



BERMUDA MONETARY AUTHORITY

CORPORATE SERVICE PROVIDERS BUSINESS ACT 2012

STATEMENT OF PRINCIPLES

DECEMBER 2012

DRAFT

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PURSUANT TO SECTION 6 of the CORPORATE SERVICE PROVIDERS BUSINESS ACT 2012

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INTRODUCTION

This Statement of Principles (“the Principles”) is made pursuant to section 6 of the Corporate Service Providers Business Act 2012 (“the Act”) which requires the Bermuda Monetary Authority (“the Authority”) to publish in such manner as it thinks fit a statement of principles in accordance with which it is acting or proposing to act:

- a. in interpreting the minimum criteria specified in the First Schedule to the Act and the grounds for revocation specified in section 15;
- b. in exercising its power to grant, revoke or restrict a licence;
- c. in exercising its power to obtain information, reports and to require production of documents; and
- d. in exercising other enforcement powers

The Principles are of general application, and seek to take account of the wide diversity of undertakings that may be licensed under the Act and of the prospect of institutional and market changes. Notwithstanding, there is likely to be a need for the Principles to be revised and developed over time. If the Authority makes a material change in the Principles, section 6(2) of the Act provides that the change is to be published or a revised version of the Principles issued. The Principles should be read in conjunction with the Guidance Notes which are issued pursuant to section 6(3) of the Act and which prescribes certain standards for the effective control of business by licensed undertakings and for the fair treatment of their clients.

This document is also to be read in conjunction with the Statement of Principles on the Use of Enforcement Powers (‘SPUEP’). The SPUEP, also made pursuant to section 6 of the Act, sets out the principles in accordance with which the Authority acts or proposes to act in exercising its power to revoke or restrict a licence. In relation to enforcement activities where there are any differences between the SPUEP and the Principles, then the content of the SPUEP will prevail.

Comments from members of the public and other interested parties on the proposals in this paper are invited no later than 31st January 2013. Responses should be sent to Tamara Anfossi at tanfossi@bma.bm.

PART 1 EXPLANATION FOR THE STATEMENT OF PRINCIPLES

- 1.1 The Principles, along with the SPUEP, are relevant to the Authority’s decisions on whether to license an undertaking (company, partnership or individual) or to revoke or restrict a licence once granted. The Authority’s interpretation of the minimum licensing criteria in the First Schedule and of the grounds for revocation in section 15 of the Act, together with the principles underlying the exercise of its powers, encapsulate the main standards and considerations to which the Authority has regard to in conducting its supervision of corporate service providers (“CSPs”). The functions of CSP supervision include monitoring the on going compliance of undertakings with these standards and verifying compliance with the obligations imposed under the Act, the policies and procedures of the undertaking and compliance with external obligations, for example the Companies Act 1981 (“the

Companies Act”) and the Proceeds of Crime Act 1997 and the Regulations made thereunder.

- 1.2 If there are concerns, the Authority will consider what steps should be taken to address the issue and where appropriate, it will seek remedial action by persuasion and encouragement. Where persuasion and encouragement fail, the Authority may look to stronger measures to ensure compliance. If the Authority considers that its powers should be exercised in the public interest, it may utilise the various powers provided in the Act including the imposition of restrictions on a licence and, ultimately, revocation of a licence.
- 1.3 The Principles include references to various policy and guidance papers issued from time to time. Copies of the relevant material are available from the Authority’s website: www.bma.bm.
- 1.4 Part 2 of the Principles considers the interpretation of each of the licensing criteria in the First Schedule to the Act. Part 3 sets out the considerations relevant to the Authority’s exercise of its discretion to grant a licence. Part 4 sets out the principles underlying the exercise of the Authority’s power to obtain information and reports and to require the production of documents.
- 1.5 The SPUEP sets out the interpretation of the various grounds for the revocation of a licence in section 15 of the Act and the principles underlying the exercise of the Authority’s discretion to revoke or impose restrictions on a licence (sections 14 and 15 of the Act) and to intervene in emergency situations (section 18).
- 1.6 It is most likely that where the Authority’s powers to restrict or revoke a licence are used that this will be in the context of the enforcement process. The possibility remains that these powers may be used in a supervisory context (e.g. to impose additional reporting requirements or where an institution ceases operations or conducts limited scope business). These powers might also be used in such a manner as to protect the interests of the public, in the context of an external threat unconnected with the institution’s conduct.
- 1.7 Undertakings should be aware that in October 2010 the Authority published a separate Statement of Principles describing how it would use its powers under the Proceeds of Crime Act 1997 and the Regulations made thereunder.

