Directive on Licensing and Core Compliance

1 April 2026

Section 1 – OVERVIEW

1.1	This Directive is issued by the Financial Services Regulatory Authority under section 4 of the Financial Services Ordinance 2008 (the "FSO") and its effective date is 1 April 2026.
1.2	The primary purpose of this Directive is to set out a range of core compliance requirements for a relevant business. These core compliance obligations are focused on organisational matters, systems and controls and regulatory reporting. The Directive also set outs some requirements that apply directly to the individuals who are approved to perform specified functions for a relevant business. Those requirements include an obligation to adhere to a Code of Conduct.
1.3	In addition, this Directive sets out the fit and proper requirements that apply to an applicant for a licence to carry on a regulated activity and that apply to a relevant business on an ongoing basis. Those fit and proper requirements also apply to other persons, including persons performing specified functions, and the controllers and qualifying shareholders of a relevant business. The Directive explains the FSRA's licensing policy in the context of those fit and proper requirements.
1.4	This Directive applies to any relevant business that is licensed by the FSRA to carry out one or more regulated activities. It applies to a relevant business that carries out regulated activities on any of St Helena, Ascension or Tristan da Cunha. Unless specified to the contrary, a reference in this Directive to "St Helena" is to be read as including all of St Helena, Ascension and Tristan da Cunha.
1.5	Terms used in this Directive should be interpreted by reference to the definitions set out in the FSO and the FSR, unless otherwise defined herein. In this Directive, the term "regulated person" is used to refer to any of the following persons: (a) an applicant for a licence; (b) a relevant business, on an ongoing basis; (c) an applicant for approval to perform a specified function; (d) a person approved under (c) and appointed by a relevant business, on an ongoing basis; (e) an applicant to become a qualifying shareholder of a relevant business; (f) a qualifying shareholder on an ongoing basis; (g) an applicant to become a controller of a relevant business; (h) a controller on an ongoing basis; and (i) where a relevant business is required to appoint an external auditor, that auditor.

Section 2 – LICENSING

Overview

2.1	It is an offence for any person to carry on a regulated activity in or from St Helena unless authorised to do so by a licence granted under the Financial Services Ordinance 2008.

2.2	Before being granted a licence, an applicant must satisfy the FSRA that it is fit and proper to undertake the regulated activity. Where the FSRA is not satisfied, an application will be rejected.
2.3	The FSRA exercises its licensing function in line with its regulatory objectives. In determining licence applications, the FSRA will consider the potential impact of granting a licence on its ability to meet its regulatory objectives. It will also take into account the effect that the granting of the licence could have on the reputation of St Helena. The FSRA will therefore consider carefully the risk profile of each licence applicant.
2.4	The FSRA has a general discretion as to whether or not to grant a licence. Licensing decisions are made on a case-by-case basis. However, to provide transparency and to assist applicants in the preparation of their applications, the material below describes the FSRA's general licensing criteria. These criteria will be applied to applications for new or renewed authorisation or approval received after the entry into force of the Directive. Some of the material relates only to applicants for a licence to carry on banking business and where that is the case the relevant provision says so.
2.5	The circumstances of each applicant will not be identical. The FSRA examines all relevant matters and considers each application on its own merits. Having examined an initial application, the FSRA may decide to make more extensive enquiries to better understand particular risks or concerns arising from the application.
2.6	The FSRA will take into consideration the cumulative effect of the information before it in relation to the fitness and properness of the applicant or other regulated person, and how this could impact upon its regulatory objectives. It is possible that single matters (which, taken in isolation, might not lead to a refusal to issue a licence) may, when considered alongside other matters, constitute sufficient grounds to refuse a licence.
2.7	Where an applicant demonstrates that the risks associated with its business can be addressed in a different way, the FSRA may agree to modify the application of the policy set out in this Directive for that applicant. In other cases, where there is an elevated or unusual risk or other unusual circumstances, the FSRA may place additional conditions or requirements on a licence to reflect those features, or it may refuse to issue a licence.
The fit and proper test	
2.8	Before granting a licence, the FSRA must be satisfied that the applicant is fit and proper to undertake the regulated activity. The fit and proper test is applied to the business as a whole and to the persons responsible for the management and control of the business, including owners and persons performing specified functions. When forming a view about the fitness and properness of a regulated person, the FSRA will also take into account any other persons employed, or to be employed, by the applicant, or associated with the applicant, for the purposes of its business. As a reminder, the fit and proper test applies to any regulated person, namely: (a) an applicant for a licence; (b) a relevant business, on an ongoing basis;

	(c) an applicant for approval to perform a specified function; (d) a person approved under (c) and appointed by a relevant business, on an ongoing basis; (e) an applicant to become a qualifying shareholder of a relevant business; (f) a qualifying shareholder on an ongoing basis; (g) an applicant to become a controller of a relevant business; (h) a controller on an ongoing basis; and (i) where a relevant business is required to appoint an external auditor, that auditor.
2.9	The fit and proper test is an initial test (at licensing) and a continuing test (in the ongoing conduct of regulated activities). The FSRA can revoke a licence or impose conditions on a licence if a relevant business does not continue to satisfy the fit and proper criteria. The conditions that the FSRA may impose include, for example, requiring the removal of an officer of the business and the divestment of a qualifying shareholding. Similarly, where there is change in ownership or control after a licence has been granted, the FSRA will reassess afresh the fitness and properness of the licensee and its regulated persons.
2.10	It is for the applicant and its regulated persons to satisfy the FSRA that they are fit and proper, rather than for the FSRA to prove that the applicant and its regulated persons are not fit and proper.
2.11	In assessing fitness and properness, the FSRA considers: (a) the applicant's integrity, competence, financial standing, structure and organisation (both on a standalone and group basis); (b) the integrity, competence and financial standing of the applicant's controllers, beneficial owners and persons who are to perform specified functions; (c) the nature of the business the applicant proposes to carry on; (d) any other persons employed or to be employed by the applicant, or associated with the applicant for the purposes of its business; and (e) the risk posed by the applicant to the stability of the St Helena financial system and to the reputation of St Helena.
2.12	When considering a licence application, the FSRA assesses the applicant's ability to comply with: (a) this Directive; (b) the FSRA's other Directives, including the Directive on Anti-Money Laundering, Counter-Terrorist Financing and Financial Sanctions Compliance; (c) the FSO, FSR and any other applicable statutory or regulatory requirements; and (d) licensing conditions.
2.13	Serious or repeated breaches of legislation, Directives or codes of conduct in St Helena, or in another jurisdiction, by an applicant or its regulated persons, will call into question its, or their, continued fitness and properness to hold a licence or approval from the FSRA.
Structure, organisation and ownership	

New business start-ups and track record	
2.14	When licensing a new business start-up, the FSRA considers the potential risk to customers' interests, as well as any potential reputational risk to St Helena.
2.15	As a general principle, an applicant is expected to be able to demonstrate a satisfactory track record in the regulated activity for which it seeks a licence. This can relate to the applicant in its own right (for example, where it is already licensed to carry on the same or similar regulated activities in another jurisdiction), or as part of a group that includes entities licensed to carry on that class of regulated activity.
2.16	However, the FSRA will consider applications for a licence to carry on regulated activities other than deposit taking and insurance business, where the applicant has no track record and is not part of a group with a track record, provided that the applicant's key persons have a proven track record at a senior level in a relevant licensed business.
2.17	A new start-up deposit-taking business, that is not part of an established group of companies with an existing deposit taking business within that group, will not be granted an unrestricted deposit-taking licence because of the inherent risks to depositors.
2.18	An unrestricted banking licence is a licence for the purpose of carrying on banking business both within and outside St Helena and serving all types of customers, including retail customers.
2.19	However, a new start-up deposit-taking business which applies for a restricted licence may be permitted, provided that it is part of a substantial, established financial services group, and subject to the competence and experience of its key persons, and there being adequate financial resources available to support the establishment of the business.
2.20	Under a restricted banking licence, the FSRA will impose a number of conditions on the applicant's licence to carry on banking business. Ordinarily, those conditions are that a bank may not take deposits from, or make loans to, any person resident in St Helena other than another relevant business, a company incorporated or registered in St Helena, the Government of St Helena or a corporation in which the Government of St Helena is the sole or majority beneficial owner. That is to say, a bank with a restricted licence may not take or hold deposits belonging to retail customers in St Helena, nor may it lend to such customers by way of lending secured on land or otherwise.
Applicants that are part of groups	
2.21	Where an applicant is part of a group, the FSRA will consider the nature of the applicant's group as part its assessment of the application. The FSRA will therefore, as it deems necessary, ask for information about other group entities from the applicant, other regulators and, if necessary, directly from the group entities themselves.
2.22	Where the applicant is part of a group, the FSRA will consider the ownership structure of the group and its members in addition to the ownership structure of the applicant. As part of this process, the FSRA will need to be satisfied that the

	overall ownership structure is transparent and that there is certainty as to the identity of the legal and beneficial owners in the structure.
2.23	A St Helena incorporated applicant wishing to carry on deposit-taking under an unrestricted banking licence must be part of a group that has an existing deposit-taker as part of that group. For a St Helena incorporated applicant that wishes to accept retail deposits, the group of which it is part should also have experience in the retail deposit market in an appropriate jurisdiction.
2.24	Any applicant wishing to carry on deposit-taking under a restricted licence must be part of a substantial and established financial services group, but the group need not include an existing deposit-taker. However, any such applicant must have adequate financial resources, track record and relevant competence, and it must employ key persons that have relevant experience in deposit-taking in a regulated business.
<u>Structure – general</u>	
2.25	The ownership structure of an applicant should not impede the FSRA's ability to supervise the relevant business. If an ownership structure is unduly complex or lacks transparency, the applicant must explain and justify the rationale for the structure, or, if required by the FSRA, change the structure.
2.26	A licence applicant's structure should always enable the FSRA to identify with certainty: (a) the ultimate beneficial owners of the business; and (b) the persons who exercise control over the appointment of the management team.
2.27	The FSRA will only licence an applicant that is a corporate entity. However, the FSRA will not grant a licence to any company that is authorised to issue bearer shares.
<u>Structure - ownership by a trust, foundation or fund</u>	
2.28	The FSRA will not grant an unrestricted licence for banking business, and it will only exceptionally grant a restricted licence for banking business, where the applicant has a trust, foundation or fund in any layer of its ownership structure.
<u>Structure – holding company</u>	
2.29	The FSRA will not issue an unrestricted banking licence where it is intended that the licensee will act as a holding company for overseas banks or other financial services companies. However, the FSRA may issue a restricted banking licence in such circumstances, subject to the consent of the relevant overseas regulators.
<u>Ownership – credit rating</u>	
2.30	In relation to an applicant for an unrestricted banking licence, the owner, or where relevant the owner's group, should hold a long-term, stable, investment grade credit rating. In relation to an applicant for a restricted banking licence, the FSRA will ordinarily expect the same condition to be met.
<u>Ownership – financial due diligence</u>	
2.31	In relation to an application for an unrestricted banking licence, the FSRA must be provided with a personal wealth report concerning each ultimate beneficial

	owner of the prospective licensee, which is to be sent direct to the FSRA by the banker of the individuals concerned. In relation to an application for a restricted banking licence, the FSRA may at its discretion require a personal wealth report.
Financial support – letter of comfort	
2.32	In relation to an application for any type of banking licence, an applicant must provide the FSRA with a letter of comfort from its parent, or other relevant group company, giving a commitment to provide ongoing financial support to the applicant if it is granted a licence. The terms of the letter of comfort must be acceptable to the FSRA. The FSRA may require the letter of comfort to be renewed from time-to-time.
2.33	An applicant for a licence to conduct regulated activities other than deposit-taking may also be required to supply the FSRA with a letter of comfort from its parent or other relevant group company.
Financial support – ring fencing	
2.34	A bank with an unrestricted banking licence, must hold a ring-fenced liquidity buffer, with assets in the name of the bank and subject to control of bank management in St Helena. St Helena does not have a deposit guarantee/insurance scheme, nor does it have a central bank or other lender of last resort. Accordingly, a bank holding an unrestricted banking licence must hold and segregate a substantial ring-fenced liquidity buffer held in high quality liquid assets to ensure that retail deposits can always be repaid.
2.35	The FSRA may require a bank with a restricted banking licence to hold a ring-fenced liquidity buffer, depending on the nature of its business.
Financial support – debt finance	
2.36	In relation to a bank with an unrestricted banking licence, FSRA consent is required where the bank proposes to issue debt either to a third party or to a member of the bank's group. FSRA consent is not required where a bank with a restricted banking licence proposes to issue debt of that kind.
2.37	In relation to debt issued by a bank with an unrestricted banking licence, the rights of debt holders must be subordinated to the claims of depositors, under a deed of subordination approved by the FSRA.
Branches	
2.38	The FSRA will not grant a licence to a branch to carry on a regulated activity unless its head office is licensed to conduct the same or an equivalent regulated activity in another jurisdiction which has licensing and regulatory requirements of an appropriate standard. In assessing the jurisdiction, the FSRA may contact the regulatory authority which supervises the head office of the proposed branch, and consider reports published by international bodies concerning the quality of supervision of regulated businesses in that jurisdiction and its implementation of the FATF Recommendations.
2.39	In the case of a proposed branch which would undertake deposit-taking activities, the FSRA will not grant a licence unless it is satisfied that: (a) the regulator of the relevant head office is prepared to exercise consolidated supervision with the FSRA; and

	(b) this consolidated supervision includes consideration of capital adequacy and liquidity.
2.40	In relation to a branch that wishes to accept retail deposits, i.e., to hold an unrestricted banking licence, the FSRA will also expect that the bank should have at least a 5-year track record in retail deposit-taking, and an investment grade credit rating.
2.41	Where a deposit-taker is a branch of a company incorporated outside of St Helena, written confirmation will be required from the applicant's head office that it accepts full responsibility for branch liabilities.
2.42	The FSRA will also take into account the standing of the bank or group in its home jurisdiction, including matters such as systemic importance.
<u>Nexus to St Helena</u>	
2.43	In determining whether to grant a licence to an applicant, the FSRA will consider whether the applicant has a sufficient nexus to St Helena. The FSRA cannot adequately supervise a licensee that has no, or an insufficient, nexus with St Helena. The FSRA will refuse an application where the applicant is unable to demonstrate a sufficient nexus to St Helena.
2.44	One of the key indicators of nexus is a company's place of incorporation. Where a company is incorporated in St Helena, the FSRA will be better able to supervise the company, to take enforcement action against it and, if necessary, to take proceedings against the company in court. However, incorporation in St Helena does not necessarily provide sufficient nexus. For example, in the case of market intermediaries whose business is or will be carried on outside St Helena the FSRA will need to be satisfied that the firm has a closer nexus to St Helena. In such cases, the FSRA will consider the same type of nexus indicators as it would for an applicant that is a foreign company.
2.45	Where an applicant is not, or will not be, incorporated as a company in St Helena, it will need to evidence some other form of nexus to St Helena, such as: (a) carrying on business from a principal place of business in St Helena, particularly if the mind and management of the company is located in St Helena; (b) maintaining a physical presence in St Helena; (c) maintaining books and records in St Helena; (d) registering as an overseas company in St Helena; (e) maintaining an active bank account in St Helena; (f) underwriting risks in St Helena; or (g) carrying on business with St Helena incorporated companies or with individuals or companies resident in St Helena.
2.46	The FSRA will determine whether sufficient nexus to St Helena has been demonstrated on a case-by-case basis, taking into account all relevant circumstances. Therefore, the fact that an applicant can show that one or more of the above indicators is applicable to it, will not necessarily be enough to demonstrate sufficient nexus to St Helena.

