



# 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.

## SECTOR CONSULTATION AND FEEDBACK STATEMENT Rule and Statement of Guidance

Market Conduct for Trust and Corporate Services Providers and Company Managers No.

Section Comments Authority's Response Consequent Amendments to the Proposed Measure GENERAL COMMENTS 1. The Standard on the Regulation of Trust and Corporate Services Providers (the "Standard") published by the Group of International Financial Supervisors is now almost 14 years old, and certain concepts no longer reflect industry practice, due principally to advancements in the use of technology solutions. The Standard is principally focused on licensed trust companies that hold a license for the conduct of trust business, whereas in the Cayman Islands a trust licence is held by a wider set of entities for differing commercial purposes that may not include conducting trust business, for example the provision of corporate services where no trust business is conducted. Acknowledging both the age and narrow focus of the Standard, certain amendments and clarifications are warranted to the proposed RSOG where the wholesale adoption of the Standard is outdated or not fit for purpose within the Islands. Comments made in this consultation ought to be applied logically and consistently with respect to all Regulatory Measures, Rules and SOGs where applicable (e.g. certain concepts are reflected in the Rule on Internal Controls). This Rule and Statement of Guidance introduce new rules in line with the GIFCS Standards. The Authority, along with all other GIFCS members, is committed to the Standard. The Standard is intended to promote and reinforce high standards in the TCSPs sector. In seeking to meet this objective, the Authority has sought to introduce rules and guidance consistent with the Standard while at the same time considering proportionality, rationality, principles of lawfulness, procedural fairness and impact on the TCSP sector in the Cayman Islands. Noteworthy, such membership helps to ensure the jurisdiction remains abreast of the developments affecting offshore financial centres and plays an active role in international regulatory developments. Additionally, the introduction of the rules has also been informed by the ongoing supervisory and thematic work of the Authority. No amendment required. Page 2 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure There are also certain changes proposed to align with the approach adopted by regulators in competitor jurisdictions to ensure that Cayman Islands domiciled TCSPs, and Cayman more generally, are not at a competitive disadvantage. As the Standard does (see 2.1), we would also welcome a statement to be included somewhere within sections 1-4 of the RSOG that, in relation to the conduct of trust business, the RSOG is not intended to interfere with trust law or common law fiduciary duties. We would welcome an opportunity to discuss any of our comments in further detail with the Authority. Further, in seeking to perform its functions as empowered by the Monetary Authority Act, the Authority is respectful of the Jurisdiction of the Court with regard to the Trusts law.

SECTION-SPECIFIC COMMENTS 2. Section 5 Definitions 5.1.1. Client refers to any person who has; ... received or may receive the benefit of services provided or arranged by the TCSP when carrying on trust, corporate or company management business. We note that this definition (in the second bullet) has the unhelpful potential to capture persons who would not normally or properly be regarded as clients (e.g. shareholder of a corporate entity). The definition in the existing SOG concerning trust beneficiaries represents the appropriate capture. Drafting Suggestion Revert to definition in the existing SOG. The Definition of a client is in line with the requirements

under the GIFCS Standard. Additionally, the Authority's regulatory regime over the regulated financial services sectors adopts international standards and best practices for robust and efficient regulation and oversight, including such definitions. For clarity, the definition covers any person to whom financial service is provided by a fiduciary. No amendment required.

3. Section 5 Definitions 5.1.2. Client Money includes money that a Regulated Person holds or receives on behalf of a Client or owes to a Client. We note the definition aligns with the existing statement of guidance on market conduct for TCSPs (the "existing SoG") and the Standard. The definition is, however, framed in a manner that is only appropriate where monies are See comment above. For further clarity, definition of Client Money expanded to specifically note monies excluded from the definition.

5.1.2 Client Money amended to read as follows; Client Money includes money that a Regulated Person holds or receives on behalf of a Client or owes to a Client. As a general principle, money ceases to be, or never becomes, Client Money if it is:

Page 3 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure received and held on trust for a Client and/or to be held to the Client's order. The proposed RSOG appears to lend further support to this position. Section 9.8, for example, contemplates that Client Money should not be used to settle "fees and disbursements" other than with consent, whereas a key role of Cayman Islands corporate services providers is to receive monies from entities registered in the Cayman Islands to pay over and settle various fees and disbursements, including annual maintenance fees which are payable to the Registrar and the Authority in January of each year. This dynamic should be reflected within the definition of "Client Money" to ensure corporate services providers are not unduly burdened or incorrectly viewed as conducting trust business purely due to holding a trust license for the provision of corporate services business. Please note related changes are also proposed to Section 9.2 (see below).

paid to the Client or a duly authorised representative of the Client; or paid into a bank or other account in the name of the Client; or paid otherwise at the direction of the Client; or received by a Regulated Person for payment of fees, disbursements or other liabilities owed by the Client as contained in the terms of business.

Page 4 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure The suggested amendment seeks to address these points and provide clarity. Additionally, we would propose a footnote to the revised defined term for "Client Money" or, alternatively, a new SOG be introduced (as a new Section 5.1.3. with consequential renumbering to the RSOG) to specifically note that monies received for services rendered and or disbursement meet by the Regulated Person are excluded from the definition of "Client Monies".

