



Cayman Monetary Regulatory Authority International

At the forefront of financial regulation, the Cayman Monetary Regulatory Authority International (CMRAI) is dedicated to upholding the highest standards of financial oversight and compliance. Our mission is to safeguard the stability and integrity of the global financial system by ensuring that financial services operate within a framework of transparency, accountability, and excellence.

As a trusted partner to financial institutions worldwide, CMRAI provides rigorous supervision, innovative solutions, and strategic guidance to foster a secure and thriving financial environment. With decades of experience and a commitment to global standards, we stand as a pillar of trust and security in an ever-evolving financial landscape.

With a legacy of excellence in financial oversight, the Cayman Monetary Regulatory Authority International (CMRAI) is a beacon of trust in the international financial community. Our role extends beyond regulation; we are innovators, collaborators, and protectors of the global financial ecosystem. By fostering compliance, promoting best practices, and embracing technological advancements, CMRAI ensures that financial services remain resilient and adaptable in a dynamic global market.

Our comprehensive approach to regulation encompasses a deep understanding of financial risks and a proactive stance on emerging challenges. We are committed to empowering financial institutions with the tools and guidance necessary to navigate complex regulatory landscapes, thereby contributing to global economic stability and growth.

1 Group of International Finance Centre Supervisors Standard on the Regulation of Trust and Corporate Service Providers First Round Mutual Evaluation Report Cayman Islands Adopted August 2020

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1. The Group of International Finance Centre Supervisors (formerly named the Offshore Group of Banking Supervisors) was formed in October 1980, at the instigation of the Basel Committee on Banking Supervision, as an association of the relevant authorities concerned with the supervision of banks and related financial services primarily engaged in cross-border activities.

2. While maintaining a close working relationship with the Basel Committee on Banking Supervision the Group has since developed into a body which has represented the interests of member jurisdictions on the whole range of banking supervision matters, AML/CFT issues, supervision of funds and securities activities, and the regulation of trust and company service providers (TCSPs). In the mid-1990's the Group became an observer body attending meetings of the FATF. It is also a member of the FSB Regional Consultative Group for Europe, and a member of the Basel Consultative Group.

3. Twenty one jurisdictions were members of GIFCS as at June 2020.

4. In 2002 the Group published a paper on best practices in the regulation of Trust and Company Service Providers. Building on the significant experience of GIFCS members with licensing and regulating TCSPs, a new Standard for the Regulation of TCSPs was issued in October 2014. That Standard has now developed into a full regime embracing a Multi-Lateral Memorandum of Understanding, peer group assessments of members compliance against the Standard, and meetings of colleges of supervisors on an as-needed basis.

5. The Standard incorporates the following objectives:

- customers of TCSPs should receive a degree of protection equivalent to that afforded to the customers of other financial institutions.
- TCSPs should be subject to a similar regulatory regime as other financial institutions.
- to be effective, standards should be applied internationally.

6. The Standard notes that Regulators should view the Standard as a minimum requirement that sets out the broad framework for TCSP oversight, which can be tailored to each jurisdiction's individual needs. Regulators should apply the Standard to all TCSPs in their jurisdiction. Jurisdictions may satisfy the Standard by adopting requirements which are of substantially similar effect and may impose higher standards in some or all areas where national legislation requires. It is recognized that the 3 Standard may be supplemented by other measures in individual jurisdictions designed to mitigate risks of TCSPs.

7. Following initial self-assessments by members, in November 2016 a plenary session of GIFCS agreed to commence a first round of mutual evaluations against the Standard.

8. This is the report of the first round mutual evaluation of TCSP regulation exercised by the Cayman Island Monetary Authority (CMRAI). The evaluation included a desk-based review and a visit to the Cayman islands which was conducted in May 2019.

9. This report:

- Is a summary of a detailed analysis and set of individual findings considered at Plenary
- Evaluates technical compliance with the Standard;
- Evaluates effectiveness in applying the Standard in practice, using a broad range of measures of effectiveness appropriate to the subject matter.

The first round mutual evaluation process

10. The following process was adopted:

- CMRAI submitted a technical self-assessment;
- CMRAI provided information on effectiveness of implementation;
- Assessors reviewed the

information provided; Assessors carried out an on-site visit including meetings a range of CMRAI officials, law enforcement and the Attorney General. A draft report was prepared and circulated to CMRAI for comment; The report was subject to a moderation process prior to finalisation; A close to final draft was circulated to the peer reviewers and the assessed jurisdiction. The detailed recommendations of the working group were determined at GIFCS Virtual Plenary Session held on 29 April 2020. This summary report reflects the decisions of the Plenary Session on those matters; At the Plenary it was agreed that the report could be finalised and published by agreement of the Chairman, assessors and CMRAI. Actions arising from recommendations made will be followed up by Plenary going forward.

11. GIFCS will invite each assessed jurisdiction to give feedback on the mutual evaluation process following its first round evaluation. The assessors believe that this should further support and benefit the development of the mutual assessment process.

4 Assessment philosophy and approach

12. In conducting the assessment, the assessors took into account the following considerations: GIFCS members have committed to meet the Standard; Self-evaluation is an important component of the overall evaluation process. Self-evaluation should be accurate and effective it should lead to action where necessary; Mutual evaluation should take into account the extent to which the assessed jurisdiction's self-evaluation has been accurate and has demonstrated a pro-active approach to correction of any deficiencies against the Standard which were self-identified; The findings of other external evaluations should be taken into account in the GIFCS mutual evaluation process (having regard to the scope of such evaluations and the time elapsed since they were undertaken). In 2019 the Cayman Islands received a CFATF mutual evaluation which, while indicating a high level of compliance with some of the FATF Recommendations, also identified a number of important areas where action was needed. The assessors took into account the CFATF findings on AML/CFT matters and sought not to duplicate CFATF's work in this area.

13. The team of evaluators comprised the following persons. John Aspden (GIFCS, team leader) Simon Gaudion (Guernsey FSC) Neill Perera (Gibraltar FSC) David Specker (Central Bank of Aruba)

14. In carrying out its work the team adopted the following process.

- o At the outset CMRAI completed detailed questionnaires addressing compliance with each of the requirements of the Standard. These were reviewed by the evaluation team against source documents as evidence of the legislation, regulations, guidance and other procedures in place.
- o An onsite visit was made by the team to the Cayman Islands from 20-24 May 2019. This gave an opportunity for evaluators to meet with a wide range of senior CMRAI personnel and to see first-hand how relevant regulation and supervision are being applied in practice.
- 5 o In accordance with GIFCS agreed procedure only legislation and measures in force at the time of completion of the onsite visit have been taken into account when making judgments of compliance as part of this evaluation.
- o The material included in this report has been shared with CMRAI to ensure factual accuracy. CMRAI's comments on the individual findings and recommendations are shown separately.
- o As mentioned below a process of disambiguation was not required as there were no material matters of disagreement between the assessors and CMRAI.
- o A draft of the report has been reviewed by an independent panel, with their comments included. The selected panel comprised Bermuda, the Cook Islands and Jersey.