2.47	The FSRA expects the resident directors of a relevant business to be fully involved in the management and control of the business, including the day-to-day operations of the regulated activity.
Consolidated supervision	
2.48	A licence to carry on deposit-taking will not be granted unless the FSRA has received direct confirmation from the supervisory authority in the jurisdiction in which the applicant or its parent is incorporated, that the authority: (a) consents to the establishment of the subsidiary or branch in St Helena; (b) will exercise consolidated supervision over the applicant's business, including that in St Helena; and (c) will cooperate in the sharing of financial and regulatory information with the FSRA. The FSRA will also expect to receive confirmation from that authority that the applicant, or its parent, is in compliance with its regulatory obligations.
2.49	The FSRA will consider the adequacy of the consolidated supervision exercised by the applicant's home supervisor, taking account of: (a) the legal and administrative powers of the home supervisor; (b) the supervisory methods employed by, and the resources available to, the home supervisor; and (c) any previous dealings that the FSRA has had with the home supervisor.
2.50	The licensing criteria for banks outlined above require that the bank must be subject to the consolidated supervision of either the FSRA or its home supervisory authority. The FSRA will not, therefore, grant a banking licence to a parallel bank.
Consolidated supervision – characteristics of consolidated supervisor's jurisdiction	
2.51	For the FSRA to issue a banking licence, it should be the case that the jurisdiction of the consolidated supervisor: (a) ranks favourably in international anti-corruption and illicit finance risk reports; (b) has satisfactorily implemented the FATF Recommendations; (c) does not appear on the EU list of non-cooperative jurisdictions for tax purposes; (d) is willing to enter into a bilateral Tax Information Exchange Agreement with the Government of St Helena; and (e) is not subject to any financial sanctions measures imposed by the government of St Helena or of the UK.
Changes to ownership structure of business once a licence has been granted	
2.52	Where, after a licence has been granted, a relevant business wishes to make changes to its ownership structure, it will need to obtain the FSRA's approval, as set out in the FSO. Any such changes may alter the FSRA's assessment of the relevant business as a fit and proper person.
2.53	Where, as a result of a proposed change in ownership or control, a relevant business would become part of a group, or part of a group that is not its current

	group, the FSRA will apply its licensing policy to the new ownership and control structure.
2.54	Approval of a change of control or ownership is contingent on FSRA approval of the business plan of the relevant business. The FSRA will not approve a change of control or ownership for a bank with an unrestricted banking licence in circumstances in which its owner or controller proposes to engage in activities whose risk profile is inconsistent with the bank's status as a retail deposit-taker. Accordingly, the FSRA will not entertain a change of control or ownership application for a retail deposit-taker which would involve the bank engaging in investment banking, securities trading on its own account, unsecured high yield lending or other speculative activities.
<u>Overseas businesses</u>	
2.55	Where an applicant has, or a relevant business proposes to establish, an overseas branch or subsidiary, the FSRA will take that matter into account when considering the fitness and properness of the applicant or relevant business.
2.56	The potential risks of the overseas business and any detrimental effect the overseas business may have on the St Helena operation or St Helena's reputation will be considered when assessing whether the applicant or relevant business is and will remain fit and proper.
2.57	Accordingly, the FSRA requires that a relevant business which is incorporated in St Helena must obtain a statement of non-objection from the FSRA before establishing an overseas business.
2.58	In assessing the overseas business, the FSRA will consider: (a) any published reports on the overseas jurisdiction by the IMF or other similar bodies and in particular assessments related to the supervision of relevant regulated activities and implementation of the FATF Recommendations; (b) the nature of the activity that the overseas business will undertake; (c) whether the activity is regulated; and (d) whether the activity would be a regulated activity in St Helena.
2.59	Where the activity is regulated in the overseas jurisdiction the FSRA will contact the relevant regulatory authority in that jurisdiction. The FSRA will consider the quality of its relationship with the regulatory authority, whether there is a memorandum of understanding in place with that regulator and that regulator's willingness and ability to supply information to enable the FSRA to act as lead supervisor of the group.
<u>Overseas customers</u>	
2.60	A relevant business may wish to accept customers who are not resident in St Helena. A relevant business that wishes to serve non-resident customers must put in place adequate risk management and compliance controls.
2.61	The FSRA requires that a relevant business wishing to serve non-resident customers must first file with the FSRA its risk management policy for dealing with such customers.

2.62	The aim of the risk management policy is to set out an approach to identifying, assessing and mitigating risks to the relevant business. Examples of such risks include: (a) non-compliance with applicable laws and regulations in St Helena and relevant overseas jurisdictions, potentially leading to financial penalties and reputational damage; (b) operational failures, potentially leading to interruptions in the service to customers, with consequent financial impact and reputational damage; (c) not taking into account any particular circumstances of the customer relating to their geographical location, such as the economic and political environment and any organized crime, bribery and corruption or terrorism issues or vulnerability to money laundering; (d) failure to guard sufficiently against non-payment, fraud or other similar sources of financial loss that may be difficult to pursue overseas; and (e) the risk to the business of the customer being found to be in breach of applicable law or regulation in their own jurisdiction.
2.63	Elements of an appropriate policy may include the following features: (a) the business will obtain a non-resident customer's reasons for wishing to establish a relationship with the business and will scrutinise those reasons with appropriate rigour; (b) the business will consider whether to apply enhanced customer due diligence to its non-resident customers; (c) the business will conduct an appropriate level of risk assessment in relation to the customer's country or territory of residence, taking into account any FATF mutual evaluation or other FATF guidance about that place and whether it is subject to St Helena or United Kingdom financial sanctions measures; (d) the business will determine the best practicable way to interact with the customer to provide a service, e.g., face-to face, telephone, online, or through an intermediary; (e) the business will consider appropriate mitigation measures against potential risks; (f) the business will establish a written statement of risk appetite in relation to the circumstances in which it is willing to accept a non-resident customer and the type of products and services that it will provide to such a customer; and (g) to the extent that the business engages overseas introducers, distributors or marketing agents to source non-resident customers, it will undertake appropriate due diligence on those parties prior to their engagement.
Management and Operational Structure	
<u>General</u>	
2.64	An applicant must be able to demonstrate to the FSRA that it will have, and be able to maintain: (a) sufficient management oversight and control of its activities; (b) comprehensive operational records, relating to all activities, which must be readily accessible in St Helena; (c) comprehensive financial information, which must be readily accessible in St Helena;

	(d) relevantly qualified and experienced staff to competently deliver the services it offers; (e) management of the business by at least 2 individuals each of whom is either an executive director or a senior manager and is fit and proper for the purpose; and (f) systems and controls appropriate to its risk profile and designed to manage its affairs effectively for the proper performance of all activities.
Management – Banks	
2.65	In relation to a bank with an unrestricted licence: (a) the Chief Executive, Head of Compliance, Head of Risk and MLRO must be resident in St Helena; (b) a director of the parent must be appointed to the Board of the bank; and (c) at least two directors must be resident in St Helena.
2.66	In relation to a bank with a restricted licence, the conditions in 2.65 must be satisfied, save that in relation to 2.65(a), only the Head of Compliance and MLRO must be resident in St Helena.
Preparedness	
2.67	The applicant, through the application process, must be able to demonstrate to the FSRA its ability to fully adhere to the FSO, FSR, this Directive and any other FSRA Directives, on the very first day of business operations.
Controllers, directors and persons performing specified functions	
2.68	All persons with responsibility for management and control of the business, and persons holding specified functions, must satisfy the FSRA that they are fit and proper persons.
2.69	In determining whether a person is a "controller", the FSRA will look behind legal ownership to ultimate beneficial ownership.
2.70	In considering a person's fitness and properness (as well as the matters set out above and in Schedule 4) regard will also be had to whether: (a) a person's holding of a particular role or interest would expose the applicant to undue risk; (b) a person's holding of a particular role or interest would otherwise hinder effective supervision; and (c) the interests of customers or potential customers of the applicant are, or are likely to be, prejudiced by a person's holding of a particular role or interest.
2.71	The controllers, directors and persons performing specified functions must continue to be fit and proper persons after their approval by the FSRA.
2.72	A relevant business is also required to obtain the FSRA's consent for the appointment of certain persons who undertake functions for it, for example where it is required to appoint an external auditor, the external auditor. Where a relevant business is required to appoint an auditor, the applicant will usually have to provide details of the person that it proposes to appoint as part of its licence

	application, and the FSRA will need to be satisfied that the person concerned also satisfies its fit and proper criteria.
2.73	Where one or more nominees hold shares in an applicant, the relevant nominee agreement evidencing the identity of the shares' beneficial owners must be disclosed to the FSRA. The FSRA will apply the fit and proper test to both the nominee shareholders and the beneficial owners of the shares.
2.74	A relevant business or licence applicant, as well as its controllers, directors and persons holding specified functions must notify the FSRA if their circumstances change, or events arise that could affect the assessment of their fitness and properness.
2.75	If a controller exercises influence over the day-to-day affairs of the applicant, the controller would also be expected to demonstrate competence in the same way as a director or person holding a specified function. In considering the structure of an applicant the FSRA will not only consider the applicant's legal structure but also the extent to which one individual may dominate the applicant through personal influence. Where the FSRA sees a risk of an individual having a dominant influence, it may take steps to counterbalance that influence, for example by the application of additional regulatory requirements in respect of the corporate governance of the applicant and through the allocation and definition of management and compliance responsibilities.
<u>Directors and segregation of duties</u>	
2.76	An applicant should have an appropriate number of independent, non-executive directors. The FSRA will normally require that at least one of the directors is resident in St Helena and for the St Helena element of the Board to be actively engaged in the governance of the business.
2.77	The FSRA's policy is to accept only natural persons to act in the capacity of director of a relevant business.
2.78	To ensure that compliance control is separated from the day-to-day control of the business the following roles should be undertaken by different individuals: (a) Compliance Officer and Board director; (b) Compliance Officer and Chief Executive; and (c) Compliance Officer and operational roles.
Integrity	
2.79	To a large extent, an applicant's integrity is a reflection of the persons employed by or associated with the applicant. In assessing the integrity of an applicant or relevant business and its directors, controllers and persons holding specified functions, the FSRA will consider whether any of their past actions or conduct indicates a lack of integrity. The FSRA will consider all relevant circumstances, on a case-by-case basis.
Competence	
2.80	An applicant must be competent to undertake the relevant regulated activities.

2.81	An applicant must be able to demonstrate that: (a) those employed by it have sufficient relevant experience for the functions they are charged with performing; (b) it is, and will have procedures that will assist it to remain, competent to undertake the activities for which it is licensed, including the ability to comply with relevant regulatory requirements; and (c) it will be able to undertake appropriate management and training of its staff.
2.82	An applicant's competence is demonstrated by persons in the organisation holding relevant qualifications, having sufficient experience and being appropriately supervised and trained to competently fulfil their functions and regulatory responsibilities.
2.83	The FSRA must be able to identify from the applicant's organisational structure, the persons whose competence in their particular role and responsibilities is jointly indicative of the overall competence of the applicant. The role of controllers and any influence they may have over the business is also taken into account.
2.84	Directors and other holders of specified functions that do not hold relevant academic and/or professional qualifications, must demonstrate that they have accumulated sufficient knowledge through relevant work experience, normally over a period of at least five years.
2.85	The FSRA will use its discretion in assessing competence and may direct that a person should successfully complete a course of study or achieve a relevant qualification within a specified period of time.
2.86	The proposed classes of regulated activities, size and type of business and jurisdictions in which products and services will be offered are relevant when assessing an applicant's competence. An applicant must be able to demonstrate the existence of adequate risk management systems and controls for the risks associated with its activities and the jurisdictions in which it operates.
Financial resources	
2.87	An applicant will have to satisfy the FSRA that it has, or before the grant of the licence will have, sufficient financial resources, including capital and liquidity resources, to support the licensed business that it will carry on, taking into account the nature, scale, complexity and structure of the business and the risks to which the applicant is likely to be exposed. An applicant will have to demonstrate that, before the licence is issued, it will be able to satisfy the applicable minimum capital and liquidity resources requirements set out in the relevant statutory provisions and in the FSRA's Directives. However, the FSRA may decide, on a case-by-case basis, to impose higher capital resources requirements or to impose other financial resource requirements. In assessing an applicant's financial resources, the FSRA will consider not only the amount of the

	resources available to the applicant, but also the quality of the resources and their availability to the applicant.
2.88	In considering whether the proposed capital and liquidity resources are adequate for an applicant, the FSRA will consider the applicant's capital and liquidity resource requirements throughout the period of the business plan and initial financial projections. The capital and liquidity should be adequate on the basis that the financial projections are subjected to stresses and shocks. The FSRA will not consider capital or liquidity adequacy solely against "best case" projections.
2.89	Taking account of contingent and prospective liabilities, an applicant must be able to demonstrate that it will be, and be likely to remain, a going concern.
2.90	To establish the applicant's track record of financial stability and the ability to meet the going concern requirement, where the applicant is an existing company the FSRA will require a copy of the applicant's past 3 years of audited annual financial statements.
2.91	In addition, the business plan submitted by the applicant must include considered and realistic financial projections for the next 3 years including clear explanation of the assumptions used. Any applicant, especially one that is a new business start-up, must demonstrate convincingly the financial viability of its proposals. The FSRA will require evidence that funds have been provided to meet the share capital requirement and financial resources requirement, for example evidence of funds being lodged to pay up share capital.
2.92	The FSRA will also consider the solvency of the directors, controllers and holders of specified functions of a corporate licence applicant.
2.93	Where the applicant is part of a group, the FSRA may also consider the financial resources of the group and relevant group members and whether the group structure could impact on the financial resources available to the applicant.
2.94	The FSRA must be provided with: (a) copies of the audited annual financial statements of the applicant's/relevant business's parent (whatever the parent's legal form); (b) copies of the audited annual financial statements of any corporate body that is a controller of the applicant/relevant business; and (c) for any individual that is a controller of the applicant/relevant business, proof of that individual's personal assets, provided directly to the FSRA by that individual's bank.
Business plan	
2.95	An applicant for a licence to conduct a regulated activity must submit a business plan to the FSRA with its licence application.
2.96	A relevant business must operate in accordance with its business plan.
2.97	After the grant of a licence, a relevant business must continue to keep its business current and up to date.

2.98	Where the business plan of a relevant business is proposed to change in a material way compared to the business plan submitted to the FSRA with its licence application, or the most recent business plan submitted to the FSRA, the relevant business must send the new business plan to the FSRA for its approval prior to the implementation of that plan.
2.99	Schedule 6 explains the FSRA's expectations in respect of the business plan.
Home jurisdiction	
2.100	In assessing the fitness and properness of an applicant, the FSRA will pay close attention to the characteristics of the jurisdiction of the applicant (where it is proposed to establish a branch in St Helena) or in the case of a subsidiary, to the jurisdiction of the parent.
2.101	The FSRA will consider whether the home jurisdiction has implemented measures to give effect to the FATF Recommendations and whether it supervises firms in its jurisdiction for compliance with those Recommendations. However, in assessing illicit finance risk, the FSRA will consider first and foremost whether the illicit finance risks in the home jurisdiction of the applicant or its parent will increase the illicit finance risks to which the relevant business and St Helena are themselves exposed.
2.102	In the case of an applicant whose ultimate beneficial owner is a person connected with a higher risk jurisdiction, the applicant may be expected to demonstrate a longer relevant and satisfactory track record and mature relationship with a relevant supervisory authority.
2.103	The home jurisdiction of the applicant or its parent should also be considered by the FSRA to operate an adequate regime of financial sector supervision. In assessing this aspect, the FSRA will take account of reports issued by relevant international bodies such as the IMF, as well as responses to its own enquiries in respect of the home supervisor's adherence to the Basel Committee's Core Principles for Banking Supervision.
2.104	Where, after a licence has been granted, a relevant business wishes to make changes to its ownership or control structure, the FSRA will pay close attention to the characteristics of the jurisdiction in which the prospective new owner or controller is located. The FSRA will consider first and foremost whether the illicit finance risks in the jurisdiction of the prospective new owner or controller will increase the illicit finance risks to which the relevant business and St Helena are themselves exposed.
Diposal of requirements for overseas businesses	
2.105	The FSO provides that the FSRA may, on application by a business registered outside St Helena, grant that business a licence to carry on business in respect of one or more regulated activities in St Helena and may (by way of a Directive) dispose of any of the requirements under the FSO and the FSR in respect of that business if: (a) that business holds an appropriate licence to carry out the equivalent activity or activities in the territory where it is so registered; and

	(b) the FSRA is satisfied that the licensing requirements in that territory are sufficient to ensure stringent control and oversight of that business by the corresponding authority in that territory.
2.106	In Schedule 7 to this Directive the FSRA provides guidance on the use of this power.
Waiver or modification of Directive provisions	
2.107	The FSO provides that a provision of a Directive that applies to a relevant business in respect of a specified regulated activity may, by direction of the FSRA, be modified or waived. Accordingly, on the application or with the consent of a relevant business, the FSRA may direct that a provision of a Directive: (a) does not apply to the relevant business; or (b) applies to the relevant business with such modifications as may be specified in the direction.
2.108	The FSO provides that the FSRA may not give a direction unless it is satisfied that: (a) compliance by the relevant business with the provision of the Directive, or with the provision as unmodified, would be unduly burdensome or would not achieve the purpose for which the provision was made; and (b) the direction would not adversely affect the advancement of any of the FSRA's regulatory objectives.
2.109	In Schedule 8 to this Directive the FSRA provides guidance on the use of this power.
Section 3 – FIT AND PROPER ASSESSMENT	
Fit and proper assessment	
3.1	The following persons are required to satisfy the FSRA's fit and proper criteria: (a) an applicant for a licence; (b) a relevant business, on an ongoing basis; (c) an applicant for approval to perform a specified function; (d) a person approved under (c) and appointed by a relevant business, on an ongoing basis; (e) an applicant to become a qualifying shareholder of a relevant business; (f) a qualifying shareholder on an ongoing basis; (g) an applicant to become a controller of a relevant business; (h) a controller on an ongoing basis; and (i) where a licensee is required to appoint an external auditor, that auditor.
3.2	The fit and proper concept is discussed in Section 2, primarily in the context of the FSRA's licensing policy and its evaluation of licence applications. This Section expands on the obligations of an applicant or relevant business in relation to its own fit and proper assessment. For completeness, Schedule 4 to this Directive contains additional material on the core elements of the fit and proper test.