1. Please see changes to Section 9.2. 2. Proposed Definition "Client Money" "Client Money" includes money that a Regulated Person holds or receives on trust on behalf of a Client or owes to a Client. NEW SOG 5.1.3. Client Money excludes monies received by a Regulated Person for payment of fees, disbursements or other liabilities owed by the Client to the Regulated Person, including where the Regulated Person will act as an intermediary paying agent on behalf of the Client for

Page 5 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure payment of debts due by the Client to another party (for example, where monies are received by a Regulated Person pursuant to an invoice for services, which may include monies for onward payment to the Authority by the Regulated Person on behalf of its Client to meet amounts owed by

the Client to the Authority) 4. Section 5 Definitions. 5.1.4. The Governing Body of a Regulated entity is the Board of Directors where the entity is a corporation, the General Partner where the entity is a partnership, the manager (or equivalent) where the entity is a Limited Liability Company, and the Trustee or the Board of Trustees where the entity is a trust business. The proposed drafting suggestion reflects a typo in the defined term Governing Body." Drafting Suggestion The Governing Body of a Regulated entity Person is the Board of Directors where the entity is a corporation, the General Partner where the entity is a partnership, the manager (or equivalent) where the entity is a Limited Liability Company, and the Trustee or the Board of Trustees where the entity is a trusted business. The Authority has no objection to the suggested revision. Section 5.1.4 amended to read as follows : The Governing Body of a Regulated entity Person is the Board of Directors where the entity is a corporation, the General Partner where the entity is a partnership, the manager (or equivalent) where the entity is a Limited Liability Company, and the Trustee or the Board of Trustees where the entity is a trusted business. 5. Section 5 Definitions. 5.1.5. Regulated Person for the purpose of this RSOG means a natural or a legal person or arrangement that has been approved, licensed, The proposed drafting suggestion reflects a typo in the defined term "Regulated Person". A natural person cannot be a licensee under the relevant regulatory laws. Drafting Suggestion A natural person can be a licensee under the CMA. For clarity, the Directors Registration and Licencing Act (As amended) applies to registered directors, professional directors and corporate directors. No amendment required. Page 6 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure registered, or supervised by the Authority pursuant to the relevant regulatory Acts under the Scope of Application. Regulated Person for the purpose of this RSOG means a natural or a legal person or arrangement that has been approved, licensed, registered, or supervised by the Authority pursuant to the relevant regulatory Acts under the Scope of Application. However, a natural person cannot hold a Trust, Restricted Trust or Nominee Trust Licence. 6. Section 5 Definitions. 5.1.6. TCSPs refer to those who undertake any one or more of the following activities pursuant to the BTCA or the CMA as applicable: ... The inclusion of this definition appears to be unnecessary (as it does not appear to be used in the body of the RSOG and in light of paragraph 4.1 Scope of Application of the RSOG) and exceeds and confuses the statutory definition of CSP business per the Companies Management Act. We would suggest that the definition is simply removed from the RSOG to avoid any potential confusion. Drafting Suggestion Delete the definition of TCSP from the RSOG. The Authority notes that the definition of TCSP and inclusion within the RSOG is befitting. The definition was adopted from both the GIFCS Standards and the Companies Management Act. Additionally, the definition seeks to provide clarity on the scope of applicability of the measure. No further amendment required. 7. Rule 6.1 A Regulated Person must, in all its dealings with Clients and within the context of its authorisation(s), conduct its business with integrity and honesty. The proposed drafting suggestion intends to provide clarity and certainty. Drafting Suggestion A Regulated Person must at all times, in all its dealings with Clients and within the context of its The Authority has no objection to the suggested revisions. Rule 6.1, amended to read as follows : A Regulated Person must at all times, in all its dealings with Clients and within the context of its authorisation(s), conduct its business with integrity and honesty.

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authorisation(s), conduct its business with integrity and honesty.

8. Rule 6.2 A Regulated Person must communicate with its Clients in a clear and precise manner in writing. Communications should not be restricted to written communications only. It is possible that contracting parties may elect to communicate to varying degrees via other effective platforms, e.g. through web-based portals and other developing industry innovations.

Drafting Suggestion A Regulated Person must at all times communicate with its Clients in a clear and precise manner in writing. The Authority has no objection to the proposed addition in the first sentence. However, the Authority is of the view that business communications between the Regulated Person and a Client should be in writing in order to have legal proof of mutually agreed terms of business. Written communication, whether physical or electronic, will allow both the Regulated Person and the Client to review and understand business terms and areas of disputes that can be addressed before the Client commits to the business.

Rule 6.2, amended to read as follows: A Regulated Person must at all times have a clear and precise written record of communication with its Clients. To provide further clarity, the Authority has introduced section 6.3. Section 6.3 updated as detailed below; It is expected that communication that occurs between a Regulated Person and a Client, whether physical, automated, or electronic, is appropriately followed up by a record in writing, for example, with a File Note.

9. Rule 6.5 A Regulated Person must keep the affairs of Clients confidential except where disclosure of information The Regulatory Measure should not impose more restrictive measures than those imposed by applicable legislation, notably the Confidential Information Disclosure Act. The Authority has no objection to the suggested revisions. For clarity, any disclosure is only required or permitted by an applicable Act. Therefore, the Rule does not impose more

Rule 6.5 amended to read as follows: A Regulated Person must keep the affairs of its Clients confidential except where disclosure of information is required or permitted by an applicable Act, Page 8 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure is required or permitted by an applicable act or by guidance published by the Authority or its authorised by the person(s) to whom the duty of confidentiality is owed. The concept of consent also needs to be sufficiently robust to provide for market standard carve-outs that are routinely incorporated into contractual arrangements, e.g. where Client information is in the public domain other than as a result of improper conduct by a disclosing party. The suggested amendment seeks to address these points and provide clarity.

