

BANKING GUIDANCE NOTE (BGN 1.2)

General Guidance

to the Banking (General Practice) Regulatory Code 2005

August 2007



Financial Supervision Commission Barrantee Oaseirys

The Banking (General Practice) Regulatory Code 2005
Guidance Notes

Part I – Banks Incorporated in the Isle of Man

2005 CODE REF	Topic	Issue	Guidance
5	Licensing	Commencement of business	The Commission expects banks to commence business within 6 months of the date of the issue of a licence.
6 – 11	Direction & Management	Fit & Proper	<p>The Banking Act 1998 Section 16 gives the Commission the power to judge any individual as not being fit and proper to act as a director, chief executive or manager or to be the controller of a bank and to direct that they should no longer continue as such. Section 16(7) defines director, chief executive, manager and controller.</p> <p>The Licensing Policy requires that all directors, managers, chief executives, controllers, four-eyes, the company secretary, the compliance officer and the money laundering reporting officer must be and remain fit and proper persons, as determined by the Commission. Please refer to “General Licensing Policy for those seeking a Banking, Investment Business or Fiduciary Services licence” which is available on the Commission’s web-site.</p>
			<p>As part of the Commission’s vetting process, an appointee must complete, and submit for the Commission’s consideration, a personal and bankers’ questionnaire (“PQ” and “BQ”). This applies to all directors, managers, controllers, chief executives, four-eyes, the company secretary, the compliance officer and the money laundering reporting officer.</p>

2005 CODE REF	Topic	Issue	Guidance
			<p>Provided the individual concerned provides all relevant information required on submission of his PQ and BQ, and provided that the relevant third parties respond in a timely manner to a request from the Commission for references and confirmations, the Commission will endeavour to complete its “fit and proper” person checks within 21 business days.</p>
			<p>Where an individual has been vetted by the Commission within the last two years a one page Update Declaration is acceptable. Where an individual has been vetted within the last two to five years, the individual should complete a Personal Declaration form updating any previously submitted information. In such circumstances it is likely that it will be possible for the Commission to shorten the enquiry process and advise the bank of its decision in less than 21 business days.</p>
			<p>Where, for any reason, there are delays in completing the “fit and proper” checks within the 21 day period, a bank may permit an individual to take up the position, making it clear that such appointment is, however, subject to confirmation from the Commission that the individual is suitable for the role proposed.</p>
6	Direction & Management	Corporate Governance	<p>Please also refer to “Corporate Governance for Banking Institutions” published in June 2004 and available on the Commission’s website.</p>

2005 CODE REF	Topic	Issue	Guidance
7 (1)	Direction & Management	New Appointments	<p>The Commission must be notified in writing at least 21 business days in advance of the proposed appointment of any director, manager, controller, four-eyes, company secretary, compliance officer or money laundering reporting officer. This time frame is to fit in with the Commission's target turnaround time for vetting (21 business days) and assumes that the appointee needs to give at least one month's notice to his/her previous employer (if applicable).</p> <p>A bank may proceed with any appointment before a response has been received from the Commission subject to the Commission having no objection on completion of the vetting.</p>
7 (2)	Direction & Management	Departures from Office	<p>The bank must notify the Commission of the reason for departure from office of any director, manager, controller, four-eyes, company secretary, compliance officer or money laundering reporting officer. It is expected that the bank will use its judgement to determine if there is a significant issue that should be disclosed to the Commission.</p>
9	Direction & Management	Company Secretary	<p>The Commission expects the Company Secretary of a licensed bank to be resident in the Isle of Man.</p>
10	Direction & Management	Four-eyes	<p>Both "four-eyes" should be resident on the Isle of Man to enable proper control of the Isle of Man business.</p>

