



**SUMMARY OF PRIVATE SECTOR CONSULTATION AND FEEDBACK STATEMENT**

***Rule and Statement of Guidance - Recruitment and Selection Standards for Trust and Corporate Service Providers and Company Managers***

No.	Section	Comments	Authority's Response	Consequent Amendments to the Proposed Measure
<b>GENERAL COMMENTS</b>				
1.		A general provision could be considered to ensure that any policy or process put in place will itself operate in compliance with relevant legislative requirements (including future requirement pertaining to disqualification of directors or a person who would otherwise act as a key person).	The Authority references existing Section 1.2 of the measure which has been updated for additional clarity, accommodating any future acts.	<p><b>For additional clarity, Section 1.2 has been revised to read:</b></p> <p>1.2. The Rule and Statement of Guidance ("RSOG") should be read in conjunction with:</p> <p>a) CIMA-issued measures: Regulatory Policy on Fitness and Propriety; Rule and Statement of Guidance on Internal Controls for Regulated Entities; Rule on Corporate Governance for Regulated Entities; Regulatory Policy on Criteria for Approving Changes in Ownership and Control; the Statement of Guidance on Outsourcing Regulated Entities; Nature, Accessibility, and Retention of Records for Licensees Conducting the Business of Company Management; and</p> <p>b) all applicable Acts in the Cayman Islands and any other relevant regulatory measures issued by the Authority from time to time.</p>

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<b>SECTION-SPECIFIC COMMENTS</b>				
2.	<p><b>Section 4.1.4</b>  <b>"Key Person"</b> includes a Director, Partner, Money Laundering Reporting Officer or Money Laundering Compliance Officer and Compliance Officer of a TCSP.</p>	<p>Is this intended to be MLRO and AMLCO?</p>	<p>The Authority has reviewed the section and updated it for clarity. Additionally, the definition was updated to align it to the Authority's Policy on Fitness and Propriety.</p>	<p><b>Section 4.1.4 was revised to read as follows:</b></p> <p><b>"Key Person" refers to any person who is acting in a Controlled Function as defined under the Authority's Policy on Fitness and Propriety and includes, but is not limited to,</b> a Director, Partner, Money Laundering Reporting Officer <b>and</b> <del>or</del> <b>Anti-Money Laundering Compliance Officer and Compliance Officer</b> of a TCSP.</p>
3.	<p><b>Section 4.1.4</b>  <b>"Key Person"</b> includes a Director, Partner, Money Laundering Reporting Officer or Money Laundering Compliance Officer and Compliance Officer of a TCSP.</p>	<p>The 4.1.4 definition of <i>"key person"</i> includes a <i>Director, Partner, Money Laundering Reporting Officer or Money Laundering Compliance Officer and Compliance Officer of a TCSP</i>. This definition is satisfactory as it mirrors that of the Part 1 definitions provided in the GIFCS Standard on Regulation of TCSPS, however Rule 7.3 continues on to state that <i>"key persons including senior management and the Governing Body..."</i></p> <p><b>Feedback:</b> It is suggested that clarification be provided as to whom "senior</p>	<p>The Authority agrees to the need for clarification. Additionally, the definition of Key Person was updated to align it to the Authority's Policy on Fitness and Propriety</p>	<p>Sections 7.3 was deleted training expectation is now adequately covered in Section 7.1.</p> <p><b>Section 4.1.4 was revised to read as follows:</b></p> <p><b>"Key Person" refers to any person who is acting in a Controlled Function as defined under the Authority's Policy on Fitness and Propriety and includes, but is not limited to,</b> a Director, Partner, Money Laundering Reporting Officer <b>and</b> <del>or</del> <b>Anti-Money Laundering Compliance Officer and Compliance Officer</b> of a TCSP.</p>