Drafting Suggestion A Regulated Person must keep the affairs of its Clients confidential except where disclosure of information is required or permitted by an applicable Act, Regulation, direction of a court, or in compliance with by guidance published by the Authority or its is made in the normal course of business or with the consent, express or implied, of authorised by the person(s) to whom the duty of confidentiality is owed. restrictive measures than those imposed by the Confidential Information Disclosure Act or Data Protection Act. Regulation, direction of a court, or by guidance published the Authority or it is authorised by the person(s) to whom the duty of confidentiality is owed.

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10. Rule 6.6 A Regulated Person must not represent to Clients or prospective Clients that it is indemnified against any liability that may arise as a result of the conduct of its business as a Regulated Person. We believe the

drafting suggestion rectifies a typo. The Regulatory Measure also deviates from the existing SOG and incorrectly states the legal position that applies to Regulated Persons. All Regulated Persons are entitled to, and under the Statement of Guidance on Professional Indemnity Insurance, are obliged to obtain professional indemnity insurance for their services. We understand that the policy issue is that Regulated Persons should not hold themselves out as being indemnified solely by virtue of being a Regulated Person. Drafting Suggestion A Regulated Person must not represent to Clients or prospective Clients that its status as a Regulated Person indemnifies it is indemnified against any liability that may arise as a result of the conduct of its business as a Regulated Person. The Authority has no objection to the suggested revision. Rule 6.6, amended to read as follows : A Regulated Person must not represent to Clients or prospective Clients that its status as a Regulated Person indemnifies it is indemnified it against any liability that may arise as a result of the conduct of its business as a Regulated Person. Page 10 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure 11. Section 6.9 The Authority expects a Regulated Person to create an open, transparent, fair, and honest business environment for its Clients. In addition, the Regulated Person should offer only those services that are relevant to the Client agreement or terms of business documents and perform as Clients have been led to expect. The information and advice provided by the Regulated Person to each Client should be clear, appropriate, and according to each Client's circumstances. The scope of this statement seems overly uncommercial and restrictive. The marketing of services by Regulated Persons are subject to specific Marketing Policies applicable to licensees, so this additional overlay is unwarranted plus misguided as in order to provide advice that may be appropriate to a Client's circumstances it may be necessary to discuss/market services that are not currently addressed in-house or contracted to be provided by another existing service provider. The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion The Authority expects a Regulated Person to create an open, transparent, fair, and honest business environment for its Clients. In addition, the Regulated Person should offer only those services that are relevant to the Client agreement or terms of business documents; and perform as Clients have been The Authority has no objection to the suggested revision. Section 6.9, amended to read as follows : The Authority expects a Regulated Person to create an open, transparent, fair, and honest business environment for its Clients. In addition, the Regulated Person should offer only those services that are relevant to the Client agreement or terms of business documents; and perform as Clients have been led to expect. The information and advice provided by the Regulated Person to each Client should be clear and appropriate. Page 11 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure led to expect. The information and advice provided by the Regulated Person to each Client should be clear, appropriate, and according to each Client's circumstances. 12. Rule 6.10 A Regulated Person must establish and document clear policies and procedures that ensure it acts with due skill, care and diligence in the conduct of its business and fulfil the responsibilities that it has undertaken on behalf of its Client. The concepts of due skill, care and diligence have been the subject of and defined by extensive case law and are well understood. As such, the obligation for Regulated Persons to act with due skill, care and diligence is sufficiently addressed by its inclusion as a

Rule. Policies and procedures would not demonstrate that a Regulated Person has acted, or omitted to act, with requisite skill, care and diligence. These are ultimately matters to be determined with reference to the relevant facts of any particular circumstance. The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion A Regulated Person must establish and document clear policies and procedures that ensure it acts with due skill, care and diligence in the conduct of The Authority has no objection to the suggested revisions. Rule 6.10, amended to read as follows : A Regulated Person must establish and document clear policies and procedures that ensure it acts with due skill, care and diligence in the conduct of its business and fulfil the responsibilities that it has undertaken on behalf of its Client.

Page 12 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure its business and fulfil the responsibilities that it has undertaken on behalf of its Client. 13. Section 6.12 In establishing that a Regulated Person is acting in the best interest of its Clients, there should be adequate procedures reviewed, approved and implemented by the Governing Body of a Regulated Person. In addition, a Regulated Person should ensure that detailed, robust reviews are conducted at appropriate intervals with respect to the trust, corporate business or company management business that the Regulated Person provides to its Clients. The clear language from the existing SOG should be carried over. The proposed draft language would replace draft Section 6.11 in its entirety. The suggested amendment seeks to provide clarity. Drafting Suggestion A Regulated Person should ensure that adequate procedures are implemented to ensure that detailed, robust reviews are conducted at appropriate intervals in respect of the trust business or company management business that it provides to its Clients. The Authority is of the view that for the prudent, effective and ethical oversight of the Regulated Person s business and to protect the legitimate interest of Clients, the governing body should review and approve such procedures. No Amendment required.