2005 CODE REF	Topic	Issue	Guidance
11 (1)	Direction & Management	Compliance Officer	<p>Banks are required to appoint a nominated compliance officer who is responsible for overseeing compliance with the Banking Act 1998 and subordinate legislation. Banks are also required to appoint a nominated compliance officer who is responsible for overseeing compliance with anti-money laundering legislation and combating the financing of terrorism. This may be the same individual. Ideally he/she should be separate from the Money Laundering Reporting Officer but it is accepted that in smaller organisations the same person could have all three roles.</p> <p>The Compliance Officer is required to review those risk management and control processes approved by the Board or Senior Managers to ensure that the Bank is compliant with the Banking Act 1998 and subordinate legislation, and anti-money laundering legislation. The Compliance Officer shall report to the Board or Senior Management to assist them in assessing whether the Bank's compliance procedures for dealing with regulatory matters and timely reporting to the Regulator are effective.</p> <p>All breaches of the Banking Act 1998, Regulations and Codes issued under that Act, licence conditions, recommendations and directions should be advised to, and recorded by, the Compliance Officer.</p>
11 (2)	Direction & Management	Money Laundering Reporting Officer ("MLRO")	<p>The bank should take steps to ensure that the MLRO's role is covered during absences by means of the appointment of one or more deputies, which could be the compliance officer if different from the MLRO. Deputies shall be subject to the same fit and proper requirements as the MLRO and as such will need to complete personal and bankers' questionnaires for vetting purposes. Deputies will be subject to the same appointment and departure requirements as the MLRO.</p>

2005 CODE REF	Topic	Issue	Guidance
12	Capital	Capital Requirements	<p>The Commission sets a minimum risk asset ratio (“RAR”) and banks are expected to have adequate procedures to monitor compliance with this. To assist in the monitoring process, banks should observe a trigger ratio (which will normally be at least 1% above their minimum RAR). The trigger ratio is intended to provide an early warning signal of deterioration in a bank’s capital adequacy. In the event of the RAR falling below this level, the Commission should be immediately notified.</p> <p>Although there is no prohibition per se on banks operating below this level, once a bank’s actual RAR falls below the trigger ratio it will be a signal that remedial action may be necessary to ensure that sufficient capital is held for a bank to operate above its minimum RAR.</p>
13	Ownership & Share Transfers	Disclosure of ultimate beneficial ownership	<p>“Holding company (s)” refers to any company that “holds more than half in nominal value of its equity share capital” (Companies Act 1974, Section 1).</p> <p>21 business days’ prior notification of changes in (1) and (2) should be given.</p>
14 (2)	Ownership & Share Transfers	Share Transfers	<p>The Code requires banks to give the Commission at least 21 business days’ prior notification of any change in the ownership structure between it and its ultimate parent company. This includes any intermediate layers between the bank and its ultimate parent.</p>
15	Ownership & Share Transfers	Changes in Capital Structure	<p>Prior notification of at least 21 business days is required.</p>

2005 CODE REF	Topic	Issue	Guidance
16	Ownership & Share Transfers	Subsidiaries, branches, representative offices	Prior notification of at least 2 months is required in respect of proposals to establish licensable subsidiaries or branches where practical. At least 21 business days' notice should be provided in respect of proposals to establish representative offices in other jurisdictions.
17	Ownership & Share Transfers	Acquisition of shares of another company	Prior notification of at least 2 months is required where practical.
18	Ownership & Share Transfers	Sale or merger of whole or part of the bank	Prior notification of at least 2 months is required where practical.
19	Ownership & Share Transfers	Creation of charges over assets	<p>Charges over assets will only be considered where assets are collateralised by a deposit and the bank has legal right of set off.</p> <p>Banks should ensure that auditors provide the Commission with details of charges as well as an attestation that each charge has been approved.</p> <p>Prior notification of 21 business days is required.</p>
23 (1)	Financial Statements and accounting records	Accounting Standards	Although the Commission may approve different accounting standards by way of a direction, it is expected that banks' financial statements will be prepared in accordance with International Financial Reporting Standards or United Kingdom Accounting Standards.