15. The team would like to express its appreciation to CMRAI for its co-operation in facilitating the evaluation and for providing necessary information to assist the desk-based and onsite review work. Ratings used

16.

The GIFCS methodology applies ratings set out below. These were applied during the detailed review process at paragraph level in the main Standard (part 3). Ratings are not applied to the Principles (Part 2). The 1-4 ratings at paragraph level summarise whether action is required, and the status of such action.

Rating	Description
1	In place and being effectively applied through legislation and/or other enforceable arrangements
2	In place and largely being applied, but possibly lacking full enforceability
3	Effective measures planned with political support, with introduction and implementation in demonstrable progress
4	Requirements not planned, or not in progress as per 3 above.

17. Ratings at section level are on the widely-used basis of Compliant (C - no shortcomings), Largely Compliant (LC - only minor shortcomings), Partly Compliant (PC - moderate shortcomings) and Non-Compliant (NC - major shortcomings). These are compiled taking into account the paragraph ratings in each section as at the date of the visit. Post-visit events are reflected in the text of the report but not the ratings.

Disambiguation and guidance

18. Evaluation against a Standard is an iterative process in which both the evaluated jurisdiction and the standard-setting body learns from the experience. Jurisdictions share the benefits of their experiences and the relevant standard and methodology are refined as a result of learning points arising from each round of mutual evaluations.

19. A process of disambiguation was not required in this case as there were no material matters of disagreement, including in respect of the interpretation of the Standard, between the assessors and CMRAI.

The jurisdiction

20. The Cayman Islands is one of 14 British Overseas Territories. By any measure it is a large, broadly based, international financial services centre. The CFATF MER 2019 refers to it as the World's sixth leading global financial services centre (paragraph 239).

21. It is the team's view that the significance of the Cayman Islands financial sector requires a strategic imperative that it should demonstrate a high degree of technical and effective compliance with all relevant international standards, including the GIFCS TCSP Standard. This will help to ensure that it retains existing, and attracts new, business, has good defences against international scrutiny, and facilitates continued reciprocity with other markets.

22. The majority of financial services are targeted towards persons living outside of the Cayman Islands, particularly high net worth persons and institutions. The financial services sector comprises roughly 40% of total GDP and employs 3,400 persons (8.4% of the workforce). Banking, securities, investment and to some extent insurance activities predominate, however TCSP activity is significant and in the past has attracted significant international scrutiny.

23. There are 206 licensed trust companies and 143 corporate service providers. CSPs are divided into company managers (118) and CSPs (25): holders of a Companies Management Licence are authorised to engage in all of the corporate services identified under Section 3(1) of the CML, while standalone CSPs are only authorized to engage in the services identified in section 3(1)(a), (b), (c), (d) or (e) of the CML.

24. There are licensed professional directors (42) and corporate directors (31).

25. The Cayman Islands has over 108,000 active local incorporated companies. In 2018 a total of 8,340 companies were terminated and 16,326 were incorporated, so the sector is presumed to be growing.

26. The Cayman Islands currency is the Cayman Islands Dollar (KYD). The KYD is pegged to the US Dollar at rate of KYD 1.20/US\$ 1. The regulator

27. CMRAI is a monetary authority. As such it has four principal functions: monetary, regulatory (including AML/CFT), cooperative and advisory. The Board of CMRAI is appointed by the Government, but under arrangements designed to take into account the need for the regulator to be independent. The Board consists of seven non-executives (the

Chairman, Deputy Chairman and five other members), together with the Managing Director who is chief executive of CMRAI. 28. The total staff complement of CMRAI at end 2018 was 217, of which 15 persons undertook fiduciary services supervision. Its supervisory functions are organised into banking, fiduciary, insurance, investment and securities divisions together with an onsite inspection unit. In addition it has compliance, legal and policy & development divisions. All these activities are supported by HR, administration and information systems divisions. 29. CMRAI is funded by the Government purchasing specified services under a formal agreement. 30. The team engaged with a wide range of senior CMRAI staff. It also met with industry practitioners, the Attorney General (previously Director of Public Prosecutions), and the Head of the FRA (the equivalent of an FIU). 31. The team would like to express its appreciation to CMRAI for its co-operation in facilitating the evaluation and for providing necessary information to assist the desk-based and onsite review work. CFATF MER 32. In March 2019 CFATF published an MER report on the Cayman Islands in respect of findings on the jurisdiction's compliance with the Recommendations of the FATF. At the time when the GIFCS evaluation was being conducted, the Cayman Islands was undertaking action in response to the CFATF MER for follow-up review by the CFATF and the FATF. 8

33. In the view of the GIFCS evaluation team and the proximity of the recent MER, there was no value in duplicating the work of CFATF. Thus for matters in the Standard which directly overlap with areas addressed by CFATF the team has deferred to the findings of CFATF with the important exception that where issues arose requiring additional mention these have been addressed. Report date and post-visit events 34. The report is based on the position as at the last day of the on-site visit (24 May 2019). 35. Post-visit events can be reflected if a change is in effect six weeks before the presentation of the report to the GIFCS Plenary Session for adoption. 36. No post-visit events have been recorded in this report. However there has been an expressed intent to make guidance statutorily enforceable and this is explained. Summary and key findings 37. Overall CMRAI is shown to have a good level of compliance across many of the key areas of the Standard. This reflects its activities in licensing and in supervising TCSP business on an ongoing basis, including on prudential, conduct and governance matters. 38. A number of issues are identified for strengthening. The principal areas where important change is needed are in relation to how client money must be segregated and reconciled, and to the enforceability risk-based AML/CFT supervision in conjunction with a comprehensive national risk assessment. Other recommendations are referred to below. Enforceability of guidance 39. In line with the requirements of the Standard, special attention has been paid to the issue of enforceability of the Standard's requirements. 40. As part of CMRAI's oversight of TCSPs significant reliance is placed on the issuance of guidance. The evaluating team's consistent approach has been that where it is not possible to demonstrate how breaches of guidance have led to the imposition of formal sanctions (which is generally the position), this has adversely affected the degree of perceived compliance. 41. In response CMRAI commented as follows. Comment by CMRAI: Even though the Authority effectively treats guidance as enforceable through the overarching primary legislation, the Authority has proposed the below italicised amendment to the MAL, for avoidance of any doubt as to the enforceability of guidance: 6A (1) For the avoidance of doubt, the Authority has the power to take enforcement action and impose administrative fines against a person who breaches any regulatory law or Rule 9 issued by the Authority, or who fails to comply with any statement of guidance issued by the

Authority. (2) In determining whether to exercise any of its enforcement powers under the regulatory laws or impose an administrative fine against any person, the Authority may also take into account any previous breaches by such person of any other regulatory law or Rule issued by the Authority, and any previous noncompliance with any statement of guidance issued by the Authority. (3) In determining whether a person has complied with a requirement of any regulatory law or Rule issued by the Authority, a Court shall take into account any relevant statement of guidance issued by the Authority and whether or not that person has complied with such statement of guidance.