14. Section 6.13 Specifically, Corporate Service Providers and Company Managers should treat each Client s best interests as paramount, subject to their legal obligations to other persons or bodies. The holders of Trust, The proposed RSOG should differentiate, where appropriate, and clarify the capacity in which the holder of a licensee under the BTCA is acting. As noted, the holder of a licence under BTCA may simply be providing registered office services, so the RSOG must be clear and differentiate between services where necessary, particularly to The Authority has no objection to the suggested revision. Section 6.13, amended to read as follows : Specifically, Corporate Services Providers and Company Managers should treat each Client s best interests as paramount, subject to their legal obligations to other persons or bodies. The holders of Trust, Restricted Trust and Nominee Trust Licences conducting trust business (as defined under BTCA) should treat the Page 13 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure Restricted Trust and Nominee Trust Licence should treat the interests of beneficiaries and/or purposes (as applicable) as paramount and act impartially between beneficiaries subject to the terms of the trust and their legal obligations. provide guidance to those Regulated Entities holding a license under the BTCA for the conduct of trust business. The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion Specifically, Corporate Service Providers and Company Managers should treat each Client s best interests

as paramount, subject to their legal obligations to other persons or bodies. The holders of Trust, Restricted Trust and Nominee Trust Licence conducting trust business (as defined under BTCA) should treat the interests of beneficiaries and/or purposes (as applicable) as paramount and act impartially between beneficiaries subject to the terms of the trust and their legal obligations. interests of beneficiaries and/or purposes (as applicable) as paramount and act impartially between beneficiaries subject to the terms of the trust and their legal obligations.

15. Rule 6.14 A Regulated Person must ensure that it fully understands the duties arising under the Acts relevant to the administration and affairs of Clients in the The intent of this Rule is unclear. At first instance, it appears to apply extra-territorial obligations on a Regulated Person. The defined term "Acts" refers to Cayman Islands statutes. Statutory instruments do not have extra-territorial effect. The duty of Regulated The Authority expects Regulated Persons, as part of governance and risk identification and management, to keep abreast of the laws of the jurisdictions where Clients' assets are kept and managed. This assessment should cover the material risks to ensure appropriate mitigation. Rule 6.14, amended to read as follows: A Regulated Person must ensure that it fully understands its the duties arising under the Acts laws relevant to the administration and affairs of the Clients in the jurisdictions where their business is carried out and the assets managed are held. Page 14 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure jurisdictions where their business is carried out and the assets managed are held. Persons, therefore, should be with reference to the relevant Cayman Islands regulatory laws to which they and their Clients are subject. The suggested amendment seeks to address this point and provide clarity. NB - A consequential amendment should also be made to SoG 13.1a)i Drafting Suggestion A Regulated Person must ensure that it fully understands the duties arising under the Acts relevant to the administration and affairs of its Clients in the jurisdictions where their business is carried out and the assets managed are held. The Authority has revised Rule 6.14 to provide clarity.

16. Rule 6.15 A Regulated Person must ensure that decisions taken or transactions entered into by or on behalf of Clients, or in respect of Client structures are : a) within the scope of authority of the Regulated Person; This Rule is only sensibly applicable to those Regulated Persons conducting trust business and or those providing certain company management service lines, e.g. provision of officers, etc. Accordingly, this Rule should be clearly restricted to those Regulated Persons to whom is it relevant by inclusion of the words "where applicable". The Authority is satisfied with the sufficiency of Rule 6.15 . No amendment required. Page 15 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure b) documented and actioned by the Regulated Person in a timely manner commensurate with the size, complexity, structure, nature of business and risk profile of its operations; and c) properly authorised and handled by persons with an appropriate level of knowledge, experience and status. The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion A Regulated Person must, where applicable, ensure that decisions taken or transactions entered into by or on behalf of Clients, or in respect of Client structures are: a) within the scope of authority of the Regulated Person; b) documented and actioned by the Regulated Person in a timely manner commensurate with the size, complexity, structure, nature of business and risk profile of its operations; and c) properly authorised and handled by persons



with an appropriate level of knowledge, experience and status 17. Rule 7.2 Where direct or indirect conflicts of interest arise and cannot be reasonably avoided, a Regulated Person must: a) disclose the general nature and/or source of the conflicts of interest to the Client; Where a conflict of interest has been identified and disclosed, and a Client wishes to proceed with a transaction or provision of a service, it is not commercially practical or possible for the Regulated Person to ensure that such conflict does not result in damage to a Client's interest. The key public policy consideration in these instances The Authority has no objection to the suggested revision. Additional revisions provided. Rule 7.2, amended to read as follows: Where direct or indirect conflicts of interest arise a Regulated Person must: a) disclose the general nature and/or source of the conflicts of interest to the Client and the possible ramifications of such conflicts; Page 16 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure b) only undertake business with or on behalf of a Client where that Client has acknowledged in writing that they are aware of the conflict of interest and still wants to proceed; and c) ensure that the conflict does not result in damage to the Client's interest. should be that a Client is treated fairly and provides informed consent. This position is further supported by the fact that the vast majority of Clients utilising Cayman Islands Regulated Persons are sophisticated persons or institutional clients who will be best positioned to consider any potential conflict against their own interests. Further, the Standard appears to recognise and address this fact at 2.2. The suggested amendment seeks to address these points and provide clarity in line with the Standard. Drafting Suggestion