PART 2 FIRST SCHEDULE: MINIMUM CRITERIA FOR LICENSING

2.1 *Introduction*

- 2.1.a Before an undertaking may be granted a licence, the Authority has to be satisfied that all the criteria in the First Schedule to the Act are or are capable of being fulfilled by the applicant. Once licensed, all undertakings are subject to the Authority’s continuing supervision and regulation. Undertakings are required to

submit, at intervals determined by the Authority, financial and other information about their business. The criteria are to be met on a continuing basis. Where an undertaking fails to meet the criterion, the Authority can and may take action in accordance with the powers vested under this Act as detailed in SPUEP.

- 2.1.b While the Act sets out in broad terms the criteria which must be fulfilled by undertakings, these criteria are interpreted and applied in the context of the particular circumstances of individual undertakings, and developments in the sector generally. In addition to reviewing the periodic, annual and other reporting data received from undertakings, the Authority's supervision involves detailed prudential discussions with undertakings' senior management on a regular basis. The Authority determines the frequency of those discussions. Meetings may take place either at the Authority's offices or at the undertaking's own premises. In addition, compliance visits are routinely made to the premises of undertakings to add to the Authority's understanding of the licensee's management structures, operations, policies and controls and to assist it in satisfying itself that each undertaking continues to conduct its business prudently and in accordance with all relevant criteria. Where an undertaking becomes aware of breaches or potential breaches, it is expected that the undertaking will alert the Authority forthwith so that any necessary remedial action can quickly be agreed. Similarly, the undertaking must alert the Authority to any proposed material change in its business, to enable any implications for the fulfillment of the minimum criteria to be assessed.

This part of the Principles sets out the Authority's interpretation of the statutory licensing criteria.

2.2 *First Schedule Paragraph 1: "Controllers and officers, to be fit and proper persons"*

- 2.2.a This paragraph provides that every person who is or is to be a controller or officer (as defined in the Interpretation Section of the Act to be a director, secretary or senior executive) of an undertaking is to be a fit and proper person to perform functions in relation to any activity carried on by the undertaking. With regard to an individual who is, or is to be, a controller or officer the relevant considerations include whether the person has relevant experience, sufficient skills, knowledge, and soundness of judgment to undertake and fulfil their particular duties and responsibilities. The standards required of persons in these respects will vary considerably, depending on the precise position held by the person concerned. Thus, a person could be fit and proper for one position but not be fit and proper for a position involving different responsibilities and duties. The diligence with which the person is fulfilling or is likely to fulfil those duties and responsibilities is also considered, so that the Authority can assess whether the person does or will devote sufficient time and attention to them. In addition, the Authority needs to consider the extent to which conflicts of interest exist or may arise between the undertaking and a controller or officer, and be satisfied that any unavoidable conflicts will be appropriately dealt with in directing the undertaking's affairs. Undertakings are expected to notify the Authority immediately if it

becomes aware of material information affecting the fitness of any person subject to vetting by the Authority.