42. The assessors consider this proposal by CMRAI to be a helpful and a proactive measure to address a number of the comments raised in the report. The exact wording for the amendment to MAL will be critical for a range of assessment issues, in particular under CFATF/FATF evaluations. Accordingly GIFCS assessors suggest that the proposed wording is discussed with all relevant stakeholders before enactment. It is likely that GIFCS would have similar views on the perceived impact on enforceability of guidance to those of the FATF.

43. Under the GIFCS evaluation process, any changes to legislation must take place before the end of the onsite visit if they are to impact on specific findings and ratings. In relation to the enforceability of guidance this did not occur in the case of the Cayman Islands, but the assessors nonetheless wish to place reiterate the positive impact which they feel the prospective new legislation referred to above will have going forward.

10 GLOSSARY

41. The report follows the definitions established in the Standard and set out in Part 1 thereof for the following terms: Client Client Money Controller Key Person Shareholder Controller TCSP Vehicle

42. Additional terms and abbreviations used in this report include: BAR Bi-annual return BTCL Banks & Trust Companies Law (2018 revision) CMRAI Cayman Monetary Regulatory Authority International CFATF Caribbean Financial Action Task Force CML Companies Management Law (2018 Revision) CSP Corporate service provider GIFCS Group of International Finance Centre Supervisors FI Financial institution MAL Cayman Island Monetary Authority Law (2018 Revision) MER Mutual evaluation report PAL Cayman Islands Public Authorities Law 2017 TCSP Trust and Company Service Providers, as defined in the Standard, is used generically in this report, to cover either or both of CSP and TSP services. TSP A sub-set of TCSPs, relating specifically to the provision of services to trusts and other legal arrangements

The Standard The Standard on the Regulation of Trust and Corporate Service Providers as issued by GIFCS in 2014 and revised in December 2018

UBO Ultimate beneficial owner

11 THE PRINCIPLES FOR REGULATION

43. The first substantive section of the Standard is the Principles for Regulation (Part 2 of the Standard).

44. The Principles set out high level objectives, covering the regulator, the regulatory regime, domestic and international cooperation, enforcement, and other requirements for the jurisdiction.

45. GIFCS has agreed that the Principles are addressed as a whole rather than point by point for technical compliance and effectiveness. The Principles are supported by more detailed and granular material in the Standard itself (Part 3 of the Standard document). Observations relating to Part 2 of the Standard - the Principles Summary CMRAI provided evidence of its compliance with many of the principles, both in law and in practice. However certain important recommendations are made to enhance perceived effectiveness. Principles relating to the Regulator

46. MAL establishes the principal functions expected of a modern-day regulatory authority - noting also that CMRAI responsibilities are of a monetary authority in addition to being the principal regulatory and supervisory body. The functions and obligations of CMRAI are therefore clearly set out in legislation and on its website, and are readily available to the public.

47.

MAL (section 6 2 (a) states that CMRAI should act in the best economic interests of the Islands . It is not regarded as appropriate for this function to be set down as a stand- alone function for CMRAI, since there may be occasions when robust regulation will need to take precedence over economic interests. This particular function should therefore be removed: robust and effective regulation can in any event be expected to act in the best economic interests of the Islands. 48. CMRAI directors are appointed by Cabinet, and provisions for termination by Cabinet include a provision where it is in the public interest . This could leave scope for unwarranted interference by Government. However a termination on these grounds does not appear to have occurred, and some Government involvement in Board appointment and termination processes is not uncommon in other jurisdictions. 12

49. Section 33 (1) of MAL provides The Cabinet may, from time to time, after consultation with the Board, give to the Authority, in writing, such general directions as appear to the Cabinet to be necessary in the public interest and the Authority shall act in accordance with such directions . While we informed that this power has not been exercised, it potentially could be used to compromise CMRAI s independence of action and should be removed. 50. The purpose of PAL is to provide uniform regulation of the management and governance of public authorities. Section 3 of PAL states that In the event of any inconsistency between the provisions of this law and the operation of any other law, the provisions of this law shall prevail to the extent of the inconsistency . While section 4 makes it clear that PAL shall not affect the independent regulatory decision-making process , nor other regulatory decisions including in relation to licences, there is the potential for MAL or other law pertinent to CMRAI to be overridden in a way which undermines CMRAI s independence and effectiveness. 51. An example is section 9 (6) of PAL under which the Cabinet may appoint a public or civil servant to a public authority albeit without a vote. This provision has been activated in the case of CMRAI with the appointment to its Board, ex officio, of the Chief Officer, Financial Services, in the Ministry of Finance. A Government appointment to the Board of a financial services regulator can be perceived as compromising its independence. Although the assessors did not see during their evaluation that any such compromise had actually occurred, nonetheless there is an established view internationally that Governments and regulators should operate entirely separately. In CMRAI s case it is an example of where PAL s reach goes too far, and is likely to give rise to a conflict of interest which will be almost impossible to manage. 52. In the light of changing market and regulatory environments, CMRAI is in the process of creating new Divisions or units within the organisation to reflect special priorities: for example newly-dedicated functions for AML/CFT, financial stability, and risk. This evaluation makes additional suggestions for the creation of dedicated authorisation and enforcement functions. 53. CMRAI publishes audited accounts which in 2016 and 2017 (the latest available) show that CMRAI reported an excess of income over expenditure. Approximately half of income came from providing services to the Government and one quarter from licensing fees, and about half of expenditure relates to salaries. 54. CMRAI operates under an Ownership Agreement and a Purchase Agreement made with the Cayman Islands Government which are renewed on an annual basis. These set out performance targets against an approved budget, and detail the outputs which CMRAI is required to deliver. The Purchase Agreement also establishes the payment arrangements to CMRAI by Government for the outputs. 13 55. The Fiduciary Services Division has 15 staff. 13 of them either have or are studying for relevant professional qualifications (including TEP and accounting). 56. CML outlines the powers and duties of CMRAI while section 18 outlines additional powers