Where direct or indirect conflicts of interest arise and cannot be reasonably avoided, a Regulated Person must: a) disclose the general nature and/or source of the conflicts of interest to the Client; b) only undertake business with or on behalf of a Client where that Client has acknowledged in writing that they are aware of the conflict of interest and still wants to proceed; and b) only undertake business with or on behalf of a Client where that Client has acknowledged in writing that they are aware of the conflict of interest and still wants to proceed; and c) ensure that the conflict does not result in damage to the Client's interest ensure that in all cases the Client is treated fairly in accordance with this Rule and Statement of Guidance. Page 17 of 33

No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure c) ensure that the conflict does not result in damage to the Client's interest ensure that in all cases the Client is treated fairly. 18. Rule 9.1 A Regulated Person must implement policies and procedures that ensure due care, skill and diligence are applied when administering and holding Client Money The comment is identical to that raised above in connection with Rule 6.9 Drafting Suggestion A Regulated Person

must implement policies and procedures that ensure it acts with due care, skill and diligence are applied when administering and holding Client Money. The Authority has no objection to the suggested revision. Rule 9.1, amended to read as follows: A Regulated Person must implement policies and procedures that ensure it acts with due care, skill and diligence are applied when administering and holding Client Money. 19. Rule 9.2 A

Regulated Person must hold Client Money in an account that is clearly segregated and distinct from other Clients accounts and from any accounts of the Regulated Person. The Rule deviates from the Standard and creates an unworkable outcome. The Rule appears to mandate that a segregated and distinct account is maintained for each Client. By way of example, this would require corporate services

providers to establish at least 30,000 separate accounts for the purpose of receiving and paying over amounts to the Registrar and the Authority with respect to entities registered under the Private Funds Act or Mutual Funds Act. Such an outcome is uncommercial and impractical. As a normal business practice, the Authority is of the view that any Client's money must be held separately from another Client's money, except where to do so is impracticable or impossible and the interests of Clients are adversely affected. For additional clarity, the Authority has provided further guidance, as detailed in Section 9.3 to address the issues raised. No amendment required for Rule 9.2 Section 9.3 updated as detailed below; As a normal business practice, the Authority expects that any Client's money is held separately from another Client's money, except where to do so is impracticable or impossible and the interests of Clients are adversely affected. Reference is also made to the guidance provided in 9.13 regarding the reconciliation of each Client's account Page 18 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure The key policy objective appears to require Regulated Person's to account for Client Money's distinct from its own accounts. We would propose, therefore, that the Rule follow the express language as set out in the Standard. We would also propose that a new SOG be introduced (as a new Section 9.3 with consequential renumbering) to note that compliance can be demonstrated by way of maintaining accounting records that delineate between, on the one hand, Client Money and, on the other, moneys that are held for the benefit of, or are payable to other persons (i.e. the Regulated Person's own accounts as well as amounts received as disbursements to be paid over to third parties such as the Registrar and the Authority). The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion 9.2. A Regulated Person must hold Client Money in an account that is clearly segregated and distinct from other Clients Page 19 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure accounts and from any accounts of the Regulated Person. New SOG (New 9.3 with subsequent numbering revisions): A Regulated Person may demonstrate compliance with Rule 9.2 by maintaining appropriate accounting records which show the Regulated Person's dealings with Client Money as opposed to accounts or other assets that are held for the benefit of or are payable to, other persons, including the Regulated Person. 20. Rule 9.4 A Regulated Person must not hold Client Money in an entity that is subject to any sanctions or in an entity that meets the criteria of a shell bank. We would propose that a minor change be made to confirm that the intention here is to not open an account with a sanction financial institution or shell bank. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion A Regulated Person must not open Client accounts to hold Client Money in an entity that is subject to any sanctions\* or in The Authority expects Regulated Persons to take all the necessary steps to comply with the sanctions obligations, including opening and maintenance of Clients' accounts pursuant to AMLRs, the Terrorism Act and the Cayman Islands Sanctions Regime as updated by the Financial Reporting Authority. Sanctions have the same meaning as contained in the AML Guidance Notes. Rule 9.4 revised to provide additional clarity. Further, a definition for shell bank included for additional clarity. Rule 9.4 revised to read as follows : A Regulated Person must not open Client accounts or hold Client Money in an entity that is subject to any sanctions or in an entity that meets the criteria of a shell bank. Page 20 of 33 No. Section Comments Authority's

