

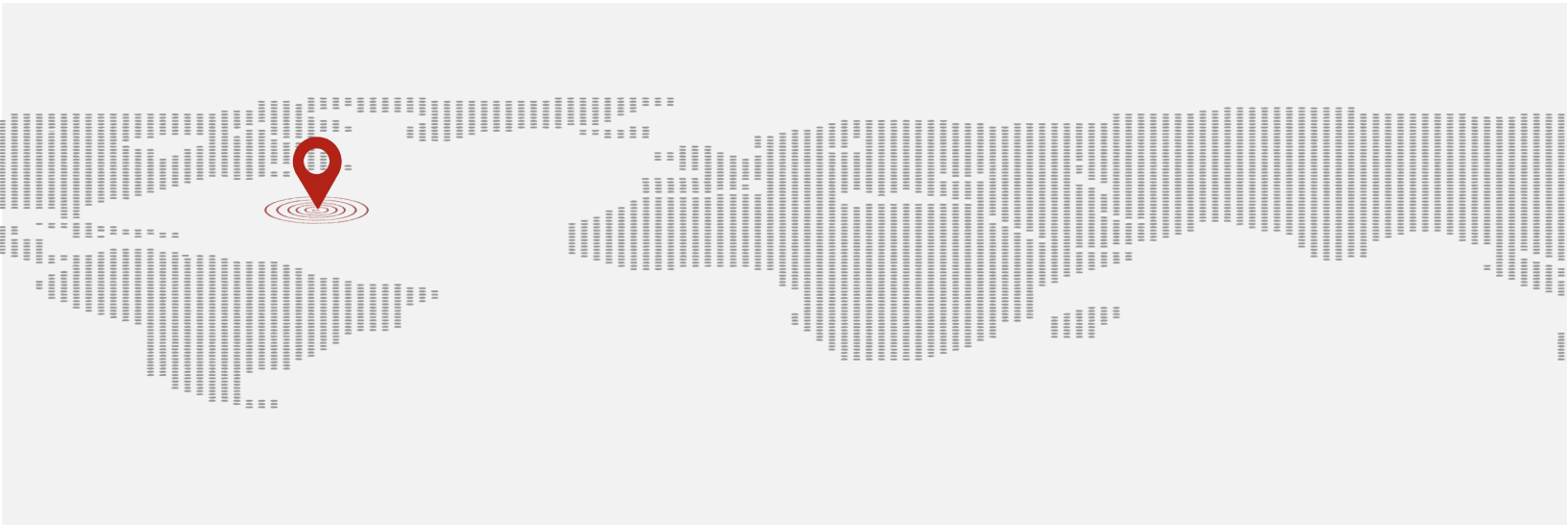


Monday, 28 April, 2025

CONSULTATION PAPER

Proposed Corporate Service Provider Business Rules 2025

Comments to be received by 4 June 2025



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Executive Summary

1. This Consultation Paper (CP) outlines the proposed Corporate Service Provider (CSP) Business Rules 2025 (Rules). These Rules aim to strengthen regulatory oversight, enhance transparency and ensure compliance with international standards for CSPs operating in Bermuda.

Background and Rationale

1. The CSP sector plays a critical role in Bermuda's financial services industry. The Bermuda Monetary Authority (Authority or BMA) seeks to address evolving industry needs, mitigate risks and develop client protections by developing these Rules to accompany proposed amendments to the Corporate Service Provider Business Act 2012 (Act) and support the stability and reputation of Bermuda's financial services sector.
2. This CP should be read in conjunction with an initial publication in June 2024, which outlines the proposed regulatory enhancements in this sector. Entitled *Proposed Enhancements to the Corporate Service Provider Business*, the paper highlighted preliminary feedback from stakeholders on enhancing the CSP regulatory framework.