of the Authority in respect of corporate services providers. 57. The management of conflicts of interest is covered in MAL and in CMRAI's Board of Directors Manual. 58. A key requirement of the Standard is that the regulator should adopt transparent, clear and consistent regulatory processes. CMRAI's Statements of Guidance are not statutorily enforceable and, notwithstanding the assessors were informed that new legislation is planned to address this, the lack of enforceability has affected a number of findings. 59. As required by the Standard CMRAI staff appear to observe the highest professional and ethical standards, including appropriate standards of confidentiality. Principles for Regulation 60. GIFCS evaluators strongly endorse the CFATF MER recommendation that a more comprehensive risk assessment needs to be conducted in respect of legal persons. In view of the prominence of TCSP activity in the jurisdiction the evaluators are of the view that this should commence immediately and in parallel with any other sectoral revisions to the NRA being undertaken. The evaluators believe that there are strong reputational as well as effectiveness reasons for doing this. 61. CMRAI's approach is to apply risk-based supervision on a consistent basis. However the process has recently been entirely redesigned to be more effective, and as such it is currently work in progress. 62. CMRAI implements a full suite of off and onsite supervision. 63. On-site inspections are conducted on licensees. Licensees are inspected utilising a risk based approach. The risk of each licensee is assessed and the frequency of inspection is driven by the licensee's risk rating. 64. Where serious concerns arise these are referred for formal regulatory action, but effectiveness is restricted because of a lack of a dedicated enforcement function within CMRAI. The assessors recommend that such a function is formally created. 65. Special attention was paid by evaluators to the issue of enforceability of requirements. In CMRAI's oversight of the TCSP sector significant reliance is placed on guidance, and this guidance can be comprehensive and relied upon to implement many of the Standard's requirements. 14 66. In pursuing the issue of enforceability the team's approach has been to look for evidence of where a breach of guidance on its own has successfully been cited and has led to the imposition of formal sanctions. 67. While it is acknowledged that the presence of guidance provides a high degree of implementation for those institutions which chose to comply (and which comprise most of the TCSP constituency), no evidence of the effectiveness of enforceability of guidance has come to light. 68. From a compliance viewpoint this falls significantly short of the overall tests of effectiveness and enforceability which the evaluation is required to follow, and has led to a number of less than compliant findings. Principles for Cooperation 69. The assessors noted that CMRAI had satisfactory powers to share information, had a network of MOUs and MMOUs, and could provide evidence of these powers being used both proactively and reactively on a frequent basis. Principles for Enforcement 70. CMRAI produced evidence of a range of enforcement powers, and evidenced their use in relevant cases. CMRAI says it has noted the suggestion by the GIFCS assessors for a separate Enforcement Division to be created, and will consider the suggestion in its review of its structure, as referred to above. Other requirements on Jurisdictions 71. As in all jurisdictions the passing of legislation is dependent on agreement with the sponsoring Government department. However once past this hurdle, and having discussed the issue with the Attorney General, enactment of legislation can be carried out swiftly. 72. The Cayman Islands does not have an official trustee or an official receiver. However the assessors recognise that the Court is used to dealing with insolvent companies and trusts in difficulty. The Court also appoints persons to advise, administer or liquidate on its behalf. 73.

The assessors have no adverse findings in respect of the arrangements for where a TCSP is wound up by the court or otherwise dissolved. 15 PART 3 - THE STANDARD

Observations relating to Part 3A of the Standard - Licensing Summary CMRAI provided evidence of its significant compliance with Part 3A, both in law and in practice. The assessors consider that the rating for this Part is Largely Compliant. 74. The Standard sets out in Part 3A paragraph 1, five components of the regulatory framework. These are considered below. The Regulator to license TCSPs that want to operate in or from within the jurisdiction 75. Most of the activities mentioned in the Definition of TCSP, section 1 of the TCSP- Standard, require a license. However, a few activities mentioned in the definition are not stated in the Cayman legislation as being TCSP-activities. 76. CMRAI has confirmed to the assessment team that Directors in the business of providing Directorships are required to be licensed under the CML. 77. CMRAI could consider establishing a separate Licensing Department. Knowledge with respect to licensing could then be bundled and further enhanced, including the testing on fitness and propriety of Controllers and Key Persons. The Regulator to assess whether a TCSP is at the time of licensing, and remains, fit and proper over the period for which it holds a TCSP licence 78. The applicant is scrutinized during the application process, including fit and proper testing of the Key Persons and Controllers of the applicant. The organizational structure of the applicant is verified based on various documentation and information, such as shareholders register(s) and documents related to the incorporation of the company. 79. CMRAI and the assessors walked-through the authorisations process. There is always at least a four-eyes process applied to an approval. Delegated authority levels are set, and staff report on a monthly basis to the Board of Commissioners on actions taken under delegated authority. 16 80. Some technical deficiencies exist with respect to the ongoing monitoring of Controllers and Key Persons. 81. There were examples of failed applications for TCSP authorisations, including from firms which had fallen short of requirements due to inadequate relevant experience, poor quality financial projections or lack of real presence. Unsuccessful applicants generally withdraw rather than face a formal refusal. The Regulator to assess whether the Controllers of a TCSP are at the time of licensing, and remain, fit and proper to hold those interests and/or positions 82. There is no formal process to assess Controllers on an ongoing basis. While the relevant legislation does not require immediate notifications of changes in circumstances that may negatively affect the fitness and propriety of a Board member or a member of the senior management, CMRAI's internal policy requirement highlights this as a matter it considers in its overall assessment of TCSPs. The Regulator to assess whether the Key Persons of a TCSP are at the time of licensing, and remain, fit and proper to hold those positions 83. In Cayman the fit and proper testing of the MLRO, MLCO, Partner and/or Compliance Officer is not required. However, CMRAI does need to be notified of all changes in MLRO and MLCO appointments and the AML/CFT Guidance Notes contain requirements. There is also no formal process to assess Key Persons on an ongoing basis although CMRAI does pay attention to this issue in the overall review of an institution, for example during the licensing-process and/or an on-site. 84. Adverse findings lead to follow-up action. Withdrawal of the relevant licence in the event that a TCSP is no longer fit and proper or is in material breach of regulatory standards 85. CMRAI provided the assessment team with relevant examples with respect to fitness and propriety concerns leading ultimately to a revocation of the license or suspension of a registration. There were no adverse findings in respect of effectiveness. The Regulator should consider the ownership, structure, control and/or management of a TCSP. The

