

POSITION STATEMENT BY THE CHAIRMAN OF THE BVI FINANCIAL SERVICES COMMISSION ADDRESSED TO THE COMMISSION OF INQUIRY

Dated this 4th day of June, 2021

INTRODUCTION

In a letter dated 26th May, 2021 and addressed to me as Chairman of the Board of Commissioners of the BVI Financial Services Commission, Mr. Andrew King, Senior Solicitor to the Commission of Inquiry (COI), writing on behalf of the Commissioner of the COI, requested my views on specific questions raised in the said letter and invited me to submit a Position Statement relative to those questions. I have been made to understand in the said letter that *“the COI has been established to determine whether there is evidence of corruption, abuse of office or other serious dishonesty that has taken place in public office in recent years, and if so what conditions allowed this to happen”*. In addition to this broad term of reference, I further understand that the COI *“is charged with making independent recommendations with a view to improving the standards of governance for the people of the British Virgin Islands and to make independent recommendations with a view to improving the operation of the agencies of law enforcement and justice”*.

2. A total of 20 questions – 12 on the subject of governance and 8 on the operation of the agencies of law enforcement and justice – have been raised by the COI in relation to which I have been invited to submit a Position Statement (as earlier noted). This submission therefore represents my Position Paper as Chairman of the Board of Commissioners.

3. I should point out, however, that as Chairman of the Board of Commissioners, my remit is tied to that of other colleague Commissioners and our duties are discharged as a collective body. An exception arises only where any particular statute places specific obligations on the Chairman which may be discharged by the Chairman to the exclusion of other Commissioners (but sometimes with reference to the Board). That is the case, for example, under the Financial Services (Exceptional Circumstances) Act, 2020. That Act empowers the Chairman, during a period of an exceptional circumstance declared by the Minister of Finance, to take decisions which ordinarily would have been taken by the Board. Where such decisions are taken, the Chairman is required to present them to the Board (whenever it meets in due course) for ratification. This power has been exercised during a period of two exceptional circumstances declared by the Minister: the first was in 2017 (under similar legislation enacted that year) following the passage of hurricanes Irma and Maria, and in 2020 following the declaration of the worldwide Covid Pandemic which resulted in the introduction of numerous restrictive measures.

4. Accordingly, the views and opinions expressed herein represent my personal views as Chairman in response to the COI request and in no way represent the views and/or opinions of the Board or the Commission and therefore do not bind either institution. In that context, the views and opinions represented herein are expressed truthfully and to the best of my knowledge, having regard to my period of service as Chairman from 1st May, 2006 to date (and prior to that as Deputy

Chairman). In acknowledging the role, mandate and powers of the COI, I stand ready to provide any clarification that may be required in relation to the responses provided to the questions raised by the COI.

HISTORY, STATUS AND GOVERNANCE STRUCTURE OF THE BVI FINANCIAL SERVICES COMMISSION

5. The BVI Financial Services Commission (“the Commission”) is the successor institution to the Financial Services Department. The Commission was established on 1st January, 2002. This followed the enactment of the Financial Services Commission Act in December 2001 and the issuing by the Governor of a Proclamation bringing the Act into force on 1st January, 2002. The Commission was thus established as the independent regulator of financial services business conducted in and from within the Virgin Islands.

6. Since its establishment, the Commission has had only 2 Chairpersons – Mr. Michael Riegels, QC served as first Chairman from 1st March, 2002 to 30th April, 2006, while I served as Deputy Chairman for the same period. I was appointed as Chairman with effect from 1st May, 2006 to date. The first Managing Director of the Commission (who was the Director of the Financial Services Department when it transitioned into the Commission) was Mr. (later Dr.) Robert A. Mathavious; he retired as Managing Director on 31st December, 2020 and is now succeeded by Mr. Kenneth Baker (previously the Deputy Managing Director, Regulation).

7. The mode of appointment of the Chairman and other members of the Board of Commissioners is outlined in section 5 of the Financial Services Commission Act, 2001 (FSCA). The appointment of the Chairman, Deputy Chairman and other members of the Board is essentially a political process as is evident in section 5 of the FSCA. In accordance with the requirements of section 5 of the FSCA, 2 of the members of the Board are persons appointed from outside the Virgin Islands. The purpose of this arrangement, as I understand it, is to strengthen the independence and good governance of the Board and broaden the experience base of the Board, having regard to the international nature of financial services business.

8. To complement the good governance of the Board, every Board member “*who has any direct or indirect personal, professional, business or pecuniary interest in any matter*” before the Board is legally obligated to declare such interest and withdraw from a meeting of the Board at which such matter is being discussed or decided. This is reinforced by, and applied in accordance with, the Board’s policy on managing conflicts of interest (see **Appendix 1**) through its Disclosure of Private Interests Form approved in 2014 (a copy is attached as **Appendix 2**). A similar disclosure requirement applies in relation to the staff of the Commission (a copy is attached as **Appendix 3**).

9. The Board’s functions are prescribed in section 6 of the FSCA and, on an annual basis, the Board meets directly with the Cabinet pursuant to section 51 (1) of the FSCA. The purpose of the meetings is essentially to discuss matters relating to:

“(a) the operation, management and performance of the Commission;

- (b) the initiatives and future direction of the Commission;*
- (c) Government policy with respect to the financial services industry;*
- (d) developments in the international markets and current international initiatives on regulatory and legal measures which may affect the Territory; and*
- (e) such other matters as either party may consider essential for strengthening the role of the Commission and enhancing the welfare of the Territory.”*

10. The Board has been meeting with the Cabinet regularly on an annual basis since 2002 (save in 2017 following the exceptional circumstances of hurricanes Irma and Maria which made such a meeting in that year impossible). The tenure and process for the resignation and removal of Board members are respectively outlined in sections 8 and 9 of the FSCA. As far as I am aware, the tenets of these sections are adhered to.

