act; officers are defined as including persons appointed as directors, secretaries or senior executives) of a CSP is to be a fit and proper person to perform CSP-related functions. With regard to an individual who is, or is to be, a controller or officer, the relevant considerations include whether the person has relevant experience, sufficient skills, knowledge, and soundness of judgment to undertake and fulfil their particular duties and responsibilities. The standards required of persons in these respects will vary considerably, depending on the precise position held by the person concerned. Thus, a person could be fit and proper for one position but not be fit and proper for a position involving different responsibilities and duties. The diligence with which the person is fulfilling or is likely to fulfil those duties and responsibilities is also considered, so that the Authority can assess whether the person does or will devote sufficient time and attention to them.
16. The Authority sees the standards as being particularly high in the case of persons with

primary responsibility for the conduct of a CSP's affairs, taking into account the nature and scale of the CSP's business.

17. In assessing whether a person has the relevant competence, soundness of judgment and diligence, the Authority considers whether the person has had previous experience with similar responsibilities, the record in fulfilling them and, where appropriate, whether the person has suitable qualifications and training. As to soundness of judgment, the Authority looks to the person's previous conduct and decision taking.
18. The probity of the person concerned is very important. It is essential that a person who is responsible for the conduct of CSP business is of high integrity. In contrast to the fitness elements of this criterion, which reflects an individual judgment relating to the particular position that the person holds or is to hold, the judgment of probity reflects much more of a common standard, applicable irrespective of the particular position held.
19. Specifically, the Authority takes into account the person's reputation and character. It considers, inter alia, whether the person has a criminal record, or convictions for fraud or other dishonesty which would be particularly relevant. The Authority also gives particular weight to whether the person has contravened any provision of law, including legislation covering the trust, banking, insurance, and investment sectors or other legislation designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice. In addition, it considers whether the person has been involved in any business practices appearing to the Authority to be deceitful or oppressive or improper, or which would otherwise discredit his or her method of conducting business. In addition to compliance with statutory provisions, the Authority also considers a person's record of compliance with various non-statutory codes in so far as they may be relevant to the licensing criteria and to the public interest, interests of clients and potential clients.
20. The Authority also takes into consideration whether the person has been censured or disqualified by professional or regulatory bodies, e.g. Institute of Chartered Secretaries and Administrators; Institute of Directors; Society of Trust and Estate Practitioners; Bermuda Bar Association; Institute of Chartered Accountants of Bermuda; Bermuda Stock Exchange; Association for Investment Management and Research; or corresponding bodies in other jurisdictions.
21. While any evidence of relevant past misconduct needs to be taken into consideration, the Authority recognises that lapse of time, and a person's subsequent conduct, are factors which may be relevant in assessing whether the person is now fit and proper for a particular position.
22. Once a CSP is licenced, the Authority has continuing regard to the performance of the person in exercising his or her duties. Imprudence in the conduct of a CSP's business, or actions which have threatened (without necessarily having damaged) the public interest, will reflect adversely on the competence and soundness of judgment of those responsible. Similarly, failure by a CSP to conduct its business with integrity and professional skills will reflect adversely on the probity, and/or competence and/or soundness of judgment of those responsible. This applies whether the matters of concern have arisen from the

way the persons responsible have acted or from their failure to act in an appropriate manner. The Authority takes a cumulative approach in assessing the significance of such actions or omissions – that is, it may determine that a person does not fulfil the criterion on the basis of several instances of such conduct which, if taken individually, may not lead to that conclusion.