3.3	The primary responsibility for ensuring that a relevant business is soundly and prudently managed rests with the business itself, and the business must itself ensure that the persons to which the fit and proper standard applies do indeed meet that standard.
3.4	A licence applicant and a relevant business should be guided by the FSRA's fit and proper criteria in determining the criteria that they use to make their own fit and proper assessments.
3.5	A licence applicant must ensure that the persons who it proposes to perform specified functions are fit and proper. It must also ensure that its qualifying shareholders, its controllers, and its external auditor (where it is required by the FSO to appoint one) meet the fit and proper standard.
3.6	A relevant business must ensure that the persons who perform specified functions continue to be fit and proper on an ongoing basis, and that its external auditor also continues to be so. In addition, it must take reasonable steps to ensure that its qualifying shareholders and its controllers continue to be fit and proper on an ongoing basis.
3.7	The FSRA therefore expects that every applicant or relevant business should: (a) carry out reasonable due diligence on those persons before applying to the FSRA for approval; and (b) subsequently, monitor their fitness and properness on an ongoing basis.
3.8	To enable the FSRA to conduct its fit and proper assessment, it must be provided with appropriate information when an application is made and, where necessary, subsequent to the FSRA granting a licence or approval. Where an applicant or a licensee withholds information that is relevant to the fit and proper assessment, this will reflect negatively on it. When conducting its fit and proper assessment, the FSRA will consider the information provided to it but will make such additional enquiries as it considers appropriate. It will take account of key relationships that the applicant or licensee has, or proposes to establish, with accountants, lawyers, auditors and business partners.
3.9	In relation to due diligence on persons proposed to perform specified functions, the minimum required due diligence checks are set out in Schedule 3.
3.10	In relation to ongoing monitoring of the fitness and properness of persons performing specified functions, a relevant business should establish a policy dealing with that issue, which should include: (a) the use of performance and appraisal results; (b) periodic repeat of criminal records checks; (c) employee self-certifications; (d) such other tools as they relevant business considers appropriate.
3.11	A relevant business should be prepared to share the results of its ongoing monitoring with the FSRA on request.
3.12	If, whether before or after the FSRA has approved a person listed in 3.1, an applicant or a relevant business becomes aware of any information that is

	material to the FSRA's fit and proper assessment of the person, it must notify the FSRA of the information without delay.
Persons performing specified functions	
3.13	The specified functions are set out in Schedule 1 to this Directive.
3.14	Persons who perform specified functions in a relevant business are subject to the fit and proper standard.
3.15	Each of the following types of relevant business must appoint individuals to perform all of the specified functions in Schedule 1: (a) a banking business; (b) an insurance business; (c) an insurance intermediary; or (d) an investment manager.
3.16	In relation to any other type of relevant business, that business must appoint individuals to perform: (a) the Governance function; (b) the Management Oversight function; (c) the Compliance Oversight function; (d) such other of the specified functions in Schedule 1 as the FSRA may direct.
3.17	The fit and proper assessment of a person performing a specified function in a relevant business is conducted for the function which the relevant business advises the FSRA that the person will perform. The FSRA's approval of an individual is with respect to that function only, and it does not extend to other positions. A relevant business must therefore obtain the approval of the FSRA before appointing an individual to a different function or otherwise making material changes to the duties of that individual within his currently approved function. Furthermore, the fact that a person has satisfied the FSRA's fit and proper criteria to perform a function for one relevant business does not necessarily mean that the person concerned would be assessed as fit and proper for a similar position in a different relevant business.
3.18	For example, if an individual is approved to act as a non-executive director of a relevant business and the business subsequently wishes to appoint that individual as chair of the Board, the relevant business would need to apply to the FSRA for a further approval since appointment as chair would amount to a material change in the duties of the individual.
3.19	Each person approved to perform a specified function must comply with the FSRA's Code of Conduct which is set out in Schedule 2 to this Directive.
Section 4 – MANAGEMENT AND CONTROL	
Corporate governance framework	
4.1	A relevant business must: (a) take reasonable care to maintain a clear and appropriate apportionment of significant responsibilities among its directors and senior managers so

	that (i) it is clear who has which of those responsibilities, (ii) the business and affairs of the relevant business can be adequately monitored and controlled by the directors and its relevant senior managers, and (iii) the employees of the relevant business are appropriately supervised; and (b) establish and maintain such systems and controls as are appropriate for the nature, size, complexity and structure of its business.
4.2	A relevant business must: (a) ensure that its systems and controls are regularly reviewed and updated as required; and (b) make and retain for the retention period, a record of how it has complied with this section.
4.3	The systems and controls established and maintained under 4.1 shall take into account the degree of risk associated with each area of its business.
Directors of a relevant business	
4.4	A relevant business must have an adequate number of directors who: (a) are capable of exercising independent judgment; (b) have sufficient knowledge, skills, experience and understanding of the business of, and the risks to which it is exposed, to ensure that the Board is able to fulfil its responsibilities; and (c) have sufficient time and commitment to undertake their duties diligently.
4.5	Without limiting 4.4: (a) a relevant business must, at all times, have at least two directors; (b) at least one of the directors of a relevant business must be resident in St Helena unless agreed otherwise by the FSRA; and (c) at least one of the directors must be a non-executive director where the relevant business carries on banking business or insurance business.
4.6	Where a relevant business is required by the FSRA to have an audit committee it must ensure that a majority of the committee is comprised of non-executive directors and that it is chaired by a non-executive director.
4.7	Only an individual may be appointed as the director of a relevant business.
4.8	The FSRA will not approve an overseas government official or regulator to act as a director or a relevant business that carries on banking or insurance business.
4.9	Where a relevant business, after being granted a licence, has fewer than 2 directors contrary to 4.5, it must: (a) immediately notify the FSRA of that fact in writing; and (b) within a period not exceeding 14 days from the date the business failed to comply with 4.5, submit to the FSRA an application for approval to appoint a director.
4.10	The Directive imposes a requirement that the directors of a relevant business must have “sufficient time and commitment to undertake their duties diligently”. It is the responsibility of both the relevant business and the director, or proposed

	director, to satisfy themselves that this requirement will be met. Furthermore, it should be noted that this requirement does not apply only on appointment. It is an on-going requirement and if, at any time, it becomes apparent that a director no longer has sufficient time and/or commitment, it is important that appropriate action is taken either by the director to remedy the situation or by the relevant business to remove the director. This is also a matter that the FSRA will take into account when considering whether to approve the appointment of a person as the director of a relevant business. Where a person proposed as the director of a relevant business serves as the director of other relevant businesses or acts as the director of other companies that are not licensees, the applicant should be able to demonstrate that the time and commitment requirement will be met.
4.11	The fit and proper requirement applies to every person that a relevant business proposes for appointment to act, and who does act, as a director of that business. For the avoidance of doubt, where a relevant business carries on both regulated activities and unregulated activities, the fit and proper requirement applies to each and every director of the Board of that company.
Responsibilities of the Board	
4.12	The Board of a relevant business has ultimate responsibility for the business and operations of the relevant business and for ensuring its effective organisation.
4.13	Without limiting 4.12, the Board of a relevant business has the following responsibilities: (a) ensuring that a corporate governance framework complying with this Directive is established and maintained by the relevant business; (b) ensuring that it has effective oversight of the management of the relevant business, including approving, periodically reviewing and overseeing: (i) the business's overall business strategy and its corporate values; and (ii) the business's risk management strategy; (c) approving and periodically reviewing the significant policies of the relevant business; (d) ensuring that: (i) the relevant business has adequate and sufficiently qualified and experienced senior managers and other employees whose competence it shall periodically review; (ii) appropriate and effective systems and controls are established, maintained and implemented for giving effect to the strategies and policies of the business; and (iii) the relevant business complies with its regulatory obligations and its AML/CFT obligations; (e) establishing standards for business conduct and ethical behaviour for directors, senior management and other employees; (f) monitoring, and ensuring, the financial soundness of the relevant business, including by ensuring that a prudent dividend policy is in place; (g) delegating such functions of the Board as the Board considers appropriate; (h) establishing a policy on conflicts of interest to address standards of behaviour within the relevant business, including the consequences of non-compliance with the policy;

	(i) ensuring adequate oversight of the subsidiary companies and branches of the relevant business, whether in St Helena or overseas; and (j) such other responsibilities as are specified in the FSRA's Directives.
4.14	Where the Board of a relevant business delegates a function under 4.13, it must: (a) record or cause to be recorded the function that is delegated; and (b) recognise that notwithstanding the delegation, it retains ultimate regulatory responsibility for the performance of the function that has been delegated.
4.15	4.13 and 4.14 apply, notwithstanding that the FSO, FSR or the FSRA's Directives may require the appointment of a senior manager to undertake, or oversee, particular functions.
4.16	The Board of directors of a relevant business is therefore ultimately responsible for all aspects of the business, organisation, policies, systems and controls and financial soundness of the relevant business. So, for example, even though a compliance officer is appointed to oversee the compliance function, the Board retains ultimate responsibility for compliance.
4.17	In order to comply with this Directive, the individual directors must fully understand and accept their roles and responsibilities and a relevant business should be able to demonstrate that this is the case. A relevant business will need to provide training to directors in respect of their statutory and fiduciary duties and in relation to corporate governance standards. The FSRA's expectation is that every director should receive initial training of this kind within 3 months of the date of their appointment.
Chair of the Board	
4.18	The chair of the Board of a relevant business performs an essential leadership function within the business and accordingly candidates for appointment as chair will be subject to close scrutiny by the FSRA.
4.19	To meet the fit and proper standard to act as Board chair of a bank or insurance business, a candidate should ordinarily: (a) currently serve, or have previously served, as (i) chair or non-executive director of a bank or insurance company or, exceptionally, of another kind of licensed financial services business, or (ii) a senior official within a financial services regulatory agency or government department responsible for financial services; (b) be able to demonstrate a thorough understanding of, respectively, banking or insurance business; and (c) not occupy an executive management position in the relevant business.
4.20	The chair of the Board is responsible for the effectiveness and management of the Board as a whole. The chair of the Board should ensure that: (a) a Board skills matrix is in place and that, where practicable, steps are taken to fill any identified gaps in that matrix when a current director resigns, retires or their term of appointment falls due for renewal; and (b) a Board effectiveness review is carried out periodically.

4.21	In relation to the Board effectiveness review, a relevant business should consider whether a self-assessment is sufficient, or whether a third-party advisor should undertake the effectiveness review.
Senior management	
4.22	Subject to the strategy and policies established by the Board, the senior management of a relevant business is responsible for: (a) overseeing the operations of the business and providing direction to it on a day-to-day basis; (b) providing the Board with recommendations for its review and approval on the business's strategy, business plans and significant policies; and (c) providing the Board with timely and accurate information, including financial information, that is adequate to enable the Board to fulfil its responsibilities, including holding senior management to account.
4.23	The Chief Executive of a relevant business performs an essential leadership function within the business and accordingly candidates for appointment as Chief Executive will be subject to close scrutiny by the FSRA.
4.24	To meet the fit and proper standard to act as Chief Executive a candidate must currently serve, or have previously served, as Chief Executive in a regulated financial services business or as a senior executive responsible for the conduct of the regulated activities in such a business.
Span of control	
4.25	A relevant business shall ensure that it has a span of control that is adequate for the nature, size, complexity and structure of its business.
4.26	Without limiting 4.25, a relevant business must ensure that its management is undertaken by at least 2 individuals each of whom is either an executive director or a senior manager and is fit and proper for the purpose.
4.27	The relationship between the directors or senior managers who undertake the management of the relevant business for the purposes of this section must be such as to ensure that they can each exercise independent judgment and that none of them is able to exercise inappropriate influence over the other or others.
4.28	The purpose of this requirement is to ensure that every relevant business is subject to what is often referred to as "four eyes" control.
4.29	In order to demonstrate an adequate span of control, the FSRA expects that where the minimum number of directors or senior managers is relied upon to satisfy the span of control requirements, each must be actively involved in the day-to-day management of the business and be able to exercise executive powers on behalf of the relevant business. It is not sufficient for one to be actively involved in the management of just some aspects of the business. Active involvement in day-to-day management does not need to extend to day to-day execution and implementation of policy, but it does require that both are actively involved in the decision-making process with respect to all significant decisions.

4.30	This Directive provides that each of the directors or senior managers providing the required span of control must be able to exercise independent judgment and must not be able to exercise duress or undue influence over the others. The FSRA does not consider that individuals with close family relationships will be able to comply with this requirement as it is not reasonable to assume that close family (i.e., spouses, children, parents, brothers, sisters etc.) can exercise properly independent management. Therefore, only one family member should normally be included in a determination of whether the relevant business complies with the span of control requirements.
Overseas branches and subsidiaries	
4.31	Where a relevant business carries on business through one or more overseas branches or subsidiaries, the relevant business must ensure that an appropriate and effective corporate governance framework is established, maintained and implemented in each branch and subsidiary.
Establishment of policies, systems and controls	
4.32	A relevant business must: (a) establish such policies, systems and controls as are appropriate given the nature, scale, complexity and structure of its business and the degree of risk associated with each area of its business; and (b) ensure that the policies, systems and controls are fully and clearly documented and are communicated, as appropriate, to members of staff.
4.33	The policies, systems and controls of a relevant business must specify the duties and responsibilities of the Board and senior management, including such responsibilities and duties as are imposed on the Board and senior management by this Directive.
4.34	The senior management of a relevant business is responsible for ensuring that, insofar as it is necessary for them to perform their duties, all staff of the business: (a) are made aware of and understand the policies, systems and controls established and maintained by the business; and (b) are provided with information concerning the relevant business and its operations.
Risk management	
4.35	A relevant business must establish and maintain: (a) a clearly defined strategy and policies, for the effective management of all significant risks that the business is or may be exposed to; and (b) systems and controls that are sufficient to ensure that the risk management strategy and policies are effectively implemented.
4.36	The risk management strategy and policies must: (a) be appropriate for the nature, size, complexity and structure of the business; (b) specify how risks are to be identified, measured, assessed, monitored, controlled and reported; (c) set the level of risk that the business is prepared to accept and authority levels for members of staff; and

