



# **RULE AND STATEMENT OF GUIDANCE**

## **Recruitment and Selection Standards for Trust and Corporate Service Providers and Company Managers**

**February 2024**



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Recruitment and Selection Standards for Trusts  
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**List of Acronyms**

<b>BTCA</b>	Banks and Trust Companies Act
<b>CIMA</b>	Cayman Islands Monetary Authority
<b>CMA</b>	Companies Management Act
<b>CPD</b>	Continuing Professional Development
<b>GIFCS</b>	Group of International Finance Centre Supervisors
<b>MAA</b>	Monetary Authority Act
<b>RSOG</b>	Rule and Statement of Guidance
<b>SRTC</b>	Standard on the Regulation of Trust and Corporate Service Providers
<b>TCSPs</b>	Trust and Corporate Service Providers

For Consultation



## Rule and Statement of Guidance

### Recruitment and Selection Standards for Trust and Corporate Service Providers and Company Managers

#### 1. Introduction

- 1.1. This document establishes the Cayman Islands Monetary Authority's (the "Authority" or "CIMA") rules and guidance on the recruitment and selection standards for Trust and Corporate Service Providers ("TCSPs") and Company Managers.
- 1.2. The Rule and Statement of Guidance ("RSOG") should be read in conjunction with the applicable regulatory acts and measures.
- 1.3. Where applicable, any Acts referred to in this document include related regulations as amended from time to time.
- 1.4. To highlight the Authority's rules within the compendium, a rule is written in light blue and designated with the letter "R" in the right margin.
- 1.5. This RSOG is not intended to be prescriptive or exhaustive; rather, it sets out the Authority's minimum expectations relating to the recruitment, selection, competence, continuing professional development, and training processes of Regulated Persons.

#### 2. Statutory Authority

- 2.1. This RSOG is consistent with the Authority's statutory objectives as prescribed in Section 34 of the Monetary Authority Act ("MAA"), which provides that the Authority may issue rules, statements of principles, or statements of guidance:  
*"34(1) After private sector consultation and consultation with the Minister charged with responsibility for Financial Services, the Authority may–*
  - (a) *issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory acts may apply;"*
  - (c) *issue or amend rules or statements of principle or guidance to reduce the risk of financial services business being used for money laundering or other criminal purposes."*



### 3. Scope of Application

- 3.1. This RSOG applies to:
- a) Holders of a Trust Licence, Restricted Trust Licence or Nominee Trust Licence that have been issued under the Banks and Trust Companies Act ("BTCA");
  - b) Holders of a Companies Management Licence or Corporate Services Licence that have been issued under the Companies Management Act ("CMA"); and
  - c) Persons licensed under other regulatory acts, that are allowed to engage in corporate services pursuant to the CMA and are engaging in such activities.
- 3.2. The Authority will assess Regulated Persons' compliance with this RSOG in a manner commensurate with the size, complexity, structure, nature of business and risk profile of their operations.
- 3.3. The Authority acknowledges that Regulated Persons that are part of a group may be subject to group-wide market conduct practices, and that such Persons may rely on service providers regarding certain recruitment and selection standards. Where a Regulated Person is part of a group, it may rely on the group market conduct framework provided that the Regulated Persons' Governing Body is satisfied that the framework is commensurate with the size, complexity, structure, nature of business and risk profile of its operations and legal requirements in the Cayman Islands, including those outlined in this RSOG. Where gaps are identified, a tailored recruitment and selection standards framework that complies with the legal requirements in the Cayman Islands is required for Regulated Persons.
- 3.4. In the scope of application of this RSOG, the Authority will also refer to the relevant quantitative information provided by a Regulated Person.