Shareholder Controllers

23. Shareholder controllers, as defined by sections 3(4) and 3(5) of the Act, may hold a wide variety of positions relating to a CSP, and the application of the fit and proper criterion takes account of this. The key consideration is the likely or actual impact on the interests of clients and potential clients of a person holding the particular position as shareholder controller. This is viewed in the context of the circumstances of the individual case, and of the particular position held. The general presumption is that the greater the influence on the CSP, the higher the threshold will be for the shareholder controller to fulfil the criterion. Thus, for example, higher standards will generally be required of a majority shareholder controller (i.e. one owning 50 per cent or more of the shares of an undertaking) compared with a shareholder controller owning 10 per cent.
24. In reviewing the application of the criterion to shareholder controllers or persons proposing to become such controllers, the Authority considers two main factors.
25. First, it considers what influence the person has or is likely to have on the conduct of the affairs of the CSP. If the person does, or is likely to, exercise a close control over the business, the Authority would look for evidence that he/she has the probity and soundness of judgment, and relevant knowledge and skills for running a CSP. On the other hand, if the shareholder does not, or is not likely to, influence the directors and management of the CSP on the detailed conduct of the business, it would not be necessary to require such a level of relevant knowledge and experience.
26. The second consideration is whether the financial position, reputation or conduct of the shareholder controller or prospective shareholder controller has damaged, or is likely to damage, the CSP through ‘contagion’ which undermines confidence in that CSP. For example, if a holding company or a major shareholder were to suffer financial problems, it could damage confidence of clients or potential clients in the stability or financial integrity of the licenced CSP. Generally, the higher the shareholding, the greater the risk of ‘contagion’ if the shareholder encounters financial difficulties. For this reason, a shareholder must be able to demonstrate to the CSP and the Authority their sources of wealth and source of funds. The risk of contagion is not, however, confined to financial weakness. Publicity about illegal or unethical conduct by a holding company or another member of the group may also damage confidence in the CSP.
27. CSPs are expected to notify the Authority immediately if they become aware of material concerns regarding the suitability of a shareholder controller.
28. In the case of a controller who ‘directs’ or ‘instructs’ a shareholder controller, similar considerations apply to those relevant to assessing the fulfilment of the shareholder controllers criterion. In other words, the standards that an indirect controller needs to

satisfy are likely to be at a minimum of the standards also required of the person who is indirectly controlled.

29. Where a person is a controller by virtue of 'directing' or 'instructing' the board of a CSP, the standards required are high. The controller has to have the probity and relevant knowledge, experience, skills and diligence for running a CSP. The qualities required are those which are also appropriate for the board of directors or partners of a CSP.

Schedule 1 Paragraph 1A: "Corporate Governance"

30. This paragraph provides that the CSP shall implement corporate governance policies and processes as the Authority considers appropriate given the nature, scale, complexity and risk profile of the CSP.
31. In the case of a CSP which is a company or partnership, the business should be effectively directed by such number of individuals as the Authority considers appropriate given the nature, scale, complexity and risk profile of the CSP. The Authority recognises that standards of good corporate governance may differ between CSPs according to the size and complexity of their respective businesses. At a minimum, the Authority expects there to be qualified individuals appointed to the board or acting as partners who can apply informed and independent judgment to the overall governance of the CSP.
32. In the case of a CSP which is a company, the directors should include such number (if any) of non-executive directors, as the Authority considers appropriate. The number will depend on the circumstances of the CSP and the nature, scale, complexity and risk profile of the CSP.
33. The Authority considers that non-executive directors can play a valuable role in bringing an outsider's independent perspective to the running of the business, and to ensure proper challenge to the executive directors and other management. The Authority sees non-executive directors as having an important role as members of a CSP's audit committee or in performing the role which such a committee would otherwise perform.

Schedule 1 Paragraph 3: "business to be conducted in a prudent manner"

34. Paragraph 3, sub-paragraphs 1 and 5 make it clear that there is a general requirement for CSPs to conduct their business in a prudent manner. It is the overall responsibility of the board, partners and senior management of an institution to ensure that there is effective control over the entire business and that it is conducted prudently. Board members, partners and senior management must understand the underlying risks in the business and be committed to a robust control environment.
35. Sub-paragraphs 2 to 4 and 6 set out a number of specific requirements, each of which must be fulfilled before a CSP may be regarded as conducting its business in a prudent manner.