Objectives of the Proposed Rules

3. The submission of accurate and timely financial filings to the Authority is crucial in helping to ensure transparency and accountability. Regulatory filings will serve as a comprehensive record of a CSP's financial health, performance and compliance with regulatory standards. Such filings will also allow the Authority to intercede early to protect clients, should the situation warrant such action.
4. The proposed Rules aim to strengthen financial resource requirements for CSPs, enhance the management of client money, ensure adequate liquidity and operational soundness, and improve transparency and accountability through regular returns.

Key Provisions of the Proposed Rules

5. The Minimum Criteria for Licensing will be amended to introduce the requirements for CSP licensees to maintain appropriate liquidity and net assets. They will also need to report this to the Authority. The Authority will consider whether the licensee is conducting

business in a prudent manner, which is a standard requirement of the Authority's supervisory frameworks.

6. The proposed Rules include several provisions designed to address these objectives. These provisions include:
 - I. CSPs will be required to file annual and quarterly returns, accompanied by signed declarations from senior officers, to ensure accurate and up-to-date reporting;
 - II. Minimum net asset requirements will be set at \$12,000 for limited licenses and \$50,000 for unlimited licenses, with potential adjustments made by the Authority in specific cases. Further details concerning the assessment and calculation of net assets can be found in the attached Illustrative Draft of the proposed Rules;
 - III. CSPs must also maintain liquid assets equivalent to one month (limited licenses) or three months (unlimited licenses) of their annual expenditure;
 - IV. To protect client interests, CSPs will adhere to rigorous standards for managing client money including the segregation of accounts, regular reconciliations, transparent disclosures and an annual review by an approved independent person; and
 - V. CSPs must notify the Authority promptly of breaches in net assets or liquidity requirements, as well as other specified significant financial developments that may threaten their viability.
7. Please refer to the **Appendix – Corporate Service Provider Business 2025 Rules (Illustrative Draft)** for detailed information on the provisions mentioned above.

Implementation and Compliance

8. The Rules are proposed to come into effect following the passage of the proposed amendments to the CSP Act. CSPs will need to ensure that their systems and policies align with the new requirements, submit the required returns in electronic format, and maintain documentation and compliance frameworks to support audits and inspections.

Further Legislative Amendments

9. The Authority further proposes the repeal of Section 36(c) of the CSP Act, which grants an undertaking the right to appeal the Authority's decision to refuse an application for a licence under Section 11(1).
10. This provision was originally introduced to acknowledge the unique circumstances surrounding the implementation of the legislative and supervisory framework applicable to CSPs already in operation. At the time, the inclusion of an appeal mechanism ensured that existing CSPs who were denied a licence had recourse to challenge such decisions. However, as the sector has now matured and efforts continue to align the CSP regulatory framework with international standards, Section 36(c) is no longer fit for purpose. Its repeal will enhance consistency with other regulatory regimes while ensuring that the licensing process remains robust and effective.
11. Additionally, a housekeeping amendment will be made to Section 22 of the Act to revise the timeframe from the current three-month period to 90 days for the Authority to issue a written no-objection notice. This adjustment ensures alignment with the timeframes established for other legislated decision notices, thereby promoting uniformity and consistency within the regulatory framework.

Stakeholder Engagement and Feedback Process

12. The BMA invites stakeholders to provide feedback by 4 June 2025. Feedback should focus on specific provisions or areas requiring clarification, practical challenges in implementation, and suggestions for improving alignment with industry practices. Feedback can be submitted to policy@bma.bm.

Conclusion and Next Steps

13. The BMA remains committed to fostering collaboration with stakeholders. Following the consultation period, the BMA will review and incorporate the feedback, and publish the final Rules and guidance, incorporating any necessary amendments to the CSP Act as previously consulted upon.
14. Industry and other stakeholders are invited to provide feedback on the proposals outlined herein and within the illustrative draft of the Rules to policy@bma.bm no later than the close of business **Wednesday, 4 June 2025**

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CORPORATE SERVICE PROVIDER BUSINESS RULES 2025

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The Bermuda Monetary Authority, in exercise of the powers conferred on it by section 55 of the Corporate Service Provider Business Act 2012, makes the following Rules:

Citation

- 1 These Rules may be cited as the Corporate Service Provider Business Rules 2025.

