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Statement of Guidance

Minimum Criteria for Maintaining Physical Presence for Banks Subject to Section 6(6) of the BTCL

1. STATEMENT OF OBJECTIVES

To provide guidance on the requirements of Section 6(6) of the Banks and Trust Companies Law (2003 Revision) (“BTCL”).

2. INTRODUCTION

Section 6(6) of the BTCL requires certain holders¹ of a “B” licence to establish a place of business in the Islands with “such resources (including staff and facilities) and such books and records as the Authority considers appropriate having regard to the nature and scale of the business” (i.e. establishing a physical presence). The establishment of a physical presence by these banks facilitates the Authority’s ongoing supervision in accordance with international banking principles.

3. SCOPE

3.1. This Statement of Guidance applies to a bank, which holds a Category B licence, that is not a subsidiary or branch of a bank licensed in a country or territory outside the Cayman Islands.

3.2. This Statement of Guidance should be read in conjunction with the Authority’s Statements of Guidance on the Nature, Accessibility and

¹ This category of banks includes a bank that is not subject to consolidated supervision by another banking regulator but itself is subject to prudential supervision by the Authority, i.e. the Authority is the home regulator.



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Retention of records.

4. PERSONNEL

- 4.1. Pursuant to section 6(2) of the BTCL, a bank should have a senior manager appointed as the Managing Director and a Deputy Manager or support staff, who may act in the absence of the Managing Director. This is commonly referred to as the “four eyes” principle. A bank should at all times comply with the “four eyes” principle.
- 4.2. The officers referred to in paragraph 4.1 should be resident in the Cayman Islands and involved in the daily operations and decision-making process of the bank.
- 4.3. The staffing levels should be commensurate to the size, scope and complexity of the bank’s operations. The need for additional resources will depend on changes in the bank’s activities and business plan.

5. PREMISES AND FACILITIES

- 5.1. A bank should have premises at a physical address in the Cayman Islands from which business is conducted.
- 5.2. The premises should display exterior identification of the bank’s presence.
- 5.3. The bank licence should be prominently displayed on the premises where a bank conducts business.
- 5.4. The premises should be identifiable by office space that is commensurate with the size, complexity, and nature of the bank’s operations. The office space should have dedicated, secure, and identifiable facilities appropriate for custody and storage of the bank’s



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records, communication equipment (including dedicated telephones, faxes, and computers), and other equipment for the operation of the business.

- 5.5. For certain smaller, less complex banking operations, office facilities may be shared, such as reception areas and receptionist, conference rooms, and kitchen facilities, so long as the criteria described under section 5.4 above are met.

6. RECORDS AND RECORD-KEEPING

- 6.1. A bank's records should be maintained in the English language or be readily convertible to the English language.

- 6.2. At a minimum, a bank should keep the following records, in original form, hard copy or in an electronic format that is easily accessible at their premises in the Cayman Islands:

- a) Corporate records of a bank and minutes of shareholders' directors' and management committee meetings;
- b) Policies, procedures, and operating manuals, which details the banks approach to key risk areas including, credit, market, liquidity, operational, anti-money laundering and "Know-Your Customer" issues;
- c) Reports prepared by a bank's internal and external auditors;
- d) Information on employee training programs and training manuals;
- e) Correspondence with the Authority, and records on monitoring compliance with the Authority's licensing and other requirements;
- f) Records with respect to all client relationships that remain active or dormant. These records include, at a minimum, the following;
 - o Original client account opening and due diligence



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- documentation including, identification information, sufficient to confirm compliance with all regulatory know-your-customer requirements, for all client facilities maintained in the Cayman Islands;
- Information on all current client transactions and relevant correspondence sufficient to properly monitor the accounts and other facilities for suspicious activity conducted through the bank.
- g) Accounts, books, files, and other documents that record all of the business affairs of a bank; and
- h) Any other information that substantiates the nature and the value of all assets, liabilities and off-balance sheet activities and transactions and ordinary and extraordinary income and expenses; (e.g. client credit files and documentation, investment account files and statements, files on assets under management/trusts, etc.).
- 6.3. All corporate records, manuals, and all pertinent records outlined in section 6.2 and should be made available to the Authority during an on-site inspection programme.