### 4. Definitions

- 4.1. The following definitions are provided for the purpose of this Rule:
- 4.1.1. "**Competence**" relates to the level of a person's professional or formal qualifications, knowledge, skills, and pertinent experience. Competence also includes the appropriateness of a person's level of commitment to perform his/her role and to maintain and enhance knowledge and skills through training and continuing professional development.
  - 4.1.2. "**Continuing Professional Development ("CPD")**" encompasses a wide range of company-developed ongoing training regimes and external non-degree bearing training and development courses offered to professionals with a view to maintain and/or enhance their knowledge and skills.



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- 4.1.3. **“Continuing Professional Development Policy (“CPD Policy”)”** refers to the documented policy developed by a Regulated Person which outlines its expectations for training and continuing professional development of its employees.
- 4.1.4. **“Key Person”** includes a Director, Partner, Money Laundering Reporting Officer or Money Laundering Compliance Officer and Compliance Officer of a TCSP.
- 4.1.5. 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.
- 4.1.6. **“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.
- 4.1.7. **“TCSPs”** refer to those who undertake any one or more of the following activities pursuant to the BTCA or the CMA as applicable:
- a) acting as a Corporate or Partnership formation Agent;
  - b) *acting as (or arranging for another person to act as) a Director, Secretary or Official of a Company or a Partner of a Partnership or as a Foundation Official;*
  - c) providing administration or management of a Trust, Company; Partnership, Foundation or for any other legal person or legal arrangement;
  - d) providing registered office, business address for accommodation, correspondence for administrative address for a Company, Partnership, Foundation or for any other person;
  - e) acting as a Resident Agent for the purposes of meeting requirements to hold beneficial ownership or interest information;
  - f) acting as (or arranging for another person to act as) a Trustee of an Express Trust<sup>3</sup>;
  - g) acting as (or arranging for another person to act as) a Nominee Shareholder for another legal person;
  - h) Persons who act as Executors and Administrators.
  - i) establishing and maintaining beneficial ownership registers on behalf of companies and limited liability companies incorporated or formed in the Islands, offering an information technology solution to those companies and limited liability companies to make extracts of information on the beneficial ownership register searchable by the competent authority established under Part XVIIIA of the *Companies Act (2021 Revision)* and responding to requests from the competent authority about whether a company or a limited liability company or a subsidiary of the same is exempted from the application of that Part or of Part 12 of the *Limited Liability Companies Act (2021 Revision)*



## 5. Recruitment of Key Persons

### 5.1. Recruitment Stage

- 5.1.1. A Regulated Person should establish and maintain appropriate recruitment policies and procedures commensurate with the size, complexity, structure, nature of business and risk profile of its operations that have been approved by senior management and the Governing Body.
- 5.1.2. A Regulated Person should ensure that candidates who are offered employment contracts are competent and fit and proper to perform the role for which they are hired.
- 5.1.3. Recruitment policies and procedures should be reviewed, at least annually, and updated to ensure that they continue to align with business and staffing needs and industry developments.
- 5.1.4. The Authority expects that at a minimum, the recruitment policies and procedures should capture the following to ensure they are appropriate and comprehensive:
  - a) the Regulated Person's overarching and fundamental principles of recruitment and selection;
  - b) the Regulated Person's commitment to fair and transparent recruitment processes;
  - c) an appropriate record of job descriptions for all advertised roles. These job descriptions should provide all candidates with a clear understanding of the role; purpose, accountabilities, and responsibilities, along with the requirements, knowledge, skills, and experience required for the role; and
  - d) include a methodology for assessing the fitness and propriety of candidates offered contracts of employment or functions within the Regulated Persons.
- 5.1.5. Since the candidate's skills, experience and qualifications should meet or exceed the requirements of the role's job description, a Regulated Person should be able to demonstrate that they have considered how a candidate's experience, qualification, knowledge, and skills meet the requirements for the role. In addition, the Regulated Person should be able to demonstrate that they have taken reasonable steps to obtain sufficient information to verify the candidate's relevant experience, qualifications, and training before onboarding the candidate.
- 5.1.6. A Regulated Person should be able to demonstrate that it has assessed and verified candidates' references, membership in professional bodies (if applicable), criminal records, regulatory censure, professional reprimands, sanctions, conflicts of interest, legal proceedings and any other formal censure, discipline, or public criticism at the stage of recruitment.