	(d) be approved, and reviewed on at least an annual basis, by the Board.
4.37	The risk management strategy, policies, systems and controls must be fully and clearly documented and effectively communicated and readily available to the directors and to those senior managers and staff of the relevant business who have responsibility for implementing them.
4.39	The Board and senior management are responsible for: (a) ensuring that they understand all the risks to which the relevant business is exposed; (b) assessing the resources required for an appropriate risk management system and for ensuring that the required resources are available; and (c) overseeing the implementation of the relevant business's risk management strategy, policies, systems and controls.
4.40	The risk management systems and controls of a relevant business must: (a) enable the business to monitor the adequacy and effectiveness of (i) its risk management strategy and policies and their implementation, and (ii) any measures taken to address any deficiencies identified in the risk management strategy, policies, systems and controls; and (b) ensure that any exceptions to the relevant business's risk management strategy and policies are reviewed and authorised by senior management and, where appropriate, the Board.
4.41	As part of the risk management strategy, the Board should ensure that appropriate stress testing is undertaken on an ongoing basis, to assess the impact on the business's financial position of a range of possible future adverse events. In relation to some risks, such as liquidity risk for banks, the FSRA prescribes the nature of the stress tests that a relevant business must carry out. However, where there are no prescribed stress tests, the Board should ensure that appropriate stress tests are devised that allow it to understand how the business would respond to external shocks. Such stress tests should include, at a high level, the impact of the following fact patterns: (a) a new entrant to the principal market in which the relevant business operates; (b) an extreme weather event or other form of natural disaster; (c) a Covid-type pandemic event; and (d) an unfavourable change in global interest rates or in the return on the business's investments.
4.42	The Board of a relevant business should ensure that stress tests are undertaken annually and the FSRA will expect to see evidence that the Board has taken account of the results of those tests in its business planning.
4.43	A relevant business should be prepared to provide copies of its stress test results to the FSRA on request.
Business continuity plans	

4.44	A relevant business must establish a written business continuity policy, and put business continuity arrangements in place, aimed at ensuring that, in the event of an interruption or disruption to its day-to-day business operations: (a) it is able to continue to carry on its regulated business and to meet its regulatory and AML/CFT obligations; (b) losses of system functionality may be recovered in a timely manner; and (c) where the severity of the interruption or disruption results in it ceasing its regulated business, or any part of it, it is able to resume its business in a timely manner.
4.45	The business continuity policy and arrangements must be: (a) appropriate for the nature, size, complexity and structure of the business of a relevant business, and the types and degree of risk to which it is exposed; and (b) regularly reviewed, tested and updated as required.
4.46	A relevant business must ensue that it tests its business continuity plan at least annually, and that it documents the test and its results.
4.47	A relevant business should be prepared to provide copies of its business continuity test results to the FSRA on request.
Internal controls	
Establishment of internal controls	
4.48	A relevant business must establish and maintain an adequate and effective system of internal controls appropriate for the nature, size, complexity and structure of its business.
4.49	The internal controls established under 4.48 must ensure that: (a) the business of the relevant business is planned and conducted properly and in accordance with the strategies and policies established by the Board; (b) transactions and commitments are entered into in accordance with documented authorities and limits; (c) the assets of the relevant business are appropriately safeguarded and the liabilities controlled through measures designed to minimise the risk of loss from irregularities, error, fraud and physical damage; (d) there are appropriate arrangements in place for the delegation of authority and for the segregation of duties; (e) the accounting and other records of the relevant business are complete, accurate and up to date and can be used to compile statutory financial statements, management information and returns to the FSRA; (f) the Board and senior management is able to assess and monitor the adequacy of capital and liquidity in relation to the business; (g) the Board and senior management is able to identify and regularly assess all relevant risks in the conduct of the business, so that (i) identified risks can be measured, monitored and controlled appropriately, (ii) any losses can be monitored and controlled on a regular and timely basis, and (iii) appropriate provisions can be made for bad and doubtful debts;

	(h) the Board and senior management is able to properly guard against involvement in financial crime and ensure that the relevant business is complying with all its regulatory and AML/CFT obligations; (i) adequate business resumption, disaster recovery and other contingency arrangements are in place and tested at appropriate intervals; and (j) adequate controls are in place, including controls (i) relating to changes to systems and records to ensure that only valid changes are made to them, (ii) relating to access to protect the confidentiality and integrity of data held in electronic form, and (iii) to ensure that appropriate cross checking and data reconciliation is undertaken.
4.50	A relevant business must ensure that its internal controls extend to any outsourced functions.
4.51	Where a relevant business also operates through subsidiaries and branches, its internal control systems must extend to those operations and enable effective oversight of them by the relevant business.
<u>Responsibilities of the Board and senior management in relation to internal controls</u>	
4.52	The Board of a relevant business has ultimate responsibility for ensuring that an adequate and effective system of internal controls is established and maintained by the business.
4.53	For the purpose of 4.52, the Board of a relevant business must: (a) approve and periodically review the overall business strategies and significant policies of the business; (b) set acceptable levels for the business's significant risks; (c) ensure that senior management implements the internal controls strategy and policies established by the Board; (d) approve an appropriate organisational structure for the business; (e) approve new products and services; (f) approve major risk management initiatives; (g) ensure that senior management is monitoring the effectiveness of the business's internal control system; and (h) undertake a self-assessment of its effectiveness with respect to the matters required of it under this Directive.
4.54	The senior management of a relevant business has responsibility for: (a) implementing the strategy and policies of the Board with respect to internal controls; (b) ensuring that (i) the internal controls are established and maintained, (ii) the information systems required are put in place, and (iii) implementation of the internal controls is monitored and deficiencies corrected; and (c) reviewing the business's internal controls, at least annually, and reporting on the results of their review to the Board.
<u>Information systems</u>	
4.55	A relevant business must have in place reliable and secure information systems that cover all the regulated activities carried on by the business and, where appropriate, that enable the business to measure, assess and report on the size, composition and quality of its exposures.

4.56	A relevant business must ensure that its information systems are supported by adequate data back-up and other contingency arrangements.
Monitoring of internal controls	
4.57	A relevant business must ensure that: (a) the effectiveness of the internal control system is monitored on an ongoing basis; (b) regular reports on the effectiveness of the internal control system are made to the Board; and (c) any deficiencies identified in the internal control system are corrected as soon as reasonably practicable.
4.58	A relevant business must ensure that its internal control policies require that any deficiencies identified in the internal control system are reported in a timely manner to senior management and for material internal control deficiencies identified to be reported to the Board, notwithstanding that they may have been corrected.
Internal audit	
Appointment of internal audit function	
4.59	In this Directive, the "internal audit function" of a relevant business refers to the person or persons appointed by the business to have responsibility for the internal audit obligations imposed by this Directive. That person will perform the Internal Audit specified function.
4.60	A relevant business must appoint one or more persons as its internal audit function if: (a) it carries on banking business or insurance business, acts as an insurance intermediary or as an investment manager; or (b) not doing any of those activities, it is directed by the FSRA to do so.
Internal audit function	
4.61	A relevant business must ensure that the internal audit function: (a) possesses sufficient independence to carry out the internal audit obligations objectively; (b) reports directly to the Board or, if the business has one, to the audit committee; (c) is given sufficient status within the relevant business to ensure that senior management and the Board react to, and act on, its recommendations; (d) has unrestricted access to (i) the staff of the relevant business, in order to carry out its internal audit obligations, and (ii) documents and information relating to the operations of the relevant business and its customers; (e) has sufficient human resources with adequate professional qualifications, relevant auditing experience and training to understand and evaluate the business they audit; and (f) employs a methodology that identifies all significant risks run by a relevant business and allocates resources accordingly.
4.62	In a relevant business the principal responsibilities of the internal audit function are:

	(a) assessing whether the business's existing risk management strategy, policies, systems and controls and its internal controls remain sufficient, effective and appropriate for its business; (b) assessing whether the business's risk management strategy, policies, systems and controls and its internal controls, are being implemented and adhered to; (c) where relevant, assessing whether the systems and controls for monitoring and assessing the ongoing capital and liquidity requirements of the business are effective and are being implemented; (d) where the relevant business has a separate risk management function, periodically reviewing that function; and (e) periodically reviewing the compliance function of the relevant business.
4.63	The responsibilities specified in 4.62 shall extend to all the activities of the relevant business, including outsourced activities. Where the relevant business has established branches or subsidiaries, it should ensure that its internal audit programme covers those branches and subsidiaries, as necessary.
<u>Internal audit reports to be submitted to FSRA at its request</u>	
4.64	A relevant business that is required to appoint an internal audit function must: (a) within 10 days of the end of each calendar year, provide the FSRA with a list of reports that have been prepared by the internal audit function during that calendar year, with a summary of the areas covered by each report; and (b) on the written request of the FSRA submit to the FSRA complete and unredacted copies of such internal reports as are specified in the FSRA's request, within the time period specified in the request.
<u>Audit committee</u>	
4.65	A relevant business must at all times have an audit committee if: (a) it has a licence to carry on banking business or insurance business; or (b) although not holding such licence, it is directed by the FSRA to have an audit committee.
4.66	A relevant business that is not required to have an audit committee must: (a) determine whether, given the nature, size, complexity and structure of its business, it is appropriate to have an audit committee; and (b) if it so determines, establish an audit committee.
4.67	In relation to a relevant business, the audit committee must be: (a) a committee of the Board; (b) comprised solely of directors, the majority of whom shall be non-executive directors; and (c) chaired by a non-executive director.
4.68	The FSRA expects that the audit committee of a relevant business will: (a) have oversight of the business's financial reporting process and its internal control systems;

	(b) have oversight of, and be the primary contact for, the business's internal audit function; and (c) act as the primary contact for the business's external auditors and be responsible for monitoring the audit process.
4.69	In relation to the external audit of the relevant business, the role of the audit committee is to: (a) make recommendations to the Board on the appointment, reappointment and removal of the auditor, including as to whether the auditor is fit and proper; (b) approve, or advise the Board on, the auditor's terms of engagement, including the auditor's remuneration; (c) review and approve the audit plan; (d) review, consider and make recommendations to the Board on the auditor's findings; and (e) monitor and evaluate the audit process.
Training and professional development	
4.70	Effective risk management and control requires that the staff who are responsible for particular functions or tasks are, and remain, adequately qualified.
4.71	A relevant business must ensure that the opportunity is available to all relevant employees to continue their professional development.
4.72	A relevant business must determine an appropriate minimum time to be spent on continuous professional development each year by relevant employees.
4.73	A relevant business must maintain records of continuous professional development for all relevant employees, and it should be prepared to make these available to the FSRA on request.
Record keeping	
Obligation to maintain records	
4.74	A relevant business must keep adequate and orderly records which must include: (a) the records that it is required to maintain under the FSO, FSR, the FSRA's Directives and the Companies Ordinance 2004; and (b) records of its business, including of all services provided to, and transactions undertaken for, customers.
4.75	The records kept by a relevant business must always be sufficient to enable the FSRA to monitor the compliance of the business with its regulatory obligations and its AML/CFT obligations.
4.76	A relevant business must: (a) maintain its records so that they can be readily retrieved in St Helena and, if kept otherwise than in paper form, so that they can be accessed and read online or electronically in St Helena without delay; and (b) ensure that its records are kept up to date and that a full audit trail is maintained of all changes to its records.

4.77	A relevant business may not keep any records that it is required to maintain under the FSO, FSR, FSRA Directives or the Companies Ordinance 2004 outside St Helena if access to those records will or is likely to be impeded by confidentiality or data protection restrictions in those overseas jurisdictions.
Retention of records	
4.78	A relevant business must establish a record retention policy which must include: (a) the period of time for which various types of record will be retained, which shall be no less than the minimum period specified in 4.79; (b) how records are to be securely and safely stored; and (c) the process by which stored records can be readily accessed when required by the relevant business, the FSRA, law enforcement agencies or other persons entitled to access them.
4.79	Subject to the FSO, FSR, the FSRA's other Directives, the Companies Ordinance 2004 or any other enactment requiring a relevant business to retain records for a longer period, a relevant business must retain all records that it is required to maintain under this Directive for a period of at least 5 years.
4.80	In the case of records relating to transactions with a customer, the 5-year period shall commence on the termination of the relevant business's relationship with the customer.
4.81	A relevant business must not, without the written consent of the FSRA and whether before or after the expiry of the retention period, alter, destroy or erase any record which is, or may be, relevant to: (a) any enforcement action being taken by the FSRA; (b) any matter which is being investigated by the FSRA or any law enforcement authority in St Helena; or (c) any matter which is the subject of, or relates to, a request from a foreign regulatory authority or law enforcement authority.
Section 5 – COMPLIANCE	
Overarching requirements	
5.1	A relevant business must: (a) establish and maintain adequate compliance systems and controls; and (b) appoint an individual approved by the FSRA as compliance officer to perform the Compliance Oversight function.
5.2	Except in relation to the requirement to submit a compliance report to the FSRA, the compliance arrangements in relation to relevant business's AML/CFT obligations are covered in the FSRA's Directive on Anti-Money Laundering, Counter-Terrorist Financing and Financial Sanctions Compliance rather than by this Directive.
Compliance systems and controls	
5.3	A relevant business must ensure that its compliance systems and controls:

	(a) are sufficient to ensure compliance by the business with its regulatory obligations and its own compliance policies; (b) include written policies and procedures for its staff to follow, in the form of a compliance manual; (c) are effectively implemented by the relevant business; and (d) include monitoring and testing arrangements to identify compliance breaches.
5.4	The Board of a relevant business must: (a) approve the business's compliance systems and controls; (b) on at least an annual basis review the effectiveness of those systems and controls in managing the business's compliance risk, in light of internal audit and compliance monitoring findings; (c) on an annual basis, review and approve the compliance manual.
Appointment of compliance officer	
5.5	The individual appointed as the compliance officer of a relevant business must be a person who has the appropriate skills and experience and is otherwise fit and proper to act as the business's compliance officer. If approved, this person will perform the specified function of Compliance Oversight.
Obligations of a relevant business in respect of the compliance officer	
5.6	Unless otherwise agreed by the FSRA, the compliance officer of a relevant business must be an employee of the business. A relevant business must ensure that the compliance officer: (a) has sufficient seniority in the organizational structure of the business to (i) effectively undertake the compliance function, (ii) communicate freely with the FSRA concerning compliance matters on their own initiative, and (iii) ensure that their requests are acted upon by the business and its staff and their recommendations are properly considered by the Board and by senior management; and (b) has sufficient resources to perform the Compliance Oversight function effectively.
5.7	A relevant business must ensure that for the purposes of undertaking the Compliance Oversight function, the compliance officer has unrestricted access to: (a) the directors, senior management and auditor of the business; (b) the staff of the relevant business, in order to seek information and explanations concerning compliance matters; and (c) documents and information relating to the business and its customers.
5.8	In relation to periods in which the compliance officer is anticipated to be temporarily absent for more than 5 working days, the relevant business must appoint a competent individual approved by the FSRA from within the relevant business to perform the duties of the compliance officer during the latter's temporary absence.