Interpretation

- 2 In these Rules, unless the context otherwise requires—

“Act” means the Corporate Service Provider Business Act 2012;

“approved bank”, in relation to a client bank account, means—

- (a) where the bank account is opened in Bermuda, an institution licensed under the Banks and Deposit Companies Act 1999;
- (b) where the account is opened elsewhere, a bank licensed to conduct banking business in that country or territory which, in the opinion of the Authority, is subject to supervision equivalent to the supervision of banks licensed in Bermuda;

“client bank account” means an account at an approved bank which—

- (a) is a current or deposit account;
- (b) is in the name of a corporate service provider; and
- (c) includes the words ‘client’ or an appropriate description to distinguish the account as an account containing client money, from an account containing money belonging to the corporate service provider;

“client money” has the meaning given in rule 12;

“corporate service provider” means a licensed undertaking under the Act that carries on corporate service provider business;

“corporate service provider business” has the meaning given in section 2 of the Act;

“money” includes cheques and other payable orders in any currency.

Returns

Annual Returns

3 (1) A corporate service provider shall prepare and file with the Authority an annual return prepared pursuant to this rule in such form as the Authority shall determine.

(2) The annual return shall comprise—

- (a) information in respect of the matters set out in Schedule 1 (“Annual Regulatory Information Return”), as such matters stand on the day the annual return is filed; and
- (b) any additional information requested by the Authority in writing.

(3) The annual return shall be accompanied with a declaration stating that to the best of their knowledge and belief the information in the return is fair and accurate, signed by two Officers—

- (a) where the corporate service provider is a company, by any combination of two directors, senior executives or the chief executive of the corporate service provider;
- (b) where the corporate service provider is a partnership, by the managing partner and a senior executive of the corporate service provider;
- (c) where the corporate service provider is not a company or partnership, by two senior executives in respect of the corporate service provider.

(4) Not later than four months after the close of its financial year every corporate service provider shall provide the Authority with a copy of its annual return for that year.

(5) Every corporate service provider shall keep a copy of an annual return prepared in accordance with paragraph (1) at its registered office or principal office for the period of five years commencing from the date of preparation.

Quarterly returns

4 (1) A corporate service provider shall prepare and file with the Authority a quarterly return prepared pursuant to this rule in such form as the Authority shall determine.

(2) A quarterly return shall comprise—

- (a) information in respect of the matters set out in Schedule 2 (“Quarterly Regulatory Information Return”), as such matters stand on the day the quarterly return is filed; and
- (b) any additional information requested by the Authority in writing.

(3) A quarterly return shall be accompanied with a declaration stating that to the best of their knowledge and belief the information in the return is fair and accurate signed by two officers—

- (a) where the corporate service provider is a company, by any combination of two directors, senior executives or the chief executive of the corporate service provider;
- (b) where the corporate service provider is a partnership, by the managing partner and a senior executive of the corporate service provider;
- (c) where the corporate service provider is not a company or partnership, by two senior executives in respect of the corporate service provider.

(4) Quarterly returns shall be submitted to the Authority within 21 days of the end of each quarter of the calendar year submission date.

(5) Every corporate service provider to which this section applies shall maintain a copy of a quarterly return submitted to the Authority in accordance with paragraph (2)(a), at its registered office or principal office for the period of five years commencing from the submission date.”.

Supplementary matters

5 (1) An annual return prepared under rule 3 or a quarterly return prepared under rule 4 shall be filed in the electronic format required by the Authority.

(2) If directed to do so by the Authority, a corporate service provider shall file with the Authority a hard copy of the annual or quarterly return, filed in the electronic format pursuant to paragraph (1), on or before the date specified in the direction.

Minimum Net Assets

Minimum net assets to be maintained

6 For the purposes of paragraph 3(4A) of Schedule 1 to the Act, a corporate service provider shall be regarded as conducting its business in a prudent manner if it maintains or, as the case may be, will maintain minimum net assets of—

- (a) \$12,000 in the case of a corporate service provider that holds a limited licence;
- (b) \$50,000 in the case of a corporate service provider that holds an unlimited licence.