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5.1.7. A Regulated Person should ensure that its recruitment and selection processes are fair, transparent and in line with the relevant regulatory acts in the Cayman Islands, such as the Labour Act.

5.1.8. A Regulated Person should ensure there is adequate staffing to meet the requirements of the Regulated Person's business plan to support the licence held.

**5.2. Post-Recruitment Supervision of Key Persons**

5.2.1. A Regulated Person should ensure key persons remain competent, fit and proper and able to effectively carry out their roles and responsibilities and that the level of competence is commensurate with the size, complexity, structure, nature of business and risk profile of its operations.

5.2.2. A Regulated Person should annually review the competence, qualifications, knowledge, and skills of their key persons to ensure that their level of competence remains commensurate with the size, complexity, structure, nature of business and risk profile of its operations.

5.2.3 A Regulated Person should consider and assess changes in key persons' performance and behaviour, at least annually, and put measures and controls in place to address any misconduct.

5.2.4 A Regulated Person should ensure that the responsibilities and authority of each key person are clearly documented and communicated.

5.2.5 Job descriptions should be reviewed annually to ensure they are up-to-date, accurate, clear, and helpful to candidates and current key persons.

5.2.6 Reviews should consider any additional skills or qualification needs of key persons who have either entered new roles, or where the roles have changed, or have expanded in scope. Reviews should also consider any changes in the size, complexity, structure, nature of business and risk profile of the Regulated Person's operations.

5.2.7 A Regulated Person should have effective systems and processes to ensure that key persons are appropriately supervised.

5.2.8 These systems and processes should be documented and communicated to all key persons.

5.2.9 To support the adequate supervision of key persons, the policies and procedures that the Regulated Person has in place should be appropriate to the knowledge, skills and pertinent experience of each key person and should include the following:

- a) overarching reporting lines;
- b) reporting relationships between a key person and a





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- supervisor;
- c) internal escalation processes for staff-related matters;
- d) changes in reporting lines;
- e) multiple reporting lines; and
- f) the method and frequency of advising key persons of such reporting relationships.

## **6. Directorship Services Obligations**

- 6.1. The Governing Body should undertake self-assessments of the performance of the Governing Body collectively and individual members to ensure they remain competent to carry out the recruitment, supervision, and training standards of the Regulated Person.
- 6.2. Where a Regulated Person licensed under the CMA is acting as or fulfilling the function of, or arranging for another person to act as or fulfil the function of, director or alternate director of a company, the Regulated Person, licensed under the CMA, should ensure the director or alternate director understands his or her duty to:
  - a) act openly, honestly and in good faith at all times and exercise independent judgment, always acting in the best interests of the client.
  - b) carefully consider all decisions and understand potential negative implications for the client company, its shareholders or its customers.
  - c) maintain a thorough knowledge and understanding of the client's business and update his/her knowledge periodically, consistent with changes in the industry, regulatory landscape or business of the client.
  - d) satisfy himself or herself that an appropriate and timely course of action is being taken to address any concerns they raise.
  - e) satisfy himself or herself that the client, its governing body, its service providers, and advisors are acting in accordance with the client's constitutional documents and any other documents directing the management and operation of the client and/or its advisors or service providers.

## **7. Ongoing Training and Continuing Professional Development ("CPD")**

- 7.1. A Regulated Person should have a documented policy and programme which sets out ongoing training and CPD requirements for key persons, which should be commensurate with the size, complexity, structure, nature of business and risk profile of its operations.
- 7.2. A Regulated Person's CPD Policy should be reviewed and approved by senior management and the Governing Body at least every three years, or earlier if needed, to ensure that the CPD Policy continues to meet the training needs of key persons.
- 7.3. Key persons including senior management and the Governing Body should undertake the training and professional development necessary for their roles at least annually.
- 7.4. In developing the CPD Policy, the Regulated Person should consider key persons whose roles have changed or expanded in scope, or who have entered new



roles. Similarly, a Regulated Person should consider changes to any legal requirements and market developments.