- 2.2.b The Authority sees the standards as being particularly high in the case of those persons with primary responsibility for the conduct of an undertaking's affairs, taking into account the nature and scale of the undertaking's business.
- 2.2.c In assessing whether a person has the relevant competence, soundness of judgment and diligence, the Authority considers whether the person has had experience of similar responsibilities previously, the record in fulfilling them and, where appropriate, whether the person has appropriate qualifications and training. As to soundness of judgment, the Authority looks to the person's previous conduct and decision-taking.
- 2.2.d The probity of the person concerned is very important. It is essential that a person with responsibility for the conduct of CSP business is of high integrity. In contrast to the fitness elements of this criterion which reflects an individual judgment relating to the particular position that the person holds or is to hold, the judgment of probity reflects much more of a common standard, applicable irrespective of the particular position held.
- 2.2.e Specifically, the Authority takes into account the person's reputation and character. It considers, inter alia, whether the person has a criminal record, convictions for fraud or other dishonesty would clearly be particularly relevant. The Authority also gives particular weight to whether the person has contravened any provision of trust, banking, insurance, investment or other legislation designed to protect members of the public against financial loss, due to dishonesty, incompetence or malpractice. In addition, it considers whether the person has been involved in any business practices appearing to the Authority to be deceitful or oppressive or improper or which otherwise reflect discredit on his or her method of conducting business. In addition to compliance with statutory provisions, the Authority also considers a person's record of compliance with various non-statutory codes in so far as they may be relevant to the licensing criteria and to the public interest.
- 2.2.f The Authority also takes into consideration whether the person has been censured or disqualified by professional or regulatory bodies, e.g. Institute of Chartered Secretaries and Administrators, Society of Trust and Estate Practitioners, Bermuda Bar Association, Institute of Chartered Accountants of Bermuda, Bermuda Stock Exchange, Association for Investment Management and Research or corresponding bodies in other jurisdictions. Those who have been censured or disqualified are unlikely to be acceptable.
- 2.2.g While any evidence of relevant past misconduct needs to be taken into consideration, the Authority recognises that lapse of time, and a person's subsequent conduct, are factors which may be relevant in assessing whether the person is now fit and proper for a particular position.

2.2.h Once an undertaking is licensed, the Authority has continuing regard to the performance of the person in exercising his or her duties. Imprudence in the conduct of an undertaking's business, or actions which have threatened (without necessarily having damaged) the public interest will reflect adversely on the competence and soundness of judgment of those responsible. Similarly, failure by an undertaking to conduct its business with integrity and professional skills will reflect adversely on the probity and/or competence and/or soundness of judgment of those responsible. This applies whether the matters of concern have arisen from the way the persons responsible have acted or from their failure to act in an appropriate manner. The Authority takes a cumulative approach in assessing the significance of such actions or omissions – that is, it may determine that a person does not fulfil the criterion on the basis of several instances of such conduct which, if taken individually, may not lead to that conclusion.

2.3 *Shareholder Controllers*

2.3.a Shareholder controllers, as defined by sections 3(4) and 3(5) of the Act to hold 10 per cent or more of the shares in an undertaking, may hold a wide variety of positions in relation to an undertaking, and the application of the fit and proper criterion takes account of this. The key consideration is the likely or actual impact on the interests of clients and potential clients of a person holding the particular position as controller. This is viewed in the context of the circumstances of the individual case, and of the particular position held. The general presumption is that the greater the influence on the undertaking the higher the threshold will be for the controller to fulfil the criterion. Thus, for example, higher standards will generally be required of a shareholder controller owning, say, 20 per cent or more of the shares of an institution compared with a shareholder controller owning 10 per cent.

2.3.b In considering the application of the criterion to shareholder controllers or persons proposing to become such controllers, the Authority has regard to two main considerations.