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		<p>management" refers. The draft mandates Regulated persons to provide and upkeep standards of recruitment, training etc. for both "key persons" and the "governing body", if it is the intention that these standards should also apply to "senior management" then these roles should be identified and included in the Rule 4.1.4 definition. Providing of course, that the roles intended by the term "senior management" are not already comprised in the definition for Key persons and/or Governing Body, in which event, we would suggest the wording "including senior management" be removed altogether from Rule 7.3.</p>		
4.	<p><b>Section 4.1.5</b> The "<b>Governing Body</b>" 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</p>	<p>Where the entity is a legal arrangement or trust business?</p> <p>Types of legal persons are described above except here where a type</p>	<p>The Authority has reviewed the section and has retained the usage of "trust business" which in the context of the paragraph connotes the legal person.</p>	<p><b>Section 4.1.5 was revised to read as follows:</b></p> <p>The "<b>Governing Body</b>" of a Regulated Person is the Board of Directors where the <b>Regulated Person</b> is a corporation, the General Partner where the <b>Regulated</b></p>

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	equivalent) where the entity is a Limited Liability Company, and the Trustee or the Board of Trustees where the entity is a trust business.	of regulated activity is described.		<b>Person</b> is a partnership, the manager (or equivalent) where the <b>Regulated Person</b> is a Limited Liability Company, and the Trustee or the Board of Trustees where the <b>Regulated Person</b> is a trust business.
5.	<p><b>Section 4.17(e)</b>  <b>"TCSPs"</b> refer to those who undertake any one or more of the following activities pursuant to the BTCA or the CMA as applicable:</p> <p>e) acting as a Resident Agent for the purposes of meeting requirements to hold beneficial ownership or interest information;</p>	<p>Regarding "<u>Resident Agent</u>":</p> <p>Undefined term.</p> <p>Is this intended to include agents for local companies?</p>	The Authority has reviewed the section and has included a footnote for "Resident Agent".	<p><b>In section 4.1.7(e) footnote was added to read as follows:</b></p> <p>Consistent with Section 3(1) (ba) of the CMA, Resident Agent means an agent establishing and maintaining beneficial ownership registers on behalf of companies and limited liability companies incorporated or formed in the Cayman Islands.</p>
6.	<p><b>Section 5.1.4(d)</b>  The Authority expects that at a minimum, the recruitment policies and procedures should capture the following to ensure they are appropriate and comprehensive:</p> <p>(d) include a methodology for assessing the fitness and propriety of candidates offered contracts of employment or functions within the Regulated Persons.</p>	<p>Should CIMA consider providing minimum requirements for F &amp; P or cross refer to an applicable one?</p> <p>A documented methodology may result in an inappropriate hire, in the absence of minimum standards.</p>	Updated provisions under section 1.2 of the RSOG provide guidance on the relevant regulatory measures that this RSOG should be read in conjunction with, which includes the Regulatory Policy on Fitness and Propriety.	<p>For additional clarity, Section 5.1.4(d) which was changed to Section 5.1.7(d) was updated to read:</p> <p>d) include a methodology for assessing the fitness and propriety of candidates offered contracts of employment or functions within the Regulated Persons. <b>Considerations include, but are not limited to: honesty, integrity and reputation; competence and capability; and financial soundness.</b></p>

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7.	<p><b>Section 5.1.5</b>            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.</p>	<p>Consider the impact on succession planning this may inadvertently have. Without experience, you can't get recruited etc., etc.,</p> <p>Consider including reference to a supplementing internal training program.</p>	<p>The Authority notes that a candidate's skills, experience and qualifications should be commensurate with the job description being advertised as outlined in Section 7.1 and is expected that this would be factored in the Regulated Person's succession plans and any supplemental training programs deemed necessary by the Regulated Person.</p>	<p><b>Section 5.1.5 was changed to Section 5.1.8 and revised to read as follows:</b></p> <p><b>A Regulated Person should be able to demonstrate that it has evaluated how a candidate's knowledge, skills, experience, and qualifications meet the requirements for the role, as outlined in the job description.</b> <del>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</del> <b>information</b> before onboarding the candidate.</p>
		<p>CIMA may wish to require an on-boarding plan be documented.</p>	<p>The Authority agrees to the proposed amendment and a reference to "onboarding procedures" has been added under Section 5.1.8(a) which forms part of the recruitment process.</p>	

