



Circular No. 2 of 2017

Date: 26th July, 2017

Compliance with the “Dual Control” requirement

This Circular is being issued to all licensees licenced under the International Corporate Service Providers Act, 2003, as amended (“ICSP Act”).

The Financial Services Authority (“FSA”) has observed an increasing number of cases, where the dual control requirement as per paragraph 4 of schedule 2 of ICSP Act (i.e. Code of Practice of Licensees) is not being complied with by certain licensees.

As such the FSA would like to remind all licensees of their obligation in respect to the dual control requirement as provided for under paragraph 4 of the Code of Practice of Licensees, which provides:

“Except in the case of a managed service provider, the services under a licence shall be conducted by at least two individuals who are directors or other members of the managerial staff of the licensee, who shall be resident, and based in the office of the licensee in Seychelles”.

Further guidance is provided under paragraph 21.3 of the Code for International Corporate Service Providers (“the Code”) in respect to this obligation, whereby:

“In order to ensure compliance with the 4-eyes minimum requirement at all times (especially in cases of immediate departures or dismissal of “fit and proper” employees), a licensee must ensure that it employs adequate “fit and proper” individuals”.

Whilst the FSA acknowledges certain cases of immediate departures, dismissal of members of managerial staff or any other unforeseen circumstances which may impact on the compliance of licensees with the obligation of having dual control at all times, the FSA would like to reiterate that in such instances, licensees are required to notify the Authority of the proposed locum arrangement as provide for under paragraph 21.3 of the Code, which states:

“Where a licensee fails to meet the 4-eyes minimum criterion, the licensee must notify the Authority of the proposed locum arrangement. This arrangement must be approved by the Authority and cannot continue for more than 3 months unless the Authority approves otherwise. A locum must be determined “fit and proper” by the Authority”.

In cases where locum arrangement is required, be informed that the proposed person has to be assessed in respect to paragraph 3 of the Code of Practice of Licensees, prior to their appointment.

As such licensees are informed that applications made under paragraph 21.3 of the Code, must be submitted to the FSA within a reasonable timeframe prior to the effective date that the locum arrangement will commence.

As part of the FSA effort to maintain acceptable level of compliance with the dual control requirements within the sector, licensees are encouraged to ensure that it employs adequate fit and proper individuals.

Please be informed that this circular serves as an aide memoire for licensees and the FSA would like to take the opportunity to call on licensees to at all-time ensure compliance with their obligations.

In any cases of non-compliance, the FSA reserves the right to take relevant recourse under section 27 of the Financial Services Authority Act, 2013.

Financial Services Authority