11. The Managing Director of the Commission is appointed by the Board after consultation with the Minister of Finance and is removable by the Board in accordance with his or her terms and conditions of employment. As an employee of the Commission, the Managing Director’s functions are outlined in section 10 of the FSCA, but also performs numerous other functions contained in other financial services legislation. It is the duty of the Managing Director (as per section 10 (3) of the FSCA) to ensure that:

- “(a) the resources of the Commission are utilised economically and efficiently;*
- (b) the internal financial and management controls of the Commission are adequate;*
- (c) the Commission is operated in accordance with principles of good governance; and*
- (d) the Commission fulfils its statutory obligations and properly discharges its functions.”*

12. In performing these specific functions, the Managing Director is assisted by a senior management team comprising 2 Deputy Managing Directors (Regulation and Corporate Services) and the Heads of Divisions – Legal, Policy Research and Statistics, Enforcement, Investment Business, Insurance, Human Resources and Finance. This senior management team (referred to by its acronym **AXIS** – Agile Executives for Impact and Strategy) meets regularly on a weekly basis on Mondays, or as the Managing Director may otherwise appoint, to consider Commission issues on which determinations are required to be made or simply to advise the Managing Director on appropriate courses of action.

13. The functions and powers of the Commission are generally and specifically outlined in the FSCA and other financial services legislation listed in Schedule 2 of the FSCA. In essence, the responsibility of the Commission is to independently regulate and supervise the conduct of financial services business conducted in and from within the Virgin Islands. In so doing, the Commission administers the FSCA and all financial services legislation, and collects fees arising

therefrom on behalf of the Government which it pays to the Government in accordance with the provisions of section 19 of the FSCA (Government Trust Account). The percentage of the fees collected which are to be applied for the purposes of the Commission and how that process is administered are provided in section 20 of the FSCA. In addition to the fees received and applied for the purposes of the Commission, the FSCA (in section 62 (1B)) provides for the Commission to receive and retain administrative penalties imposed for contravention of financial services legislation which prescribe the imposition of such penalties.

14. Within the structure of the Commission is established 2 committees, namely the Licensing and Supervisory Committee (LSC) and the Enforcement Committee (EC). The LSC is chaired by the Managing Director (in his absence by one of the Deputy Managing Directors or other Director as the Managing Director may designate) and comprises the 2 Deputy Managing Directors and the Directors of Legal, Policy Research and Statistics, Banking, Insolvency and Fiduciary Services, Investment Business and Insurance. Both the LSC and the EC are statutorily established under section 14 (1) of the FSCA. While the former deals with matters of regulation and supervision, the latter deals with issues of enforcement of financial services legislation. Generally, each of these 2 committees meets on a weekly basis to consider and decide on matters before it. Each of the committees has its own guidelines and operating procedures (which, because of their large size, can be produced to the COI separately if required) in terms of how they function and carry out their duties in the context of sections 16, 16A and 17 of the FSCA.

15. It is important to note that at the heart of the Commission's licensing regime (that is, in relation to applications for the grant of licences to carry on financial services business) is determining the fitness and propriety of applicants. The Commission is guided in this respect by Schedule 1A of the Regulatory Code, 2009 (Guidance Notes on Fit and Proper Test). The Guidance places emphasis on 3 fundamental principles, namely:

- (a) Honesty, integrity and reputation;
- (b) Competence and capability; and
- (c) Financial soundness.

16. Since its establishment, the Commission has enjoyed tremendous non-partisan political support from the elected leaders in the House of Assembly (the Legislative Council before that). It has over the years had good working relationships with successive governments and with Cabinet (the Executive Council before that). This, in my considered view, has been due largely to the professional and independent manner in which the Commission conducts its affairs. Successive governments have respected the independent role and functions the Commission plays in maintaining and sustaining the conduct of financial services business in and from within the Territory.

17. The Commission (and by extension the Territory) has benefitted from periodic international assessments of its regulatory, supervisory, compliance and international cooperation regimes. Over the years, the Commission's regimes have been assessed by the Caribbean Financial Action Task Force (CFATF), International Monetary Fund (IMF), Financial Stability Forum

(relying on the IMF assessment) and Group of Finance Centre Supervisors (GIFCS). These assessments mainly relate to the Commission's regulatory, supervisory, compliance, enforcement, anti-money laundering and countering the financing of terrorism (AML/CFT) and international cooperation regimes. The reports emanating from these assessments are publicly available on the Commission's website at www.bvifsc.vg and on the websites of the assessing institutions. Assessments by the Global Forum (GF) on information exchange on tax matters invariably relate, to some extent, on the legal and regulatory regimes administered by the Commission.

18. The structure and organogram of the Commission are published on the Commission's website. Similarly, the financial services legislation and the Commission's annual reports and work plan are published. The work of the Commission is aided by a number of guidelines and operating procedures (issued pursuant to the Commission's power under section 41A of the FSCA) which complement the laws administered by the Commission and, in some cases, deal with mere administrative matters, such as those relating to human resources matters.

19. The Commission is an ever-evolving institution that has to keep attuned to current and emerging standards of regulation, supervision, compliance and cooperation. As far as I am aware, it has not been tainted by any act of corruption, abuse of office or other serious dishonesty in public office that has affected its operations or the performance of its functions. The Board is in regular contact with the management team of the Commission through its regular monthly meetings and provides the necessary oversight with regard to the Commission's performance of its functions. This includes a rigorous oversight of the integrity of the Commission's finances to ensure good financial governance.

20. I now proceed to address seriatim the questions raised in your letter as follows:

A: MATTERS ADDRESSED - GOVERNANCE

(1) What do you understand by the term "good governance"?

The question is seeking my opinion. Good governance embraces numerous facets of good administration and includes transparency, integrity, vigilance, leadership and accountability. It also extends to taking appropriate steps to ensure compliance with established laws, policies, processes and procedures as part of the chain of ensuring efficiency, effectiveness and fairness in administration. As it relates to the Commission, it also extends to maintaining confidentiality of information pertaining to regulated persons and entities.

(2) What do you understand by the term "poor governance"?

The question is seeking my opinion. Anything that falls outside the scope of good governance (as above opined) may be viewed as a deficiency in good administration and therefore, as appropriate, characterised as constituting poor governance.

Maladministration and a failure to follow established rules and procedures or applying such rules and procedures unfairly undermine good governance.

(3) To what extent do you consider good governance to be important in sustaining public confidence in all elements of government?

The question is seeking my opinion. Good governance is the bedrock of good administration. That in turn engenders public confidence in government, both as an institution and as a system that the general public can rely upon to look after the public interest, and advocate grievances and seek redress, where considered appropriate.

(4) To what extent do you consider good financial governance to be important in sustaining public confidence in all elements of government?

The question is seeking my opinion. Good financial governance is just as important as good governance (asked and responded to in the immediately preceding question). Probity and transparency in financial dealings and/or transactions builds public confidence in the system of administration.