2.3.c First, it considers what influence the person has or is likely to have on the conduct of the affairs of the undertaking. If the person does, or is likely to, exercise a close control over the business, the Authority would look for evidence that he has the probity and soundness of judgment and relevant knowledge and skills for running an undertaking. On the other hand, if the shareholder does not, or is not likely to, influence the directors and management of the undertaking in relation to the detailed conduct of the business, it would not be necessary to require such a level of relevant qualities and experience. The Authority also has regard in this context to whether there could be conflicts of interest arising from the influence of the shareholder on the undertakings. This could, for example, arise from the closeness of his links with another company, where shareholders, controllers and board members of CSPs are co-investing with, lending to and borrowing from both clients directly and client entities for which they are responsible. The Authority expects at

a minimum that such conflicts or potential conflict of arrangements are properly recognised, recorded and managed.

- 2.3.d The second consideration is whether the financial position, reputation or conduct of the shareholder controller or prospective shareholder controller has damaged or is likely to damage the undertaking through ‘contagion’ which undermines confidence in that undertaking. For example, if a holding company, or a major shareholder, were to suffer financial problems it could damage confidence of clients or potential clients in the stability or financial integrity of the licensed undertaking. Generally, the higher the shareholding the greater the risk of ‘contagion’ if the shareholder encounters financial difficulties. The risk of contagion is not, however, confined to financial weakness. Publicity about illegal or unethical conduct by a holding company or another member of the group may also damage confidence in the undertaking. Undertakings are expected to notify the Authority immediately in the event that they become aware of material concerns regarding the suitability of a major shareholder.
- 2.3.e In the case of a controller who ‘directs’ or ‘instructs’ a shareholder controller similar considerations apply to those relevant to assessing the fulfilment of the criterion in relation to shareholder controllers. In other words, the standards that an indirect controller needs to satisfy are likely to be at the minimum the standards also required of the person who is indirectly controlled.
- 2.3.f Where a person is a controller by virtue of ‘directing’ or ‘instructing’ the board of an undertaking, the standards required are high. The controller has to have the probity and relevant knowledge, experience, skills and diligence for running an undertaking. The qualities required are those which are also appropriate for the board of directors of an undertaking.

2.4 *First Schedule Paragraph 2: “composition of board of directors”*

- 2.4.a This paragraph provides that, in the case of a company, the directors include such number (if any) of non-executive directors, as the Authority considers appropriate. The number will depend on the circumstances of the undertaking and the nature, size, complexity and risk profile of the undertaking.
- 2.4.b The Authority considers that non-executive directors can play a valuable role in bringing an outsider’s independent perspective to the running of the business and in ensuring proper challenge to the executive directors and other management. The Authority sees non-executive directors as having, in particular, an important role as members of an undertaking’s audit committee or in performing the role which such a committee would otherwise perform.
- 2.4.c In assessing the composition of the board of directors of a CSP, the Authority expects that there will be an appropriate balance of skilled, experienced and qualified

individuals who can apply informed and independent judgment in managing the affairs of the CSP. The composition and effectiveness of the board, in ensuring that all decisions are made in the best interest of the company, lies at the heart of good corporate governance. The Authority recognises that standards of good corporate governance may differ between CSPs according to the size and complexity of the providers' respective business. At a minimum the Authority expects there to be qualified individuals appointed to the board who can apply informed and independent judgment to the overall governance of the CSP.

2.5 *First Schedule Paragraph 3: "business to be conducted in a prudent manner"*

2.5a Sub-paragraphs 1 and 5 of the First Schedule to the Act makes it clear that there is a general requirement for undertakings to conduct their business in a prudent manner. It is the overall responsibility of the board and senior management of an institution to ensure that there is effective control over the entire business and that it is conducted prudently. Board and senior management must understand the underlying risks in the business and be committed to a robust control environment.

2.5b Sub-paragraphs 2 to 4 set out a number of specific requirements in that regard, each of which must be fulfilled before an undertaking may be regarded as conducting its business in a prudent manner in terms of the paragraph.