36. The Act also makes it clear that the specific requirements outlined in sub-paragraphs 2 to 4 and 6 are not exhaustive. Accordingly, the Authority takes into account a range of other considerations in assessing whether a CSP is prudently run. These include for example:
- a) The CSP's management and corporate governance arrangements (such as, in the case of a company, the composition of the board of directors and the arrangements for the board's overall control and direction of the institution)
 - b) The CSP's general strategy and objectives
 - c) Anti-Money Laundering/Anti-Terrorist Financing policies and procedures
 - d) Vetting processes and policies designed to address the risks inherent in introducing entities and individuals to Bermuda's corporate environment
 - e) Planning arrangements
 - f) Policies on accounting, collections and bad debt
 - g) Recruitment arrangements and training to ensure that the CSP has adequate numbers of experienced and skilled staff in order to carry out its various activities in a prudent manner
 - h) The CSP's procedures for overseeing, managing and monitoring all outsourced activities
37. Particularly close attention is also paid to the arrangements in place for preventing and detecting criminal activities, and for ensuring compliance with the CSP's legal obligations in preventing money laundering and terrorist financing.
38. Failure by the CSP to comply with applicable laws in foreign jurisdictions in which the CSP or its subsidiaries operate may also affect the Authority's assessment of prudent conduct.
39. A CSP should have policies and procedures to enable it to comply with international sanctions measures in force in Bermuda.
40. The Act does not purport to affect or alter the provisions of the Companies Act 1981 (the Companies Act). Where a licenced CSP provides contracted services to a Bermuda regulated company, the Authority expects the licenced CSP to fulfil these contractual obligations related to the company's compliance with the Companies Act. Failure by the CSP to comply with the Companies Act may be assessed by the Authority as grounds for determining prudential concerns.

Schedule 1 Paragraphs 3 (3) and (4): "adequate accounting and record-keeping systems"

41. The Authority does not regard a CSP's records and systems as adequate unless they can enable its business to be prudently managed and the CSP is able to comply with the duties imposed on it by or under the Act. In other words, the records and systems must be such that the CSP is able to fulfil the various other elements of the prudent conduct criterion and to identify threats to the public interest. They should also be sufficient to enable the CSP to comply with the notification and reporting requirements under the Act. Thus,

delays in providing information or inaccuracies in the information provided, will call into question the fulfilment of the requirement of sub-paragraphs 3 (3) and 3 (4). The systems for client records should be sufficient to enable the CSP to maintain the books and records of clients in the manner required under the Companies Act or other relevant legislation.

42. The nature and scope of the particular records and systems which a CSP should maintain should be commensurate with its needs and particular circumstances, so that its business can be conducted without endangering its clients and potential clients. In determining whether a CSP's records and systems are adequate, the Authority considers its size, the nature of its business, the manner in which the business is structured, organised and managed, and the nature, volume and complexity of its transactions.

Schedule 1 Paragraphs 3 (6): “adequate insurance cover”

43. Licenced CSPs face a wide variety of potentially major financial risks in their business. The possibility of many of these risks crystallising is hopefully remote. Rather than requiring CSPs to hold capital against all these risks, the Act requires CSPs to hold adequate insurance cover. A CSP will not be regarded as carrying on its business in a prudent manner unless it maintains insurance cover that is appropriate to the nature and scale of its operations.
44. In judging the adequacy of insurance cover, the Authority looks to be satisfied that the scope and scale of protection in place provides reasonable assurance of the ability of the CSP to continue to trade in the event that it should face either major damage to its infrastructure, or material claims from clients for loss and damage sustained. It is in the first instance for those directing the business of the licenced undertaking to assess the level of risk they face in the business, and to determine the type and extent of coverage appropriate for that business. At a minimum, the Authority would expect this to include professional indemnity insurance. The Authority will review the adequacy of cover in place, having regard to the nature, scale and complexity of the business.