5.9	When considering whether to approve an individual as the compliance officer of a relevant business, the FSRA will have regard to the FSRA's fit and proper criteria in Schedule 4. In determining whether the competence criterion has been satisfied, the FSRA will consider, in particular: (a) the academic qualifications of the proposed compliance officer and whether the nature of the business concerned requires a person with a formal compliance qualification and/or other formal qualifications; (b) the relevant experience of the proposed compliance officer; and (c) whether the relevant business has demonstrated that the proposed compliance officer has the ability to fully understand the regulatory regime as it applies to the business.
5.10	The FSRA considers that relevant experience is experience that is gained from acting either in a compliance role or at a senior level in the relevant business or in another organisation connected with financial services business. Although the minimum amount of experience will be considered on a case-by-case basis, as a guide, the FSRA would usually expect a proposed compliance officer to have at least 3 years of relevant experience. Generally, the FSRA will expect a person who does not have relevant academic or professional qualifications to have more relevant experience than a person who has such qualifications.
5.11	In relation to the requirement that the compliance officer must have sufficient independence, the compliance officer must not be subject to undue influence in the performance of their Compliance Oversight function and it is therefore unacceptable for a relevant business to: (a) threaten a compliance officer with regard to their tenure, remuneration or other benefit; or (b) interfere with the performance by the compliance officer of the Compliance Oversight function, for example, by attempting to influence what is, or is not, contained in a compliance report.
Duties and responsibilities of the compliance officer	
5.12	The compliance officer of a relevant business has functional responsibility for: (a) ensuring that the relevant business complies with its obligations with respect to the establishment and maintenance of compliance systems and controls; (b) identifying, measuring and assessing the compliance risks associated with its business, including the compliance risks associated with changes in regulation, or the development of new products, types of business or customer relationships; (c) keeping the regulatory obligations of the relevant business under review; (d) putting in place monitoring procedures to identify regulatory breaches or control deficiencies; (e) establishing and maintaining a compliance manual and keeping the compliance manual under regular review and current; (f) maintaining a register of compliance breaches containing information on the date, nature and extent of each compliance breach, the remedial action taken to address the breach, within what timeframe and whether the breach has been reported to the FSRA; (g) ensuring that the staff of the relevant business are aware of the need for and the objectives of compliance and that they are familiar with, to the

	extent necessary to undertake their responsibilities, (i) the regulatory regime, and any changes to it, and (ii) the compliance manual; (h) ensuring that the relevant business complies with its reporting obligations to the FSRA, including that returns submitted to the FSRA are accurate, complete and filed within the relevant time period; and (i) establishing and maintaining procedures for the monitoring and handling of complaints, and for keeping the complaints procedures under review.
5.13	In addition, the compliance officer has responsibility for: (a) reporting compliance breaches to the FSRA; (b) preparing and submitting to the FSRA, on behalf of the relevant business, an annual compliance report in the approved form; and (c) preparing and submitting to the Board of directors an annual compliance report.
5.14	The compliance officer must ensure that the annual compliance reports required under 5.13 are prepared and submitted within 3 months after the end of the year to which the report relates.
5.15	With the approval of the FSRA, the compliance officer of a relevant business may also be appointed to act as its MLRO.
5.16	If the compliance officer is not fulfilling their responsibilities properly, such that the relevant business is not complying with its regulatory obligations, including its compliance obligations, the directors of the business are responsible for taking remedial action.
5.17	As noted above, the compliance officer of a relevant business is required to submit an annual compliance report to the FSRA on behalf of the business. However, the FSRA may determine that a particular relevant business should submit a compliance report on a more frequent basis.
Compliance manual	
5.18	The compliance manual of a relevant business must provide sufficient detail and structure to ensure that its employees understand the compliance function and their individual roles in the compliance framework.
5.19	The compliance manual must cover at least the following matters: (a) the purpose of the compliance function and the role of the compliance officer; (b) a description of the regulatory framework insofar as it is relevant to the business and of the regulatory obligations of the business; (c) the policies and procedures that staff should follow to ensure that they and the business adhere to those regulatory obligations; and (d) how staff should report breaches of compliance obligations or of requirements in the manual.
Compliance officer report	
5.20	The report of the compliance officer to the FSRA must detail the level of the relevant business's compliance with:

	(a) the FSRA's Directive on Anti-Money Laundering, Counter-Terrorist Financing and Financial Sanctions Compliance and any other applicable statutory or regulatory requirements dealing with those matters; (b) this Directive and any other Directive issued by the FSRA; and (c) the provisions of the FSO and FSR.
5.21	The report submitted by the compliance officer must, at a minimum, contain the following: (a) an account of the training and continuous professional development undertaken by the staff and directors of the relevant business, together with a copy of the training register; (b) a list of any laws, regulations or Directives that may have been breached by the relevant business and the remedial action taken, together with a copy of the relevant business's register of compliance breaches; (c) the number of suspicious activity reports made during the year of the report; (d) a list of complaints made by the customers of the relevant business, with the dates of the complaints, the nature of the complaints, and how the complaints were dealt with; (e) information about any significant breakdown in the internal control arrangements of the relevant business, including risk management policies and limits; and (f) an account of compliance by the relevant business with its reporting and notification obligations to the FSRA under this Directive, the FSRA's other Directives and any applicable financial services legislation.
Overseas branches and subsidiaries	
5.22	Where a relevant business carries on business through one or more overseas branches or subsidiaries, the relevant business must ensure that adequate compliance system and controls are established and maintained in each branch and subsidiary.
Section 6 – OUTSOURCING	
Overarching requirement	
6.1	A relevant business must not outsource an activity otherwise than in accordance with this Directive.
Prohibited outsourcing	
6.2	A relevant business must not outsource: (a) the compliance function or a core management function; or (b) an activity if the outsourcing of that activity would (i) impair the FSRA's ability to supervise the business, or (ii) affect the rights of a customer against the business, including the right to obtain legal redress.
6.3	Without limiting the scope of 6.2, the following are core management functions: (a) the setting and approval of the relevant business's risk management and other strategies; (b) the oversight of the business's systems and controls; and

	(c) the responsibility for the delivery of services to the customers of the relevant business.
Outsourcing policy	
6.4	A relevant business must not outsource activities to a service provider unless it has established an outsourcing policy with respect to the activities to be outsourced (the "relevant activities").
6.5	The outsourcing policy must: (a) include an evaluation of whether, and the extent to which, the relevant activities are appropriate for outsourcing; (b) specify criteria for making outsourcing decisions, including how, and to whom, particular types of relevant activities should be outsourced; (c) require that the business considers the potential effects of outsourcing on the ability of the business to meet its regulatory, AML/CTF, and other compliance obligations; and (d) provide for outsourcing only as permitted by, and in accordance with, this Directive.
6.6	The Board of a relevant business must: (a) approve the outsourcing policy of the relevant business and keep it under review; and (b) be responsible for ensuring that (i) outsourcing decisions are taken, and (ii) outsourced activities are undertaken, in accordance with the outsourcing policy.
Risk management	
6.7	A relevant business that outsources any activities must establish and maintain adequate systems and controls to manage its outsourcing risk.
Outsourcing arrangements	
6.8	A relevant business must before entering into any outsourcing arrangement, undertake appropriate due diligence with respect to the service provider to which the activities will be outsourced in order to assess: (a) the service provider's capacity and ability to undertake the outsourced activities; and (b) the risks associated with outsourcing the proposed activities to the service provider, including any risks associated with the jurisdiction in which the service provider is located.
6.9	The outsourcing of an activity must be governed by a written contract with the service provider that: (a) clearly specifies all material aspects of the outsourcing arrangement, including (i) the activities to be outsourced, (ii) the rights and responsibilities of the parties, and (iii) the protection by the service provider of confidential information relating to the relevant business and its customers; and

	(b) gives the relevant business, the FSRA and, if relevant, its auditor, access to the premises of the service provider, and to all documents and information relevant to the outsourced activity, on request.
6.10	A relevant business must establish and maintain a contingency plan for each outsourcing agreement that it enters into, such that the failure of a particular outsourced service provider does not lead to an interruption in the provision of services to the customers of the relevant business.
Section 7 – COMPLAINTS	
Complaints policy and procedure	
7.1	A relevant business must: (a) establish and maintain a complaints policy which provides for the effective consideration and proper handling of any complaints made to it and for appropriate remedial action to be taken, where appropriate; (b) maintain a complaints register in which it records any complaints received, together with details of how the complaint has been, or is being, dealt with; and (c) make available to the FSRA on request its complaints register.
7.2	A relevant business must: (a) ensure that the complaints handling policy established under 7.1 is fair and that the timeframe for dealing with complaints is not unduly lengthy; and (b) advise its customers about its complaints handling policy, including providing complaining customers with a description or copy of the policy.
Significant complaints	
7.3	A "significant complaint" means a complaint that alleges: (a) a breach of a regulatory requirement; (b) bad faith, malpractice or impropriety on the part of the relevant business or one of its directors or staff; (c) the repetition or recurrence of a matter previously complained of (whether significant or otherwise); or (d) that the complainant has suffered, or may suffer, financial loss that is material in relation to their financial circumstances.
7.4	A relevant business must ensure that a significant complaint is considered by a senior manager of the business who is independent of the circumstances that gave rise to the complaint or, if this is not practicable, by a director of the relevant business.
7.5	If a significant complaint remains unsettled for longer than 3 months, a relevant business must inform the FSRA without delay of the complaint.
7.6	Where a relevant business has given a substantive response in relation to a significant complaint, unless and until it has received an indication from the complainant that the response is unsatisfactory, it is entitled to treat the

	complaint as settled after the expiry of 8 weeks from the date of delivery of its response to the complainant.
Section 8 – ANTI-ABUSE REQUIREMENTS	
8.1	A relevant business must establish and maintain policies, systems and controls that: (a) promote high ethical and professional standards in its business; (b) prevent the business being used for fraud, tax evasion, or other criminal activities; and (c) enable the business to detect and address fraud, tax evasion or other criminal activities.
8.2	A relevant business must ensure that: (a) the policies, systems and controls established under 8.1 are integrated into its risk management framework; and (b) adequate resources (including senior management and staff resources) are allocated to the prevention and detection of fraud, tax evasion and other criminal activities.
Section 9 – REPORTING TO THE FSRA	
Overarching requirements	
9.1	A relevant business must make a disclosure to the FSRA about anything relating to the relevant business of which the FSRA would reasonably expect notice.
9.2	A relevant business must take appropriate measures to ensure that all information and documents that it provides to the FSRA are accurate and complete.
9.3	If a relevant business becomes aware that any information or documentation that it has provided to the FSRA is not accurate or complete, it must: (a) immediately on becoming so aware, notify the FSRA that it has provided inaccurate or incomplete information; and (b) within 7 days, or such shorter period as the FSRA may require, provide the FSRA with such information or documentation as it requires.
Matters in relation to which the FSRA expects notice	
9.4	Without limiting the scope of the requirement in 9.1, the following must be regarded as matters of which the FSRA expects notice: (a) any matter that could impact on the ability of the relevant business to continue to carry on business substantially in accordance with its most recent business plan; (b) any matter that could result in significant financial consequences for it, other relevant businesses or customers; (c) any significant operational risk event; or (d) any event specified in Schedule 9.

9.5	In determining whether a disclosure should be made under 9.1, a relevant business must, in addition to considering its own business and the regulated activities that it carries on, also consider: (a) its business and activities that are not subject to supervision by the FSRA; and (b) the business and activities of its affiliates and other companies in its group.
9.6	Unless another time limit is specified in Schedule 9, a relevant business must ensure that any disclosure made pursuant to 9.1, is made immediately after it: (a) becomes aware of the matter concerned; or (b) has reasonable grounds for believing that the matter concerned has occurred or that it may occur in the foreseeable future.
Notifications arising from events	
9.7	Without limiting the scope of 9.1, a relevant business must notify the FSRA in writing of any event specified in Schedule 9, within the time limit specified against the event.
9.8	In relation to a notification to the FSRA of a breach of a statutory requirement, this Directive or another Directive of the FSRA, a relevant business must not delay making a notification to the FSRA until it has remediated the breach. Equally, a relevant business must not delay undertaking appropriate remedial measures to address the breach, or its effects, while it submits information to the FSRA.
9.9	A relevant business must also make a notification to the FSRA in relation to a breach that it believes might occur in the foreseeable future. In determining whether to provide information to the FRSA about a possible future breach, a relevant business should consider both the probability of the event happening and the severity of the outcome should it happen.
9.10	Under 9.1, a relevant business is also required to notify the FSRA of material operational risk events, whether concerning its business and activities that are supervised by the FSRA or otherwise. While fraud may be considered to be a type of operational risk, a relevant business should also make notifications in relation to other material operational risk events such as those which relate to: (a) cyber security, and information security generally; (b) technology failures or outages; (c) human error; and (d) prolonged failure to fill senior management vacancies.
Notifications about proposed changes	
9.11	A relevant business must not, without giving the FSRA reasonable prior written notice: (a) change (i) its name or any business name under which it carries on regulated business, or (ii) the address of its principal office or place of business, whether in or outside St Helena; (b) change the address of its registered office;

	(c) carry on business in a manner materially different to its most recent business plan; or (d) terminate or decline to renew the engagement of its external auditor or that of any of its branches or subsidiaries.
Notifications to be made in writing	
9.12	A relevant business must provide a notification to the FSRA under 9.1 in writing. Where the matter at hand is urgent, a relevant business may provide an initial notification to the FSRA verbally, but it must follow-up that initial notification with a formal written notification within 1 business day.
Section 10 – INFORMATION ACCESS AND INVESTIGATIONS	
Background	
10.1	The FSRA may need to exercise its powers to obtain information from, or about, a relevant business in order that the FSRA may properly carry out its ongoing supervision of that business or where it appears to the FSRA that some aspect of the business should be investigated.
Supervision	
10.2	The FRSA needs to have access to a broad range of information about a relevant business so that it can properly supervise that business. The FSRA prefers to work in an open and cooperative manner with businesses and will ordinarily look to obtain information in the context of that relationship. However, if it appears that obtaining information that way will not achieve the necessary results, the FSRA will use its formal powers under Section 22 of the FSO to require that information be provided.
10.3	When the FSRA uses that power, a relevant business must provide any information that the FSRA reasonably requests in the performance of its duties under the FSO.
10.4	The conduct of regulated activities can be impacted by other activities in the same business. For that reason, in the case of a relevant business, the FSRA's power to require information may be exercised in relation to all business activities conducted by that entity.
10.5	The information gathering powers extend beyond the relevant business itself. If it appears to the FSRA to be reasonably required in the performance of its duties the power may be used to require information from related entities, including members of the same corporate group, such as a holding company or a subsidiary. That includes businesses that are not licensed by the FSRA, whether in St Helena or overseas.
10.6	The FSRA may also require information to be provided by: (a) the current and former external auditors of a relevant business; (b) a liquidator of a relevant business; or (c) any current or former director, manager or employee of a relevant business.

10.7	In addition, the FSRA's power applies in relation to pension schemes and other financial products that are, or were previously, approved by the FSRA, whether the scheme or product is established in St Helena or overseas.
10.8	Where it exercises this power the FSRA will do so in writing and will set out the nature of the information or specific documents that must be submitted, and the timeframe for their submission.
10.9	A relevant business, or other person, to which an information demand is addressed must not edit, redact or otherwise alter the information that is the subject of the demand, and must provide every line and page of the complete document that is demanded.
10.10	The FSRA will not use the power to request information covered by legal privilege, including communications between a lawyer and their client or information that relates to the giving of legal advice or is in connection with and for the purposes of legal proceedings. However, a relevant business or other person to which an information demand is addressed may not withhold information because it considers it to be "confidential" or "private", even where the information is so labelled.
10.11	Examples of information that may be the subject of an information request by the FSRA include: (a) minutes and papers of meetings of the Board of a relevant business and its committees; (b) minutes and papers of the annual general meeting of the relevant business; (c) all financial data of the relevant business, whether or not relating to the activities supervised by the FSRA; (d) compliance and internal audit reports and logs; (e) customer files and records; (f) data about pension schemes and other financial products approved by the FSRA, including fees, charges, service agreements and constitutional documents; (g) correspondence between a relevant business and an overseas regulator; (h) correspondence between a relevant business and its customers, including in relation to complaints; (i) contracts or agreements entered into by the relevant business; (j) copies of insurance and reinsurance policies; (k) bank account and investment account statements; and (l) all trading and transaction records.
Investigation	
10.12	The FSRA may decide to appoint a suitably competent person to carry out an investigation into a relevant business and prepare a report on the nature, conduct or state of the business, or its ownership or control. It has the power to do so, under Section 24 of the FSO, if it appears to the FSRA to be reasonably required in the performance of its duties.
10.13	An example of when the FSRA might decide to use the power is to obtain expert analysis or recommendations (or both) for the purposes of seeking remedial action where there appear to have been compliance, control or risk management failings in a relevant business. It will normally be prompted by the identification of a specific

	need for information, analysis of information, assessment of a situation, expert advice or recommendations.
10.14	When deciding whether to commission an investigation, the FSRA will have regard, on a case-by-case basis, to all relevant factors. Examples of relevant factors are: (a) whether a relevant business itself has the technical ability to prepare an appropriate report; (b) whether there are other reasons that would make it inappropriate to rely on the business itself to enquire into the matter, for example, relating to potential conflicts or actual or potential misconduct; or (c) whether there are alternative ways of obtaining the information, including the use of other statutory powers that may be more appropriate, or requesting information on an informal basis.
10.15	Where it exercises this power, the FSRA must give written notice of any appointment of a competent person to the relevant business. The FSRA will make clear both to the business and the competent person the nature of the concerns that led the FSRA to require an investigation and the possible uses of the results of the competent person's report.
10.16	By virtue of their appointment by the FSRA, a competent person may require that certain individuals associated with the body being investigated (including current or former officers, employers or auditors) produce all documents relating to the body that are in that individual's custody or power. The competent person may take copies of those documents.
10.17	The competent person may also require that an individual attends a meeting with them and the individual must give all assistance in connection with the investigation that the individual is reasonably able to give.
10.18	The competent person's powers are extensive, like the FSRA's information-gathering powers: (a) the competent person is able to require information related to all business activities conducted by the relevant business, not just regulated activities; (b) if the competent person considers it necessary for the purposes of their investigation, they may also investigate the business of any person who is or has at any relevant time been a member of the same corporate group as the relevant business, such as a holding company or a subsidiary (that includes businesses that are not licensed by the FSRA, whether in St Helena or overseas); and (c) the competent person is also able to require the production of documents and information from the current and former external auditors of a relevant business, a liquidator of a relevant business or any current or former director, manager or employee of a relevant business.
Section 11 – CLIENT ASSETS	
Background	
11.1	The purpose of this Section is to explain the client money requirements in the FSO and FSR and to set out the steps that a relevant business should take to

	give full effect to those requirements. It also contains high-level requirements in relation to client assets generally.
11.2	Although provisions of the FSO and the FSR in relation to client money apply to an estate agent, legal practitioner or accountant, in addition to applying to a relevant business, this Directive only applies to a relevant business.
The nature of client money	
11.3	Typically, client money is money that is transferred by (or on the order of) a client to a business with a view to it being invested or being used in a property purchase, or conversely, is money that is to be transferred to the client having arisen from an investment or property sale.
11.4	Section 2 of the FSO defines "client money" to mean: (a) money a relevant business receives from or holds for or on behalf of a client or potential client in the course of or in connection with its regulated activities; (b) money an estate agent receives from or holds for or on behalf of a client or potential client in the course of or in connection with the purchase of land; and (c) money a legal practitioner or accountant receives from or holds for or on behalf of a client or potential client in the course of or in connection with the services provided to the client, or to be provided to the potential client, by the legal practitioner or accountant.
11.5	The reference to a "relevant business" captures businesses conducting any regulated activity. In defining client money to cover money that a business holds "for or on behalf of" a client/potential client, rather than just money paid to the business by a client, it extends to include money that is paid to a business for onward payment to the business's client (such as the proceeds of the sale of an investment).
11.6	A feature of client money protection regimes is that they aim to ensure that client money held by a business can be readily available for distribution back to (or on to) clients, especially in the event of the failure of a business. This is done by requiring that client money is segregated from other money or assets of the business, having it identified specifically as client money, and formally recognising that the money is kept in trust for the client. The legal significance of the money being retained in a "trust account" is that the relevant business is a trustee in relation to the amount of money in the account but it still "belongs to" the business's client.
11.7	Section 19 of the FSO provides for this expressly: "*Client money placed in a designated account with a bank in accordance with the provisions of a Regulation or Directive or by an estate agent, legal practitioner or accountant must be regarded as held in trust for the client or potential client and not as forming part of the assets of the relevant business, estate agent, legal practitioner or accountant.*"