(5) As Chairman of the Financial Services Commission, what role, if any, do you have in ensuring there is good financial governance in the BVI and how you carried that out?

(a) As Chairman of the Financial Services Commission, my remit and that of colleague Commissioners (constituting the FSC Board) is defined by statute, namely the FSCA and other statutes that specifically place responsibility on the Chairman and/or the Board (for instance, the Financial Services (Exceptional Circumstances) Act, 2020 places certain obligations on the Chairman and the Managing Director of the Commission to take decisions that otherwise would be required to be taken by the Board and/or the Commission during a period of occurrence within the Territory of exceptional circumstances – whether natural disasters, public health emergencies or otherwise).

(b) My remit as Chairman (in the context of the Board of the FSC) may be found in section 6 of the FSCA. The Board’s monitoring and regulatory responsibilities are outlined in section 6 (1) to include (amongst other responsibilities):

“(c) monitoring and overseeing the management of the Commission by the Managing Director with the objective of ensuring that –

(i) the resources of the Commission are utilised economically and efficiently;

(ii) the internal financial and management controls of the Commission are adequate;

(iii) *the Commission is operated in accordance with principles of good governance; and*

(iv) *the Commission fulfils its statutory obligations and properly discharges its functions;*

(d) *acting as trustee of the deposit accounts transferred to the Commission under section 21; [a provision transferring funds held in the Government account to the Commission as part of the transitioning of the then Financial Services Department to the Financial Services Commission – the provision is effectively spent]*

(e) *approving the estimates and work programme referred to in section 24; and*

(f) *approving the Commission’s accounts under section 25.”*

(c) My responsibility (and that of the overall Board) in ensuring good financial governance in the BVI is to strictly adhere to the above remit and provide efficient and effective oversight to the Commission in discharging its financial obligations. The Commission collects financial services-related statutory fees to pass on to the Government in accordance with the terms of the FSCA (specifically section 19 thereof). In this respect, the Board ensures the preparation and auditing of annual accounts (financial statements) which are submitted to the Cabinet for approval and subsequently laid before the House of Assembly.

(d) On a general level, the Board monitors the Commission’s supervisory regime and how it is implemented/enforced to ensure, in particular, that appropriate good governance (including financial) rules are adhered to by licensees thereby maintaining financial stability (in the context of the financial services industry).

(6) As Chairman of the Financial Services Commission, what role, if any, do you have in monitoring and regulating financial services business carried out in or from within the BVI?

The responsibility of monitoring and regulating the conduct of financial services business in and from within the BVI is statutorily placed on the Commission. I and colleague Commissioners provide an oversight role to ensure efficient and effective performance by the Commission in the discharge of that responsibility. The Commission provides the Board with periodic reports relative to the regulation and supervision of licensees. This provides the Board with the opportunity to review these reports and flag areas that may benefit from improvement.

(7) What legal, regulatory and/or supervisory mechanisms, statutory or otherwise, make up the current system in place in the BVI to ensure good financial governance?

- (a) Please refer to the response to question (5) above with regard to the Board's statutory remit in ensuring good financial governance. In addition, the FSCA serves as the premier statutory benchmark for ensuring good governance, financial and otherwise. This Act is complemented by other financial services legislation listed in Schedule 2 of the same Act. The LSC and EC, coupled with the senior management body, AXIS (referred to formally as the Managing Director's Cabinet), serve as the Commission's frontline institutions in ensuring good financial governance within the Commission. Furthermore, the Commission has in place a directorate of finance which deals with the day-to-day administration of the Commission's finances and ensuring accountability. This is complemented by external auditors (currently BDO) to provide an independent layer of probity, accountability and overall good governance.
- (b) Externally, apart from the external auditors, the Commission is answerable to the Cabinet through its annual budgetary and reporting processes (respectively outlined in section 24 and section 27 of the FSCA). The Commission's annual estimates and work plan are laid before the House of Assembly (section 24 (5)), with the opportunity for the Managing Director and other senior staff of the Commission to appear before a Select Committee of the House to assist with and/or respond to matters related to the estimates and the work plan. The annual report (outlining the Commission's activities in a given year) is at the same time laid before the House of Assembly. The annual reports are publicly available on the Commission's website (the annual estimates and work plans can be made available to the COI if required).
- (c) Compliance inspection (carried out through the Compliance Inspection Unit) is a key feature of the Commission's supervisory mechanism. Periodic inspection of licensees is carried out on a risk sensitive basis and is founded on the Commission's Risk Assessment Framework and carried out in accordance with the Compliance Inspection Procedures Manual (which, because of their large size, can be produced to the COI separately if required). This process enables the Commission to know, apart from the annual reports submitted to the Commission by approved Compliance Officers in accordance with the FSCA and the Regulatory Code, 2009, the level of compliance of licensees and their risk appetite and what risk, if any, may be posed to the Territory by their activities. In addition, the Compliance Inspection Unit monitors compliance by licensees with recommended remedial measures to determine whether or not to make recommendations to the LSC for a licensee to be discharged from any further monitoring or whether further action should be undertaken.
- (d) The cumulative effect of the above mechanisms ensures proper conduct and good financial governance.

(8) What do you consider to be the strengths and weaknesses of that system?

Every established system can always benefit from improvement based on existing and emerging circumstances. The different layers of oversight – the House of Assembly, the Cabinet, the Board of Commissioners, the AXIS, the LSC, the EC and the external auditors – provide the appropriate strength in ensuring overall good governance of the Commission, whether in relation to administration, finance or otherwise. Lapses may, from time to time, occur in timely reporting or carrying out of obligations, but these generally fall to the minimum.

(9) What do you as Chairman of the Financial Services Commission consider should be taken to promote the strengths and remedying the weaknesses you have identified so as (if you have answered (3) and/or (4) above in the positive) to sustain public confidence in all elements of government?