Schedule 1 Paragraph 4 “integrity and skill”

45. This paragraph is concerned with the manner in which the business of the licenced CSP is conducted, and is distinct from the question of whether its controllers and officers are fit and proper persons. The business of a CSP must be conducted ethically and honestly, and the staff employed by the CSP must have the skills and knowledge appropriate to the nature and scale of the CSP.
46. The integrity element of the criterion requires the CSP to observe high ethical standards in conducting its business. Criminal offences or other breaches of statute will obviously call into question the fulfilment of this criterion. Particularly relevant are contraventions of any provision made by or under enactments, whether in Bermuda or elsewhere, designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice. Doubts may also be raised if the CSP fails to comply with

recognised ethical standards such as those embodied in various codes of practice. The Authority considers the seriousness of the breach of the code, to whether the breach was deliberate or an unintentional and unusual occurrence, and its relevance to the fulfilment of the criteria in Schedule 1, and otherwise to the interests of clients and potential clients.

47. Professional skills cover the general skills which the CSP should have in place to effectively conduct its business, for example, in relation to the provider responsibilities, establishing and operating systems of internal controls, and ensuring compliance with legal and supervisory requirements. The level of skills required will vary according to the individual CSP, depending on the nature and scale of its activities. CSPs are expected, at a minimum, to be in compliance with their respective industry standards in relation to CSPs, where such standards exist. This will assist in ensuring that business is carried out in conformity with the professional standards normally expected of a CSP.
48. The Authority would expect CSPs to have a number of employees sufficient to carry out the range and scale of its business. The Authority, in determining whether a CSP has sufficient personnel, will take into account the human resources that the CSP may draw upon through other arrangements, (e.g. outsourcing, secondments, or other similar arrangements), as well as the methods of recruitment to ensure that the licensee employs an adequate number of persons who are fit and proper to perform the duties for which they are employed.
49. A CSP must have appropriate resources in place commensurate with the nature and scale of its activities. The requirement for staff to be suitably qualified and experienced for their responsibilities extends to key roles. Those staff who act as officers of client companies must understand their duties under the laws of the jurisdiction in which those client companies are incorporated, and carry out their duties in a diligent and proper manner in accordance with internal systems, policies and procedures.

Schedule 1 Paragraph 5 “Reputation of Bermuda”

50. The requirements imposed by the sub-paragraphs apply only in terms of creating corporate and partnership vehicles in Bermuda, and subsequent transfer of shares in client companies. It is not possible to identify with any precision the kind of activity or kind of person who is liable to bring the reputation of Bermuda into disrepute. The matter will need to be evaluated by each CSP on a case by case basis. Clearly this is an area where a risk-based approach may be justified; however, it needs to be emphasised that the Authority would view any failure in this obligation with utmost gravity. The board or partners of the CSP is (are) ultimately responsible for overall risk management. The Authority would expect licenced CSPs to engage, appoint or designate at management level an individual or individuals that are qualified and skilled at assisting the board in managing risk. This individual or individuals must demonstrate a sound understanding of risk and be able to exercise sound judgment. In so doing, this person or persons would be responsible for ensuring that the licenced CSP has developed and implemented effective risk-related internal controls. Effectiveness assessments should be periodic but ongoing, and reported to senior management and the board or partners. CSPs are expected to develop and implement policies and procedures to address these obligations;

for instance the mitigation of reputational risk, Anti-Money Laundering and Anti-Terrorist Financing risk, tax risk, etc. The mere existence of policies and procedures does not address the full obligations of the CSP. The board and senior management must create a culture of compliance ensuring staff adhere to the CSP's policies, procedures and controls which have been designed to limit and control the risks that the CSP faces, and the risks to the jurisdiction.

51. It needs to be understood that the obligations in paragraph 5(1) are independent of and separate to the obligation in respect of money laundering or terrorist financing, which also are subject to regulation and supervision.