Response Consequent Amendments to the Proposed Measure an entity that meets the criteria of a shell bank. \* we would suggest that the term sanctions is defined or a footnote is added to clarify which sanctions list apply.(OFSI/OFAC/UN/EU). Will CMRAI be providing a definition or specific guidance on what a shell bank is? The Authority introduced the definition of a Shell bank as a footnote. The Authority has provided a definition of Shell bank as detailed in Footnote 5 below: Under Part IX of the Anti-Money Laundering Regulations a Shell Bank means any institution that accepts currency for deposit and that has no physical presence in the jurisdiction in which it is incorporated or in which it is operating, as the case may be; or is unaffiliated with a regulated financial group that is subject to effective consolidated supervision Page 21 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure 21. Rule 9.5 (a) The account where the Client money is held must not be operated until the Regulated Person has obtained written confirmation from the entity holding the money that: a) the account is a Client account, and that money standing to the credit of the account is held by the Regulated Person as a trustee; Rule 9.5 appears intended to address situations where a trust has been established. We would propose, for clarity, that changes be made as set out in the corresponding column. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion 9.5 Where Client Money is held on trust, the account where the Client Money is held must not be operated until the Regulated Person has obtained written confirmation from the entity holding the Client Money that: a) the account is a Client account, and that money standing to the credit of the account is held by the Regulated Person as a trustee fiduciary; The Authority has no objection to the suggested revision. Rule 9.5 amended to read as follows: Where Client Money is held on trust, the account where the Client Money is held must not be operated until the Regulated Person has obtained written confirmation from the entity holding the Client Money a) the account is a Client account, and that money standing to the credit of the account is held by the Regulated Person as a trustee fiduciary; 22. Rule 9.8 A Regulated Person must implement policies and procedures to ensure appropriate authorisations and signing powers, at a minimum, dual signatures in the event of Rule 9.8 mandates use of dual signatories for Client Money payouts. We recognise this requirement is set out in the Standard, but it is outdated. Many automated and electronic client accounting and banking systems do not require "dual signatory" (i.e. no physical The Authority has no objection to the suggested revision. Rule 9.8 amended to read as follows: A Regulated Person, must implement appropriate policies, and procedures and safeguards (whether automated, electronic or physical) at a minimum, dual signatures / dual control to ensure Client Money payouts are adequately approved or authenticated, recorded and Page 22 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure Client Money payouts, subject to the Client agreement or terms of business document. signatory) for authorisation. By way of example, there may be two-factor authentication or other appropriate safeguards implemented. The proposed draft language ensures that appropriate procedures, processes and safeguards (whether automated, electronic or physical) are in place to protect against unauthorised payouts. The suggested amendment seeks to address these points and provide clarity. Drafting Suggestion A Regulated Person, where applicable, must implement appropriate policies, and procedures and safeguards (whether automated,

electronic or physical) to ensure Client Money payouts are adequately approved or authenticated, recorded and conducted in accordance with the accepted appropriate authorisations and signing powers, at a minimum, dual signatures in the event of Client Money payouts, subject to the Client agreement or terms of business document.

conducted in accordance with the accepted appropriate authorisations and signing powers, at a minimum, dual signatures in the event of Client Money payouts, subject to the Client agreement or terms of business document. Page 23 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure 23. Rule 11.1 (d) A Regulated Person must ensure that its advertising and communication practices: d) do not present or promote any services that it is not licensed to provide; A Regulated Person may provide, in addition to regulated services, service lines that are not regulated/licensable accordingly paragraph (d) of Rule 11.1 requires revised drafting. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion 11.1. A Regulated Person must ensure that its advertising and communication practices: d) do not present or promote any regulated/licensable services that it is not regulated/licensed to provide; The Authority has no objection to the suggested revision. Rule 11.1 (d), amended to read as follows: A Regulated Person must ensure that its advertising and communication practices: d) do not present or promote any licensable services that it is not licensed to provide; 24. Section 11.2 The Authority expects a Regulated Person to take reasonable steps to ensure that words in financial service advertisements are chosen carefully and treated with great caution. In addition, statements, whether in a written or broadcasted advertisement, should avoid the use of The suggested amendment seeks to ensure the use of plain language and terminology within the RSOG. Drafting Suggestion The Authority expects a Regulated Person to take reasonable steps to ensure that words in financial service advertisements are chosen carefully and treated with great caution. In addition, statements, whether in a written or The Authority has no objection to the suggested revision. Section 11.2 amended to read as follows: The Authority expects a Regulated Person to take reasonable steps to ensure that words in financial service advertisements are chosen carefully and treated with great caution. In addition, statements, whether in a written or broadcasted advertisement, should avoid the use of terminology such as guaranteed, confidential, assured, secret, inter alia or similar statements and regard should be had to the Authority's Policy Marketing Polices of Licensees. Page 24 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure terminology such as guaranteed, confidential, assured, secret, inter alia. broadcasted advertisement, should avoid the use of terminology such as guaranteed, confidential, assured, secret, inter alia or similar statements and regard should be had to the Authority's Policy Marketing Polices of Licensees. 25. Rule 12.1 A Regulated Person must enter written terms of business with Clients for whom they have agreed to act. The proposed Rule 12.1 is inconsistent with and purports to set aside well-established contract law principles. There are no statutory provisions which require terms of business agreements of the type entered into by TCSPs and addressed by the RSOG to be "in writing". These matters are governed by common law principles which are widely understood in the Cayman Islands and other key jurisdictions. The common law provides certainty as to when an agreement has been entered into and is binding between two or more persons. As a policy matter, it is respectfully submitted

that the RSOG should be focused on ensuring that there is fair disclosure of the key elements of that agreement. Please see Authority's response above - Rule 6.2. Additionally, written terms of business with Clients reflects normal business practice and it is in line with the GIFCS Standards. No further amendment required. Page 25 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure

The proposed drafting, and revisions to the ensuing guidance in sections 12.2 and 12.3, reflect these fundamental principles. This approach would also align with practices in competitor jurisdictions such as Jersey, where a copy of a service provider's terms of business must be provided to clients, but there are no strict formalities in how that is delivered or evidenced. By way of example, in such jurisdictions, the terms could be disclosed online. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion A Regulated Person must enter written terms of business into an agreement with Clients for whom they have agreed to act. 26. Section 12.2 It is expected that at all times, mutually agreed terms are aptly confirmed in writing with the Client, including the instructions In line with our submissions above, it is important that Cayman Islands-based TCSPs are able to deliver services to sophisticated international clients in a manner that aligns with modern business The Authority has revised the SOG for clarity. Section 12.2 amended to read as follows: It is expected that at all times, mutually agreed terms are appropriately documented, recorded and aptly confirmed in writing, whether physical or electronically (for example , Page 26 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure received, the authority granted, and the capacity and scope of discretion, if any, within which the Regulated Person will act for its Client. standards/practices, including in competitor jurisdictions, and widely understood contract law principles. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion It is expected that at all times, mutually agreed accepted terms are appropriately documented and recorded, whether aptly confirmed in writing, by electronic means, or by acceptance through use of services by with the Client (including, amongst other matters, the instructions received, the authorities y granted, and the capacity and scope of discretion, if any, within which the Regulated Person will act in the provision of its services for its Client). link ), with the Client, including, amongst other matters, the instructions received, the authorities granted, and the capacity and scope of discretion, if any, within which the Regulated Person will act in the provision of its services for its Client. 27. Section 12.3 A Regulated Person should be able to demonstrate that adequate disclosure of the main risks and the relevant terms and conditions was made to its Clients to enable them to make informed The key policy objective should be to ensure that there is disclosure of terms by way of making the "terms of business document" available to Clients. Terms of service are not negotiated in each instance. Many users of the jurisdiction establish and operate a significant number of Cayman The Authority has revised Section 12.3 for clarity. Section 12.3 amended to read as follows : A Regulated Person should be able to demonstrate that adequate disclosure of the main risks and the relevant terms and conditions was made to its Clients to enable them to make informed decisions before accepting and committing to the negotiated terms of business and Page 27 of 33 No. Section Comments Authority's Response Consequent Amendments to the Proposed Measure decisions before committing to the negotiated terms of business. Islands registered entities and are familiar with the arrangements in place with their

corporate services provider. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestions A Regulated Person should be able to demonstrate that adequate disclosure of the main risks and the relevant terms and conditions was made to its Clients to enable them to make informed decisions before accepting committing to the negotiated terms of business and provision of services. The terms of business document may be disclosed by way of hard copy, electronic copy or record or electronic link (including by posting such terms to the Client page of a Regulated Person's website for acceptance). provision of services. The terms of business document may be disclosed by way of hard copy, electronic copy, record or retrievable electronic link. 28. Section 12.4 The Authority expects a Regulated

Person to confirm the services it provides in a contract, agreement or other written form setting out This requirement is outdated for reasons described above. As noted, the key policy objective should be to ensure that there is disclosure of terms by way of making the "terms of business document" available to The Authority has no objection to the suggested revision. Section 12.4 amended to read as follows : The Authority expects a Regulated Person to be able to provide appropriate records that evidence the provision to Clients of documented terms of Page 28 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure its general and specific terms associated with providing those services, including evidence of the Client s agreement to those terms. Clients. The existence of an agreement should be governed by long-standing and well- established common law contract law principles. The suggested amendment seeks to address this point and provide clarity. Drafting Suggestion The Authority expects a Regulated Person to be able to provide appropriate records that evidence the provision to Clients of documented terms of business for the services that they provide. confirm the services it provides in a contract, agreement or other written form setting out its general and specific terms associated with providing those services, including evidence of the Client s agreement to those terms. business for the services that they provide. confirm the services it provides in a contract, agreement or other written form setting out its general and specific terms associated with providing those services, including evidence of the Client s agreement to those terms. 29. Rule 12.7

Any special or non- standard fee arrangement must be established in writing. Fee arrangements can be legitimately documented in a number of different ways in line with modern business practices. The suggested amendment seeks to address this point and provide suitable flexibility whilst The Authority has no objection to the suggested revision. Rule 12.7 amended to read as follows : Any special or non-standard fee arrangement must be documented between the Client and the Regulated Person. established in writing. Page 29 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure maintaining the underlying policy rationale. Drafting Suggestion Any special or non-standard fee arrangement must be documented between the parties. established in writing. 30. Rule 12.8 Where a Regulated Person acts as a nominee shareholder to hold shares on behalf of another for the beneficial owner of a Client structure, the Regulated Person must ensure that there is a written nominee agreement. We assume that the intention of Rule 12.8 is that all nominee shareholdings be the subject of a written nominee agreement, which the use of the term beneficial owner (which carries a specific meaning in the reg/AML regime) may confuse. The proposed amendment provides