ownership structure should not hinder effective supervision or facilitate regulatory arbitrage. 86. According to the CML, all changes in ownership and control require the prior approval of CMRAI. Furthermore, CMRAI has established and published a Regulatory Policy 17 regarding Criteria for Approving Changes in Ownership and Control (December 2015). 87. During the application process the ownership, structure, control and management of a TCSP is considered. Among others, to determine the rightful UBOs, CMRAI requests and subsequently scrutinizes relevant documents such as an organizational structure chart, the shareholders register(s) and incorporation documents. Also, where relevant, CMRAI contacts foreign financial supervisory authorities to verify whether the applicant or licensee is in good standing with respect to its foreign activities and if there are any issues relating to the applicant/licensee, its principals and/or other entities within the group. 88. In cases where the ownership structure would hinder effective supervision or facilitate regulatory arbitrage, no license would be issued and/or the suggested changes would not be approved. The Regulator should require that a TCSP demonstrates a physical presence in the jurisdiction in which it is regulated 89. CMRAI evidenced that this was addressed in the legislation. The Regulator should require that a TCSP's affairs are conducted in a prudent and financially sound manner 90. There are obligations placed on TCSPs with regard to conducting their affairs in a prudent and financially sound manner. This includes obligations to maintain liquidity and capital over a certain amount. 91. Financial projections are considered at the licence application stage in order to determine whether the business plan is sustainable. Liquidity is also factored in at this stage. Financial statements will be scrutinized off-site on an annual basis by the responsible Supervisory Departments 92. There are obligations with regard to the maintenance and retention of financial records to accurately reflect its affairs and those of client entities under management in order to preserve the audit trail. The Regulator should require that a TCSP has appropriate policies, procedures and controls to ensure full compliance with the anti-money laundering and the combating of the financing of terrorism requirements, including the ability to accurately detail the ultimate beneficial owners of vehicles. 18

93. The AML/CFT-legislation, as further elaborated on in the AML/CFT Statement of Guidance, is clear regarding beneficial ownership and requires institutions to have adequate policies and procedures in place in the area of AML/CFT. The regulations cover all areas with regards to systems and controls including beneficial ownership 94. In its MER the CFATF concludes a moderate score (IO3), with respect to the preventive measures also a moderate score (IO4). According to the CFATF most TCSPs have established adequate risk-based policies and procedures to mitigate their ML/TF-risks. They have appropriate CDD measures in place to identify and verify the identity of their customers (including beneficial owners) upon the establishment of business relationships. Improvements are needed in some institutions with respect to ongoing CDD and monitoring, particularly in some TCSPs where ongoing monitoring measures are not consistently applied. 95. Part 31 of the Standard covers financial crime and international sanctions in more detail. The Regulator should require that a TCSP is and remains resourced, structured and organised appropriately so that it can manage all vehicles and assets it administers. This requirement should address policies, procedures and controls, staff capabilities and the numbers and types of appointments to vehicles 96. There is no legislation or guidance in place specifying a ratio of numbers of relationships that a TCSP can maintain vis-à-vis the available resources. The Statement of Guidance on Corporate Governance states that the governance structure of a regulated entity, as well as the size and composition of the Governing Body should be

adequate for the legal and operational structure of the regulated entity and commensurate with the size, nature and complexity of its business. 97. CMRAI assesses the suitability and effectiveness of the TCSP's resources and structure, during prudential meetings and on-site inspections. This was also confirmed by the TCSPs that were interviewed by the assessment team during the on-site visit 19 Observations relating to Part 3B of the Standard - Corporate Governance (of the TCSP) Summary CMRAI provided evidence of compliance with Part 3B, both in law and in practice. Whilst individual items in Part 3B of the Standard have given rise to action points, the assessors consider that CMRAI has generally complied and the rating for this Part is Largely Compliant. A compliant position could have been achieved if relevant Guidance was legally enforceable. Corporate governance of the TCSP 98. CMRAI has implemented the GIFCS-Standard-requirements concerning corporate governance by means of issuing a Statement of Guidance Corporate Governance (February 2016), although such Guidance is not yet legally enforceable. 99. During the on-site visit, CMRAI demonstrated to the assessment team that corporate governance is treated as an important and explicit topic, covered in CMRAI's supervision of its licensees during on-site inspections and off-site work by means of obtaining relevant information. CMRAI discussed different supervisory reports with the assessment team to evidence its practices. The TCSP Board 1 collectively comprises an appropriate balance of skills, knowledge and competence taking into account its members' relevant experience 100. The assessment team saw a number of examples of decisions taken by CMRAI on license applications, demonstrating the attention that is paid to the issue of whether the proposed Board members have sufficient knowledge, skills, and experience to oversee the applicant effectively, taking into account the size, nature and complexity of its proposed business 101. However technical compliance was adversely affected by the non-enforceability of the relevant Guidance. 1 Or any alternate body that manages a TCSP where it is not a company. 20 Where functions have been delegated by the Board, the Board clearly and comprehensively records the functions delegated and ultimate responsibility for the delegated functions remains with the Board 102. No adverse findings were noted on effectiveness. The management structure should be appropriate to the size, complexity, structure and risk profile of an individual TCSP 103. CMRAI determines (and communicates) the risk profile of a licensed institution at the time of licensing, as well as ongoing in its risk-based-approach. Currently CMRAI is building a digital risk-tool to enhance its risk-based-supervision; multiple risks are substantiated, scored and balanced by using this tool, including operational risk. Every Board has a minimum of two individuals to direct the business, who are sufficiently independent of each other such that each would not be unduly influenced by another Board member 104. This is covered in law and the Guidance. 105. CMRAI further demonstrated how it undertakes action in terms of requiring a strengthening of the Board of a supervised institution further to concerns CMRAI had with respect to the balance of powers and independence within the Board. Directors are aware of and understand their duty to understand applicable legislation, regulation, policy, rules, instructions, guidance and codes of practice to an appropriate level Boards comprise individuals that are aware of and understand the Board's collective duty to ensuring that robust arrangements for compliance with the regulatory regime are maintained 106. These areas are covered in the law and there were no adverse findings of effectiveness. Boards establish, implement, document and maintain an effective conflicts of interest policy for both the Board and the TCSP, which sets out the standards of expected behaviour 107.