IV. PRINCIPLES RELATING TO THE GRANTING OF LICENCES

52. To grant a licence under the Act, the Authority needs to be satisfied that all the minimum licensing criteria in Schedule 1 are met. In order to be satisfied, the applicant and any other relevant parties must first have provided all the appropriate information requested by the Authority in connection with the application. Even where it is satisfied that the criteria are or can be met, the Authority retains a residual discretion not to grant a licence – notably, if it sees reason to doubt that the criteria will be met on a continuing basis or if it considers that for any reason there might be significant threats to the public interest or the interests of clients or potential clients. The Authority also considers, in exercising its discretion, whether it is likely that it will receive adequate information from the CSP and relevant connected parties to enable it to monitor the fulfilment of the criteria, and to identify potential threats to the CSP's clients.
53. Section 36 of the Act provides for appeals to appeal tribunals against decisions of the Authority regarding the refusal of an application for a licence in addition to restricting or revoking a licence as addressed below. Appeals against the decisions of the tribunal rest with the Supreme Court on questions of law only.

V. POWERS TO OBTAIN INFORMATION AND REPORTS

54. The Authority's supervisory arrangements for licenced CSPs comprise three principal elements. First, the Authority conducts certain off-site analysis and reviews based on regular data received from CSPs. This is supplemented by a regular programme of prudential discussions, during which the Authority interviews senior management on a wide range of relevant issues, including recent and current performance, material compliance and control issues, business development, and strategy questions. Finally, the Authority conducts routine onsite reviews during which it assesses a CSP's on-going compliance with aspects of the licensing criteria and, in particular, with paragraph 3(2) of Schedule 1 of the Act. These reviews of compliance are intended to provide insight into the effectiveness of the internal controls in place and the ability of management to identify, monitor and manage key risks arising from the CSP's operations. They also provide an opportunity for the Authority to check through sample testing that the procedures and practices in place within a CSP are in practice, enabling it to fulfil the

specific obligations imposed by the Proceeds of Crime Act 1997 and the associated Regulations.

55. Prudential supervision involves the receipt and analysis of a variety of regular and ad hoc information from CSPs. The Authority's standard reporting arrangements are kept under review and amended from time to time in light of developments.
56. Section 47 of the Act provides formal powers for the Authority by notice in writing to require from a CSP such information as it may reasonably require for the performance of the Authority's functions under the Act. The section also provides for the Authority to require a CSP to make available a report by its auditor (or by an accountant or other person with relevant professional skill) on any aspect of, or any matter about which the Authority has required or could require the CSP to provide. In the case of reports commissioned under section 47(1)(b), the Authority has agreed that they will wherever possible be commissioned from a CSP's own external auditors. However, in certain circumstances, another professional firm may be used. This would be the case, for example, where a report called for particular technical skills or when the Authority has had previous concerns about the quality or completeness of work conducted by the external auditor.
57. The Authority has also agreed that, as a general rule, it will limit the extent to which it will have recourse to professional reports of this nature. Instead, the Authority's general policy is to use its own staff to assess directly through the onsite work described above the adequacy of a CSP's systems and controls. Nonetheless, where particularly specialised work is required or other special considerations arise, the Authority may commission a professional report under section 47.
58. Section 48 of the Act provides statutory powers for the Authority by written notice to require a CSP to produce relevant documents or information. This power can also be used to obtain relevant documents in the possession of other persons and also to require information or documents from entities related to a CSP. Section 49 of the Act provides the Authority with specific powers to enter the business premises of persons on whom notice under sections 47 or 48 has been served for the purpose of obtaining relevant information or documents. The Authority makes routine use of section 47 and section 48 powers when conducting its onsite review visits to licence holders, in order to deal with any client confidentiality issues that might arise in the course of compliance testing.
59. Much of the information required by the Authority for its supervision of CSPs is provided pursuant to the Authority's statutory powers in the Act to require relevant information and documents. In addition, the Act stipulates certain matters as being subject to specific statutory reporting requirements – notably, the requirement for a CSP to submit a certificate of compliance, signed by an officer, certifying that the CSP has complied with the minimum licensing criteria (as provided for in section 46 of the Act).

VI. CONCLUSION

60. The Principles set out in this statement are of general application, and take account of the wide diversity of CSPs which may be licenced under the Act, and of the prospect of institutional and market changes. Nevertheless, there is likely to be a need for the Principles to be revised from time to time. Accordingly, the Authority will publish a statement of any changes to the Principles and will issue revised versions of the Principles as required.