Handling client money	
11.8	Requirements in relation to the handling of client money are set out in Section 4 of the FSR. They are that: (a) client money must be paid into a designated account with a bank authorised by the FRSA or a bank authorised in an Organisation for Economic Cooperation and Development (OECD) member country and held in trust for the client; (b) the client money account must be segregated from the accounts of the relevant business, estate agent, legal practitioner or accountant; (c) the client money account must be in the name of the relevant business, estate agent, legal practitioner or accountant and the title of the account must make clear that it is a client money account; (d) any bank holding such accounts must be notified at the time the account is opened that it is a client money account and must acknowledge in writing to the relevant business, estate agent, legal practitioner or accountant that money standing to the credit of the account is held by that business as trustee and that the bank is not entitled to combine the account with any other or exercise any right of set-off, lien or counterclaim against the account in respect of any sum due from that business; (e) a relevant business or an estate agent, legal practitioner or accountant can only make withdrawals from a client money account in very limited circumstances prescribed by the FSR, such as to repay the money to the client.
11.9	A relevant business should ensure that client money is paid into the client money account by the end of the next business day after receipt.
11.10	A relevant business should ensure that any client money account that it maintains is under at least dual signatory control, where the signatories are sufficiently senior to provide an appropriate span of control.
11.11	Ordinarily, money held in a bank account will earn interest, with the level of interest varying according to the account balance and other factors. In respect of client money accounts, it will be for a relevant business to agree with the client whether and how interest will be paid. A business may therefore agree in writing with a client to pay to the client some, none, or all interest earned on client money held for that client. However, in the absence of any agreement, a relevant business must pay to a client any interest earned on that client's client money.
11.12	Where interest is payable on client money by a business to a client: (a) such sums are themselves client money and, if not paid to, or to the order of the client, must be segregated in accordance with the FSR; (b) the interest should be paid to a client in accordance with the business's agreement with that client; and (c) if the business's agreement with a client does not say when interest should be paid to the client the business should pay any interest received to the client promptly and, in any case, no later than ten business days following its receipt.

Acknowledgment of the trust account	
11.13	The notice to the bank about the client money account and the bank's written acknowledgement serve a number of purposes, including: (a) that the bank is put on notice of the client's interests in the money to be placed in the client money account; (b) ensuring that the bank account is opened in the correct form, separate and distinguished from any account containing money that belongs to the business; and (c) formally recording that the bank understands and agrees that it will not have any recourse or right against money standing to the credit of the client account, will not be entitled to combine the account with any other or exercise any right of set-off, lien or counterclaim against the account.
11.14	In order to facilitate the establishment of the client money account as a trust account, the FSRA considers that it is appropriate to mandate the contents of the written notice and acknowledgement letter. The template of the letter is given in Schedule 10.
11.15	The business should conduct a periodic review, at least annually, of each of its acknowledgement letters to ensure that they remain accurate or review them whenever it is aware that something referred to in an acknowledgement letter has changed.
Insurance distribution activity	
11.16	A relevant business that acts as an intermediary between an insurance company and a client (including arranging and advising on insurance contracts) must take measures to protect clients against the inability of the relevant business to transfer premiums to an insurer, or to transfer the proceeds of a claim or premium refund to the insured client.
11.17	As an alternative to complying with the requirements set out above to place client money into a designated account, the FSRA will consider it acceptable for a relevant business that is an insurance intermediary to enter into a contract with the insurer to provide for a transfer of responsibility from the relevant business to the insurance undertaking in a way that clients of the relevant business will be adequately protected.
11.18	The contract must ensure that the relevant business holds money as agent of the insurance undertaking such that premiums which the relevant business receives are treated as being received by the insurance undertaking when they are received by the relevant business, and claims money and premium refunds owed to the client will only be treated as received by the client when they are actually paid over.
Client money records	
11.19	A relevant business must maintain records of client money: (a) that enable the relevant business, at any time, to identify the balance due to, or standing to the credit of, each client;

	(b) that show each transaction in respect of client money in a manner that allows each transaction to be identified and traced; and (c) in a form that enables the records to be reconciled on a timely basis as required by 11.20.
11.20	A relevant business must, on a regular basis and at least monthly, carry out reconciliations between its records of client money and statements of each client account produced by the bank with which it is held.
General obligations with respect to client assets	
11.21	A relevant business must ensure that: (a) client assets are identified, or identifiable, and appropriately segregated and accounted for; (b) it makes arrangements for the safekeeping and proper protection of client assets and any documents of title relating to those assets; (c) the location of a client's assets and documents of title relating to a client's assets are recorded in the client's records; and (d) where any client asset is required to be registered, the asset is properly registered either in the client's name or, where agreed with the client, in the name of a nominee.

Schedule 1 – List of Specified Functions	
Specified Function	**Description**
Governance	A function responsible for: • Developing and promoting sound corporate governance practices, culture and ethics in the business • Setting business objectives, strategies and plans for the business • Making key staffing decisions • Compliance of the business with statutory, regulatory and financial crime requirements Example: Board Director
Management Oversight	A function responsible for directing and overseeing the effective management of the overall operations of the relevant business on a day-to-day basis. Example: Chief Executive, Deputy Chief Executive, Head of Branch
Key Business Line	A function responsible for directing and overseeing a line of business which comprises one or more types of regulated activities. Example: Head of Sales, Chief Investment Officer
Compliance Oversight	A function responsible for: • Setting the policies and procedures for adherence to legal and regulatory requirements in the jurisdiction(s) where the business operates • Monitoring the business's compliance with the established policies and procedures • Reporting on compliance matters to the Board and senior management Example: Head of Compliance, Designated Compliance Officer
Internal Audit	A function responsible for reviewing the adherence to, and the adequacy and effectiveness of, the business's internal control systems. Example: Head of Internal Audit
Risk Management	A function responsible for the identification, assessment, monitoring and reporting of risks arising from the business's operations.

	Example: Chief Risk Officer, Head of Risk
Finance and Accounting	A function responsible for ensuring the timely and accurate financial reporting and analysis of the operational results and financial positions of the business. Example: Chief Finance Officer, Financial Controller, Finance Director
Information Technology	A function responsible for the design, development, operation, maintenance and security of the computer systems of the business. Example: Chief Information Officer, Head of Information Technology

Schedule 2 – Code of Conduct for persons approved to perform a specified function

An individual approved by the FSRA to perform a specified function must comply with the Code of Conduct set out in this Schedule. Failure by an approved individual to comply with this Code of Conduct will be taken into account by the FSRA when assessing whether that individual continues to meet the FSRA's fit and proper standard.

The Code of Conduct applies to an approved individual when carrying out the function for which they have been approved by the FSRA.

This is the Code of Conduct:

Rule 1	You must act with integrity.
Rule 2	You must act with due skill, care and diligence.
Rule 3	You must be open and cooperative with the FSRA and other regulators.
Rule 4	You must pay due regard to the interests of customers and treat them fairly.
Rule 5	You must observe proper standards of market conduct.
Rule 6	You must take reasonable steps to ensure that the part of the relevant business for which you are responsible is controlled effectively.
Rule 7	You must take reasonable steps to ensure that the part of the relevant business for which you are responsible complies with the relevant requirements and standards of the regulatory system.
Rule 8	You must take reasonable steps to ensure that any delegation of your responsibilities is to an appropriate person and that you oversee the discharge of the delegated responsibility effectively.
Rule 9	You must disclose appropriately any information of which the FSRA would reasonably expect notice.

Schedule 3 – Due Diligence Checks for Specified Functions	
Due Diligence	**Details of Check**
Competence	Copies of academic qualification certificates
	Copies of professional qualification certificates
	Professional membership body check
	Continuous Professional Development and training records for the last 5 years
	Previous employers' references
	Capacity check (whether the individual has enough time)
Integrity	Criminal record check
	Individual self-certification of all convictions
	Internet and database search to identify adverse news
Financial soundness	Court judgments search
	Insolvency lists search
	Credit check
General	Copies of passport or other identity documents

Schedule 4 – Guidelines on the Fit and Proper Test

Overview	
1.1	Section 3 of this Directive notes that the following persons are required to satisfy the FSRA's fit and proper test: (a) an applicant for a licence; (b) a relevant business, on an ongoing basis; (c) an applicant for approval to perform a specified function; (d) a person approved under (c) and appointed by a relevant business, on an ongoing basis; (e) an applicant to become a qualifying shareholder of a relevant business; (f) a qualifying shareholder on an ongoing basis; (g) an applicant to become a controller of a relevant business; (h) a controller on an ongoing basis; and (i) where a relevant business is required to appoint an auditor, that auditor.
1.2	The "fit and proper" assessment is both an initial test undertaken during consideration of an application for licensing and also a continuing and cumulative test. It takes account of the on-going conduct of a regulated person and their respective history of compliance with all applicable laws, regulations and FSRA Directives and also the nature of their relationship with the FSRA.
1.3	The primary responsibility for ensuring that a relevant business is soundly and prudently directed rests with the relevant business itself. Accordingly, a relevant business is responsible for taking measures to ensure that it and its other regulated persons meet the FSRA's "fit and proper" criteria both at the licensing or approval stage and on an on-going basis.
1.4	The burden rests with a relevant business to demonstrate to the FSRA that it is fit and proper to be a licensee and that the persons who it proposes to act as regulated persons, including those who would perform specified functions, are fit and proper. It is not for the FSRA to demonstrate that any of them is not fit and proper.
Key elements of the Fit and Proper Test	
2.1	The FSRA exercises judgment and discretion in assessing fitness and properness. This process takes into account all relevant matters, including the following: (a) honesty, integrity and reputation; (b) competence and capability; and (c) financial soundness.
2.2	The FSRA may consider criteria that fall outside the above categories. Some of the fit and proper criteria detailed in the subsequent paragraphs may be more relevant for a company and some for an individual, but most are relevant to both. Depending upon the person being assessed, greater emphasis may be placed on one or more of the above categories than the others. For example, in the case of a person performing a specified function, significant emphasis would be placed on category (b), whereas this may not be relevant for a qualifying shareholder. However, categories (a) and (c) are likely to be extremely important for a qualifying shareholder.

Honesty, integrity and reputation	
2.3	In assessing honesty, integrity and reputation, the FSRA will consider among other things, whether the regulated person: (a) has been convicted, or is connected with a person who has been convicted, of any offence, particularly an offence involving dishonesty, fraud or other financial crime, or is subject to any pending criminal proceedings that may lead to a conviction by the courts in St Helena or elsewhere. or any civil proceedings which strongly bring into question their honesty, integrity or reputation; (b) has been the subject, or connected to the subject, of any existing or previous investigation or enforcement proceedings by the FSRA, or any other regulatory authority, professional body or government body or agency within or outside St Helena; (c) has contravened, or is connected with a person who has contravened, any provision of any financial services legislation, or any Directive, policy or guideline issued by the FSRA or other relevant industry standards applicable in St Helena or elsewhere; (d) has been refused, or is connected to a person who has been refused, registration, authorisation, membership or a licence to carry on a trade, business or profession or has had that registration, authorisation, membership or licence suspended, revoked, withdrawn or terminated, or has been expelled by a regulatory or government body; (e) has been the subject of any justified customer complaint relating to regulated activities; (f) has been open and co-operative in all its dealings with the FSRA and any other regulatory body and is committed to comply with all relevant legal, regulatory and professional obligations; (g) has engaged in or been associated with any business practices, whether unlawful or not, appearing to the FSRA to be deceitful, oppressive or otherwise improper, or which otherwise reflect discredit on the person's method of conducting business or the person's suitability to be a regulated person; (h) has engaged in or been associated with any other business practices or otherwise behaved in such a way as to cast doubt on the person's competence or soundness of judgment; or (i) has engaged in or been associated with business practices intended, whether in St Helena or elsewhere, to facilitate tax evasion, or the concealment of assets from government authorities, or otherwise to impede the tracing of assets for lawful purposes.
Honesty, integrity and reputation – persons performing specified functions	
2.4	In addition, in relation to a person performing a specified function, the FSRA will, in assessing honesty, integrity and reputation, also consider among other things, whether the individual: (a) has been a director, partner, or otherwise concerned in the management, of a business that was found to be conducting business without an authorisation, licence, registration or other authority required to carry out that business; (b) has been a director, partner, or concerned in the management, of a business that has gone into insolvency, liquidation or administration while the person has been connected with that organisation or within one year of that connection;