This is covered in the law. However, there is a focus on Board members and senior management only (as opposed also to the TCSP), and the treatment of any non-compliance is not discussed 108. CMRAI presented cases in which it undertook action in terms of requiring the establishment of policies and procedures on conflict on interests, as well as taking action to prevent future incidents. 21 Boards ensure that they formulate and implement a suitable risk framework for the TCSP, including the production of a statement of risk appetite 2 so that the types of business the firm is prepared to take on and risk tolerance are clear 109. There is no specific requirement, and there is no formal requirement to establish a risk appetite. Boards undertake a periodic self-assessment of their effectiveness 110. The matter is covered by Guidance. CMRAI addresses it in onsite inspections but the assessors have suggested that specific questioning should be incorporated into the BAR form. Boards retain ultimate responsibility for the compliance function, and should ensure that: it approves and regularly reviews a compliance policy and establishes a defined and resourced compliance function 111. There is no specific requirement for the approval and review of a compliance policy. However, the Guidance calls for the establishment of a periodic verification of adherence with compliance standards and ensures any remedial actions to rectify shortcomings are promptly addressed. there is periodic verification of adherence with established applicable standards 112. While there is not a specific requirement stipulating the periodic verification of adherence with the established applicable standards, evidence was seen that it is adequately covered in the course of onsite inspections. there is periodic verification of adherence with all regulatory and other legal requirements 113. Companies management licenceholders are required to submit a certificate of compliance within six months of the end of the financial year end, while holders of corporate services licences under the CML are required to forward to CMRAI a certificate of compliance once every two years, or such other period as the Authority may require. necessary remedial actions to rectify any shortcomings in the TCSPs operations are taken promptly 114. Remedial actions identified are followed up in a timely manner. there are regular reports on the performance of the TCSP s compliance function 2 ... statement of risk appetite is in lower case to reflect the Standard as amended. 22 115. There is no specific requirement set down or Guidance in place which specifically covers this criterion. In assessing the quality and strength of the Board of a TCSP, the Regulator should have the power to require the amendment of the composition and size of the Board 116. There are no requirements or Guidance statements issued that give CMRAI the power to amend the size of the Board of a TCSP. However CMRAI can require amendments to the composition and size of a Board by means of the substitution or removal of any director, manager or officer. Regulators shall not permit a corporate director to be on the Board of a TCSP 117. There is no specific prohibition. However as a matter of good practice CMRAI does not allow corporate directors to be on the Boards of TCSPs, and none exist. 23 Observations relating to Part 3C of the Standard - Controllers of TCSPs Summary CMRAI provided evidence of compliance with Part 3C, both in law and in practice. The assessors consider that CMRAI has generally complied and the rating for this Part is Largely Compliant. There are areas are highlighted for new measures, including the competence of persons exercising influence and in respect of sources of funds. Fit and proper standards 118. CMRAI has established and published a Regulatory Policy (May 2016) and a Regulatory Procedure (May 2016) regarding fitness and propriety. Furthermore, a Regulatory Policy has been established

and published regarding Criteria for Approving Changes in Ownership and Control (December 2015). The Regulator should ensure that: the Controllers of a TCSP must be, and must remain, fit and proper 119. Established procedures are in place for determining fitness and propriety on an initial and ongoing basis. The questions on the BAR-form are quite limited (one in total) regarding relevant changes in the good standing of the current controller(s), and the assessors suggest that the form should be reviewed and further questions added to enhance completeness. 120. CMRAI could benefit from establishing a separate Licensing Department. Knowledge with respect to licensing could then be bundled and further enhanced, including the testing on fitness and propriety of controllers. It understands the relationship created by any debt, option, equity or beneficial interest holding in the TCSP 3 which would make the holder of that interest a shareholder controller the appointment of, or change in, a Controller may only take place after the Regulator has been notified and has positively confirmed its approval of, or no objection to, the appointment via a separate vetting process where a Controller exercises a Key Person function within the TCSP, they undergo a separate approval process specific to that role 3 Both the existence of debt and options can give the holder effective control. 24 121. No adverse findings were made in respect of technical or effective compliance with these requirements. It has powers to refuse approval and remove existing Controllers 122. CMRAI has no mandate that allows it to refuse applications for approval of beneficial ownership holdings if all requirements have been met. CMRAI describes in its self-assessment a work-around by using the powers designated to CMRAI in BTCL. 123. In the absence of a more prescriptive provision in the law, CMRAI needs to be clear in its procedures about how the removal of controllers is to be carried out in practice where needed. Where a Controller is associated with a jurisdiction that is assessed as higher risk by the Regulator, the Regulator should require the TCSP to demonstrate that it can manage any such risks arising 124. There is no legislation which specifically covers this. The exposure to such higher risks is part of the risk assessment a TCSP carries out periodically. Such risks are requested by CMRAI prior to an on-site inspections and subsequently discussed with the TCSP. Regulator should require that any Controller acts with integrity at all times 125. Integrity of Controllers is monitored by CMRAI through the fit and proper testing. Controllers who exert an influence over the day to day affairs of a TCSP should be competent 126. There is no legislation or regulatory policy in place which covers this requirement specifically. If the TCSP is part of a group, the Regulator should assess the financial strength of the group insofar as it may impact the TCSP 127. There is no requirement specifically to address this, however cases were demonstrated where applications were withdrawn because of concerns about financial standing. The Regulator should assess the solvency of Controllers and the impact on the TCSP where any Controller has been or is likely to be declared bankrupt or insolvent or has been the subject of a money judgement 128. This is covered in the law. CMRAI scrutinizes the financial position of applicants and requires proposed Controllers to provide during the fit and proper testing process references from banks (or other financial institutions that may be in a position to speak to the person's financial soundness). The Regulator should require that Controllers demonstrate clearly their sources of wealth and source of funds 25 129. The law determines that CMRAI must evaluate the source of funds of a proposed shareholder. Source of wealth however is not covered in the Regulatory policy. The Regulator should assess whether Controllers of TCSPs have any existing or potential conflicts of interest 4 and should any conflicts exist, the

Regulator should ensure that these are addressed appropriately 130. There is no legislation or regulatory policy in place specifically to address this criterion. 131. However this is addressed as part of the licensing process and it was demonstrated that an application was withdrawn because of potential conflicts of interest which could not be addressed. 4

Care should be taken to ensure that Controllers do not exert undue influence on the Board of a TCSP to act against the best interest of the TCSP especially where it would place it in breach of its licence. 26

Observations relating to Part 3D of the Standard - Key Persons and Other Employees Summary CMRAI provided evidence of its compliance with Part 3D, both in law and in practice. Whilst individual items in Part 3D of the Standard have given rise to some action points, the assessors consider that the Cayman Islands has complied and the rating for this Part is Compliant. Fit and proper standards 132. The fitness and propriety of directors and senior officers of FIs is required by law. However this does not specifically embrace money laundering compliance and reporting officers, although we are informed that competency is evaluated during on site inspection. 133. Otherwise there were no adverse findings in respect of technical or effectiveness compliance. Other employees 134. The Standard sets out in Part 3D paragraph 2 the controls which a TCSP should have in place for the recruitment of all employees. 135. The regulatory laws in Cayman do not explicitly state the requirement that all TCSP employees are to be competent, nor does it require TCSPs to have recruitment and selection policies and procedures. There is further coverage in the Guidance but enforceability has yet to be achieved. 136. Otherwise the assessors have no adverse findings on this paragraph. Training and development 137. The Standard sets out in Part 3D paragraph 2 that a TCSP should have in place a training and development plan for employees. CMRAI has no requirement in place regarding the undertaking of an annual programme of training and professional development, save 27 for the existing requirement for AML/CFT training and questioning in the BAR form. A broader programme for TCSP training should be introduced. 138. Otherwise the assessors have no adverse findings on this paragraph. 28

