



**FINANCIAL SERVICES AUTHORITY**

Bois De Rose Avenue  
P.O. Box 991  
Victoria  
Mahé  
République of Seychelles

Tel: +248 4380800

Fax: +248 4380888

Website: [www.fsaseychelles.sc](http://www.fsaseychelles.sc)

Email: [enquiries@fsaseychelles.sc](mailto:enquiries@fsaseychelles.sc)

**RESPONSES ON COMMENTS BY THE INDUSTRY ON THE  
BUSINESS CONTINUITY PLAN GUIDELINES**

## 1. Introduction

Further to the comments received from members of the Industry, this paper serves to respond and/or discuss the position of Financial Services Authority (FSA). Henceforth, this paper would be segregated into different points.

## 2. Members of the Industry who submitted their comments

A.C.T.
ACM
Deneo Partners'
MERJ Exchange
OCM Seychelles
Sterling Trust & Fiduciary Limited

### A. FSA's raison d'être for making Business Continuity Plan Guidelines.

Business continuity planning allows advance planning and preparations that are necessary to identify the impact of potential losses arising from an emergency or a disaster, to formulate and implement viable recovery strategies.

Licenses may experience suspension of critical operations due to unprecedented occurrence that may occur within its daily operation, business continuity will ensure that the licensee has the necessary mechanisms to maintain its resiliency in responding to disruption, uncertainties and any unforeseen circumstances. An established Business Continuity Plan ("BCP") ensures and facilitates the licensee in relation to its growth, cost, time and reputation.

The points raised and feedback provided are detailed below;

- **Comment 1 - Section 3 (3.2 Key points in business continuity planning (a) - Paragraph 2)**

"The firms should keep records on the testing and should be available at the FSA's request".

#### **FSA Response:**

The FSA is in agreement to have records on the testing and should be readily available to the FSA at its request. Hence, amendments has been made to reflect the provision.

- **Comment 2 - Section 3 (3.2 Key points in business continuity planning (a) - Paragraph 2)**

To add, "..., at least on an annual basis".

#### **FSA Response:**

The Authority takes note of the addition. Nonetheless, provided the other provisions made within the Guideline, the respective licensee should set its appropriate time to conduct the review taking into consideration the nature, size and complexity of its operation.

- **Comment 3 - Section 3 (3.2 Key points in business continuity planning (a) - Paragraph 2)**

In 3.2 “BCPs should be *maintained* and kept in a register...” Does the FSA mean in a physical folder? Could a BCP not be in electronic format and be printed when the FSA wants to view it? We envisage pinning a copy on a notice board (excluding security sensitive appendices), also one in a fire proof safe in the office, also at the residences of the directors and senior personnel (excluding certain security sensitive parts depending on security access of the persons), as well as in the cloud drive of the persons. In all cases, it would be the latest / current version only so as not to confuse during what is likely to be a time of confusion and increased stress. In a work folder, meant for maintaining and update the BCP, we can keep the multiple outdated versions.

**FSA Response:**

The FSA is in agreement with the comment and suggestion. As a result, the phrase will be amended and be read as “BCPs should be maintained and kept in ~~a~~ *the licensees respective* register, which shall be *readily* ~~made~~ available *for the Authority to have sight of it* during on-site compliance inspection or upon request by the Authority”.

- **Comment 4 - Section 3 (3.2 Key points in business continuity planning (a) - Paragraph 3)**

- (a) You should define service provider.
- (b) IN our opinion service provider should be replaced with the "service provider used by the licensee to curry any services/functions on behalf of the licensee"
- (c) To add, “Such testing evidence should be available at the FSA’s request if and when requested”.

**FSA Response:**

- (a) Definition of service provider will be included as a footnote.
- (b) Comment has been duly noted by the Authority.
- (c) No objection to include the phrase. It will be added at the end of Paragraph 3.

- **Comment 5 - Section 3 (3.2 Key points in business continuity planning (c) - Paragraph 1)**

- (a) Given that the firms will need to act promptly in case of any business disruption this means that it should not require the FSA's approval to activate it as long as in line with their BCP.

Therefore, the licensee should be required to notify the Authority instead.

- (b) To rephrase wording to including: "... which will need to inform the Authority in such case and given this will be in line with the licensee's BCP.)