	(c) has been dismissed, or asked to resign and resigned, from employment or from a position of trust, fiduciary or similar appointment; or (d) has been disqualified from acting as a director or in any managerial capacity, is the subject of any proceeding of a disciplinary or criminal nature, or has been notified of any potential proceedings, or of any investigations which might lead to such proceedings.
2.5	The FSRA will consider the above matters only so far as they are relevant to its assessment of whether a person performing a specified function meets its honesty, integrity and reputation criteria.
2.6	The considerations in 2.3 and 2.4 remain applicable where the legislative and regulatory regime in question differs from that of St Helena. For instance, proceedings in connection with a criminal matter or a conviction for a criminal offence may be considered by the FSRA regardless of whether the same conduct would amount to a crime under the laws of St Helena.
2.7	Similarly, the outcome of civil proceedings dealing with a relevant matter, or a person having been the subject of an investigation or any disciplinary proceedings, may be considered whether or not such investigation or proceedings could be carried out in St Helena. The same approach applies to any contravention of a regulatory standard or requirement, a justified complaint, or a refusal, withdrawal, termination or revocation of a registration, authorisation, membership or licence.
2.8	Consideration may be given to a person's connection with a business that has been the subject of insolvency, liquidation or administration or has been investigated, disciplined, censured, suspended or criticised by relevant bodies, regardless of whether the business could have been the subject of such action in St Helena.
2.9	The FSRA will also consider whether the person's reputation arising from past conduct could have an adverse impact on the relevant business and on the function that the person is to perform or, more broadly, detract from confidence in the financial system of St Helena, such as by a perception of the prevalence of financial crime. The FSRA's view is that a person may be considered as having been involved in money laundering where: (a) the individual took part in the process of dealing in, disguising or concealing the origin of illicit funds to make it appear that the funds come from a legitimate source; or (b) the individual held responsibility for the establishment and maintenance of effective anti-money laundering systems and controls and, knowingly or with reckless disregard, failed to establish and maintain them.
Competence and Capability	
2.10	In assessing the competence and capability criterion, the FSRA will consider, among other things, whether: (a) the regulated person has satisfactory experience in operating a similar business or otherwise has the necessary expertise to operate such a business and whether its existing regulated business in other jurisdictions is soundly and prudently operated; (b) the regulated person has, or will have, adequate human and technical resources with the appropriate range of skills and experience to

	understand, operate and manage the regulated person's regulated activities; (c) the regulated person has, or will have, in place appropriate procurement policies and adequate internal control systems and procedures which, among other things, are sufficient to ensure that all persons acting on its behalf or providing services to it are suitable and do not call into question its own fitness and properness; (d) the regulated person has, or will have, established clear managerial reporting lines with regard to the operation of its business; and (e) the regulated person has a compliance history that can be accurately assessed.
Competence and Capability – persons performing specified functions	
2.11	The competence and capability criterion set out in 2.10 applies to persons performing specified functions. In order for those persons to meet this criterion, a relevant business or applicant must be able to demonstrate that they have the requisite qualifications, skills, capabilities or experience adequate to undertake the specified functions that they perform, or will perform. In addition, they must be assessed for proper conduct. Accordingly, in determining the competence and capability of a person performing a specified function, the FSRA will consider, among other things, whether the person: (a) has been dismissed or suspended from employment for drug or alcohol abuse or other abusive acts in the workplace; (b) has the technical knowledge, skill, ability and experience necessary to perform the duties for which they are to be engaged; and (c) has, or will have, sufficient time and commitment to properly discharge their duties upon being engaged.
2.12	For the purpose of 2.11(b), recognised professional qualifications and membership of professional institutions will be particularly relevant and will be taken into account by the FSRA.
Financial Soundness	
2.13	In assessing the financial soundness of a regulated person, the FSRA will assess whether the regulated person or applicant is solvent or can maintain solvency, and has established or will establish prudent financial controls. A regulated person or an applicant must show that its business plan is viable and that it has a good probability of survival in the future.
2.14	In assessing the financial soundness of a regulated person, the FSRA will also assess the source of wealth and source of funds of a qualifying shareholder and controller of the regulated person. A regulated person must be able to demonstrate legitimate sources of funds and wealth of the qualifying shareholder or controller.
2.15	In determining the financial soundness of a regulated person, including the persons who are to perform specified functions, the FSRA will consider matters such as whether: (a) there are any indications that the regulated person will not be able to meet its debts as they fall due; (b) relevant prudential requirements (including solvency margins) are met, or will be met, by the regulated person;

	(c) the regulated person or any of its persons performing a specified function have been subject to any judgement debt or award that remains outstanding or has not been satisfied within a reasonable period; (d) the regulated person or any of its persons performing a specified function have made an arrangement with creditors, filed for bankruptcy, or been adjudged bankrupt or had a receiver appointed over it or them; or (e) the regulated person or any of its persons performing a specified function have been able to provide the FSRA with financial references that are satisfactory to the FSRA.
Financial Soundness – controllers, qualifying shareholders and persons performing specified functions	
2.16	Financial soundness is likely to be relevant with respect to qualifying shareholders and controllers and may be relevant to persons performing a specified function. It will be of most significance where there is an expectation that a person having a significant interest in a regulated person could be relied on to provide additional capital or other financial support to the regulated person, if required. Although persons performing a specified function will not usually be expected by the FSRA to have substantial financial resources, the FSRA would consider insolvency and any unsatisfied judgments debts to be relevant. In any case, it should be noted that the criteria outlined above are relevant and will be taken into account in assessing the financial soundness of a person performing a specified function.
Assessment by the business	
2.17	A relevant business or an applicant for a licence must ensure that its controllers, qualifying shareholders and persons who perform a specified function are fit and proper. The FSRA will expect a relevant business or applicant to have regard to substantially the same factors as those to which the FSRA will have regard when carrying out its own assessment of the fitness and propriety of those individuals.
2.18	A relevant business or applicant must document its assessment of the fitness and properness of its controllers, qualifying shareholders and persons performing a specified function, and retain supporting evidence to justify its conclusions.
2.19	Because the fit and proper test applies on a continuing basis, a relevant business must ensure that it periodically re-assesses the fitness and properness of those persons. A relevant business must be able to provide to the FSRA on request evidence that it has continued to re-assess those persons after their approval by the FSRA.
2.20	The FSRA has issued a Code of Conduct for persons approved to perform a specified function, set out in Schedule 2 to this Directive. When assessing whether a person continues to remain fit and proper to perform a specified function, a relevant business must, among other things, take into account whether and the extent to which that person has complied with the Code of Conduct.
Change in circumstances	
2.21	An individual approved by the FSRA as fit and proper must notify the FSRA without delay of any matter relevant to their continued status as a fit and proper person.

2.22	A relevant business must report the following matters to the FSRA without delay: (a) that an individual has ceased to perform a specified function: (b) the reason why the individual has ceased to perform that function; and (c) any disciplinary action taken in relation to the individual's performance of that function, including the issuing of a formal written warning, the suspension or dismissal of the individual, or the reduction or clawback of the individual's remuneration.
Withdrawal of approval	
2.23	The FSRA may withdraw its approval for an individual previously approved as fit and proper if it considers, and can demonstrate, that the individual in respect of whom approval was given no longer satisfies the criteria for approval.

Schedule 5 – Ownership, management structure and track record

Ownership and management structure

Activity	*Permitted structures*	*Ownership by foundation, fund or trust*
Deposit-taking (retail/unrestricted licence)	A subsidiary company, that is part of an established deposit-taking group (in another jurisdiction), or branch of a deposit-taker licensed in another jurisdiction. The jurisdiction must apply standards of regulation and supervision that are consistent with international norms in banking regulation and the lead regulator must be prepared to exercise consolidated supervision and issue a "statement of no objection" in respect of the new operation. For any subsidiary that wishes to accept retail deposits, the group of which it is a part should also have experience in that market. Overseas banks that wish to establish a presence through a branch and accept retail deposits must: (a) have a credit rating (or be part of a group with such a rating) of at least investment grade; and (b) normally have at least a 5-year track record. In such cases the FSRA will also take into account the standing of the deposit-taker/bank/group in its home jurisdiction including matters such as its systemic importance.	Not permitted.

Deposit-taking (restricted licence)	Either the same structure as for unrestricted licence deposit-taking; Or a company that is part of a substantial, established group that does not necessarily include a deposit taker. In either case, the ownership structure must be transparent and the key persons of the relevant business must have relevant experience in that market.	Not normally permitted
Track record		
Activity	*Track record/new business start-up*	
Deposit-taking (retail/unrestricted licence)	A new, start-up deposit taker, which is not part of an established group of companies with an existing deposit taking business within that group, is not permitted because of the inherent risks to depositors. Applications in respect of branches of overseas deposit takers are normally expected to have at least a 5-year track record. The track record in respect of locally incorporated subsidiaries of deposit takers will be considered on a case-by-case basis. For any subsidiary that wishes to accept retail deposits, the group of which it is a part should also have experience in that market. In all cases, the FSRA will look for: (a) a satisfactory audit history, as demonstrated by the audit reports provided on its financial statements, or those of its ultimate and intermediate parents; (b) a well-established and stable management team with the necessary developed capability in respect of corporate governance and conduct of business matters relevant to the proposed regulated activities and risk profile of the applicant; (a) evidence that it conducts its business with integrity; and (b) evidence that it has due regard for the interests of its customers.	
Deposit-taking (restricted licence)	A new, start-up deposit taker should be part of a substantial, established group of companies, but that group need not have an existing deposit taking business within it.	

	However, the entity must employ key persons that have relevant experience in that market. Applications in respect of branches of overseas deposit takers are normally expected to have at least a 3-year track record.

Schedule 6 – Business Plan

Overview

1.1	This Schedule summarises the required contents for a typical business plan for an application for a licence to carry on a regulated activity by an internationally-active business or one which forms part of a international group. According to the particular circumstances of an applicant, the FSRA may agree or direct that an applicant need not supply a specific item of information described below. For example, an established and substantial overseas business applying for a licence for a branch in St Helena will not be required to address all of the data points below, and the same is likely to be the case in respect of an existing relevant business which applies for an additional licence. It is also open to an applicant to refer the FSRA to information contained in publicly available documents.
1.2	Where a relevant business is required to file an updated business plan with the FSRA due to a material change in its business, the updated plan should also be prepared by reference to the requirements of this Schedule.
1.3	A business plan should not be provided in summary form using bullet points, instead it must provide full details together with an explanation of the information included in it. However, it is acknowledged that the extent and detail of a business plan will vary according to the nature, scale and complexity of the business or proposed business.

Contents requirements

Background/objectives – All applicants

2.1	The business plan should include: (a) the commercial rationale for the applicant seeking an authorisation and establishing a business in St Helena together with the business objectives and strategy; (b) for a start-up, the rationale for entering the chosen business area; (c) a summary of the applicant's history and performance to date; (d) details of the ownership and control of the applicant, including the source of wealth of the significant shareholders, qualifying shareholders and controllers; (e) an account of the source of funds and source of wealth applicable to the funds used in the application; (f) details of the information systems used, or to be used, by the applicant and how they are supported, including details of the main IT service providers and back-up providers; (g) details of the applicant's business continuity and disaster recovery plans; and (h) a summary of the applicant's business exit strategy.

Background/objectives – Where the applicant is part of a group

2.2	A detailed group structure chart which includes the following: (a) the full legal ownership of the applicant, including the name, place of incorporation and the relevant percentage holdings and voting rights of any parent companies (direct or indirect); (b) all controllers of the applicant including the relevant percentage holdings and voting rights;

	(c) the beneficial ownership of the applicant, where this is different to (a) and (b) above; (d) if a foundation, fund or trust is present in the ownership structure, details of all key parties involved including trustees, beneficiaries and protectors or similar; (e) the name, place of incorporation and nature of business of all subsidiaries of the applicant; (f) the location of any branches of the applicant; (g) details of any other group companies, including place of incorporation and names of directors, in particular those which undertake financial services; (h) details of any members of the group which are listed on a stock exchange; and (i) regulatory permissions (if any), including details of any regulatory authority held by each entity in the group structure.
2.3	Brief history and background of the applicant's group, including: (a) the group's main business activities; (b) information on related party transactions undertaken by the group which may be relevant and material to the applicant; (c) the group's main geographical areas of activity; (d) the group's industry ranking and size; and (e) any current credit ratings applicable to the group or its members and commentary on those ratings (including details of, and reasons for, any upgrades/downgrades in the ratings in the last three years).
2.4	Both the group and the applicant's target financial objectives and strategy (e.g., return on equity with an indication of when the applicant anticipates that it will meet this target).
2.5	A brief summary of the financial performance of the group, and any entity proposed to provide ongoing financial support to the applicant, for the previous 3 years.
<u>Background/objectives – Applicants other than insurers</u>	
2.6	The business plan should set out: (a) the services and products to be offered, including any unregulated activities, and estimates of income and expenditure attributable to each; (b) the identity of any intermediaries for the introduction of business; (c) the marketing strategy and methods used, including the type of client and a list of the markets to which services will be offered; (d) any existing and intended future sources of income of the applicant and/or the group; (e) an analysis of the relevant industry/sector, the perceived opportunities and the applicant's competitive strengths; and (f) any sources of business which represent more than 10% of the total income of the applicant.
<u>Background/objectives – Applicants for an insurance licence</u>	
2.7	The business plan should set out the regulated insurance activities to be undertaken by the applicant and a summary of specific products and services to be offered, including sources of business.

Source of funds and wealth	
2.8	The business plan should enclose: (a) documentary evidence of the availability of funds to capitalise and fund the business; and (b) in the case where any qualifying shareholder, significant shareholder, beneficial owner or controller is an individual, documentary evidence of the personal assets of that individual.
2.9	For the purpose of 2.8(b), personal assets do not include real estate or crypto currency or assets.
Specified function holders, corporate governance and risk management	
All applicants	
3.1	The business plan should include: (a) the proposed staff organisational structure chart of the applicant, showing reporting lines and all specified functions; (b) a brief description of those who will hold specified functions detailing experience, track record and qualifications of those individuals; (c) a summary of the corporate governance structure, including the Board and any committees and the personnel (to be) appointed to those committees; (d) a copy of the business risk assessment(s); (e) a summary of the applicant's approach to the management of risks relevant to the activities to be conducted under its business plan, its assessment of the principal risks identified, and the control procedures for the management of those risks.
3.2	Details of the proposed relationship between key control functions and the methods to be used to provide for appropriate cross-functional communication and coordination, including (where appropriate) the separation of functions.
3.3	A summary of the proposed key control functions, including the following for each function as indicated:

Information Requirement	**Internal Audit**	**Compliance Oversight**	**Risk Management**
Structure of the function including reporting lines	Y	Y	Y
Overview of personnel including relevant experience and qualifications for the role	Y	Y	Y
Role, objectives and key activities of the function	Y	Y	Y
Overview of the policy/ procedures of the function for reporting to the board, including expected frequency	Y	Y	Y
Expected frequency of performance of work	Y	N	N
Details of whether the function is independent from the operational activities of the applicant	Y	N	N

Policies and procedures	
3.4	Confirmation that policies and record keeping procedures are in place, including: (a) management of conflicts of interest; (b) compliance procedures and reporting arrangements; (c) recording of rule breaches; (d) handling of complaints; and (e) AML/CFT and financial sanctions compliance and reporting arrangements.
Corporate governance	
3.5	Details of material arrangements the Board of the applicant will have in place to support its ongoing oversight of the applicant including, for example: (a) intended frequency of Board meetings; (b) content of matters reserved for the Board; (c) management oversight, monitoring and control of outsourced functions including key performance indicators; (d) management of any potential conflicts of interest; and (e) approach taken by the Board in respect of monitoring and assessing its own ongoing effectiveness.
3.6	A list of any committees of the Board proposed to be set up, including the persons making up the committees and terms of reference.
Risk management	
3.7	Set out the procedures to demonstrate that an effective risk management system will be established including: (a) continuous measuring, monitoring and controlling of risks; (b) accurate and reliable management information systems; (c) timely management reporting; and (d) thorough audit and control procedures.
3.8	Provide an outline Institutional ML/TF Risk Assessment of the kind described in section 2 of the FSRA's Directive on Anti-Money Laundering, Counter-Terrorist Financing and Financial Sanctions Compliance.
3.9	In relation to deposit-takers, a summary of the approach to the management of risks relevant to the activities that are conducted. This should cover: (a) credit risk including large exposures and arrears and provisioning; (b) market risk, including, as appropriate, liquidity management, foreign exchange and interest rate risk; and (c) operational risk.
Outsourcing and external service providers	
All applicants	
4.1	The business plan should include: (a) name and address of any external service providers, including bankers, external auditors and registered agent (as applicable); (b) details of, and the rationale for, any proposed material outsourcing arrangements with third parties or other group companies, including:

	• name and description of the material management or business function/activity to be outsourced; • name of the proposed outsourced service provider; • name of the person responsible for the material management or business function/activity at the proposed outsourced service provider; • a description (including outlining sub-outsourcing is proposed) of the scope of business function/activity to be outsourced; and • the measures the applicant will have in place to oversee the outsourced business function/activity.
4.2	The business plan should enclose: (a) copies of outsourcing agreements; (b) copies of service level agreements; and (c) copies of agreements with other external service providers.
Financial projections	
<u>All applicants</u>	
5.1	The business plan should include financial projections to be prepared on pessimistic, realistic and optimistic bases. Financial projections should typically be prepared in such form as the applicant will be required to prepare in accordance with the accounting standard (if any) to which it will be subject.
5.2	Pessimistic scenarios should consider adverse claims experience, expenses and business volumes such that solvency, liquidity and own funds are adversely impacted, where relevant. The FSRA may also require the applicant to apply specific stress testing scenarios.
5.3	A summary of the projected profit and loss account, balance sheet and cash flow forecasts for a 3-year forecast period with each basis clearly identified.
5.4	The summary should include: (a) a table of the key financial balances over the forecast period for each basis; (b) sufficient information for the FSRA to understand the different material components and assumptions underlying the financial projections for each basis; and (c) a brief explanation of how and when the forecasts will be monitored against actual progress. Detailed supporting financial projection calculations must be enclosed with the business plan.
5.5	A summary of any dividends to be declared/paid and inter-company loans planned to be put in place during the financial projection period.
5.6	The business plan should also include: (a) where the applicant is an established company, a copy of the accounts of the applicant for the previous 3 accounting years; (b) a regulatory capital and liquidity calculation as it is expected to appear after 1 year of being licensed, on the basis of the core assumptions in the business plan;

	(c) details of any existing loans, including amounts outstanding, to any personnel, shareholders or controllers of the applicant; (d) copy of PII offer letter; (e) copy of proposed letter of comfort to be entered into by parent or head office.