- (a) The Commission engages actively in the regular review of all financial services legislation with the sole purpose of strengthening their operation/implementation, providing a financial services business-friendly environment, responding to industry concerns and/or recommendations, ensuring compliance with established international standards of regulation, supervision, compliance and cooperation, and ensuring the Commission has the relevant and appropriate tools with which to efficiently and effectively carry out its mandates outlined in section 4 of the FSCA and other related financial services legislation. This practice and statutory obligation must be continued to further engender public confidence in the management and operation of the financial services industry and generally promote good government.
- (b) Administrative and operational lapses require regular review and a continual assessment of staff skills and knowledge through enhanced resource mobilisation and training programmes. It is precisely for this reason that the Commission has established a Fund (called the Administrative Penalties Fund) whereby monies collected from the imposition of administrative penalties for breaches of financial services legislation are utilised to provide training to the Commission staff and other agencies (Police, Financial Investigation Agency, Customs, Immigration, Governor's Office, Office of Director of Public Prosecutions, Attorney General's Chambers, Ministry of Finance and International Tax Authority), in particular, in the areas of AML/CFT (including investigation and prosecution of money laundering and terrorist financing offences) and international cooperation.
- (c) In 2019, the Board approved and directed (with the engagement of an external consultant) a review of the operating structure of the Commission to better streamline the work of the institution. The results of that exercise will culminate in the gradual implementation of the recommendations arising therefrom. It is expected that when all the recommendations are fully implemented, we will see a further strengthening in the operations of the Commission, including lessening lapses in timely reporting and/or carrying out of obligations.

(10) What are the standards by which good financial governance is currently measured in the BVI?

I am not the person best placed to answer this question, considering the scope of my (and that of the Commission's) remit. However, in so far as the Commission is concerned, the responses provided in relation to paragraphs (4), (5) and (7) above are considered fundamental to ensuring good financial governance within and/or in the operation of the Commission.

(11) In what way, if any, do you consider those standards to be insufficient?

In relation to the Commission, the standards outlined in the responses to paragraphs (4), (5) and (7) are considered crucial for effective financial management and good governance. As with every system, unforeseen weaknesses may appear – whether through an implementation process or a legislative review process or otherwise. The functions and powers granted to the Board and the Commission respectively under sections 6 and 4 of the FSCA (and in other financial services legislation outlined in Schedule 2 of that Act) provide sufficient mechanisms for the timely and proper remediation of any shortcomings that may be identified in relation to good financial governance.

(12) What do you, as Chairman of the Financial Services Commission, consider should be taken to ensure that the standards of financial governance in place will sustain public confidence in all elements of government?

There is need for continual leveraging on the good relationship and confidence the Commission has been able to build with the central Government and its institutions in working harmoniously to ensure a financial services industry that is positively responsive to its clients and current and emerging standards of regulation, supervision, compliance and cooperation. In particular, the continuing support of the Government (Cabinet) and the House of Assembly to legislative proposals for the reform of financial services legislation and the financial services sector generally is key to sustaining public confidence in the work of the Commission vis-à-vis the Government.

B: MATTERS ADDRESSED – THE OPERATION OF THE AGENCIES OF LAW ENFORCEMENT AND JUSTICE

(1) How are the agencies of law enforcement and justice organised in the BVI in relation to criminal and other unlawful activities concerning financial services business?

(a) The broad nature of this question, in the context of the remit and scope of operation of the Commission, means that neither I nor the Commission is best suited to provide an unfaltering and comprehensive response to the question. However, in

terms of the work and operation of the Commission, the Commission has a cooperative relationship with certain agencies and institutions of government. The Commission was instrumental in the enactment of the Financial Investigation Agency Act, 2003 which led to the establishment of the Financial Investigation Agency (FIA). This was considered crucial in order to better support the work of the Commission in terms of identifying Commission licensed and unlicensed entities that may be engaged in unlawful or criminal activities (whether within or outside the Territory).

- (b) The Commission also has some nexus to the RVIPF, in that when certain offences are committed under financial services legislation by licensed entities, the offences are reported to the RVIPF for investigation and further action in liaison with the Office of the DPP.
 - (c) The Commission is a member of statutory and non-statutory bodies together with law enforcement agencies where there is a sharing of intelligence and other information which relate to or border criminal conduct. These bodies are the Joint Anti-money Laundering and Terrorist Financing Advisory Committee (JALTFAC) (established under the Proceeds of Criminal Conduct Act, 1997), Inter-Governmental Committee on AML/CFT Matters (IGC) (established under the Anti-money Laundering and Terrorist Financing Code of Practice, 2009). The non-statutory bodies are the Council of Competent Authorities (CCA) and National Anti-money Laundering Coordinating Council (NAMLCC) – these two bodies are currently the subject of statutory consideration respectively under the Criminal Justice (International Cooperation) Act, 1993 and the Proceeds of Criminal Conduct Act, 1997, with the latter already enacted but not brought into force as yet.
 - (d) The Commission has no direct nexus to the Courts in criminal matters affecting financial services business or persons within the financial services industry, save through the investigative and prosecution powers and authority of the RVIPF and Office of Director of Public Prosecutions.
- (2) **What particular responsibilities do you have, as Chairman of the Financial Services Commission, within the BVI system of law enforcement and justice in relation to criminal law and other unlawful activities concerning financial services business?**
- (a) As Chairman, none. However, the Commission has certain powers under various financial services legislation to impose sanctions for offences or breaches committed by licensees and other persons. Section 62 of the FSCA provides that Regulations made under that section “*may provide for the imposition by the Commission of administrative penalties on licensees that contravene a provision of this Act, any regulatory Code or any directive issued by the Commission*”. Accordingly, the Commission imposes administrative penalties for

offences/breaches committed under relevant financial services legislation. These are currently dealt with under the Financial Services (Administrative Penalties) Regulations, 2006 and under Schedule 4 of the Anti-money Laundering and Terrorist Financing Code of Practice, 2009.

- (b) Furthermore, section 56 of the FSCA empowers the Commission to impose a fine not exceeding the prescribed maximum on any person who commits an offence (under that Act or any financial services legislation) that carries the penalty of a fine and for which criminal proceedings have not been instituted. The exercise of the power is constrained by certain conditions and procedures that are prescribed in the section of the Act.
 - (c) Licensees and other persons who are engaged in unlawful activities that are not criminal in nature may be proceeded against in accordance with the Commission's enforcement powers prescribed in sections 37, 37A and 38 of the FSCA.
- (3) **What processes and systems are in place to monitor the effectiveness of the system of law enforcement and justice in relation to criminal and other unlawful activities concerning financial services business?**
- (a) The IGC – comprising the Commission and other law enforcement institutions (including those with a nexus to AML/CFT) – meets periodically (at least once every quarter) to share information and experiences in law enforcement matters that affect or involve (amongst other things) entities in the financial services industry and other persons which may relate to money laundering or terrorist financing activity. In addition, the IGC has a monitoring mechanism whereby each member institution of the IGC provides regular statistics of issues they are concerned with, and actions taken, being taken or contemplated with respect to their areas of responsibility – such actions, depending on a member institution's area of responsibility, may range from statistical data on suspicious activity reports received (affecting mostly financial services businesses), enforcement actions taken (mostly by the Commission), seizures, arrests, detentions and other actions relevant to members' areas of responsibility in relation to contraventions of the law for which action is either taken, being investigated, or under consideration for a decision (the statistics on these can be made available to the COI if required).
 - (b) In terms of the reports made by the Commission to the RVIPF, the Commission follows these up in writing when a report has taken too long without any update. This is carried out through the Commission's Enforcement Division. In addition, the Enforcement Division follows developments externally to identify BVI business companies that may be reported or mentioned adversely (in the media and in court documents or, in some cases, in reports received by the Commission) as being involved in criminal activity and/or are being prosecuted. The collection of such information enables the Commission to make an assessment of what action, if any, it may need to take against or in relation to the companies concerned.

