

Financing Companies Licensees draft Modules – Volume 5
Industry Comments and Feedback
September 2013
TC Module

General Comments		REF	CBB's Response
<p>A Financing Company noted that the draft module scope addresses the conventional banks only, it is suggested to either broaden the scope of applicability of the module to include the financing companies or the module should clearly state inapplicability of this model to the financing companies' category.</p>		G1	<p>The scope of proposed Module TC for Volume 5 clearly addresses financing companies and does not mention conventional bank licensees.</p> <p>There was one correction required where the word 'bank' appeared for TC-2.1.4. This has now been replaced by 'licensee'.</p>
Reference to the draft Directive:	Comments	REF	CBB's Response
<p>TC-A.1.1 This Module presents requirements that have to be met by <u>financing company licensees</u> with respect to training and competency of individuals undertaking <u>controlled functions</u> (i.e. <u>approved persons</u>) (as defined in .Paragraph AU-1.2.2)</p> <p>TC-A.1.2 Module TC provides Rules and Guidance to <u>financing company licensees</u> to ensure satisfactory levels of competence, in terms of an individual's knowledge, skills, experience, and professional qualifications. <u>Financing company licensees</u> must maintain the</p>	<p>A Financing Company noted that considering CBB is also approving the appointment of controlled functions, it need not mandate specific qualification and experience requirements for such positions but should instead consider including these only as a general guideline/ good management practices. Licensees should be given the latitude to determine what is appropriate in this regard based on their individual circumstances.</p>	SP1	<p>The qualifications and experience in the appendix of the TC are rules and will be used by the CBB as a criteria in assessing the candidates. However, the CBB could potentially decide that overall a candidate is fit and proper even if he is not meeting all the Q&E requirements in the appendix.</p> <p>Module AU mentions the fit and proper requirements for controlled functions. However, once Module TC is issued, such controlled functions will be subject to qualifications and experience requirements as stated in Appendix TC-1.</p>

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<p>competence to provide <u>regulated financing company services</u> as outlined in Section AU-1.3. Individuals occupying <u>controlled functions</u>, as outlined in Paragraph AU-1.2.2, must therefore meet minimum levels of training and experience related to their functions.</p>			
<p>TC-1.1.3 Competence is assessed by the CBB on the basis of experience and relevant qualifications described in Appendix TC-1 as a minimum. However, the CBB reserves the right to impose a higher level of qualifications as it deems necessary.</p>	<p>A Financing Company noted that based on the comments made in SP1, the qualifications and core competencies included under Appendix TC-1 should be considered only as general guidelines for licensees to follow based on assessment of their individual circumstances.</p>	<p>SP2</p>	<p>See SP1</p>
<p>Heads of Functions TC-1.1.7 Heads of function, where risk acquisition or control is involved, are responsible for tracking specific functional performance goals in addition to identifying, managing, and reporting critical organisational issues upstream. Certain functions require dealing directly with clients while others do not. Both categories of functions, however, require specific qualifications and experience to meet the objectives as well as compliance requirements of the financing company licensee.</p>	<p>A Financing Company noted that the title “Head of Functions” is too generic and should instead be replaced with “Head of Key Functions” or “Executive Management”. Also, it is requested that the CBB remove the word ‘specific’ from the phrase ‘specific qualifications and experience’ mentioned herein.</p>	<p>SP3</p>	<p>The definition of Heads of other Functions is very clear. The licensee must see if that definition applies to any of its functions and hence obtain CBB approval. In case of doubt, the licensee should refer back to the CBB to seek clarification.</p> <p>Additional guidance has been added stating that licensees should contact the CBB should they require further clarification on whether a specific position falls under the definition of ‘heads of functions’.</p>

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<p>CPD TC-1.2.1 All individuals holding <u>controlled functions</u> in a <u>licensee</u> must undergo a minimum of 15 hours of CPD per annum.</p>	<p>A Financing Company noted that the need to undertake CPD requirements should be mentioned herein only as a general guideline instead of prescribing a specific minimum number of hours within the draft regulation for the following reasons:</p> <ul style="list-style-type: none"> • Measures for continuous ‘on the job’ training exist which itself exceed the number of hours prescribed by CBB herein • There exists an element of continuous research, development and implementation of new policies, rules and regulations • Specific training is already mandated on annual basis such as Anti-Money Laundering training, Information Security training etc. • Seeking to maintain specific records for the above activities will only add a lot of administrative work and high operating costs with no perceived benefit for a company like ours. <p>In addition, it is proposed that the above-proposed general guideline on CPD be merged with the training requirements stated under Para TC-2.2.1. Also, these requirements should not be made applicable for the Board members of privately held companies, for which it is requested that the CBB incorporate an exemption within the proposed draft regulations itself.</p> <p>A Financing Company suggested changing the word “individuals” to “individual employees” so</p>	<p>SP4</p>	<p>With regards to CPD training requirement of 15 hours, attending a two-day conference can also be counted as CPD, which is the case for controlled functions and considered reasonable. Licensees should arrange presentations for the Board members. It is a requirement and licensees must meet such requirement.</p> <p>CPD training is applicable to all controlled functions including board members who are not employees of the licensee. Licensees should arrange presentations for the Board members, which will be counted as CPD hours.</p> <p>Disagree. CPD training is applicable to all controlled functions including board</p>
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	<p>it will be applicable to all individual employees holding controlled function in a licensee since it will be difficult to apply the same on members of board of directors or members of sharia’ supervisory committee or to retain the record of their continuous professional development. The rule can be applied on employees holding controlled function but not on non-employees of the licensee and especially at board level. Normally, the Remuneration & Nomination Committee should evaluate the performance of the Board members and sub-board committees on an annual basis including assessing their competencies.</p>		<p>members who are not employees of the licensee. Licensees should arrange presentations for the Board members, which will be counted as CPD hours.</p> <p>Member of the Shari’a Supervisory Board has been removed from the list of the controlled functions, in Module TC and hence Module AU will be amended accordingly in April 2014.</p>
<p>Record Keeping TC-1.2.5 A <u>licensee</u> should, for a minimum period of five years, retain records of:</p> <ul style="list-style-type: none"> (a) The annual training plan for each <u>controlled function</u>; (b) Materials used to conduct in-house training courses; (c) List of participants attending such in-house training courses; and (d) Results of evaluations conducted at the end of such training courses. 	<p>A Financing Company noted that CBB should ask that all licensees have an annual training plan to address CPD requirements without going into the level of detail as prescribed under the Paragraph which will be too onerous to ensure compliance.</p> <p>A Financing Company suggested combining the “record keeping” in one section, covering all items to be retained and the retention period rather than repeating in several locations of this module.</p>	SP5	<p>TC-1.2.5 is only a guide and shows what the CBB expects from licensees to retain in their records with respect to CPD. Such records need to be maintained to be able to substantiate the training that has been provided and can be kept electronically to alleviate the administrative burden.</p> <p>Disagree. Each section has different record keeping requirements and cannot be combined together for clarification purposes.</p>
<p>Recruitment and Appointment TC-2.1.1</p>	<p>A Financing Company noted that the qualifications and core competencies mentioned</p>	SP6	See SP1