2005 CODE REF	Topic	Issue	Guidance
25 (1) (e)	Financial Statements and accounting records	Submission of Accounting Information	With respect to confirmation re Code 12, the auditor's confirmation applies to 12 (1) only. It is expected that the auditor will address this as part of the annual audit and do whatever he feels necessary to enable him to confirm compliance with 12 (1). This should include a review of the bank's risk asset ratio and the way in which it is monitored.
25 (1) (g)	Financial Statements and accounting records	Submission of Accounting Information	A bank is required to provide a reconciliation of all material differences between the banking returns and a bank's audited statements. There is no definition of materiality but an example would be a difference in the pre tax profit figures. Where there are no material differences, a bank should confirm this fact to the Commission in writing.
26 (2)	Financial Statements and accounting records	Retention of Accounting Records	In Code 25 (1) (e), the auditor is required to confirm "to the best of his knowledge and belief" that the bank has complied with Code 26 (2) ("The bank shall preserve its accounting records for a minimum of six years from the date on which they are made"). As such, the auditor should do whatever he judges necessary to enable him to provide this confirmation.
29 (3)	Auditors	Requirements for Auditors	Where the same firm or company carries out internal and external audits of a bank, separate partners or directors shall be responsible for these audits. This applies to cases where internal audit is "outsourced". It also applies to cases where the external auditor is performing consultancy work.
41	Money Laundering & financing of terrorism	Anti Money Laundering Legislation	It is expected that the policies and procedures relating to anti money laundering and to combating the financing of terrorism should ensure compliance with current anti money laundering legislation including the Criminal Justice (Money Laundering) Code 2007.

2005 CODE REF	Topic	Issue	Guidance
49	Services and Products	Changes in services or products	<p>The Commission expects to be notified of any new product or service or change to a product or service that impacts the bank's risk profile for liquidity, credit, interest rate risk, foreign exchange risk or operational risk. This is for prudential supervisory purposes.</p> <p>As such the Commission expects to be notified of:</p> <ul style="list-style-type: none"> ▪ Completely new business activities e.g. diversifying into lending; ▪ New products e.g. new currency account, structured products where the bank is issuing structured products for the first time; and ▪ Any changes in product or service that impact the risk profile of the bank (see above). <p>In addition to the above, the Commission expects to be notified of any change to an existing structured product and to be provided with a copy of the marketing literature. The Commission's focus is to ensure that the product is being promoted in a way that is "fair and accurate". Further guidance is provided in the Guidance Notes on OTC Derivatives and Structured Products (BGN 8.0).</p> <p>Although the Commission will endeavour to respond to any notifications as promptly as possible (within 24 hours for simple changes), a "reasonable" amount of time should be allowed depending on the complexity of the product/change.</p> <p>The fact that the Commission has been notified and has raised no objections should not be regarded as an endorsement or approval of the product or service.</p>

2005 CODE REF	Topic	Issue	Guidance
50	Services and Products	Changes in investment business services	<p>Banks conducting or seeking to conduct investment business should note the requirements of the Investment Business (Exemption) (Banks and Building Societies) Regulations 1992.</p> <p>Investment business activities include acting as trustee, custodian and third party administrator of collective investment schemes.</p> <p>Where a bank acts as a trustee of an Authorised Collective Investment Scheme, it is required to be a party to the Authorised Collective Investment Schemes Compensation Scheme and prior to accepting any such trusteeship must complete and return to the Commission the declaration contained on page (i) of the Authorised Collective Investment Schemes (Compensation) Regulations 1988.</p> <p>Trustees of Authorised Collective Investment Schemes should also note the requirement of regulation 4.12 of the Financial Supervision (Authorised Collective Investment Schemes) Regulations 1988 (as amended). Any notification to the Commission in accordance with this regulation should be addressed to the Commission's Supervision Division.</p>
51	Delegation of function / outsourcing	Delegation of function / outsourcing	Please refer to "Guidance Note on Outsourcing / Delegation of Functions" published in May 2002 and available on the Commission's website.
53	Managed Banks	Approved Manager	Before entering into a management contract, the bank must satisfy the Commission that it has the necessary systems and resources to discharge its responsibilities under the proposed management contract. A minimum of 3 months' prior notification is required to enable the Commission to properly assess the bank's ability to provide the required services.