(4) What, if any, challenges have there been/are there in relation to detecting, investigating and prosecuting matters concerning criminal and other unlawful activities relating to financial services business?

- (a) Reports submitted in the past to the RVIPF of offences committed by licensees and other persons with respect to financial services legislation had not resulted in prosecution (the statistics on these can be made available to the COI if required). Most of those offences related to persons carrying on financial services business without lawful authorisation. Invariably, in most if not all cases, the directors of the entities concerned were resident outside the Territory and/or the entities had been struck-off the register or been dissolved, and investigations had not proceeded beyond the local level and no charges were laid. As a consequence, the Commission has resorted to invoking its enforcement powers under sections 37, 37A and 38 of the FSCA to penalize entities or other persons that engage in committing offences under financial services legislation.
- (b) The fact that directors of most non-regulated BVI entities reside outside the jurisdiction gives rise to jurisdictional issues if those companies are engaged in any criminal conduct. The companies invariably do not conduct business in the BVI and any bank accounts or assets held by these companies reside outside the jurisdiction. In such cases, when suspected criminal activity comes to light, the Commission works closely with foreign regulatory and law enforcement authorities to obtain and disclose non-public corporate documents and information to assist in the detection of financial crime. The Commission has an obligation to do this under section 33C of the FSCA and it is proactive in its approach as demonstrated by its membership of the UK Financial Crime Information Network (FIN-NET) and the IOSCO Multilateral Memorandum of Understanding, which are used to assist and expedite international cooperation with foreign regulators and law enforcement agencies.
- (c) There have also been some challenges in ensuring the effective investigation and prosecution of suspected money laundering activities beyond the predicate offences. As a consequence, the Commission has committed and continues to commit resources to have officers of law enforcement agencies trained in AML/CFT investigations and prosecution.

(5) What impact, if any, has corruption, abuse of office or other serious dishonesty in public office, had on the way in which criminal and other unlawful activities relating to financial services business is carried out in the BVI in recent years?

The Commission is not aware of any particular incident of corruption, abuse of office or serious dishonesty in public office, whether within the Commission or in Government, which had or could have impacted the way in which any criminal or other unlawful activity relating to financial services business is carried out in the Territory.

- (6) **What impact, if any, has corruption, abuse of office or other serious dishonesty in public office, had on the way in which criminal and other unlawful activities relating to financial services business has been detected, investigated and prosecuted?**

The Commission is not aware of any act of corruption, abuse of office or other serious dishonesty in public office having any impact on the detection, investigation or prosecution of criminal or other unlawful activity relating to financial services business.

- (7) **What do you, as Chairman of the Financial Services Commission, consider to be the strengths and weaknesses of the system of law enforcement and justice in the BVI in relation to criminal and other unlawful activities relating to financial services business?**

The level of cooperation between the Commission and other law enforcement agencies in the Territory (through membership in the various committees referred to in paragraph (1) (c) above) is a great source of strength in sharing intelligence and experience in the detection and investigation of criminal activity that may impact the financial services sector and other aspects of public life that are relevant to ensuring a stable and business-friendly environment. Adequate resource mobilisation and training are considered essential, if not fundamental, to efficient and effective law enforcement; these will certainly benefit from improvement.

- (8) **What do you, as Chairman of the Financial Services Commission, consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?**

(a) The cooperation between the Commission and other law enforcement agencies and related institutions should continue to be supported. In particular, the existing memoranda of understanding between them should be regularly reviewed to bring them up-to-date to better strengthen their relationships and level of cooperation and ensure, to the extent possible/feasible, a harmonized approach to the detection, investigation and prosecution of criminal conduct, especially as it relates to financial services business.

(b) Any shortcoming can be improved upon by ensuring a steady allocation of financial and human resources to secure the appropriate law enforcement tools and the desired level of expertise to undertake prosecution of financial crime offences. The training should be extended to the judiciary, in particular, in the area of money laundering and terrorist financing to develop a strengthened appreciation of emerging criminality in such areas, including the techniques criminals employ in committing these crimes and seeking to cloud their detection and/or frustrating their investigation and successful prosecution (in July/August 2014 the Commission provided financial support to the Judicial Training Institute of the Eastern

Caribbean Supreme Court to conduct training for judges in AML/CFT matters and international cooperation which was held in Anguilla).

21. I trust that this Policy Statement provides sufficient background information and addresses the questions raised by the COI's Letter under reference. Should further assistance be required from me in relation to the above, I will be happy to assist as best as I can.

Signed: 

Robin Gaul
Chairman
BVI Financial Services Commission


Cc: Managing Director
BVI Financial Services Commission

**BVI COMMISSION OF INQUIRY: LETTER OF REQUEST FOR INFORMATION/DOCUMENTS TO BVI
FINANCIAL SERVICES COMMISSION No.2**

INDEX TO DOCUMENTS PRODUCED

Unique Reference No.	Document Description	Appendix No. referred to in FSC Response letter
1.	Conflicts of Interest Policy FSC Board members	1
2.	Disclosure of Interests Form Board Commissioners	2
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Index/Inventory to documents provided by Robin Gaul, FSC Board Chairman

Signed: 
4th June 2021

APPENDIX 1

Managing Conflicts of Interest – Board of Commissioners of the Financial Services Commission

Statutory Scope

By virtue of the provisions of the Financial Services Commission Act, 2001, a Commissioner who has any direct or indirect personal, professional, business or pecuniary interest in any matter which falls to be considered by the Board shall as soon as reasonably practicable, complete and submit to the Board Secretary a declaration of interest on the prescribed form for the attention of the Board. A Commissioner who has declared an interest in a matter being considered by the Board shall withdraw from any meeting whilst the matter is being considered and shall not express any view or take part in any vote on the matter. It is essential that this statutory obligation is strictly adhered to.