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<p>If a licensee recruits or promotes an individual to undertake a <u>controlled function</u>, it must first file Form 3 (Approved Persons) with the CBB and obtain the express written approval of the CBB for that person to occupy the desired position. In its application, the licensee must demonstrate to the CBB that full consideration has been given to the qualifications and core competencies for <u>controlled functions</u> in Appendix TC-1. (See Article 65(b) of the CBB Law and Paragraph AU-2.3.1).</p>	<p>in Appendix TC-1 should not be seen as mandatory requirements but instead as general guidance for individual licensees which can be tailored to suit their specific circumstances.</p>		
<p>TC-2.1.4 The licensee must retain the recruitment records of <u>controlled functions</u> for a minimum period of five years following termination of their services or employment with the licensee. Such records must include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (a) Results of the initial screening; (b) Results of any employment tests; (c) Results and details of any interviews conducted; (d) Background and references checks; and (e) Details of any professional qualifications. 	<p>A Financing Company noted that the records mentioned herein should not be applicable for Board members of a privately held company. As such, it is requested that the CBB incorporate an exemption to this effect within the proposed draft regulations itself.</p>	<p>SP7</p>	<p>Disagree. Appointment records should be kept for board members to ensure that they possess the necessary competencies to carry out their duties as board members.</p>

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<p>TC-2.2.1 A licensee must annually determine the training needs of individuals undertaking controlled functions. It must develop a training plan to address these needs and ensure that training is planned, appropriately structured and evaluated.</p>	<p>A Financing Company noted to refer to the comments made in SP4 above.</p>	<p>SP8</p>	<p>See SP4</p>
<p>TC-2.2.5 The annual training required under Paragraph TC-2.2.1 must also include the quarterly updates, if any, to the CBB Volume 5 (Financing Companies) Rulebook, in areas relevant to each controlled function.</p>	<p>A Financing Company noted that the requirement should be re-worded to state that information regarding quarterly updates to the Rulebook should be passed on to the relevant controlled functions and training provided where required.</p>	<p>SP9</p>	<p>Disagree. The current wording clearly requires that quarterly updates to the CBB Rulebook be part of the annual training plan.</p> <p>If it is reworded as suggested, it would not be as part of the annual training plan.</p>
<p>TC-2.2.10 A licensee must, for a minimum period of five years, make and retain records of: (a) The criteria applied in assessing continuing competence; (b) The annual assessment of competence; and (c) Record of CPD hours undertaken by each approved person.</p>	<p>A Financing Company noted that the requirement should not apply to Board members of a privately held company. For other controlled functions, the requirement should be limited to maintaining records of the annual performance appraisal.</p>	<p>SP10</p>	<p>Disagree. Such records can be retained for board members. Licensees should arrange presentations for the Board members, which will be counted as CPD hours and its records can be retained.</p>
<p>Appendix TC-1</p>			

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	<p>A Financing Company noted that as a general comment on the entire Appendix; refer to comments made in SP1 and SP2.</p> <p>A Financing Company noted that in case of the MLRO, the phrase ‘recognized institute’ should be clarified (refer Para therein on training in anti-money laundering).</p>	<p>SP11</p>	<p>See SP1</p> <p>The qualifications and core competency requirements for the MLRO function have been amended in Appendix TC-1.</p>
	<p>A Financing Company noted that the professional certificates outlined in the table shall not be considered as a prerequisite requirement to occupy the controlled functions, as in many cases, the experience demonstrated by the candidate is considered to be more than sufficient to occupy the relevant controlled function. Therefore, it is suggested to add the word “preferably” wherever the professional certification is mandated.</p>	<p>SP12</p>	<p>Disagree. Candidates must have both the qualifications and experience stated in Appendix TC-1. The qualifications and experience in the appendix of the TC are rules and will be used by the CBB as a criteria in assessing the candidates. However, the CBB could potentially decide that overall a candidate is fit and proper even if he is not meeting all the Q&E requirements in the appendix.</p>