- 7.5. A Regulated Person and persons providing directorships may rely upon both internal training resources as well as appropriate external sources in developing a training and CPD programme. Regulated Persons should satisfy themselves with the quality of the training materials and the standard of the training programmes when selecting CPD activities and ensure that the contents of such courses are appropriately structured.
- 7.6. Where a Regulated Person's key person holds a professional qualification, designation, or is a member of a professional body or association that requires the completion of a certain number of CPD hours, Regulated Persons should ensure that key persons comply with such CPD requirements. Regulated Persons may give credit to a key person's professional development hours, earned in meeting the CPD obligations of their qualification or membership, towards meeting the minimum number of training hours specified in the Regulated Person's own CPD Policy.

## **8. Activities Relevant for Training and Continuing Professional Development**

- 8.1. CPD training should be conducted at least quarterly or sooner if required in response to a specific matter.
- 8.2. CPD activities may include, but is not limited to, a varied mix of the following:
  - a) training courses and activities provided by the Regulated Person;
  - b) industry workshops;
  - c) lectures and exam training;
  - d) conferences and seminars;
  - e) university courses;
  - f) certification courses;
  - g) distance learning which requires active participation;
  - h) self-study with Independent Assessments; and
  - i) publication of Research Papers and Journal Articles.
- 8.3. Relevant CPD topics for key persons should be commensurate with the key person's role and responsibilities, and include inter alia, the following topics, which may be relevant to the Regulated Person's specific business operations:
  - a) Enterprise-wide Risk Management;
  - b) Anti-money Laundering and Countering Terrorist Financing Risk;
  - c) other relevant risks, for example, Operational Risk, Credit Risk, Market Risk, Liquidity Risk;
  - d) applicable Compliance, Legislative and Regulatory Standards;
  - e) Business Conduct and Ethical Standards;
  - f) new Financial Products in the Industry and the Associated Risks;
  - g) Management Systems;
  - h) general Management and Governance; and
  - i) Financial Reporting and Quantitative Analysis.



## 9. Record Keeping

- 9.1. A Regulated Person must keep all recruitment and retention records in accordance with the requirements outlined in the Rule and Statement of Guidance – Nature, Accessibility and Retention of Records for Licensees Conducting the Business of Company Management. R
- 9.2. A Regulated Person should keep the appropriate records related to their recruitment processes. Records should include, at a minimum:
- a) records relating to hiring decisions including decisions to refuse or reject a candidate;
  - b) records relating to complaints about the hiring process or appeals to any decisions taken to transfer, promote, demote;
  - c) advertisements or notices to the public or key persons about openings, promotions, and/or training opportunities;
  - d) job descriptions for existing and advertised positions;
  - e) job applications, resumes, interview notes and records;
  - f) records relating to fitness and propriety checks; and
  - g) dates hired, promoted, demoted, transferred.
- 9.3. A Regulated Person should also keep proper records of CPD activities, including the details of the training conducted and the attendance records for persons who have completed the training.
- 9.4. Records should demonstrate how the training relates to and supports persons remaining competent in their role.
- 9.5. As a best practice, a Regulated Person should encourage key persons to keep proper records of their own CPD activities including:
- a) name of course attended;
  - b) topic or subject matter;
  - c) date of attendance; and
  - d) number of hours.

## 10. Enforcement

- 10.1. Whenever there has been a breach of the Rules included in this document, the Authority's policies and procedures, as contained in its Enforcement Manual, will apply in addition to any other powers provided in the relevant Acts and the MAA.

## 11. Effective Date

- 11.1. This Rule and Statement of Guidance will come into effect within **six (6) months** of the date that it is published in the Gazette.



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