**FSA Responses:**

- (a) The Authority takes note of the statement and will amend the guideline to reflect the respective comment. Effectively, paragraph 15.3 and the provision for regulatory approval will be removed in the Checklist (Appendix 3).
- (b) No objection to include the phrase. It will be incorporated at the end of Paragraph 3 and will be read as: "Licensees have many options for responding to disruptions and providing for business continuity. Such includes switching over to back-up facilities, moving to manual processing, or entrusting operations to another business (which will ~~require the necessary approval with relevant authorities, agreements and written procedures for the hand-over of documents~~ they will need to inform the Authority in such case and should be in line with the licensee's BCP)".

• **Comment 6 - Section 4 (Building A Business Continuity Plan - Paragraph (a))**

To add "BCP should include contact details of the designated officer so in case of any triggering activation of the BCP, then the staff knows who to inform about it."

**FSA Response:**

The Authority takes note of the comment and the proposed addition has been reflected throughout the Guideline.

• **Comment 7 - Section 5 (Components of a Business Continuity Plan Process - Paragraph 5.2)**

To add, "..., at least on an annual basis".

**FSA Response:**

The Authority takes note of the addition. Taking into account that there are other provision in the Guideline to encourage the licensee to implement an adequate timeframe to conduct the necessary review vis-à-vis the BCP.

• **Comment 8 - Section 7 (Risk Assessment - Paragraph 7.4)**

- (a) To add, "Where requested by the Authority..."
- (b) We don't think Gap Analysis should be required by all licensees. Therefore, we suggest to slightly rephrase the wording.

**FSA Response:**

The Authority considers both comments, as such; Paragraph 7.4 will be removed and the provision will be reflected under "Updating the Business Continuity Plan", which will give

the licensee the liberty to know when they should conduct and perform any necessary and essential reviews.

- **Comment 10 - Section 8 (*Business Impact Analysis and Recovery - Paragraph 8.4 (a)*)**

Need to define “Critical personnel” as very generic

**FSA Response:**

The Authority takes note that each licensee its critical personnel will differ and a definition might not encompass everyone being targeted, as their role might also be different from a licensee to another licensee.

- **Comment 11 - Section 8 (*Business Impact Analysis and Recovery - Paragraph 8.6*)**

- (a) Not all firms have a risk management team so we suggest to add "or senior managers"
- (b) To add “The risk management team *or senior managers* should identify the risk and the development of risk mitigation strategies across business areas.”

**FSA Response:**

The Authority takes consideration of the insertion and will keep it as the drafted document was shared, for reason that the business can include anyone as part of the risk management team or employ specific personnel for such.

- **Comment 12 - Section 9 (*Other Policies, Standards and Processes*)**

To add, “..., at least on an annual basis”.

**FSA Response:**

The Authority appreciates that the licensees should establish their own review period in regards to reflect their own BCP operations.

- **Comment 13 - Section 12 (*Insurance*)**

Insurance should be a choice for the licensee and not a requirement as you correctly indicated in section 12.2

**FSA Response:**

The provision inserted by the Authority will remain as is. Furthermore, the Authority takes into account that annually all licensees upon license renewal are requested to submit copy the renewed Professional Indemnity Insurance Cover.

- **Comment 14 - Section 12 (*Insurance – Paragraph 12.2*)**

- (a) To add “.../good practice but not a requirement...”

(b) We suggest to remove this clause at the end of the section i.e. become clause 12.5 instead.

**FSA Response:**

The paragraph will be rephrased to reflect that insurance is mandatory and to include Professional Indemnity Insurance Cover.

In addition, paragraph 12.2 will be amended to be read as: “Nonetheless, the Authority takes into account that insurance is ~~a choice in order to reduce risk. The insurance cover that a licensee opt for would be dependent on the risks that the insurer and reinsurer has identified in relation to their size, nature of business and operations~~ *mandatory, notably the Professional Indemnity Insurance Cover, which a copy is requested to be submitted to the Authority upon the annual license renewal.*”

- **Comment 15 - Section 13 (Audit or Independent Reviews)**

(a) Need to emphasize that this should not be a requirement but only applicable if and when requested by the FSA

Additional cost which can be very expensive exercise for the licensees. Not a lot of firms can perform such exercise

(b) To add, “The audit or independent review should be required if and when requested by the Authority.”