2005 CODE REF	Topic	Issue	Guidance
57	General Requirements	Change of corporate details	21 business days' prior notification is required for changes in name. For changes to corporate form and domicile at least 3 months' notice should be provided where practical.
60	Advertisements	Reference to licensing in advertisements	Reference to the bank's licence and to the type of business for which it is authorised should appear on every document, advertisement and other material that the bank publishes or causes to be published (apart from cheques, cheque books, paying in books, statements and cheque guarantee, charge, debit and credit cards or cards of a similar nature). Business cards should also include such reference.
			<u>Banks that do not conduct investment business</u> The reference should state "Licensed by the Financial Supervision Commission for banking business".
			<u>Banks that are licensed to conduct investment business and/or fiduciary business</u> The reference should state "Licensed by the Financial Supervision Commission for banking and (whichever is applicable of) investment business and/or Corporate Service Provider business and/or Trust Service Provider business".
			<u>Radio/Television station broadcast</u> The following abbreviated reference may be used: "Licensed by the Financial Supervision Commission".
			No reference is required where only the name of the bank is being promoted and no products or services are referred to.
			Variations such as "Licensed by the <i>Isle of Man</i> Financial Supervision Commission" or "Licensed to conduct...." are acceptable until banks have the opportunity to amend stationery. If there is any doubt as to whether a variation is acceptable, the Commission should be consulted.

2005 CODE REF	Topic	Issue	Guidance
			Banks should use their judgement as to what is interpreted as a “prominent position” but it is important that the reference is easily visible to readers.
62	General Requirements	Staff Disciplinary Action	<p>“Serious disciplinary action” shall include the termination or suspension of employment, or the giving of a written warning as to the future conduct of the member of staff, or the termination of employment initiated by the member of staff, where the bank suspects or has reasonable cause to believe that the member of staff:-</p> <ul style="list-style-type: none"> • has been guilty of fraud, theft or other dishonesty; or • has contravened any provision made by or under any enactment or any internal rule or regulation of the bank designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice; or • has engaged in any business practice appearing to be deceitful or oppressive or otherwise improper or which casts doubt on his competence or soundness of judgement. <p>The purpose of this requirement is to inform the Commission at an early stage of any event that could potentially affect the bank’s reputation or financial soundness. The bank should use its own judgement to determine what should be disclosed.</p> <p>There is no requirement to identify individuals before the bank’s enquiries have been completed. The Code states that this is on a no names basis. Under Code 62(2) the Commission expects the bank to disclose the name of the person once enquiries have been completed with serious disciplinary action resulting.</p>

2005 CODE REF	Topic	Issue	Guidance
63	General Requirements	Internal Complaints Procedure	The Code does not stipulate timescales; it is up to the bank to include these in its own internal procedures, taking note of the advice provided by the Financial Services Ombudsman Scheme.
		Employment References	<p>If a bank receives a request for an employment reference from a person who is licensed by the Commission under any legislation, or authorised by the Insurance and Pensions Authority, it is expected that the bank will:-</p> <ol style="list-style-type: none"> 1) respond promptly; and 2) set out all disclosable matters which the bank believes to be relevant and true, including details of any serious disciplinary action against the member of staff. <p>It is expected that the bank will respond in the same way to requests for employment references from persons licensed or authorised under financial services legislation in other jurisdictions or from financial services regulators in other jurisdictions.</p>

Part 2 – Banks Operating in or from the Isle of Man which are incorporated outside the Isle of Man

2005 CODE REF	Topic	Issue	Guidance
66	Licensing	Commencement of business	The Commission expects banks to commence business within 6 months of the date of the issue of a licence.
67 – 70	Direction & Management	Fit & Proper	<p>The Banking Act 1998 Section 16 gives the Commission the power to judge any individual as not being fit and proper to act as a director, chief executive or manager or to be the controller of a bank and to direct that they should no longer continue as such. Section 16(7) defines director, chief executive, manager and controller.</p> <p>The Licensing Policy requires that all managers, four-eyes, the compliance officer and the money laundering reporting officer must be and remain fit and proper persons, as determined by the Commission. Please refer to “General Licensing Policy for those seeking a Banking, Investment Business or Fiduciary Services licence” which is available on the Commission’s website.</p>
			<p>As part of the Commission’s vetting process, an appointee must complete, and submit for the Commission’s consideration, a personal and bankers’ questionnaire (“PQ” and “BQ”). This applies to all managers, four-eyes, the compliance officer and the money laundering reporting officer.</p> <p>Where any of the above are based in another jurisdiction in respect of the Isle of Man operations, the bank should pre-notify the Commission of the appointment. The Commission will not, however, normally undertake full vetting provided approval has been given by the home regulator.</p>