2.5c However, the Act also makes it clear that the specific requirements outlined in sub-paragraphs 2 to 4 are not exhaustive. Accordingly the Authority takes into account a range of other considerations in assessing whether an undertaking is prudently run. These include for example, the undertaking's management and corporate governance arrangements (such as, in the case of a company, the composition of the board of directors and the arrangements for the board's overall control and direction of the institution); the undertaking's general strategy and objectives; AML/ATF policies and procedures; pre-vetting processes and policies designed to address the risks inherent in the introduction of entities and individuals to Bermuda's corporate environment; planning arrangements; policies on accounting, collections and bad debt; ability to maintain adequate liquidity to meet its obligations as they fall due; and recruitment arrangements and training to ensure that the undertaking has an adequate number of experienced and skilled staff in order to carry out its various activities in a prudent manner. Particularly close attention is also paid to the arrangements in place for preventing and detecting criminal activities, and for ensuring compliance with the institution's legal obligations in preventing money laundering and terrorist financing. The Authority would also expect an undertaking to occupy premises suitable for the purpose of conducting its business.

2.5d In assessing whether a CSP is carrying on business prudently, the Authority shall take into account not only compliance with the provisions of the Act but also all other applicable Bermuda law, including the Companies Act 1981, the Proceeds of

Crime Act 1997 and the Regulations made thereunder.

- 2.5e Failure by the CSP to comply with relevant laws in foreign jurisdictions in which the institution or its subsidiaries operate may also affect the Authority's assessment of prudent conduct.
- 2.5f A CSP's failure to comply with international sanctions in force in Bermuda will also be taken into account in the Authority's assessment of prudent conduct. The Authority will consider compliance with regulations made under the International Sanctions Act 2003, relevant orders made under the Anti-Terrorism (Financial and Other Measures) Act 2004 and any other applicable sanctions in force in Bermuda.
- 2.5g The Act does not purport to affect or alter the provisions of the Companies Act. Where a licensed undertaking provides corporate secretarial or administrative services to any Bermuda regulated company, the Authority expects that the licensed undertaking has a responsibility to ensure that the Company's obligation under the Companies Act are fully met and satisfied. Failure to meet the obligations under the Companies Act would be viewed as the failure to conduct the CSP business in a proper and prudent manner
- 2.6 *First Schedule Paragraph 3(3) and 3(4): "adequate accounting and record-keeping systems"***
- 2.6a The Authority does not regard an undertaking's records and systems as adequate unless they are such as to enable its business to be prudently managed and the undertaking to comply with the duties imposed on it by or under the Act. In other words, the records and systems must be such that the undertaking is able to fulfil the various other elements of the prudent conduct criterion, and to identify threats to the public interest. They should also be sufficient to enable the undertaking to comply with the notification and reporting requirements under the Act. Thus, delays in providing information, or inaccuracies in the information provided, will call into question the fulfilment of the requirement of sub-paragraphs 3(3) and 3(4). In addition those systems should be able to ensure the various obligations assumed in respect of clients under the Companies Act are fully complied with.
- 2.6b The nature and scope of the particular records and systems which an undertaking should maintain should be commensurate with its needs and particular circumstances, so that its business can be conducted without endangering its clients and potential clients. In judging whether an undertaking's records and systems are adequate, the Authority has regard to its size, to the nature of its business, to the manner in which the business is structured, organised and managed, and to the nature, volume and complexity of its relationships with its clients.

2.7 *First Schedule Paragraph 4: "integrity and skill"*

- 2.7a This paragraph is concerned with the manner in which the business of the licensed

undertaking is carried on and is distinct from the question of whether its controllers and officers are fit and proper persons. It covers whether the undertaking has sufficient personnel with professional skills appropriate to the nature and scale of the business concerned and with adequate knowledge, skill and experience necessary for the prudent management and conduct of the business.

