



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 | Page Cayman Monetary Regulatory Authority International SUMMARY OF PRIVATE SECTOR CONSULTATION AND FEEDBACK STATEMENT STATEMENT OF GUIDANCE: SUCCESSION PLANNING Section of proposed Measures Industry Comment Authority's response Consequent amendments to the draft Requirements General question If succession planning is mentioned as part of a business Business Continuity Plan, can that be considered a sufficient succession plan? Are there any expectations around what the minimum requirements of a succession plan should contain?

The SOG conflates the objectives of Succession Planning with Business Continuity. Although there can be some overlap, the SOG is focusing on situations where an employee or director is incapacitated and no longer can perform his/her function. Succession planning should focus more on ensuring the continuation of the performance of specifically identified key management, leadership and technical roles that The Authority understands that succession planning and business continuity are similar but a business continuity plan by itself may not necessarily contain the elements that should be in a succession plan, which are described in the SOG. The underlying difference is the preciseness of the documents wherein the business continuity plan will cover strategies to address business disruption of all forms. The business continuity plan is a business-wide approach to operational disruption including in the case of an immediate/approaching disaster. The succession plan on the other hand, will provide details on the human resources component. None

2 | Page are crucial to the operations of a business. This is more about a strategic focus on the depth of competencies available within a business in governance, management, leadership and technical roles. SP is more than having a replacement for a person incapacitated, it is about the effective continuity of the performance of a function. To facilitate an effective succession planning programme, the SOG should include the requirement for Licensees to:

1) Identify key roles or functions for SP purposes; and 2) Identify key roles or functions where the Licensee is vulnerable to incumbents vacating those roles or functions without the Licensee having sufficient competent successors. Arguably, disaster recovery plans and similar protocols already in place address many of the concerns raised by this statement. As you are aware, succession plans are highly confidential and a matter of critical strategic importance that should not be disclosed outside of a confidential board context. Outside of the scope of closely held and managed licensees, it is not clear that the cost of satisfying this guidance bears a commensurate benefit to the jurisdiction, particularly given that these matters may The need for a succession plan from a performance perspective is already captured in other regulatory measures mentioned above. As such, the Authority normally receives succession plans that focus on identification and training of persons in key management roles. Nevertheless, there is another side to succession planning albeit with a business continuity emphasis. The SOG Succession Planning is proposed to offer more guidance to Licensees on the elements of a succession plan. 3 | Page otherwise be dealt with in disaster recovery plans and other contingency plans. While we agree on the importance of succession planning and the need for a written succession plan, we note that such a written plan is already required by the February 2016 SOG on Corporate Governance. Paragraph 5.3.1 (e) of the SOG on Corporate Governance states that a licensee should have appropriate documented succession planning in place for Directors and Senior Management positions. In order to avoid another stand-alone policy that may be duplicative of existing policies, which increases the likelihood of confusion and conflict without any commensurate benefit, we ask that paragraph 6.3 of the proposed SOG be amended to state elements of succession

planning...be so stipulated in a general plan document or embedded in another relevant policy. (new language bold/italics) The SOG on Corporate Governance recommends succession planning for Directors and senior management positions. However there are other important considerations such as succession planning for other persons in controlled functions and for Licensees with single or dual shareholders. In addition, the proposed SOG addresses areas frequently queried by Licensees relating to the succession plans mentioned in the SOG on Corporate Governance. Therefore the aim of the SOG Succession Plan is to help mitigate insufficient succession plans by providing guidance for consideration in the preparation of a succession plan. It is not the Authority's intention to duplicate existing regulatory measures, but rather to complement existing measures, policies, and procedures. Having said that, the succession plan may be embedded in another Amended of a Licensee's policies and procedures, such as in a policy on business continuity for instance, as long as it addresses all the elements outlined in the SOG.