Requirement to maintain increased minimum net assets

7 (1) Where the Authority makes a determination that the minimum net asset requirement specified under rule 6 is not appropriate in the case of a particular corporate service provider, the Authority may make adjustments with respect to the minimum net asset amount specified in rule 6 if it is deemed inappropriate for the particular corporate service provider.

(2) Where the Authority makes a determination under paragraph (1) in respect of a particular corporate service provider, it may substitute for the minimum net asset requirement specified under rule 6 a fixed higher minimum net asset threshold.

Assessment and calculation of minimum net assets

8 (1) Corporate service providers are expected to closely monitor their net asset positions.

(2) Without prejudice to the minimum requirements set out in rule 6, each corporate service provider should maintain net assets of such scale and in such form as to safeguard the interests of clients and potential clients, having regard to—

- (a) the Act;
- (b) the risks inherent in the corporate service provider's business;
- (c) the risks inherent in any operations of related entities so far as they are capable of affecting the corporate service provider's business;
- (d) any other factors that appear to the Authority to be relevant.

(3) In assessing the sufficiency of net assets, the Authority may—

- (a) require reasonable assurance that resources are genuinely available to support the corporate service provider's business; and
- (b) seek to be satisfied in its assessment of net assets that, among other things, claims on third parties are fully recoverable in the normal course of business.

(4) In calculating net assets, all claims on other members of a group to which a corporate service provider belongs should be deducted, unless the Authority has separate regulatory responsibility for monitoring the capital adequacy of the connected party or is in a position to assess capital adequacy for the wider group.

(5) In determining net assets for the purposes of rule 6, the following amounts will also generally be deducted, since they do not represent capital available to the corporate service provider—

- (a) investments in subsidiaries;
- (b) investments in associates; and
- (c) intangible assets.

(6) Where a corporate service provider is a partnership that does not have legal personality, the Authority will assess its minimum net asset requirement in respect of balances in each partner's capital accounts, net of outstanding borrowing from the corporate service provider.

(7) In the case of an individual (a sole trader) or an unincorporated entity that is not a partnership, the Authority will generally seek to satisfy itself that the stipulated minimum net asset figure is, and will remain, freely available to support the corporate service provider and to meet any losses that may be incurred.

Liquid assets

Minimum liquid asset requirement

9 (1) For the purposes of paragraph 3(4B) of Schedule 1 to the Act, a corporate service provider shall maintain a minimum of liquid assets in accordance with this rule.

(2) Where a corporate service provider holds—

- (a) a limited licence, liquid assets required to be maintained shall be the equivalent of one month of the corporate service provider's annual expenditure;
- (b) an unlimited licence, liquid assets required to be maintained shall be the equivalent of not less than three months of the corporate service provider's annual expenditure.

(3) For the purposes of this rule—

“annual expenditure” shall be—

- (a) based on the most recent annual or annualised financial statement or accounts filed by the corporate service provider with the Authority under section 55 of the Act; and
- (b) calculated where the corporate service provider made—
 - (i) a profit in the previous year, as total revenue less profit before appropriations; or
 - (ii) a loss in the previous year, as total revenue plus loss before appropriations;

“liquid assets” shall include but shall not be limited to—

- (a) cash and cash equivalents (including cash, term deposits and marketable securities);
- (b) prepayments, where the period of prepayment is less than three months;
- (c) amounts accrued or receivable with respect to interest on marketable investments;
- (d) unsecured receivables, where these are outstanding for less than 30 days;
- (e) receivables, arising from the sale of investments outstanding for less than 30 days from the contractual settlement date;
- (f) other receivables, arising from corporate service provider business outstanding for less than two months.

Maintenance of adequate liquidity

10 (1) The Authority expects that all corporate service providers will employ appropriate means to closely monitor their liquidity positions to ensure that they are always able to meet their obligations as they become due.