- 2.7b The integrity element of the criterion requires the undertaking to observe high ethical standards in carrying on its business. Criminal offences or other breaches of statute will obviously call into question the fulfilment of this criterion. Particularly relevant are contraventions of any provision made by or under enactments, whether in Bermuda or elsewhere, designed to protect members of the public against financial loss due to dishonesty, incompetence or malpractice. Doubts may also be raised if the undertaking fails to comply with recognized ethical standards such as those embodied in various codes of conduct. The Authority has regard to the seriousness of the breach of the code, to whether the breach was deliberate or an unintentional and unusual occurrence, and to its relevance to the fulfilment of the criteria in the First Schedule and otherwise to the interests of clients and potential clients.
- 2.7c Professional skills cover the general skills which the undertaking should have in place for the effective conducting of its business, for example, in relation to the provider responsibilities, establishing and operating systems of internal controls, and ensuring compliance with legal and supervisory requirements. The level of skills required will vary according to the individual CSP, depending on the nature and scale of the particular undertaking's activities. Undertakings are expected at a minimum to be in compliance with their respective industry standards in relation to CSPs, where such standards exist. This will assist in ensuring that business is carried out in conformance with the professional standards normally expected of a CSP.
- 2.7d The Authority would expect CSP undertakings to have a number of employees sufficient to carry out the range and scale of the business. The Authority, in determining whether an undertaking has sufficient personnel, will take into account the human resources that the undertaking may draw upon through other arrangements, e.g. outsourcing, secondments, or other similar arrangements as well as the methods of recruitment to ensure that the licensee employs an adequate number of persons who are fit and proper to perform the duties for which they are employed.

2.8 *First Schedule Paragraph 5 "Reputation of Bermuda"*

- 2.8a The requirements imposed by the sub-paragraphs apply only in terms of the creation of corporate and partnership vehicles in Bermuda and subsequent transfer of shares in client companies. It is not possible to identify with any precision the kind of activity or kind of person who is liable to bring the reputation of Bermuda into disrepute. The matter will need to be evaluated by each undertaking on a case by case basis. Clearly this is an area where a risk-based approach may be justified however it needs to be emphasised that the Authority would view any failure in this

obligation with utmost gravity. The board is ultimately responsible for overall risk management. The Authority would expect licensed undertakings to engage, appoint or designate at management level an individual or individuals that are qualified and skilled at assisting the board in managing risk. This individual or individuals must demonstrate a sound understanding of risk and be able to exercise sound judgment. In so doing this person would be responsible for ensuring that the licensed undertaking has developed, implemented, and monitors the effectiveness of the risk related internal controls. Where appropriate the board should obtain independent testing and reporting on the effectiveness of the risk management process and controls. This can be achieved through internal audit examinations, external auditors, specialist consultants or other qualified parties that are not involved with the implementation or operation of the CSP's risk programme. Such assessments should be periodic but on going and reported to senior management and the board. Undertakings are expected to develop and implement policies and procedures to address these obligations, for instance the mitigation of reputational risk, anti-money laundering and anti-terrorist financing risk, etc. The mere existence of policies and procedures does not address the full obligations of the undertaking of this requirement. The board and senior management must create a culture of compliance ensuring staff adheres to the CSP's policies, procedures and controls which have been designed to limit and control the risks that the CSP faces and the risks to the jurisdiction.

- 2.8b It needs to be understood that the obligations in paragraph 5(1) of the Act are independent of and separate to the obligation in respect of money laundering or terrorist financing which also are subject to regulation and supervision.

PART 3 PRINCIPLES RELATING TO THE GRANTING OF LICENCES

- 3.1 To grant a licence under the Act, the Authority needs to be satisfied that all the minimum licensing criteria in the First Schedule are met. In order to be so satisfied, the applicant and any other relevant parties must first have provided all the appropriate information requested by the Authority in connection with the application. Even where it is satisfied that the criteria are or can be met, the Authority retains a residual discretion not to grant a licence – notably if it sees reason to doubt that the criteria will be met on a continuing basis or if it considers that for any reason there might be significant threats to the public interest or the interests of clients or potential clients. The Authority also considers, in exercising its discretion, whether it is likely that it will receive adequate information from the undertaking and relevant connected parties in order to enable it to monitor the fulfilment of the criteria and to identify potential threats to the undertaking's clients.
- 3.2 Section 36 provides for appeals to appeal tribunals against decisions of the Authority to the refusal of an application for a licence in addition to restricting or revoking a licence as addressed below in Part 4. Appeals against the decisions of the tribunal lie to the Supreme Court on questions of law only.