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8.	<p><b>Section 5.1.6</b> 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.</p>	<p>To what end? Has CIMA set out the minimum expectation regarding the hiring of ex-cons, persons of interest; persons who have been sanctioned, etc?</p> <p>What if a Regulated Person's risk tolerance is such that it is willing to be inclusive and hire someone who may have been previously involved in litigation or prosecution? What is the regulatory guidance while assessing the person for hire of a key person? What is the regulatory expectation if the person proves to be otherwise "competent"?</p>	<p>The Authority acknowledges the comments and confirms that the standard of assessment of a candidate should be in line with the Regulatory Policy on Fitness and Propriety. This extends beyond consideration of competence.</p> <p>For additional clarity, the section was updated to reflect consideration of fitness and propriety.</p>	<p><b>Section 5.1.6 was changed to Section 5.1.9 and revised to read as follows:</b></p> <p>A Regulated Person should be able to demonstrate that it has <b>adequately</b> assessed and verified candidates' references, membership in professional bodies (if applicable), criminal records, regulatory censure, <b>financial soundness</b>, professional reprimands, sanctions, conflicts of interest, legal proceedings and any other formal censure, discipline, or public criticism at the <del>stage</del> of recruitment <b>stage</b>, as part of its fitness and propriety assessment on the candidate.</p>

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9.	<p><b>Section 5.1.7</b> 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.</p>	<p>Please consider revising to say: "...recruitment, selection and employment practices should comply with all applicable Cayman Islands laws."  Please consider removing "such as the Labour Act" since other enactments including those related to insurance, pension, equality and discrimination etc, apply.</p>	<p>The Authority agrees to the proposed amendment.</p>	<p><b>Section 5.1.7 was changed to Section 5.1.10 and revised to read as follows:</b>  A Regulated Person should ensure that its recruitment, <del>and</del> selection <b>and employment practices</b> processes are fair, transparent and in <b>compliance</b> line with the <b>all applicable</b> relevant regulatory Acts in the Cayman Islands—such as the Labour Act—and any relevant regulatory measures issued by the Authority from time to time.</p>
10.	<p><b>Section 5.1.8</b> 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.</p>	<p>Is this directly related to the services offered? Where unregulated and regulated activities are carried out from under a single roof or where an entity provides employees for outsourced services which it provided to other regulated Cayman Islands entities, should the staffing not be adequate and suitably qualified and retained too? It may be worth spelling out the expectation here.</p>	<p>Yes, this is in relation to services under the licence held. The expectation for competence extends to any outsourced service providers utilised.</p>	<p><b>For additional clarity, a footnote was added to section 5.1.8, which has changed to 5.1.11, to read as follows:</b>  <b>Where outsourced service providers are utilised to meet staffing needs, Regulated Persons should refer to the Statement of Guidance on Outsourcing for Regulated Entities.</b></p>

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11.	<p><b>Section 5.2.2</b> 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.</p>	<p>Consider employment law or law of contract. A person is hired to do a job. Contractually that will be documented. if the "risk profile" of the employer changes, how is this expected to change the contractual relationship or the response to the employee's level of know how?</p> <p>A worked example for context may help.</p>	<p>The Authority acknowledges the comment and has updated the section to provide additional clarity on the Authority's expectations. The Authority notes that it would not prescribe how any gaps created due to changes to risk profile should be addressed, but such may include retraining and, if necessary, requisite updates to job descriptions and/or employment contracts.</p>	<p><b>Section 5.2.2 was changed to 5.2.4 and revised to read as follows:</b></p> <p>A Regulated Person should annually review the competence, qualifications, knowledge, and skills of its 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. <b>Appropriate measures should be taken to address any gaps identified.</b></p>
12.	<p><b>Section 5.2.3</b> 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.</p>	<p>or under-performance.</p>	<p>The Authority agrees to the proposed amendment.</p>	<p><b>Section 5.2.3 was changed to 5.2.5 and revised to read as follows:</b></p> <p>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 <b>or underperformance.</b></p>
13.	<p><b>Section 5.2.5</b> Job descriptions should be reviewed annually to ensure they are up to-date, accurate, clear, and helpful to candidates and current key persons.</p>	<p>Contract and employment law considerations apply.</p>	<p>The Authority notes that the application of the measure includes consideration of relevant acts and regulations as detailed in section 1.2.</p>	<p><b>Section 5.2.5 was changed to 5.2.7 and revised to read as follows:</b></p> <p>Job descriptions should be reviewed, <b>annually as appropriate</b>, to ensure they are up-to-date, accurate, clear, and helpful to candidates and current Key Persons.</p>
14.	<p><b>Section 5.2.7</b> A Regulated Person should have effective systems and processes to ensure that key persons are appropriately supervised.</p>	<p>Will this be operationally by someone who should know their job function, or will this be at board level?</p>	<p>The Authority is of the opinion that a Regulated Person should be able to determine the most appropriate systems and processes for the supervision of its Key Persons and can</p>	<p><b>Section 5.2.7 was changed to 5.2.9 and revised to read as follows:</b></p> <p>A Regulated Person should have effective systems and processes to ensure that Key Persons are appropriately supervised. <b>These</b></p>



