



16 December 2019

Dear Stakeholders,

**Re: Consultation Paper: Proposed revisions to the Code of Practice (the Code) and Statement of Principles for the Corporate Service Provider Business Act 2012**

The Bermuda Monetary Authority (the Authority) would like to thank industry participants for their continued engagement as the Authority develops its regulatory framework for Corporate Service Providers (CSPs). The Authority appreciates the feedback received, and is committed to ensuring Bermuda's regulatory regime is effective and aligned with evolving international standards.

**RESPONSE TO INDUSTRY FEEDBACK**

The Authority's responses to the **key substantive comments** received are outlined below.

***Code of Practice: Prompt and Timely Execution***

A respondent raised concern regarding the Authority's expectation on the licenced CSP to obtain consents and approvals on behalf of clients in a timely manner.

*Response:* The Authority will continue to use reasonable judgement in assessing how a licenced CSP deals with matters within its control in an effective and timely manner.

***Code of Practice: Client Due Diligence***

A respondent raised concern regarding the Authority's expectation on the licenced CSP to (1) verify the client's source of funds, and (2) understand the client's corporate vehicles and structures.

*Response:* The Authority does not consider it appropriate to establish a minimum threshold for the verification of the source of funds. The licenced CSP is expected to take a risk-based approach in verifying funds in accordance with the Proceeds of Crime (AML/ATF) Regulations 2008, the 2016 AML/ATF Guidance Notes and the Annex VI: Sector-specific guidance notes for CSPs.

The Authority expects that licenced CSPs should reasonably understand client structures. For further clarity on the Authority's expectations on this matter refer to the 2016 AML/ATF Guidance Notes and the Annex VI: Sector-specific guidance notes for CSPs.

### ***Code of Practice: Adequate Personnel***

A clarification was sought regarding the Authority's testing methodologies in assessing compliance with this subsection of the Code.

*Response:* The Authority's testing procedures are an internal process, and we consider a number of factors when determining adequate personnel. Per the proportionality principle, the Authority will generally assess compliance with this Code in a proportionate manner relative to the licenced CSP's nature, scale and complexity. If the issue is of significant concern, it will be raised during an on-site or prudential meeting and potentially raised as a formal issue requiring action by the licensee.

### ***Code of Practice: Complaint Procedures***

A respondent sought clarification on (1) the Authority's expectation on how the licensee should address complaints and (2) the Authority's testing methodologies in assessing compliance with this requirement.

*Response:* The Authority does not consider the acknowledgement of a complaint to be enough to address a complaint appropriately. The Authority expects for client concerns to be addressed in a manner both reasonable and appropriate to the nature of the complaint. Following an investigation of the complaint, the Authority recognises the appropriate course may be for the CSP not to take action.

The Authority's testing methodologies in assessing compliance with the Code requirements are an internal process. The Authority will assess the CSP's compliance with the Code in a proportionate manner relative to its nature, scale and complexity against the requirements noted in the Code.

### ***Code of Practice: Cooperation with Regulatory Authorities***

A respondent sought clarification regarding (1) the meaning of "significant development in staffing" and (2) the obligation to notify the Authority when testing new technology services.

*Response:* What is considered a significant development in staffing could depend on a variety of factors. This includes, but is not limited to, a change caused by a shift in business strategy or a significant change in the relative staff volume. The Authority expects a licenced CSP to use reasonable judgement to notify the Authority of such events.

The Authority would expect notification regarding new technology if the change has outsourcing implications. Depending on the circumstance, the licensee may need to seek pre-approval per the June 2019 Outsourcing Guidance Note.

The Authority would like to thank stakeholders for their feedback and remains committed to working with industry and other interested parties to ensure results achieved are in the best interests of the Bermuda market.