4 | Page Section 6.3 will be amended to read: It is expected that the elements of succession planning, where considered in any relevant constitutional or company documents, be so stipulated in a general succession plan document. The general succession plan may be a part of another relevant policy or procedure adopted by the Licensee, such as the business continuity plan, but should nonetheless cover all the elements as outlined in this SOG... We are of the view that CMRAI should allow for, or stipulate the benefits of, the pre-approval of persons who may become shareholders, controllers or directors of a licensee. It will adversely affect the ability to implement a seamless succession, if at the relevant point in time the successor has to go through the full fitness and propriety approval process. The Authority does not propose to pre-approve persons. Mechanisms for seamless transitions should be employed by the Licensee in light of this including the Licensee satisfying itself that proposed persons are fit and proper. None This guidance does not take account of conflict of laws or forced heirship. The guidance is not exhaustive as stated in section 1.4. Moreover, guidance issued by the Authority must always be applied in the context of applicable laws. As such, the Authority expects that Licensees, based on the nature, size, and complexity of the business, will take any appropriate relevant considerations into account when formulating a succession plan. None

5 | Page There is a second aspect of the SOG that seeks to inappropriately include commercial considerations within the succession planning programme, namely the identification of a replacement shareholder where the Licensee has only one shareholder. Although the Authority's concern is understandable and, noticeable from the Consultation Paper, an indication that the Authority is encountering this gap during the performance of its regulatory functions, it is not practical to require a Licensee with a sole shareholder to identify and confirm a replacement shareholder for SP purposes. The possibility of transferring shares in a business is dependent on a multitude of factors, including location of the business, the services offered, or interested acquirers with relevant interest, competencies or financial support to acquire the business, that such an ownership transfer is impossible to regulate for. It is recommended that the Authority should impose standards pertinent explicitly to smaller Licensees or Licensees with a sole shareholder. It should do so by requiring a Licensee to implement communication processes for the Licensee to immediately contact the Authority in the event of the sole shareholder or the Licensee's directors suddenly becoming incapacitated, thereby compromising the efficient operations of a Licensee. In addition, the A commercial consideration for any Licensee should be protection of clients

and clients' assets, hence the importance of identifying successors for shareholders and other persons in controlled functions. Statutory responsibilities aside, a succession plan is critical for any Licensee. While the Licensee may have a sole shareholder, if the intention is for the business to continue operations should the sole shareholder become incapacitated or passes away, there should be a plan detailing how seamless operation and decision-making of the business will be accomplished for possibly many months as the Cayman estate go through probate. The Authority agrees with the proposed amendment with regards to Licensees contacting the Authority. Therefore section 8.1 will be inserted to read: A Licensee should immediately contact the Authority in the event of one of the two shareholders, a sole shareholder, or a director (where the Licensee meets the statutory minimum of two directors) becoming incapacitated or suffering an event which is expected to result in absence for a significant period of time. Amended 6 | Page Authority should consider the SOG confirming the Authority's authority (under the MAL) to appoint an interim or substitute controller or director to manage the affairs of the Licensee whilst the ownership is transferred in an orderly manner to a competent replacement. Much of the focus appears to be on situation in which a licensee has two or fewer shareholders and/or directors. The Costs Benefits table suggests that the impact to licensees will be minimal given the small number of licensees that have sole shareholders or a small complement of persons in control functions. It would be helpful to have some clarity from the Authority on the scope (to apply or not apply) as we do believe that there is much benefit to confining the guidance in its application to public or widely-held companies. In addition, section 5.4 will be inserted to read: Planning of ownership succession will likely not apply to Licensees whose shares are listed on a stock exchange. Succession planning for other roles however such as directors or key management positions, is still applicable for those Licensee 4.1 Amend the SOG to read:

Succession Planning: a strategy put in place for ensuring the continuation of a business after the original ownership and management are subject to diminished capacity or have died. Persons will no longer be involved if they have diminished capacity. Noted. This will be amended to read: A strategy put in place for ensuring the continuation of a business after the ownership and management will no longer be involved as a result of incapacity or as a result of an event resulting in long term or permanent absence.

Amended 7 | Page 5.1 Amend the SOG to read: Clear leadership and sound management play an essential role in the success of a business. A succession plan will help Licensees ensure effective continuity of key governance, managerial, leadership and technical roles by being prepared for unplanned, permanent or temporary leadership or management change. Succession planning can bring order in times of turmoil and uncertainty and help ensure a Licensee continues to carry out its activities, fulfill its regulatory obligations and serve its clients during a temporary or permanent leadership change. Noted. To be thorough, 5.1 will be amended to read: ... A succession plan will help Licensees ensure effective continuity of key governance, managerial, leadership and technical roles by being prepared... and the word full will be amended to read fulfill Amended 5.2 Many large financial organizations leverage the resources of sister companies within their respective group companies in order to ensure excellence of service to the client, but primarily as a matter of business continuity safeguards. Consequently, if a key person is unavailable for whatever reason, an organization can allocate that work on temporary basis while a permanent solution is found. Large organizations have much more flexibility in this regards than others. Would the

Authority be willing to consider amending the SoG to account for this scenario? Licensees have the liberty of employing any strategy best suited to their circumstances. The strategies for succession planning listed in section 5.5 of the SOG are not exhaustive. The intention of the SOG is to highlight certain considerations when Licensees are making these decisions.