Nature and Scope of Conflicts of Interest

A conflict of interest is not necessarily capable of an exhaustive definition, although appropriate guidance can be provided to direct attention to specific matters which may give rise to conflicts in a Commissioner's discharge of his/her duties. Thus a conflict of interest may arise in various ways and under different circumstances, but essentially relates to a Commissioner having a direct or indirect personal, professional, business or pecuniary interest in a matter that is the subject of a decision of the Board of Commissioners; ultimately it becomes a question of fact and the application of good judgment to determine whether a specific matter brings a Commissioner into a conflict with the efficient, effective and independent discharge of his/her responsibilities.

Generally, a conflict of interest can be considered in three fundamental stages – these relate to identification, reporting and managing. Firstly, it is important that every Commissioner is able to identify factual matters and/or circumstances that present or are likely to present conflicts of interest with respect to any particular subject matter on which his/her decision or opinion is essential or required in the due execution of his/her duties. Secondly, where a conflict is identified, it should be notified to the Board Secretary, outlining the nature and scope of the conflict of interest. It is essential for a culture of openness to exist in relation to disclosure of conflicts of interest, otherwise the independence and credibility of the Board of Commissioners may be brought into disrepute. Thirdly, it is important that a mechanism exists for managing conflicts of interest. The Financial Services Commission Act, 2001 is instructive on the obligation to report a conflict of interest to the Board Secretary who is then required to inform the Chairman and other members of the Board. This process allows for the appropriate and effective management of conflicts of interests.

Conflicts of Interest on the Basis of Personal Relationships

A conflict of interest would normally arise with respect to a personal relationship where a Commissioner is in an affinity or consanguine relationship with a person whose matter is before

the Board for a decision. It also extends to a circumstance where a Commissioner lives in the same household with a person whose matter is before the Board for discussion or for a decision, even though the Commissioner has no legal affinity or consanguine relationship with that person.

Conflicts of Interest on the Basis of a Professional Relationship

A conflict of interest would normally arise with respect to a professional relationship where a Commissioner belongs to the same professional association with a person whose matter is before the Board for a decision. This extends to a situation where the Commissioner expects, or has been approached with a promise of, an assignment or some other benefit from the person. The benefit need not be pecuniary and may be intangible.

Conflicts of Interest on the Basis of a Business Relationship

A conflict of interest would normally arise with respect to a business relationship where a Commissioner is in the same business venture with the person whose matter is before the Board, whether as a partner, director, other office holder or shareholder of that venture. Any promise of inclusion in such a business venture, though yet to materialize, shall also be considered a conflict of interest, unless the fact of such promise is disclosed to the Board and the Board satisfies itself that the promise is not being or will not be relied or acted upon by the Commissioner concerned and his/her participation in the meeting concerning any specific matter will not affect his judgment and integrity regarding his/her participation or decision on that matter.

Conflicts of Interest on the Basis of a Pecuniary Interest

A conflict of interest would normally arise in relation to a pecuniary matter where a Commissioner has a financial interest in the outcome of a decision of the Board with respect to a matter before the Board. It would be unlawful for a Commissioner to receive any type of financial benefit for advancing a particular interest; similarly, a promise to advance an interest in anticipation of a financial benefit would qualify as a conflict of interest as the Commissioner's integrity and good judgment would have been impaired by what he/she anticipates from the outcome of a decision of the Board.

Rules Applicable to Conflicts of Interest

A conflict of interest may be either real or potential, and it must be capable of identification. Where a matter falls to be dealt with by the Board of Commissioners, the following rules apply to every individual Commissioner:

- (a) Where a Commissioner forms the view or suspects that he/she has a direct or indirect personal, pecuniary, professional or business interest in the matter, he/she must report it to the Board Secretary in advance of the meeting at which the matter is to be decided; having a personal, pecuniary, professional or business interest in a matter may entail gain for oneself or another in the outcome of a decision of the Board (which compromises or has

the potential to compromise the independent judgment of the Commissioner concerned and thus whittle the credibility of the Board);

- (b) The Commissioner concerned must submit a declaration of interest on the form prescribed for that purpose under the Financial Services Commission Act, 2001;
- (c) The nature and scope of the interest giving rise to the conflict of interest must be identified and notified;
- (d) The Commissioner must recuse himself/herself from participation in the proceedings in respect of the matter to which the conflict relates;
- (e) Where the Commissioner discovers during the proceedings of the Board that he/she has a conflict of interest in the matter which he/she could not have reasonably discovered prior to the meeting – as may occur with personal conflicts regarding family members that are operating independently under an unknown name without the knowledge of the Commissioner concerned – he/she must make the conflict known to the Board immediately and withdraw or recuse himself/herself from further participation in the proceedings in respect of the matter to which the conflict relates;
- (f) The Commissioner shall not have or exercise any vote in the proceedings at which the matter is being considered – in circumstances where the conflict of interest is discovered during the course of the proceedings – and shall comply with the requirements of paragraph (e) above;
- (g) In the event that a conflict of interest is discovered after a decision had been taken on the matter (whether or not the conflict could have been reasonably ascertained and reported), the Board shall revisit the decision; the Board may reach the same or another decision, but without the presence of the Commissioner to whom the conflict of interest relates. However, where the conflict of interest is of such a nature as the Board considers not to be sufficiently material and, having regard to the subject matter to which it relates, would have been unlikely to affect the decision taken, the Board may decline to revisit the decision;
- (h) Every disclosure of a conflict of interest shall be made honestly;
- (i) Where the Board delegates any responsibility to a Commissioner, it is the duty of the Commissioner to ensure that every reasonable measure is taken to avoid a conflict of interest in relation to the delegation, and every conflict of interest must be reported to the Board through the Board Secretary.