2005 CODE REF	Topic	Issue	Guidance
			Provided the individual concerned provides all relevant information required on submission of his PQ and BQ, and provided that the relevant third parties respond in a timely manner to a request from the Commission for references and confirmations, the Commission will endeavour to complete its “fit and proper” person checks within 21 business days.
			Where an individual has been vetted by the Commission within the last two years a one page Update Declaration is acceptable . Where an individual has been vetted within the last two to five years, the individual should complete a Personal Declaration form updating any previously submitted information. In such circumstances it is likely that it will be possible for the Commission to shorten the enquiry process and advise the bank of its decision in less than 21 business days.
			A bank may permit an individual to take up the position prior to obtaining the Commission’s approval, making it clear that such appointment is, however, subject to confirmation from the Commission that the individual is suitable for the role proposed.
67	Direction & Management	Corporate Governance	Please also refer to “Corporate Governance for Banking Institutions” published in June 2004 and available on the Commission’s website.

2005 CODE REF	Topic	Issue	Guidance
68 (1)	Direction & Management	New Appointments	<p>The Commission must be notified in writing at least 21 business days in advance of the proposed appointment of any manager, four-eyes, compliance officer or money laundering reporting officer. This time frame is to fit in with the Commission's target turnaround time for vetting (21 business days) and assumes that the appointee needs to give at least one month's notice to his/her previous employer (if applicable).</p> <p>If for any reasons a response has not been received from the Commission within 21 business days, the appointment can proceed subject to the Commission having no objection on completion of the vetting.</p> <p>Where any of the above is based in another jurisdiction in respect of the Isle of Man operations, the bank should pre-notify the Commission of the appointment. The Commission will not, however, normally undertake full vetting provided approval has been given by the home regulator.</p>
			<p><i>NB. It has come to the Commission's notice that some banks advise of the appointment of directors and heads of function who are based in another jurisdiction (i.e. the branch's head office) and who have minimal involvement in the Isle of Man operation. If banks choose to do this, no vetting will be undertaken and a "no objection letter" will not be issued.</i></p>
68 (2)	Direction & Management	Departures	<p>The bank must notify the Commission of the reason for departure from office of any manager, four-eyes, compliance officer or money laundering reporting officer. It is expected that the bank will use its judgement to determine if there is a significant issue that should be disclosed to the Commission.</p>
69	Direction & Management	Four-eyes	<p>Both "four-eyes" should be resident on the Isle of Man wherever practical to enable proper control of the Isle of Man business.</p>

2005 CODE REF	Topic	Issue	Guidance
70 (1)	Direction & Management	Compliance Officer	<p>Banks are required to appoint a nominated compliance officer who is responsible for overseeing compliance with the Banking Act 1998 and subordinate legislation. Banks are also required to appoint a nominated compliance officer who is responsible for overseeing compliance with anti-money laundering legislation and combating the financing of terrorism. This may be the same individual. Ideally he/she should be separate from the MLRO but it is accepted that in smaller organisations the same person could have all three roles.</p> <p>The Compliance Officer is required to review those risk management and control processes approved by the Board or Senior Managers to ensure that the Bank is compliant with the Banking Act 1998 and subordinate legislation, and anti-money laundering legislation. The Compliance Officer shall report to the Board or Senior Management to assist them in assessing whether the Bank's compliance procedures for dealing with regulatory matters and timely reporting to the Regulator are effective.</p> <p>All breaches of the Banking Act 1998, Regulations and Codes issued under that Act, licence conditions, recommendations and directions should be advised to, and recorded by, the Compliance Officer.</p>
70 (2)	Direction & Management	Money Laundering Reporting Officer	<p>The bank should take steps to ensure that the MLRO's role is covered during absences by means of the appointment of one or more deputies, which could be the compliance officer if different from the MLRO. Deputies shall be subject to the same fit and proper requirements as the MLRO and as such will need to complete personal and bankers' questionnaires for vetting purposes. Deputies will be subject to the same appointment and departure requirements as the MLRO.</p>

