



25 October 2024

Dear Stakeholders,

Re: Consultation Paper: Proposed Enhancements to the Corporate Service Provider Business Act 2012

The Bermuda Monetary Authority (Authority or BMA) wishes to thank stakeholders for their ongoing engagement as we refine and enhance the supervisory framework for Bermuda Corporate Service Providers (CSPs). The Authority remains committed to ensuring a regulatory infrastructure that is consistently effective, progressive and fully aligned with international standards.

As part of these ongoing improvements, the Authority, through a consultative process, sought feedback on proposed amendments to enhance the Corporate Service Provider Business Act 2012 (the Act).

RESPONSE TO INDUSTRY FEEDBACK

Below, are the Authority's responses to the substantive comments received from our stakeholders.

I. Definition of Client Money

Stakeholder Comment: A final definition of client money was requested.

Response: The Authority proposes the following definition, which is consistent with the one outlined in the CSP Code of Practice: client money includes all monies received on behalf of, or owed to, clients or client structures by the licensed corporate service provider.

The Authority acknowledges the complexities surrounding the term client money and remains committed to providing clarity on this matter. In line with the adopted definition, supplementary secondary instruments will be issued to elaborate on its meaning and outline the Authority's expectations. These instruments will be released following final parliamentary approval of the proposed amendments to the Act.

II. Client Money (Audit Requirements)

Stakeholder Comment: It was suggested the BMA should consider a self-certification of controls around client money rather than a full audit that would be unduly burdensome for small CSPs and not achieve the Authority's stated aims.

Response: After careful consideration, the Authority has determined that, instead of introducing a mandatory external audit, a requirement for an independent review of client money controls by a qualified person will be implemented. This approach is aligned with practices in other regulatory regimes, where it has proven effective in ensuring robust oversight while minimising the burden on smaller licensees.

III. Net Asset Requirement

Stakeholder Comment: A stakeholder suggested that the minimum net asset requirement should take into account net assets linked to other licenses.

Response: If a single entity holds multiple licenses, the framework stipulates that the highest minimum net asset requirement would apply — a principle currently in practice.

Stakeholder Comment: Clarity was sought on maintaining the minimum net asset requirement, and other reporting requirements when a licensed entity is being wound down.

Response: Entities that are winding down can utilise the modification application process as outlined in Section 55A of the Act to seek modification of net asset requirements based on their circumstances and in discussion with the Authority. Each request will be considered on a case-by-case basis.

Stakeholder Comment: Further information was requested to verify the parameters contributing to liquidity and net asset definitions.

Response: Subsequent secondary instruments will offer clarity on acceptable forms and compositions of capital and liquid assets. As demonstrated in other regimes, the Authority may consider facilities that in its view can offer liquidity within a reasonable period as potential liquid assets.

IV. General Remarks

Stakeholder Recommendation: A minimum of 12 months was proposed for the transition period.

Response: The BMA concurs with the suggested timeline.

Next steps

The Authority intends to finalise the recommended amendments to the Act and begin drafting recommendations for supporting secondary instruments, which will be issued for public consultation in due course.

The Authority would like to thank stakeholders for their feedback and remains committed to working with relevant parties to finalise the supervisory framework enhancements. Any stakeholder who wishes further clarification or additional information on the proposed enhancements to the corporate service provider framework should contact the Authority directly at policy@bma.bm.

Sincerely,

The Bermuda Monetary Authority