clarity. Drafting Suggestion Where a Regulated Person acts as a nominee shareholder to hold shares on behalf of another for the beneficial owner on f a client structure, the Regulated Person must ensure there is a written nominee agreement. The Authority has no objection to the suggested revision. Rule 12.8, amended to read as follows: Where a Regulated Person acts as a nominee shareholder to hold shares on behalf of another for the beneficial owner on f a client structure, the Regulated Person must ensure that there is a written agreement reflecting nominee agreement. 31. Section 12.9 A nominee agreement can be considered to be a document that clearly identifies the beneficial As currently drafted, the clause 12.9 language (using the words "can be considered") appears permissive rather than obligatory. The Authority has no objection to the suggested revision. Section 12.9 updated as detailed below: Rule 12.9 The nominee agreement can be considered to be a document that Page 30 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure owner and all appropriate nominee information to the service that is being provided; and a copy of which should be retained in its records. In an effort to bring obligations more in line with requirements under the revised FATF Rec. 24.13, CMRAI may wish to mandate that certain requirements of a nominee agreement are mandatory. This should include the identity of the nominator and the ultimate beneficial owner (if not the same person as the nominator) on whose behalf the nominee acts. The Regulated Person should also be required to verify the identity of the nominator and retain the verification documents obtained. Thus consideration should be given to making 12.9 a Rule. must clearly identifies identify the nominator and the ultimate beneficial owner and all the appropriate nominee information to the service that is being provided; and a copy of which should must be retained as a part of it s records of the Regulated Person. 32. Section 12 Terms of Business TCSPs (and other licensees) interact with the Registrar of Companies to execute various corporate actions, to provide registered office services and to file beneficial ownership information. It would be useful for CMRAI to require the disclosure, both to CMRAI and the Registrar, of the reason why a TCSP has resigned or removed itself from providing registered office/ corporate services to a particular entity. The Authority has no objection to the suggested amendment. The Authority has updated Rule 12.10 and Section 12.11 as detailed below: Rule 12.10 Subject to Rule 12.5 (e), prior to termination of a relationship with a Client or transfer of services, a Regulated Person, must notify the Authority of the following, in writing within 14 business days: a) the reasons to resign or remove itself from providing the business of company management and trust business to a Client. Page 31 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure b) any other material changes that may affect the Regulated Person s: I. registration with the Registrar of Companies; II. license with the Authority; or III. fulfilment of fiduciary and regulatory obligations. This notification must include details of the steps the Regulated Person has taken or intends to take to address the change. Section 12.11. The Authority expects a Regulated Person to remain compliant with all record-keeping obligations pursuant to applicable regulatory or other Acts (including the MAA and the Anti- Money Laundering Regulations ). Accordingly, the Authority may require a Regulated Person to provide records even after the termination of a relationship with a Client. 33. Section 13.1 (a) (i) Where a holder of Companies Management Licence is acting as or fulfilling the function of or

See comments above at Rule 6.13 The suggested amendment seeks to address this point and provide clarity. For clarity, the Authority expects directors and senior management to ensure compliance with relevant legislation within the Cayman Islands and in the Jurisdictions where Clients assets are Section 13.1 (a) (i) amended to read as follows : Where a holder of Companies Management Licence is acting as or fulfilling the function of or arranging for Page 32 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure arranging for another person to act as or fulfil the function of a director or alternate director of a company, the holder of Companies Management Licence: a) where it acts or arranges for another to act: i. should take reasonable steps to ensure that those persons acting as directors understand their obligations under the relevant Acts, including those Acts of the jurisdiction(s) that are applicable to services requested by the Client; Drafting Suggestion should take reasonable steps to ensure that those persons acting as directors understand their obligations under the relevant Acts, including those Acts of the jurisdiction(s) that are applicable to services requested by the Client; held. The Authority has revised section 13.1 to provide further guidance. another person to act as or fulfil the function of a director or alternate director of a company, the holder of Companies Management Licence: a) where it acts or arranges for another to act: i. should take reasonable steps to ensure that those persons acting as directors understand their obligations under the relevant Acts, including those Acts laws of the jurisdiction(s) that are applicable to services requested by the Client; 34. Section 13 Directorship Services As in the case of the nominee shareholder above, and in an effort to bring obligations more in line with requirements under the revised FATF Rec. 24.13, CMRAI may wish to consider whether a written agreement should be mandated for arrangements for another person to act as or fulfil the role of a director/alternate director of a company. Consider further whether the identity of the person arranging for director services and the ultimate The Authority has no objection to the suggested revision. Rule 13.1 (a) (iv), updated to read as follows: iv. must have appropriate policies and procedures to properly document arrangements for another person to act as or fulfil; the role of a director /alternate director of a company. Such arrangements must identify the person arranging for director services and the ultimate beneficial owner ; and a copy of which must be retained in the Regulated Person s records. Page 33 of 33 No. Section Comments Authority s Response Consequent Amendments to the Proposed Measure beneficial owner (if not the same person) should be identified in that written agreement and whether verification information should be obtained and retained 35. Section 14.7 A Regulated Person should confirm to the complainant in writing when a Complaint has been closed. If a Regulated Person concludes that it is not upholding a Complaint, it should communicate this to the complainant in writing, clearly stating the reason(s) for its decision. CMRAI may wish to consider whether there should be an obligation for a Regulated Person to provide information as to the escalation of a complaint when such a complainant is not satisfied? The Authority can and does already require this kind of information relating to complaints under its existing powers as and when the Authority deems such information necessary for its supervisory mandate. For further guidance, the Authority has revised Section 14.7. Section 14.7, revised to read as follows: A Regulated Person should confirm to the complainant in writing when a Complaint has been closed. If a Regulated Person concludes that it is not



upholding a Complaint, it should communicate this to the complainant in writing, clearly stating the reason(s) for its decision and inform the complainant that he/she has the option to escalate the matter to the Authority or Ombudsman of the Cayman Islands.