2005 CODE REF	Topic	Issue	Guidance
71	Ownership & Share Transfers	Disclosure of ultimate beneficial ownership	<p>“Holding company (s)” refers to any company that “holds more than half in nominal value of its equity share capital” (Companies Act 1974, Section 1).</p> <p>21 days’ prior notification of changes in (1) and (2) should be given.</p>
72	Ownership & Share Transfers	Share Transfers	The Code requires banks to give the Commission at least 21 business days’ prior notification of any change in the ownership structure between it and its ultimate parent company. This includes any intermediate layers between the bank and its ultimate parent.
73	Ownership & Share Transfers	Sale or merger of whole or part of the bank	Prior notification of at least 2 months is required where practical.
79	Financial Statements and accounting records	Audited financial statements available to the public	The bank is required to make its full annual audited financial statements available for public inspection in the Isle of Man. There is no requirement for Isle of Man branch activities to be highlighted within the accounts.
86	Money Laundering & financing of terrorism	Anti Money Laundering Legislation	It is expected that the policies and procedures relating to anti money laundering and to combating the financing of terrorism should ensure compliance with anti money laundering legislation including the Anti-Money Laundering Code.

2005 CODE REF	Topic	Issue	Guidance
93	Services and Products	Changes in services or products	<p>The Commission expects to be notified of any new product or service or change to a product or service that impacts the bank's risk profile for liquidity, credit, interest rate risk, foreign exchange risk or operational risk. This is for prudential supervisory purposes.</p> <p>As such the Commission expects to be notified of:</p> <ul style="list-style-type: none"> ▪ Completely new business activities e.g. diversifying into lending; ▪ New products e.g. new currency account, structured products where the bank is issuing structured products for the first time; and ▪ Any changes in product or service that impact the risk profile of the bank (see above). <p>In addition to the above, the Commission expects to be notified of any change to an existing structured product and to be provided with a copy of the marketing literature. The Commission's focus is to ensure that the product is being promoted in a way that is "fair and accurate". Further guidance is provided in the Guidance Notes on OTC Derivatives and Structured Products (BGN 8.0).</p> <p>Although the Commission will endeavour to respond to any notifications as promptly as possible (within 24 hours for simple changes), a "reasonable" amount of time should be allowed depending on the complexity of the product/change.</p> <p>The fact that the Commission has been notified and has raised no objections should not be regarded as an endorsement or approval of the product or service.</p>

2005 CODE REF	Topic	Issue	Guidance
94	Services and Products	Changes in investment business services	<p>Banks conducting or seeking to conduct investment business should note the requirements of the Investment Business (Exemption) (Banks and Building Societies) Regulations 1992.</p> <p>Investment business activities include acting as trustee, custodian and third party administrator of collective investment schemes.</p> <p>Where a bank acts as a trustee of an Authorised Collective Investment Scheme, it is required to be a party to the Authorised Collective Investment Schemes Compensation Scheme and prior to accepting any such trusteeship must complete and return to the Commission the declaration contained on page (i) of the Authorised Collective Investment Schemes (Compensation) Regulations 1988.</p> <p>Trustees of Authorised Collective Investment Schemes should also note the requirement of regulation 4.12 of the Financial Supervision (Authorised Collective Investment Schemes) Regulations 1988 (as amended). Any notification to the Commission in accordance with this regulation should be addressed to the Commission's Supervision Division.</p>
95	Delegation of function / outsourcing	Delegation of function / outsourcing	Please refer to "Guidance Note on Outsourcing / Delegation of Functions" published in May 2002 and available on the Commission's website.
97	Managed Banks	Approved Manager	Before entering into a management contract, the bank must satisfy the Commission that it has the necessary systems and resources to discharge its responsibilities under the proposed management contract. A minimum of 3 months' prior notification is required to enable the Commission to properly assess the bank's ability to provide the required services.