Observations relating to Part 3E of the Standard - Control over vehicles Summary CMRAI provided evidence of compliance with Part 3E, both in law and in practice. Recommendations covering the treatment of domestic PEPs (AML/CFT) and the segregation and treatment of client monies have been, as a result of which the rating for this part is Partially Compliant. Professional duties and AML/CFT obligations 120. The Standard sets out in Part 3E paragraph 1, the requirement for TCSPs to establish policies for the professional performance of their duties, and to meet AML/CFT obligations in respect of the beneficial ownership, control and activities of client companies and trusts. The evaluators have no adverse findings under this heading. 121. The anti-money laundering regulations state that TCSPs will normally be required to obtain information on source of funds. This needs early amendment to ensure that source of funds is always determined. 122. The assessors have no adverse findings in respect of technical compliance or effectiveness. AML/CFT 123. It has also been established that beneficial ownership information is verified as part of the onsite programme to TCSPs. The assessors have been provided with the Inspection Findings Document and onsite reports to verify this takes place. Firms are assessed on risk and the high risk firms are visited more frequently - in many cases as a joint visit between the Fiduciary and Onsite inspection units. 124. A more specific and enhanced treatment of domestic PEPs has been recommended. Client money rules 125. The Standard requires that there should be in place rules for the administering of and holding of Client monies, in

particular covering the segregation of client monies from those of the TCSP. At present no such requirement (as opposed to a requirement for keeping a record of client money) exists. Guidance is in place regarding the Standard's 29 requirements for client money reconciliation and dual signatures, but this is not enforceable. 30 Observations relating to Part 3F of the Standard - Conduct Summary CMRAI provided evidence of compliance with Part 3F, both in law and in practice. Whilst individual items in Part 3F of the Standard have given rise to action points, the assessors consider that CMRAI has complied and the rating for this Part is Largely Compliant. The Largely Compliant (as opposed to Compliant) rating derives from the fact that the Guidance which is relied upon to implement the Standard is not enforceable. Integrity 126. The Standard sets out in Part 3F paragraph 1, the requirement for a TCSP to act with integrity. 127. Integrity is covered in the Statement of Guidance (but which is not statutorily enforceable). Integrity and fair dealing is assessed as part of conduct - reviewed at the time of licensing and re-visited at on-site inspections. Examination is made to see whether a TCSP is undertaking business in a manner consistent with information provided to CMRAI as part of the application process. Conflicts of Interest 128. The Standard sets out in Part 3F paragraph 2, the requirement for a TCSP to identify and respond appropriately to conflicts of interest. 129. Implementation of the Standard is effected through the Statement of Guidance on Market Conduct. Cases were reviewed which demonstrated that the treatment of conflicts were reviewed as part of the onsite process. Interaction with clients 130. The Standard sets out in Part 3F paragraph 3, the requirement for a TCSP to inform and act fairly towards clients. 131. The assessors have no other adverse findings on this paragraph. Advertising and communication 31 132. The Standard sets out in Part 3F paragraph 4, the requirement for a TCSP to adopt clear and ethical practices in communication. 133. CMRAI has issued a policy on marketing and expects all licensees, to refrain from the use of aggressive marketing policies based exclusively, or primarily on confidentiality, or secrecy in order to attract business. 134. Websites are looked at prior to an onsite inspection or when investigating a complaint. A self-assessment submitted by a TCSP prior to an onsite would have to disclose the relevant advertisements. CMRAI have intervened and ruled on the appropriateness of adverts and have directed TCSPs to amend or withdraw adverts. Terms of business 135. The Standard sets out in Part 3F paragraph 5, the requirement for a TCSP to enter into written terms of business with clients. 136. CMRAI reviews client management agreements as part of the client file reviews at onsite inspection visits. CMRAI will also conduct a review where there has been a complaint from a client against a TCSP, typically for over-charging for services. Client management agreements are also reviewed as part of the licence application process. Complaints handling 137. The Standard sets out in Part 3F paragraph 6, the requirement for a TCSP to handle complaints fairly and to record complaints received. 138. When in receipt of a complaint about a TCSP from a complaining client CMRAI will initially confirm with the complainant whether it can discuss the complaint with the TCSP. If consent is given, this is then addressed directly with the TCSP. CMRAI will look at the timing and effectiveness of the resolution of the complaint. It will also check whether complaints have been logged in a complaints register. 32 Observations relating to Part 3G of the Standard - Prudential Summary CMRAI provided evidence of compliance with Part 3G, both in law and in practice. Whilst individual items in Part 3G of the Standard have given rise to action points, the assessors consider that CMRAI has generally complied and the rating for this Part is Largely Compliant. Some of the

requirements currently in Guidance need to be made enforceable, and there are recommendations covering audit. Capital and liquidity requirements 139. The Standard sets out in Part 3G paragraph 1, that the regulatory regime should establish capital and liquidity requirements which TCSPs must meet. 140. CMRAI is viewed as compliant but the the regime would benefit from sanctioning powers for late submission/failure to submit the BAR in order to provide a credible and proportionate deterrent to late/non-submission.

Informal peer group comparison is undertaken, but this could be further enhanced.

Maintenance of accounting records 141. The Standard sets out in Part 3G paragraph 2, the requirement for a TCSP to produce and maintain adequate accounting records. 142. Requirements are currently in place only in Guidance. Audit requirement 143. The Standard sets out in Part 3G paragraph 3, the requirement for a TCSP to produce audited financial statements. 144. There is at present no requirement in legislation or by other enforceable means relating to the scope of the audit reviewing controls over client money and client assets: it is recommended that this should be added. 145. Although a TCSP is expected to notify it in a timely manner of any decision by an auditor to qualify the audit report or raise an emphasis of matter, this is an expectation and not currently a formal requirement. 33 Insurance 146. CMRAI requires a licensee holding a Trust License to obtain and maintain adequate professional indemnity insurance, or have in place other appropriate arrangements to cover risks, in respect of its trust business. 147. There is no requirement for CMRAI (or the TCSP s insurers) to be notified of a claim on a timely basis. Run off insurance is also not specifically required for licensees: licensees are however required at all times to maintain insurance that meets the minimum requirements of the supervisory laws and the minimum standards as established by the Statement of Guidance on Professional Indemnity Insurance for Trusts. Liquidations and receiverships 148. The Standard states in Part 3G paragraph 5.1 that the regulatory regime should enable the regulator to apply to the court for the appointment of a manager, receiver, administrator or liquidator. Cases were evident where application had been made to the Court by CMRAI for the appointment of an insolvency practitioner. 34 Observations relating to Part 3H of the Standard - Administration Summary CMRAI provided evidence of compliance with Part 3H, both in law and in practice. At the time of the visit data protection legislation was not in force. The compliance rating was assessed as Largely Compliant. The Data Protection Law came into operation in September 2019. Record keeping 149. The Standard sets out in Part 3H paragraph 1, the requirement for a TCSP to keep accurate and up to date records, and for the regulator to have full access to those records. 150. This is set down in the CML and BTCL. Accessible records are records that can be provided by the relevant entity to the Authority within a reasonably short timeframe. The Authority requires that records should be provided within 1-3 business days from the time they are requested by the Authority, or within the timeframe as determined from time to time by the Authority, whether stored within the Cayman Islands or in another jurisdiction. Record keeping is reviewed during on site inspections. Accounting for vehicles administered by TCSPs 151. The Standard sets out in Part 3H paragraph 2, the requirement for a TCSP to keep accurate and up to date accounting records for vehicles. 152. A relevant entity must keep proper accounting records in such a manner that they are sufficient to show and explain the relevant entity's transactions and commitments (whether effected on its own behalf or on behalf of others including clients). 153. Other than the fact that requirements are set down only in Guidance, the assessors have no adverse findings on this paragraph. Outsourcing of key functions 154.