**FSA Response:**

The Authority takes note of the comment and the proposed insertion, however, the proposed addition will be repetitive considering there are other provisions included within the document that the licensee should review their BCP.

- **Comment 16 - Section 15 (Updating the Business Continuity Plan (15.1))**

To add, “...where applicable”

**FSA Response:**

The Authority accepts the addition and it will be read as “The BCP should be reviewed by the senior management, the planning team members or coordinator, internal audit (*where applicable*) and the board of directors at least annually.”

- **Comment 17 - Section 15 (Updating the Business Continuity Plan)**

(a) Why? It is the board of the enterprise that approves the BCP. The FSA, having sight of many licensees BCPs may well be able to detect deficiencies in a particular licensee’s BCP and may make recommendations for improving it, but making the FSA the final decision maker may introduce problems and risk to the FSA, unless recommendations

or directions are based on universally accepted contents of BCPs. If the FSA insists on a measure that later on fails, who will be responsible? What about if the FSA recommends the removal or amendment of a measure, which later proves ill-advised?

- (b) Clarification & rationale are being sought
- (c) This requirement would be administratively cumbersome since the BCP is to be routinely reviewed and updated to ensure a practical and flexible working document to meet the needs of the individual licensees. Amendments may be made periodically that are minor and this would seem onerous to have to seek regulatory approval in each instance before implementing.

**FSA Response:**

In consideration of the comments, the Authority will change the paragraph to include that FSA will have sight of the BCP; as such it will remove the burden on the licensee to communicate changes and to be approved by the FSA, prior to implementing same.

- **Comment 18 - *Appendix 2***

There is no reference of "Appendix 2" in the main body of the document

**FSA Response:**

The Authority takes note that Appendix 2 has been omitted in the document and it will be inserted as part of Section 15 (Updating the Business Continuity Plan).

- **Comment 19 - *Appendix 3***

There is no reference of "Appendix 3" in the main body of the document

**FSA Response:**

The document has been amended and there will be Section 16 to reflect the appendix number.

- **Comment 20 – *General Comments***

- (a) In my view appropriate BCPs may vary so widely amongst enterprises that it is difficult if not impossible to prescribe. On the other hand we can expect some enterprises to start off from a template and to adapt or to build from that template. If the template is good, we can expect a reasonably good and complete BCP as the end result.
- (b) Could the FSA not simply ask for a copy of the BCP at licence renewal time (excluding any security sensitive appendices e.g. those containing file path locations, server addresses or passwords)?

- (c) Just one more comment, a suggestion: I suggest explaining a disaster recovery plan vs a business continuity plan. BCP to me is more about preventing disasters i.e. dealing with problems as they happen or early on so that they don't become disasters. E.g. having a fire extinguisher on hand to stop a flame from burning down the whole office as opposed to having offsite information and systems to be able to resume after the office has burned down. I am not sure how the FSA and others view this.
- (d) Approximately when will this guide be published officially?
- (e) How much time will licensees have to establish all the requested or recommended guidelines?
- (f) It is noted that the BCP requires approval of the FSA. In the case where a BCP for a licensee had previously been submitted and approved by the Authority, is there a period of time (should the BCP not include all provisions included in the guideline) that the Authority would allow to amend the previously approved BCP? Noting that these are guidelines, would there be any penalties for non-compliance if the BCP is not approved by the Authority?

**FSA Response:**

- (a) The Authority notes the comment and we are of the view that in the interim, we do not need to a template for such. Additionally, the guideline has provided the necessary points that licensees should consider their BCP.
- (b) Such is already being done as applicable through the Compliance Form – Question 5.
- (c) This has been duly noted by the Authority.
- (d) The BCP guidelines will be published when it is finalised. Consequently, such will be reflected in the applicable Code, Guidelines and Checklist of the respective sectors (e.g. ICSP Code and Securities Dealer Guideline/Checklist etc...).
- (e) To note, the BCP is only a guidance for the licensee to follow. The Authority will not per se approve the licensees respective BCP. Nonetheless, the Authority will not impose how a licensee should design its BCP, but we will need to have sight, may review and query about it if necessary.

⟨ END ⟩