2005 CODE REF	Topic	Issue	Guidance
101	General requirements	Change of corporate details	21 business days' prior notification is required.
104	Advertisements	Reference to licensing in advertisements	The Commission expects reference to its licence from the Commission and to the type of business for which it is authorised to appear on every document, advertisement and other material that it publishes or causes to be published (apart from cheques, cheque books, paying in books, statements and cheque guarantee, charge, debit and credit cards or cards of a similar nature). Business cards should also include such reference.
			<u>Banks that do not conduct investment business</u> The reference should state "Licensed by the Financial Supervision Commission for banking business".
			<u>Banks that are licensed to conduct investment business and/or fiduciary business</u> The reference should state "Licensed by the Financial Supervision Commission for banking and (whichever is applicable of) investment business and/or Corporate Service Provider business and/or Trust Service Provider business".
			<u>Radio/Television station broadcast</u> The following abbreviated reference may be used: "Licensed by the Financial Supervision Commission".
			No reference is required where only the name of the bank is being promoted and no products or services are referred to.
			Variations such as "Licensed by the <i>Isle of Man</i> Financial Supervision Commission" or "Licensed to conduct...." are acceptable until banks have the opportunity to amend stationery. If there is any doubt as to whether a variation is acceptable, the Commission should be consulted.
			Banks should use their judgement as to what is interpreted as a "prominent position" but it is important that the reference is easily visible to readers.

2005 CODE REF	Topic	Issue	Guidance
106	General Requirements	Staff Disciplinary Action	<p>“Serious disciplinary action” shall include the termination or suspension of employment, or the giving of a written warning as to the future conduct of the member of staff, or the termination of employment initiated by the member of staff, where the bank suspects or has reasonable cause to believe that the member of staff:-</p> <ul style="list-style-type: none"> • has been guilty of fraud, theft or other dishonesty; or • has contravened any provision made by or under any enactment or any internal rule or regulation of the bank designed for protecting members of the public against financial loss due to dishonesty, incompetence or malpractice; or • has engaged in any business practice appearing to be deceitful or oppressive or otherwise improper or which casts doubt on his competence or soundness of judgement. <p>The purpose of this requirement is to inform the Commission at an early stage of any event that could potentially affect the bank’s reputation or financial soundness. The bank should use its own judgement to determine what should be disclosed.</p> <p>There is no requirement to identify individuals before the bank’s enquiries have been completed. The Code states that this is on a no names basis. Under Code 106(2) the Commission expects the bank to disclose the name of the person once enquiries have been completed with serious disciplinary action resulting.</p>

2005 CODE REF	Topic	Issue	Guidance
107	General Requirements	Internal Complaints Procedure	<p>The Code does not stipulate timescales; it is up to the bank to include these in its own internal procedures, taking note of the advice provided by the Financial Services Ombudsman Scheme.</p> <p>It is noted that the complaints handling department may be located off Island. It is, however, expected that “ownership” for complaints about Isle of Man booked business is retained by the Isle of Man branch.</p>
108	General Requirements	Legal Proceedings	<p>Notification of legal proceedings where the amount claimed or disputed is likely to be in excess of £500k is only required in respect of Isle of Man booked business. The Commission would, however, expect to be notified if there were any major legal proceedings against other parts of the Group.</p>
		Employment References	<p>If a bank receives a request for an employment reference from a person who is licensed by the Commission under any legislation, or authorised by the Insurance and Pensions Authority, it is expected that the bank will:-</p> <ol style="list-style-type: none"> 1) respond promptly; and 2) set out all disclosable matters which the bank believes to be relevant and true, including details of any serious disciplinary action against the member of staff. <p>It is expected that the bank will respond in the same way to requests for employment references from persons licensed or authorised under financial services legislation in other jurisdictions or from financial services regulators in other jurisdictions.</p>