(2) Assets are considered to be liquid if they can be easily converted to cash within a reasonable period, where such period does not exceed 30 days; and the Authority may, to such extent as it considers appropriate, consider as liquid assets, in addition to the assets of the corporate service provider, any facilities available to it that, in the Authority's view, can provide liquidity within a reasonable period.

(3) Without prejudice to the other types of instruments set out in rule 9(3) as generally counting towards liquid assets, the Authority will generally require for receivables arising from a corporate service provider and that have been outstanding for less than two months, such amounts may be included where they represent—

- (a) amounts due from connected companies that are adequately secured and are repayable within 60 days;
- (b) unsecured amounts due at the request of the corporate service provider; and
- (c) any other circumstances that the Authority may deem to be reasonable.

(4) Where they are desirous of including an asset that is not listed in rule 9(3), corporate service providers must receive prior written consent from the Authority to do so.

Notifying the Authority

11 A corporate service provider that has been granted a licence shall notify the Authority forthwith where—

- (a) it has breached any net asset or liquidity requirement applicable to it;
- (b) it has reason to believe that it will breach any net asset or liquidity requirement applicable to it;
- (c) the liabilities of any one or more of its subsidiaries exceed that subsidiary's assets; or
- (d) the liabilities of the corporate service provider's parent company exceed its assets.

Client Money

Meaning of client money

12 (1) Subject to this rule, client money is money in any currency which a corporate service provider receives on behalf of or is owed to clients or client structures by the corporate service provider.

(2) Money is not client money if—

- (a) it is immediately due and payable to the corporate service provider for its own account—
 - (i) in respect of fees in a manner which satisfies paragraph (3); or
 - (ii) otherwise, though not, in such a case, if the obligation of the corporate service provider in respect of which the money is so payable to the corporate service provider has not yet been performed;
- (b) it is properly withdrawn from a client bank account.

(3) Money is not regarded for the purposes of paragraph (2) as due and payable in respect of fees claimed to be payable to the corporate service provider unless—

- (a) the fees have been accurately calculated and are in accordance with a formula or on a basis agreed to in writing by the client;
- (b) 14 days have elapsed since a statement showing the amount of those fees has been delivered to the client, and the client has not questioned the sum specified; or
- (c) the amount of the fees has been agreed in writing with the client, or has been finally determined by a court or arbitration.

Client money procedures

13 (1) A corporate service provider must ensure it acts with due care, skill and diligence when administering and holding client money.

(2) At all times, the corporate service provider 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 corporate service provider's own monies.

(3) 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; and these records should be reconciled at least monthly, or more frequently according to the corporate service provider's own internal controls.

(4) A 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 which shall be reviewed annually.

(5) The corporate service provider must have internal controls to ensure that remittances of client monies adhere to a suitable procedure and protect the client's assets from theft, fraud and other forms of misappropriation or inappropriate use.

(6) 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.

(7) Each corporate service provider that is a separate legal entity will operate its own client money accounts; provided that a corporate service provider that also holds a trust business licence issued by the Authority pursuant to section 12 of the Trusts (Regulation of Trust Business) Act 2001 may utilise the same client account for all of its clients if the client money requirements pursuant to section 7 of the said Act are also followed.

(8) A corporate service provider must disclose to a client the terms upon which client money is held.

(9) A corporate service provider must pay any interest earned on client money in accordance with the terms set out in the client agreement or terms of business document, and if no interest is to be paid, such agreement or terms of business document must record this fact.

(10) Money ceases to be client money if it is paid—

- (a) to the client;
- (b) to a third party on the instruction of the client;
- (c) into a bank account in the name of the client (not being an account which is also in the name of the corporate service provider); or
- (d) to the corporate service provider itself, where it may properly be so paid under these Rules.

Commencement

14 These Rules shall come into operation on .

SCHEDULE

The Schedules to these Rules have been omitted.

They are available for inspection at the offices of the Bermuda Monetary Authority or on the website: www.bma.bm

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