Powers of the Board in relation to Conflicts of Interest

Where a conflict of interest is identified in relation to a Commissioner, the Board

- (a) Shall Ensure that the Commissioner to whom the conflict relates does not attend or participate in the discussion or decision of the matter to which the conflict is connected;

- (b) Shall Consider whether the nature and scope of the conflict is of such a nature as to be remotely connected to the Commissioner and the likelihood of any appearance of bias or undue influence on the part of the Commissioner is very remote or zero; this power must be treated only on an exceptional basis, such as where the Commissioner's contribution to the discussion is essential to arriving at an appropriate decision;
- (c) May direct such other action to be adopted as, in the Board's view, is reasonable in all the circumstances of the matter concerned.

Ultimately, the Board recognizes that effective management of conflicts of interests in its decision-making process is key to good governance and its members must uphold the rules and procedures outlined above.



APPENDIX 2

DISCLOSURE OF PRIVATE INTERESTS

Board of Commissioners

Register of Interests

The Commission maintains a register of private interests for the Board of Commissioners and all its employees. The purpose of the Register is to record information of any pecuniary interest or other benefit which a Commissioner or employee receives that might reasonably be thought by others to influence his or her actions as a Commissioner, as an employee of the Commission or of any Committee established under the Financial Services Commission Act, 2001 (the “Act”).

Deadline for Disclosure

Every new Commissioner must disclose their private interests to the Commission before they take up their appointment.

Completion of the Form

Please refer first to the explanatory notes in each section of this Form for the details of the information which is required to be registered. If there is not enough space in any section of this Form for the information required, you may attach additional sheets. Each additional sheet must be signed by both the Commissioner and the Secretary to the Board of Commissioners.

Subsequent changes or additions to your disclosure of interests should be notified to the Secretary to the Board of Commissioners within one (1) month of any changes occurring.

NAME (Block capitals, please):

POSITION/TITLE:

1. **DIRECTORSHIPS¹** :

Are you a director or principal of any entity regulated by the Commission or licensed to do business in the British Virgin Islands?

Yes

No

If yes, please list the names of the companies, briefly stating the nature of each company's business and indicating whether the company is regulated by, or involved in any business relationship with, the Commission.

Name of Company	Nature of Company's Business	Regulated Entity (Y/N)	Business Relationship(Y/N)

¹Notes: (i) You should include directorships which are individually unremunerated but where remuneration is paid through another company in the same group.

(ii) In this category and category 2, "remunerated" should be read as including allowances or benefits.

2. REMUNERATED EMPLOYMENT, OFFICE, PROFESSION :

Do you receive payments or income from, or have a pecuniary interest of any kind in, any employment, office, trade, profession or vocation (apart from your position with the Commission)?

Yes No

If yes, please set out the details shown in the table below.

Name of Company	Nature of Company's Business	Regulated Entity (Y/N)	Business Relationship(Y/N)

3. GIFTS, BENEFITS AND HOSPITALITY:

In the past year, have you or your spouse received any gift or material advantage of a value greater than \$100.00 from any company, organization or person which in any way relates to your position with the Commission?²

Yes No

²Notes: (i) You should include any hospitality given and services or facilities offered free or at a price below that generally available to members of the public.
(ii) You should include not only gifts and material advantages received personally by you and your spouse, but also those received by any company or organisation in which you (or you and your spouse jointly) have a controlling interest.

Date of Gift (DD/MM/YYYY)	Donor	Description	Value

4. OVERSEAS VISITS

Have you or your spouse made any overseas visits relating to or in any way arising out of your position with the Commission where the cost of the visit was not wholly borne by yourself or by the Commission?

Yes No

If yes, please list relevant visits in chronological order.

Countries Visited	Dates of Visits (DD/MM/YYYY)	Who Paid?

5. SHAREHOLDINGS

Do you have (*either yourself or with or on behalf of your spouse or children*) interests in shareholdings in any company regulated by the Commission or licensed to do business in the British Virgin Islands?

Yes No

If yes, please set out the details shown in the table below.

Name of Company	Nature of Company's Business	Regulated Entity (Y/N)	Business Relationship(Y/N)

6. PERSONAL RELATIONSHIPS

Do you have a spouse³, child⁴ or relative⁵ employed at a senior level in any entity regulated by or providing services to the Commission?

Yes No

If yes, please set out the details shown in the table below.

³Spouse' means the husband or wife of the person making the declaration or any person who is living with that person in the circumstances of husband and wife at the date of the declaration

⁴Child' means a son or daughter of any age and includes a child born out of wedlock, an adopted child, a step-child or a child of the family; and

'child of the family' means a child of both the person making the declaration and/or his spouse and any other child, who has been accepted and treated by both the person and his spouse as a child of their family.

⁵Relative' in relation to the person making the declaration means:

(a) a spouse or child of that person; (b) a brother or sister of that person; (c) a brother or sister of the spouse of that person; or (d) a parent, grandparent or grandchild of that person

Name	Position	Entity	Relationship

7. GOVERNMENT AND COMMUNITY BOARDS, GROUPS AND ORGANISATIONS

Are you a member of:

- (i) any board or committee formed, organised by or otherwise connected to the Government of the Virgin Islands or to any statutory body organised under the laws of the Virgin Islands;
- (ii) any professional or private sector organisation having any business with the Commission or in any way involved in the financial services industry in the Virgin Islands?
- (iii) any investment club or similar organisation;
- (iv) any community groups and organisations in the Virgin Islands?

Yes No

If yes, please set out the details shown in the table below.

Organisation	Purpose	Status (eg. Member, Chairperson)	Duration (How long have you been a member)

8. *OTHER INTERESTS*

Are there any other interests which you think are likely to influence, or likely to be perceived as influencing, your actions or professional judgment in discharge of your responsibilities as a member of the Board of Commissioners?

Yes No

If yes, please give details.

9. *DECLARATION*

I, , do solemnly declare that all statements made and all information contained in this disclosure of interests form are true and accurate to the best of my knowledge, information and belief and that if there is any material change in the activity (ies) in which I am, or my spouse or relative are, engaged that may give rise to a breach of the Financial Services Act, 2001, Part [] of the Criminal Code, I will immediately declare it in writing.

Signature:

Date:

(DD/MM/YYYY)

Name:

Signature:

APPENDIX 3



DECLARATION OF PRIVATE INTERESTS

The Commission maintains a register of private interests for all its employees. The purpose of the Register is to record information of any financial or other interest or any benefit which an employee receives that might reasonably be thought by others to influence his or her actions as an employee of the Commission or as a member of any committee established under the Financial Services Commission Act, 2001.

Deadline for Disclosure

Every new employee must disclose their relevant private interests to the Commission before they take up employment with the Commission. All employees must renew their disclosure annually.