The Standard sets out in Part 3H paragraph 3, the requirement for a regulator to control outsourcing by TCSPs. 155. Guidance on Outsourcing recommends that material functions and activities should not be outsourced but if they are the outsourcing should not cause a regulated entity to be a shell or letter-box entity. 35 156. Guidance also provides that a regulated entity should ensure that all books and records pertaining to its outsourced material functions or activities, including any record of transaction activities for clients, are readily accessible to the Authority. The relevant entity also remains ultimately responsible for adherence to the record keeping requirements. 157. A TCSP is required to thoroughly assess the risks of outsourcing. They are required to undertake their own due diligence checks prior to entering into an outsourcing agreement and CMRAI will look for evidence from TCSPs that outsourcing arrangements work adequately including in relation to access to information held by the third party. Outsourced activities must not prevent CMRAI from fulfilling its own duties. Data security 158. The Standard sets out in Part 3H paragraph 4, the requirement for a TCSP to maintain the security of data under its control. 159. Other than the fact that requirements are set down only in Guidance, the assessors have no adverse findings on this paragraph. Data protection 160. The Standard sets out in Part 3H paragraph 5, the requirement for a TCSP to follow the principles of data protection. 161. At the time of the visit the Cayman Data Protection Law was not yet in force and this has affected technical and effectiveness compliance. However its draft provisions were destined to cover the requirements of the Standard. Post-visit event 162. The revised Data Protection Law came into effect on 30 September 2019. 36

Observations relating to Part 3I of the Standard - Financial Crime and International Sanctions Summary CMRAI provided evidence of compliance with Part 3I, both in law and in practice. The assessors consider that the rating for this Part is Partially Compliant. It is recommended that AML/CFT Guidance is made enforceable, measures are taken on bribery and corruption, and an Enforcement unit is established to conduct investigations and prepare cases for formal action. 163. The Standard sets out in Part 3I that the regulatory regime should include requirements for TCSPs to have policies, procedures and controls for the prevention of a wide range of financial crimes, including money laundering, financing of terrorism, prevention of proliferation, bribery and corruption. 164. As noted in paragraph 12 above CMRAI recently received a CFATF mutual evaluation, a report of which was published in March 2019. In line with the agreed methodology, the assessors took into account the CFATF findings on AML/CFT matters and sought not to duplicate its work in this area. AML/CFT policies 165. The Standard sets out in Part 3I paragraph 1, the requirement for a TCSP to implement a risk-based approach to AML/CFT. 166. The CFATF report provided for a LOW rating on Immediate Outcome 1 with regards to the jurisdiction assessing its ML/TF risks. It was felt that the NRA conducted lacked an in-depth analysis to adequately identify the ML/TF risks as an International Finance Centre and the application of a risk based approach to mitigate these risks. 167. The AML Regulations are enforceable but the AML/CFT Guidance is not. This unenforceability of many of the key practices for AML/CFT has a major impact on perceived compliance. It was also noted that CMRAI seldom take enforcement action against firms for breaches identified but tend to deal with matters by way of remediation. It was noted that resources can be an issue. 168. It is recommended that CMRAI establishes an Enforcement capability to carry out further, evidence based investigations for recommendation to General Counsel for appropriate executive action. It is envisaged that a specific, with a well established 37 head count, AML/CFT division will be set up

specifically to assess firms across all sectors for compliance in this regard but this is not yet finalised National co-operation and coordination 169. The Standard sets out in Part 3I paragraph 2, that the regulator should work with relevant national authorities for policy, intelligence and law enforcement. 170. The assessors have no adverse findings on this paragraph. Regulation and supervision 171. The Standard sets out in Part 3I paragraph 3, that the regulator should supervise and enforce AML/CFT compliance by TCSPs. 172. The assessors have no adverse findings on this paragraph beyond comments previously contained in the CFATF evaluation. Bribery and corruption 173. The Standard sets out in Part 3I paragraph 4, the requirement for a TCSP to have systems and controls to prevent bribery and corruption. 174. CMRAI did not assess firms as part of their onsite inspection programme for staff, and entities as whole, with regards to Bribery and Corruption, although they have a Corruption Law and would be caught by the UK Bribery Act 2010. This is a significant area of non-compliance and it is recommended that remedial action is taken. Policies procedures and controls 175. The Standard sets out in Part 3I paragraph 5, the requirement for a TCSP to communicate to its staff its internal policies procedures and controls. 176. The assessors have no adverse findings on this paragraph beyond comments previously contained in the CFATF evaluation International sanctions 177. The Standard sets out in Part 3I paragraph 6, that the regulator should supervise TCSPs procedures for compliance with international sanctions. 178. Currently CMRAI refer only to S5 of the Anti-Money Laundering Regulations, which is a starting point for TCSPs to have systems and controls in place. FATF recommendations 6 & 7 require in the case of terrorist financing/proliferation that TCSPs/CMRAI and law enforcement have implemented a targeted sanctions regime to comply with the UN Security Council. CMRAI also need to demonstrate that they have the ability to freeze, without delay, the funds or other assets so that they cannot be used directly or indirectly. 179. This is another area where the enforceability of Guidance needs to be implemented. 39 Observations relating to Part 3J of the Standard - Co-operation Summary CMRAI provided evidence of compliance with Part 3J, both in law and in practice. The assessors consider that CMRAI has complied and the rating for this Part is Compliant. The assessors have no adverse findings in respect of CMRAI s technical compliance or effectiveness in complying with part 3J of the Standard. Information sharing 180. The Standard sets out in Part 3J paragraph 1, that the regulator should have powers to obtain and share information, and should use these powers effectively. 181. The assessors have no adverse findings on this paragraph. Other forms of co-operation 182. The Standard sets out in Part 3J paragraph 2, that the regulator should have powers to provide assistance to foreign regulators on request. 183. The assessors have no adverse findings on this paragraph. Group of International Finance Centre Supervisors