PART 4 POWERS TO OBTAIN INFORMATION AND REPORTS

- 4.1 The Authority's supervisory arrangements for licensed undertakings comprise three principal elements. First, the Authority conducts certain off-site analysis and reviews, based on regular financial and other data received from undertakings. This is supplemented by a regular programme of prudential discussions, during which the Authority interviews senior management on a wide range of relevant issues, including recent and current financial performance, material compliance and control issues, business development and strategy questions. Finally, the Authority conducts routine on-site reviews during which it assesses an undertaking's on going compliance with aspects of the licensing criteria and, in particular, with paragraph 3(2) of the First Schedule to the Act. These reviews of compliance are intended to provide insight into the effectiveness of the internal controls in place and the ability of management to identify, monitor and manage key risks arising from the undertaking's operations.
- 4.2 Prudential supervision involves the receipt and analysis of a variety of regular and ad hoc financial and other information from undertakings. The Authority's standard reporting arrangements are kept under review and amended from time to time in the light of developments.
- 4.3 Much of the information required by the Authority for its supervision of undertakings is provided pursuant to the Authority's statutory powers in the Act to require relevant information and documents. In addition, the Act stipulates certain matters as being subject to specific statutory reporting requirements – notably, for example, the requirement for an undertaking to submit a certificate of compliance, signed by an officer, certifying that the undertaking has complied with the minimum criteria (see section 46).
- 4.4 Section 47 of the Act provides formal powers for the Authority by notice in writing to require from an undertaking such information as it may reasonably require for the performance of its functions under the Act. The section also provides for the Authority to require an undertaking to provide it with a report by its auditor or by an accountant or other person with relevant professional skill on, or on any aspect of, any matter about which the Authority has required or could require the undertaking to provide information under the section. In the case of reports commissioned under section 47(1)(b), the Authority has agreed that they will wherever possible be commissioned from an undertaking's own external auditors. However, in certain circumstances, another professional firm may be used. This would be the case, for example, where a report called for particular technical skills or when the Authority has had previous concerns about the quality or completeness of work conducted by the external auditor.
- 4.5 The Authority has also agreed that, as a general rule, it will limit the extent to which it will have recourse to professional reports of this nature. Instead, its general policy is to use its own staff to assess directly through the on-site work described

above the adequacy of an undertaking's systems and controls. Nonetheless, where particularly specialised work is required or other special considerations arise, the Authority may have recourse to commissioning a professional report under section 47 of the Act.

- 4.6 Section 48 of the Act provides statutory powers for the Authority by notice in writing to require an undertaking to produce relevant documents or information. This power can also be used to obtain relevant documents in the possession of other persons; and also to require information or documents from entities related to an undertaking. Section 49 of the Act provides the Authority with specific powers to enter the business premises of persons on whom notice under sections 47 or 48 has been served for the purpose of obtaining relevant information or documents. The Authority makes routine use of section 47 and section 48 powers when conducting its on-site review visits to licence-holders, in order to deal with any client confidentiality issues that might arise in the course of compliance-testing.

PART 5 CONCLUSION

- 5.1 The Principles set out in this statement are of general application, and take account of the wide diversity of undertakings which may be licensed under the Act and of the prospect of institutional and market changes. Nevertheless, there is likely to be a need for the Principles to be revised from time to time. The Authority will publish a statement of any changes to the Principles and will issue revised versions of the Principles when there have been significant developments in its approach.