None 5.3 Amend the SOG to read: Succession planning involves the evaluation of employees skills, One of the main points of the succession plan is for there to be immediate and seamless transfer of skillset. The language of the Amended 8 | Page abilities and the overall value of their involvement in the success of the business and the identification of persons who can either automatically replace them or who can be trained to do so. From a regulatory standpoint, succession planning should not only encompass the seamless transfer or replacement of key leadership, but also ownership, which takes on an even greater significance when a Licensee is owned by sole or dual shareholders. SOG will articulate that trained successors (whether training is in progress or is completed) are recommended. The SOG will be amended to read: Succession planning involves the evaluation of employees skills, abilities and the overall value of their involvement in the success of the business and the identification of persons who can either automatically replace them or who can be trained to do so... 5.4 There are ultimately a small number of high profile individuals who are the owners whose personal asset information is tightly restricted. Is the expectation of 5.4 that the wills and testaments of said persons will be made available, and if so, how is that information to be shared and with whom, and will the SoG be expanded to clarify? The purpose of section 5.4 is to highlight some of the common arrangements used for succession planning. The Authority is expecting to see Licensees succession plans and generally will not require to see underlying documents such as wills.

None 5.5 There is a certain class of large financial organizations that are privately owned. Given the size of the organizations, the shareholders tend to rely on the executive team members to ensure the organization is properly maintained, and as such, it operates in much the same way as a publicly traded company would. The SoG does not appear to account for these types of scenarios when discussing succession planning for the owners.

The proposed SOG is sufficiently flexible to accommodate a range of succession planning strategies. The SOG should be implemented with regards to a Licensee's nature, size, and complexity. None 5.5 As a matter of Cayman Islands law, a Noted. However the Authority None 9 | Page power of attorney will not survive death or incapacity. recognizes that there may be instances where the power of attorney is useful, for instance, if a sole shareholder suffers serious illness or will be absent for a long period of time and is unable to deal with affairs of the Licensee, the shareholder may wish to use this option. 6.1

Amend the SOG to read: It is the responsibility of the Licensee to assess the proposals in the succession plan and ensure that regulatory or other laws will not be breached if the relevant circumstances materialize. As such, Licensees should consider the balance between meeting regulatory requirements such as the minimum number of directors while maintaining an appropriate number of directors. Noted. For clarity, 6.1 will be amended to read: It is the responsibility of the Licensee to assess the proposals in the succession plan and ensure that regulatory or other laws will not be breached if the relevant circumstances materialize. As such, Licensees should consider the balance between meeting regulatory requirements such as the minimum number of directors while maintaining an appropriate number of directors. Amended 6.2 The SOG should be amended to read: The Licensee should ensure that persons proposed in the succession plan possess the necessary competence, skills and knowledge to fulfil their proposed role(s)

or is The intention of the sections which discuss training is to show that proposed successors are trained to become competent. For clarity, the SOG will be amended to read:

The Licensee should ensure Amended 10 | Page trained to become competent to fulfil the role. It is the responsibility of the Licensee to ensure that persons proposed in the succession plan who require approval from the Authority are fit and proper persons. Persons who are not fit and proper will not be approved by the Authority, which could delay the implementation of the plan. that persons proposed in the succession plan possess the necessary competence, skills and knowledge to fulfil their proposed role(s) or are trained to become competent to fulfil the role. 7.2 The SOG should be amended to read: ... Therefore the Licensee should consider increasing the complement of directors above the minimum required in an effort to mitigate breach of the minimum director requirement through sudden incapacitation of any director or identify another fit and proper individual who could seamlessly be appointed as director. Noted. For clarity this will be amended to read: ... Therefore the Licensee should consider increasing the complement of directors to above the minimum required in an effort to mitigate breach of the minimum director requirement through sudden incapacitation of any director or identify another fit and proper individual who could seamlessly be appointed as director. Amended