Completion of the Form

If there is not enough space in any section of this Form for the information required, you may attach additional sheets. All additional sheets must be signed by the employee and their divisional director.

Any changes or additions to the disclosures made in this form must be notified to your divisional director and the Ethics Officer within 1 month of the changes or additions.

NAME:

POSITION/TITLE:

DIVISION:

NAME (Block capitals, please):

POSITION/TITLE:

DIVISION:

1. DIRECTORSHIPS¹

Are you a director of any entity (including a “dba”) regulated by the Commission or licensed to do business in the British Virgin Islands?

Yes

No

If yes, please list the names of the entity, briefly stating the nature of each entity’s business and indicating whether the entity is regulated by, or involved in any business relationship with, the Commission.

Name of Company	Nature of Company’s Business	Regulated Entity (Y/N)	Business Relationship(Y/N)

¹Code of Conduct, paras 4.1.2 (b) and 4.5.8

²Notes: (i) You should include directorships which are individually unremunerated but where remuneration is paid through another company in the same group.

(ii) In this category and category 2, “remunerated” should be read as including allowances or benefits.

2. REMUNERATED EMPLOYMENT, OFFICE, PROFESSION.

Do you receive payments or income from, or have a financial interest of any kind in, any employment, office, trade, profession or vocation (apart from your position with the Commission)?³

Yes No

If yes, please give the name of the entity (including a dba), the nature of the entity's business, whether the entity is regulated and whether the entity has a business relationship with the Commission.

Name of Company	Nature of Company's Business	Regulated Entity (Y/N)	Business Relationship(Y/N)

3. GIFTS, BENEFITS AND HOSPITALITY.

In the past year, have you, your spouse or child received any gift or material advantage of a value greater than \$100.00 from any company, organization or person which in any way relates to your position with the Commission?⁴

Yes No

³ An employee does not have to disclose that they receive income from units of rental property attached to their private dwelling under this section. However, if they own or have an interest in rental property occupied or paid for by any entities or individuals regulated, supervised or approved by the Commission that interest may have to be declared at question 8.

⁴ (i) You should include any hospitality given and services or facilities offered free or at a price below that generally available to members of the public.
(ii) You should include not only gifts and material advantages received personally by you and your spouse, but also those received by any company or organisation in which you (or you and your spouse jointly) have a controlling interest.

If yes, please state:

Date of Gift (DD/MM/YYYY)	Donor	Description	Value

4. OVERSEAS VISITS

Have you or your spouse made any overseas visits relating to or in any way arising out of your position with the Commission where the cost of the visit was not wholly borne by yourself or by the Commission?

Yes
 No

If yes, please list relevant visits in chronological order.

Countries Visited/Purpose	Dates of Visits (DD/MM/YYYY)	Who Paid?

5 SHAREHOLDINGS

Do you have (either yourself or with or on behalf of your spouse or children) interests in shareholdings in any entity regulated by the Commission or licensed to do business in the British Virgin Islands? Yes No

If yes, please list the details shown in the table below.

Name of Company	Nature of Company's Business	Regulated Entity (Y/N)	Business Relationship (Y/N)

6 PERSONAL RELATIONSHIPS

Do you have a spouse⁵, child⁶ or relative⁷ employed at a senior level in any entity regulated by or providing services to the Commission?

Yes No

If yes, please list the details shown in the table below.

Name	Position	Entity	Relationship

⁵'Spouse' means the husband or wife of the person making the declaration or any person who is living with that person in the circumstances of husband and wife at the date of the declaration

⁶'Child' means a son or daughter of any age and includes a child born out of wedlock, an adopted child, a step-child or a child of the family; and

'child of the family' means a child of both the person making the declaration and/or his spouse and any other child, who has been accepted and treated by both the person and his spouse as a child of their family.

⁷'Relative' in relation to the person making the declaration means:

(a) a spouse or child of that person; (b) a brother or sister of that person; (c) a brother or sister of the spouse of that person; or (d) a parent, grandparent or grandchild of that person



7. RELATIONSHIPS WITH RELEVANT ORGANISATIONS

Please list the names of any company or other entity that is regulated, or seeking to be regulated, by the Commission with which:

- (a) you have any ongoing formal loan arrangements under which you have borrowed a capital sum of \$10,000 or more and which you expect to continue to exist for more than six months;
- (b) you have (or have had) a dispute or significant arrears on a mortgage or other loan product.

Note: Please tick if applicable

[Redacted text box]

Organisation:

Loan:

Yes No

Dispute/Arrears:

Yes No

[Redacted text box]

Organisation:

Loan:

Yes No

Dispute/Arrears:

Yes No

[Redacted text box]

Organisation:

Loan:

Yes No

Dispute/Arrears:

Yes No

[Redacted text box]

Organisation:

Loan:

Yes No

Dispute/Arrears:

Yes No

8. GOVERNMENT AND COMMUNITY BOARDS, GROUPS AND ORGANISATIONS

Are you a member of:

- (i) any board or committee formed, organised by or otherwise connected to the Government of the Virgin Islands or to any statutory body organised under the laws of the Virgin Islands?
- (ii) any professional or private sector organisation having any business with the Commission or in any way involved in the financial services industry in the Virgin Islands?
- (iii) any group of investors who pool money or make joint investments?
- (iv) any other community club, group or organisation in the Virgin Islands?

Yes No

If yes, please list the details shown in the table below.

Organisation	Purpose	Status (e.g. Member Chairperson)	Duration (How long have you been a member)

9. OTHER INTERESTS⁸

Are there any other interests which you think are likely to influence, or likely to be perceived as influencing, your actions or professional judgment in discharge of your responsibilities as an employee of the Commission?

Yes No

If yes, please give details.

10. DECLARATIONS

I, ,

- 10.1. confirm that I have read and understood the Commission's Code of Conduct.
- 10.2. solemnly declare that all statements made and all information contained in this form are true and accurate to the best of my knowledge, information and belief and that if there is any material change in the activity(ies) in which I am, or my spouse or relative is, engaged that may give rise to a breach of the Financial Services Act, 2001, Part IV of the Criminal Code, 1997 or my contract of employment with the Commission, I will immediately declare it in writing.

Signature:

Date:

(DD/MM/YYYY)

⁸ Please see notes at item 2. In this section, please include any required disclosures pursuant to 4.5.7 of the Code which are not already included in the disclosures made in parts 1-7 of this form.