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			determine this based on the nature and size of its business. Regulated Persons could draw some guidance from Authority's measures on internal control and corporate governance.	<b>systems and processes should be documented and communicated to all Key Persons.</b>
<b>15.</b>	<b>Section 7.1</b> 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.	What level of detail is expected? Should the Regulated Person have a documented and TAILORED program for each Key Person?  Immediately following is the requirement for CPD to be conducted at least quarterly.  This may lead to unclear expectations in industry. The Policy and procedures should either be based on size, complexity etc., or prescribed. Not both.	The documented policy and programme should be sufficiently clear on the expectations for what skill is to be gained through the training and/or CPD. It does not need to be tailored to each individual, but it should ensure that it outlines the outcome of the training and/or CPD and is commensurate with the Key's Person's role and responsibilities.	<b>Section 7.1 was revised to read as follows:</b>  A Regulated Person should have a CPD Policy which sets out ongoing training and CPD requirements for all employees including Key Persons, which should be commensurate with the size, complexity, structure, nature of business and risk profile of its operations.
<b>16.</b>	<b>Section 7.2</b> 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.	Will the Authority be assessing the resourcing allocated to continuing CPD and training for the key persons? Will this become an aspect of CIMA's inspections?	Yes, this will be assessed as part of CIMA's inspections, as appropriate. For additional clarity, the section was updated to require that CPD policy be approved by the Governing Body.	<b>Section 7.2 was updated to read:</b> A Regulated Person's CPD Policy should be reviewed and approved by <del>senior management</del> 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 the Regulated Person.

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17.	<p><b>Section 7.3</b> Key persons including senior management and the Governing Body should undertake the training and professional development necessary for their roles at least annually.</p>	Conflicts with 8.1	<p>The Authority agrees to the need for clarification.</p> <p>Sections 7.3 and 8.1 have been removed as the stipulation on the frequency of training is now adequately covered in Section 7.1.</p>	<b>Section 7.3 has been removed.</b>
18.	<p><b>Section 7.4</b> 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.</p>	<p>Should this also set out "regulatory requirement"?</p> <p>Please consider the distinction between operational competence (which you would be expecting from the person's whose job it is to monitor market developments) and CPD.</p>	<p>The Authority agrees to the proposed amendment.</p> <p>Section 7.4 will be amended to include "regulatory requirements".</p>	<p><b>Section 7.4 was changed to Section 7.3 and revised to read as follows:</b></p> <p>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 <b>and regulatory</b> requirements, <del>and</del> market developments <b>and any other changes impacting the role of the Key Person.</b></p>
19.	<p><b>Section 7.5</b> 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.</p>	<p>Are these persons not authorised and regulated by CIMA? Why have they been singled out here? Will the rest of the RSOG not apply?</p>	<p>The Authority agrees to the need for clarification.</p> <p>"Persons providing directorships" has been removed.</p>	<p><b>Section 7.5 was changed to Section 7.4 and revised to read as follows:</b></p> <p>A Regulated Person <del>and persons providing directorships</del> 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 <del>structured</del> <b>commensurate with the Key Person's role and responsibilities.</b></p>