Schedule 7 – Disposal of requirements for overseas firms

Overview	
1.1	The FSRA has the power, under section 9(10) of the FSO, to disapply provisions of the FSO and the FSR in relation to an overseas licence applicant provided that: (a) the business holds an appropriate licence to carry on the relevant business in its home country; and (b) the FSRA is satisfied that the licensing requirements in that other country or territory are sufficient to ensure stringent control and oversight over that business by the corresponding authority in the home country.
1.2	The FSRA's power covers overseas applicants that wish to carry on any kind of financial services regulated activity in St Helena, Ascension or Tristan da Cunha.
1.3	The power in section 9(10) may be used to facilitate the provision of financial services by an overseas applicant on an exclusively cross-border basis. Alternatively, it may be used in relation to an overseas applicant that wishes to establish a local presence.
1.4	There is no assumption that the power will be used to disapply applicable regulatory requirements in their entirety. When exercising its power in section 9(10), the FSRA will consider which provisions of the FSO or FSR should be disapplied, depending on the circumstances of the applicant. In the case of an overseas applicant wishing to establish a local presence, the FSRA will consider which provisions should be maintained in order to give oversight of the applicant's conduct in St Helena.
Application by a business	
2.1	The FRSA will not automatically disapply provisions of the FSO or FSR to an overseas licence applicant. Such a business is required to apply for the exercise of the power and the FRSA will only decide that it is appropriate to grant such "regulatory relief" if the criteria for the use of the power are met.
2.2	An application must: (a) provide evidence that the business holds an appropriate licence to carry on the relevant financial services activity in its home country or territory; and (b) describe the licensing requirements that apply to the business in that other country or territory in a way that will assist the FSRA to decide whether the business is subject to adequate regulatory supervision in its home country.
2.3	For the purpose of 2.2, the applicant must provide: (a) the name of the corresponding authority having oversight of the applicant in their home country or territory, along with relevant address and contact details; (b) a description of the legal and regulatory provisions applicable to carrying on the relevant financial services activity in the home country or territory; (c) information on any previous or ongoing breaches of regulatory requirements that have been or are currently the subject of enforcement or supervisory action by any regulatory authority or law enforcement body; and

	(d) if applicable, the details of any other jurisdictions outside the home country or territory where the business operates under similarly disapplied provisions.
Decision by the FSRA	
3.1	In order to reach a decision on the exercise of its power the FSRA may contact and liaise with the regulatory and supervisory authorities from other countries and territories as necessary.
3.2	The FSRA will only decide that the licensing requirements in another country or territory are sufficient to ensure stringent control and oversight over a business when it is justified by the quality of the jurisdiction's regulatory, supervisory and enforcement regimes.
3.3	The decision will be based on whether the jurisdiction's framework is in line with internationally agreed standards and employs a combination of rules and supervisory practices that achieve outcomes compatible with stringent control and oversight of the business.
3.4	The FSRA will also have regard to the extent to which successful cooperation and dialogue can be established with the supervisory authorities in the other country or territory.
3.5	In reaching its decision, the FSRA may take into account any factors relevant to its regulatory objectives, including where the decision may be relevant to maintaining confidence in the financial system or securing the appropriate degree of protection for consumers and depositors.
3.6	While the power in section 9(10) enables the FSRA to disapply all provisions of the FSO and FSR, the FSRA will determine on a case-by-case basis which provisions to disapply in respect of each overseas applicant.
3.7	In the case of an overseas applicant proposing to establish a presence locally, the FSRA will not normally disapply requirements relating to consumer protection or standards of conduct. The following are examples of provisions that are likely to be retained: (a) those relating to ensuring that persons meet the test of being fit and proper; (b) the requirements of the Code of Conduct; (c) those relating to the provision of information requested by the FSRA; (d) those concerned with meeting the requirements of a competent person appointed by the FSRA; and (e) the provisions relating to information to be provided in connection with suspected offences.
3.8	In addition, the FSRA may attach conditions to any Directive that it issues, so that it continues to receive adequate information about the overseas licensed firm on an ongoing basis. Those conditions are likely to include requirements to: (a) provide the FSRA on an annual basis with the audited financial statements and/or financial regulatory returns submitted to the home state regulator; (b) promptly notify the FSRA if it becomes subject to disciplinary or enforcement action by its home state regulator;

	(c) provide the FSRA on an annual basis with an account of its regulated activities in St Helena; and (d) inform the FSRA as soon as practicable of material changes in regulation in the relevant overseas jurisdiction.
3.9	Where the FRSA exercises its power to disapply provisions it will state the term limit of the disapplication. The term will be determined according to the individual circumstances of each case. However, in every case we expect that there will be a review of the arrangement annually.
Revocation by the FSRA	
4.1	The FSRA may decide to withdraw the disapplication of regulatory requirements at any time if it is no longer satisfied that the conditions for its grant are met or if its continuance does not accord with the achievement of the FSRA's regulatory objectives. This includes where there have been material changes in regulation in the relevant overseas jurisdiction which have the effect of lessening control and oversight over the business.
4.2	The FSRA will seek, where possible, to mitigate any adverse effects of withdrawal on the interests of customers. This may include the use of an appropriate adaptation period to allow a regulated business time to prepare for the changing circumstances. The length and nature of any period will depend on the circumstances of the withdrawal.
Licence fees	
5.1	When determining the amount of annual licence fees that will be payable to the FSRA by an applicant under the section 9(10) process, the FSRA will consider a range of factors, including the degree of reliance it is able to place on the home country supervisor, whether the applicant intends to establish a local presence, the extent of its proposed activities in St Helena, and the expected FSRA resource required to supervise the activities of the applicant.

Schedule 8 – Directive Waiver and Modification

Overview	
1.1	The grant of a "waiver" means that the relevant business does not have to comply with the provision that is the subject of the waiver. A "modification" enables the relevant business to comply with the provision as amended, to better fit their own circumstances.
1.2	The power to waive or modify provisions allows the FSRA additional flexibility to tailor the regulatory framework to the business models of relevant businesses, particularly startup, early-stage and innovative businesses.
1.3	Applications by firms for waivers/modifications are usually addressed individually.
1.4	The FSRA will not give a waiver/modification unless it is satisfied that: (a) compliance by the relevant business with a provision of a Directive, or with the provision as unmodified, would be unduly burdensome, or would not achieve the purpose for which the Directive provision is intended; and (b) doing so would not adversely affect the advancement of any of the FSRA's regulatory objectives.
1.5	Where a relevant business seeks a waiver/modification, the onus is on the relevant business to demonstrate to the FSRA that these conditions are met.
1.6	Even if the conditions are satisfied, the FSRA may consider other relevant factors before deciding whether to give a waiver/modification.
1.7	In some cases, in response to an application for a waiver the FSRA may decide to grant a modification of a provision rather than direct that the provision is to be waived. The FSRA may also impose conditions on a waiver, for example additional reporting requirements.
1.8	A waiver or modification will not apply retrospectively.
Applying for a waiver or modification	
2.1	Relevant businesses, or prospective new entrants to the market, may apply to the FSRA to waive or modify a provision of a Directive in respect of their business. The FSRA expects applications for a waiver or modification to be accompanied by detailed information and evidence demonstrating that the relevant criteria are met. Where necessary to allow a decision to be made, the FSRA will request additional detail or information not provided in the application or will ask for clarification of information that is unclear or incomplete.
2.2	A relevant business must provide the following information as part of an application for a waiver/modification: (a) a list of all the entities which require the waiver/modification; (b) details of the provision that the application is seeking to waive/modify; (c) detailed information about the rationale for the waiver/modification; (d) detailed responses with respect to the criteria for the waiver to be granted;

	(e) confirmation that the relevant business is content for the waiver or modification to be published on the FSRA website if approved, and if not, an explanation of why it would be inappropriate to do so; (f) any important timelines affected by the application; and (g) optionally, details of any precedent decision made in respect of the waiver or modification of the same provision.
2.3	A relevant business should make its application by email to info@fsra.sh with supporting documentation and pay the appropriate fee. An application should be made in good time, and at least 30 days in advance of the waiver/modification being needed. Where a business requests that a response be received by a particular date the FSRA will endeavour to meet that request, but if an application raises complex issues this may not be possible.
2.4	If the FSRA decides to grant the waiver or modification it will issue an approval letter and a statement setting out how the provision has been waived/modified, along with any relevant conditions. It will state to which entities the waiver/modification is applicable, and the time period for which the waiver/modification is valid. The waiver or modification will be granted for a specific duration, after which it will cease to apply. A relevant business can then apply for a new waiver or modification by submitting a new application.
2.5	The FSRA may revoke a waiver or modification at any time if it considers the requisite conditions are no longer satisfied or the waiver or modification is otherwise no longer appropriate.
General waivers	
3.1	In exceptional circumstances, the FSRA may decide to grant a “general” waiver or modification, sometimes known as a “waiver (or modification) by consent”.
3.2	Such waivers or modifications by consent may be offered in exceptional circumstances where the FSRA considers that a waiver or modification should apply to a number of relevant businesses, for example where an unmodified provision of a Directive may not meet the circumstances of a particular category of relevant business. In these cases, the FSRA will inform the relevant businesses concerned that the waiver is available, either by contacting them individually or by publishing details of the availability of the waiver or modification on the FSRA website. To take advantage of any of the waivers or modifications by consent, a relevant business must email info@fsra.sh stating its agreement to comply with any conditions applying to the grant of the waiver or modification.

Schedule 9 – Events to be notified to the FSRA

Event	Time limit for notification
The bringing of civil proceedings against the relevant business where the size of the claim is significant with respect to its financial resources or is likely to affect its reputation.	Immediate
The commencement of an investigation with respect to the business or affairs of the relevant business by any overseas regulatory authority.	Immediate
The taking of any enforcement action or the imposition of any disciplinary measures against the relevant business by a foreign regulatory authority or a professional body (in or outside St Helena), including the refusal or revocation of membership by such a professional body.	Immediate
The prosecution or conviction of the relevant business, or any of its directors or senior managers, in or outside St Helena for any offence: (a) relating to financial services; or (b) involving dishonesty, fraud, money laundering or tax evasion.	Immediate
The granting or refusal of an application for a licence to carry on any financial services business outside St Helena or the revocation of any such licence.	Immediate
The commission by any employee of the relevant business of a fraud against a customer of the relevant business.	Immediate
The relevant business becomes aware of any fraud committed against it.	Immediate
The identification of irregularities in the accounting or other financial records of the relevant business, whether or not there is evidence of fraud.	Immediate
Any matter that the relevant business considers to be material to the fitness and properness of the relevant business, its persons performing specified functions, its external auditor, its qualifying shareholders or its controllers.	Immediate
Any significant failure in the systems or controls of the relevant business.	Immediate
Any breach of the capital, liquidity or other financial resource requirements imposed on the relevant business by a regulatory enactment or a Directive of the FSRA.	Immediate

Any breach of the requirements imposed in relation to the proper segregation of client assets and client money.	Immediate
Any breach of the prohibition on carrying on a regulated activity without a licence under the FSO, or any breach of the terms of a licence granted under the FSO.	Immediate
Any other material breach of any regulatory enactment, this Directive or any other Directive of the FSRA.	As soon as practicable and in any event within 7 days of identifying the breach.
Any proposed significant re-structuring or reorganisation of the relevant business or its regulated business or activities.	Within a reasonable time prior to the proposed restructuring or reorganisation taking effect.
The relevant business becomes aware of any matter that would impede or prevent a solvent wind-down of its business.	Immediate
The striking of the relevant business off the register of companies maintained by the Registrar of Companies in St Helena, or off the register of companies maintained by the registry in its place of incorporation.	Immediate
Receipt by the relevant business of any proposal or demand for the liquidation of the relevant business.	Immediate
An application being made to the courts in St Helena for the appointment of a liquidator of the relevant business under the Companies Ordinance 2004, or any equivalent application to a court in a jurisdiction outside of St Helena.	Immediate

Schedule 10 – Client money acknowledgment letter

Bank account acknowledgment letter template

[*On the letterhead of the business, including full name and address of business*]

[*name and address of bank*]

[*date*]

Client Money Acknowledgment Letter

We refer to the following [current/deposit account[s]] which [*name of business*], ("us", "we" or "our") [has opened or will open] with [*name of bank*] ("you" or "your"):

[*insert the account title[s], the account unique identifier[s] (for example, as relevant, sort code and account number) and (if applicable) any abbreviated name of the account[s] as reflected in the bank's systems*] ([collectively,] the "Client Bank Account[s]").

In relation to [each of] the Client Bank Account[s] identified above you acknowledge that we have notified you that:

1. we are under an obligation to keep money we hold belonging to our clients separate from our own money;
2. we have opened, or will open, the Client Bank Account for the purpose of depositing money with you on behalf of our clients; and
3. we hold all money standing to the credit of the Client Bank Account in our capacity as trustee under the laws applicable to us.

In relation to [each of] the Client Bank Account[s] above you agree that:

4. you do not have any recourse or right against money in the Client Bank Account in respect of any sum owed to you, or owed to any third party, on any other account (including any account we use for our own money), and this means for example that you do not have any right to combine the Client Bank Account with any other account and any right of set-off or counterclaim against money in the Client Bank Account;
5. you will give, or have given, the title and identifier to the Client Bank Account as stated above and that such title and identifier are different to the title of any other account containing money that belongs to us or to any third party; and

6. you are required to release on demand all money standing to the credit of the Client Bank Account upon proper notice and instruction from us or a liquidator, receiver, administrator, or trustee (or similar person) appointed for us in bankruptcy (or similar procedure), in any relevant jurisdiction, except for:

    (a) any properly incurred charges or liabilities owed to you on, and arising from the operation of, the Client Bank Account; and
    (b) until the fixed term expires, any amounts held for the time being under a fixed term deposit arrangement which cannot be terminated before the expiry of the fixed term,

    provided that you have a contractual right to retain such money under (a) or (b) and that this right is notwithstanding paragraphs (1) to (3) above and without breach of your agreement to paragraph (4) above.

We acknowledge that:

7. you are not responsible for ensuring compliance by us with our own obligations, including as trustee, in respect of the Client Bank Account[s].

You and we agree that:

8. the terms of this letter shall remain binding upon the parties, their successors and assigns, and, for the avoidance of doubt, regardless of any change in name of any party;
9. this letter supersedes and replaces any previous agreement between the parties in connection with the Client Bank Account[s], to the extent that such previous agreement is inconsistent with this letter;
10. in the event of any conflict between this letter and any other agreement between the parties in connection with the Client Bank Account[s], this letter agreement shall prevail;
11. no variation to the terms of this letter shall be effective unless it is in writing, signed by the parties and permitted under the rules of the Financial Services Regulatory Authority;
12. this letter shall be governed by the laws of [*insert appropriate jurisdiction*] [*businesses may optionally use this space to insert additional wording to record an intention to exclude any rules of private international law that could lead to the application of the substantive law of another jurisdiction*]; and
13. the courts of [*insert same jurisdiction as previous*] shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with

this letter or its subject matter or formation (including non-contractual disputes or claims).

Please sign and return the enclosed copy of this letter as soon as possible. We remind you that we are not allowed to use the Client Bank Account[s] to deposit any money belonging to our clients with you until you have acknowledged and agreed to the terms of this letter.

For and on behalf of [*name of business*]

x_____

Authorised Signatory

[Signed by [*name of third party administrator*] on behalf of [*business*]]

Print Name: Title:

ACKNOWLEDGED AND AGREED:

For and on behalf of [*name of bank*]

x_____

Authorised Signatory

Print Name: Title:

Contact Information: [*insert signatory's phone number and email address*]

Date