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		<p>Will each Regulated Person be expected to create, document and maintain its own in-house training and CPD program?</p> <p>Or can a Regulated Person, hire professionals who themselves maintain CPD in accordance with their areas of expertise?</p>	<p>A Regulated Person can choose to create its own in-house training and CPD programme or hire professionals with the relevant skills and experience. This section does not preclude the use of either source in its training/CPD programme.</p>	
		<p>Will CIMA give any guideline on "quality..."? If no, how will this be objectively be assessed by CIMA?</p>	<p>The quality of CPD programmes will be assessed against the Key Person's role and responsibilities. Consideration will be given to whether the outcomes of a Regulated Person's training and CPD programme policy have been achieved. As this will vary across Key Persons and Regulated Persons, the Authority will not be providing minimum guidelines on quality.</p>	
20.	<p><b>Section 7.6</b> 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</p>	<p>What does this mean? How will this be examined by the Authority and "appropriateness" assessed?</p>	<p>As applicable, the Authority will evaluate this by assessing the Regulated Person's relevant CPD records against its training/CPD policy and the stipulations of the applicable</p>	<p><b>Section 7.6 was changed to Section 7.5 and revised to read as follows:</b></p> <p>Where a <del>Regulated Person's</del> Key Person holds a <b>relevant</b> professional qualification or designation, or is a member of a <b>relevant</b></p>

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	<p>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.</p>	<p>Is this defined or exemplified anywhere?</p> <p>What happens where the key person has many designations? Would this requirement translate to a need for CPD across all qualifications, or the one most relevant to the key person's role in the organisation?</p> <p>Have we considered the cost associated with either scenario?</p> <p>Consider the different standards that currently exist across professions and qualifications. Should the Authority consider a requirement that for CPD to be accepted by the Regulated Person it should come from organisations that audit their annual CPD; organisations that are accredited either locally or internationally?</p> <p>Is the authority providing minimum standards to consider?</p>	<p>credentialing professional body.</p> <p>It is inherently expected that an organisation that requires persons to meet its own CPD requirements would have a system for verifying and auditing CPD hours and stipulations and this will be considered by the Authority as part of the assessment. The Authority will not be providing minimum standards at this point.</p>	<p>professional body or association that requires the completion of a certain number of CPD hours to remain credentialed, Regulated Persons should ensure that Key Persons comply with such CPD requirements. Regulated Persons may, <b>as appropriate, use give credit to</b> 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.</p>

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21.	<p><b>Section 8.1</b> CPD training should be conducted at least quarterly or sooner if required in response to a specific matter.</p>	<p>Why? CIMA's own AML training expectation is annual, why would CPD be quarterly? Many professional organisations have annual CPD requirements allowing the professionals to self serve and regulate. What is the expectation in respect of content every 3 months?</p>	<p>Section 8.1 was removed as the stipulation on the frequency of training is now adequately covered in Section 7.1.</p>	<p>Section 8.1 was removed as previously stated.</p>
22.	<p><b>Section 8.3</b> 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:</p> <p>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</p>	<p>Please consider the inclusion of "Technology literacy" (especially where AI or other technology is being deployed by the Regulated Person)</p> <p>Climate Risk?</p>	<p>The Authority has considered the proposed amendment and has added "emerging risks" which covers evolving climate risk and technology risks.</p>	<p><b>Section 8.3 was changed to Section 8.2 and revised to read as follows:</b></p> <p>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:</p> <p>a) Enterprise-wide Risk Management; b) Anti-money Laundering and Countering Terrorist Financing Risk; c) other relevant risks, for example, <del>Operational Risk, Credit Risk, Market Risk, Liquidity Risk</del> <b>financial, operational and emerging risks</b>; 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 <b>Information Systems and Technological literacy</b>;</p>

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	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			h) general Management and Governance; and i) Financial Reporting and Quantitative Analysis.
23.	<b>Section 9.1</b> 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.	As this is a record keeping rule, will the content of the records be assessed in line with the guidance, and if so, should that be clarified here?	The Authority has reviewed the section and notes that the record keeping for this RSOG will be assessed in accordance with the <i>Statement of Guidance – Nature, Accessibility and Retention of Records for Licensees Conducting the Business of Company Management</i> , as stated in the Rule.	<b>Section 9.1 was changed to 8.3 and revised to read as follows:</b>  A Regulated Person must keep all recruitment and retention <del>selection</del> 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.