



HIGH-LEVEL CONTROLS MODULE



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MODULE	HC:	High-Level Controls
CHAPTER	HC-A:	Introduction

HC-A.1 Purpose

Executive Summary

HC-A.1.1 The purpose of the Module is to establish best practice corporate governance principles in the Kingdom of Bahrain, and to provide protection for shareholders and other company stakeholders through compliance with those principles.

HC-A.1.2 All references in this Module to ‘he’ or ‘his’ shall, unless the context otherwise requires, be construed as also being references to ‘she’ and ‘her’.

The Comply or Explain Principle for Guidance Paragraphs

HC-A.1.3 All ancillary service provider licensees must comply with the Guidance in Module HC or explain their noncompliance by way of a report to the CBB.

Monitoring and Enforcement of Module HC

HC-A.1.4 It is the Board’s responsibility to see to the accuracy and completeness of the ancillary service provider licensee’s corporate governance framework in compliance with this Module.

Legal Basis

HC-A.1.5 This Module contains the CBB’s Directive (as amended from time to time) relating to high-level controls and is issued under the powers available to the CBB under Article 38 of the Central Bank of Bahrain and Financial Institutions Law 2006 (‘CBB Law’), as amended. The Directive in this Module is applicable to ancillary service provider licensees (including their approved persons).

HC-A.1.6 For an explanation of the CBB’s rule-making powers and different regulatory instruments, see Section UG-1.1.

Effective Date

HC-A.1.7 All ancillary service provider licensees to which Module HC applies should be in full compliance by 31st December 2020. Where possible, the ancillary service provider licensee should also have corporate governance guidelines in place at that time and should have a “comply or explain” report as described in Paragraph HC-A.1.8.



MODULE	HC:	High-Level Controls
CHAPTER	HC-A:	Introduction

HC-A.2 Module History

HC-A.2.1 This Module was first issued in April 2019. Any material changes that have subsequently been made to this Module are annotated with the calendar quarter date in which the change was made: Chapter UG-3 provides further details on Rulebook maintenance and version control.

HC-A.2.2 A list of recent changes made to this Module is detailed in the table below:

Module Ref.	Change Date	Description of Changes

Superseded Requirements

HC-A.2.3 This Module supersedes the following provisions contained in circulars or other regulatory requirements:

Document Ref.	Subject
Standard Conditions and Licensing Criteria for providers of ancillary services to the financial sector.	Board, Management and Staffing



MODULE	HC:	High-Level Controls
CHAPTER	HC-B:	Scope of Application

HC-B.1 Scope of Application

HC-B.1.1 The contents of Chapters HC-1 to HC-7 of this Module, unless otherwise stated, apply to card processing services, payment service providers and credit reference bureaus.

HC-B.1.2 The guidance in Chapter HC-8 of this Module apply to TPAs, Shari'a advisory/review services, Crowdfunding Platform Operators and other Ancillary Service Providers. The "comply or explain" principle (see Paragraph HC-A.1.3) applies to the contents of Chapter HC-8.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.1 Principle

HC-1.1.1

All licensees must be headed by an effective, collegial and informed Board of Directors ('the Board').



MODULE	HC: High-Level Controls
CHAPTER	HC-1: The Board

HC-1.2 Role and Responsibilities

HC-1.2.1

All directors must understand the Board's role and responsibilities under the Bahrain Commercial Companies Law (2001), as amended and any other laws or regulations that may govern their responsibilities from time to time. In particular:

- (a) The Board's role as distinct from the role of the shareholders (who elect the Board and whose interests the Board serves) and the role of officers (whom the Board appoints and oversees); and
- (b) The Board's fiduciary duties of care and loyalty to the licensee and the shareholders (see HC-2.1).

HC-1.2.2

The Board's role and responsibilities include but are not limited to:

- (a) Approving and reviewing at least annually the overall business performance and strategy for the licensee;
- (b) Reviewing regularly the implementation of the strategy and operational performance;
- (c) Causing financial statements to be prepared which accurately disclose the licensee's financial position;
- (d) Monitoring management performance;
- (e) Reviewing regularly the level of risk;
- (f) Approving and reviewing at least annually systems and controls framework (including policies and procedures);
- (g) Approving the agenda for shareholders' meetings;
- (h) Monitoring conflicts of interest and preventing abusive related party transactions;
- (i) Assuring equitable treatment of shareholders including minority shareholders; and
- (j) Setting out clearly and reviewing on a regular basis who has authority to enter the licensee into contractual obligations.

HC-1.2.3

With respect to Subparagraph HC-1.2.2(j), the Board should set a materiality threshold so that contractual obligations above this set threshold are regularly reported to the Board. In setting the materiality threshold, the Board will consider the financial impact the contractual obligation may have in relation to its capital.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.2 Role and Responsibilities (continued)

HC-1.2.4

The members of the board of directors are responsible both individually and collectively for performing the responsibilities outlined in Paragraph HC-1.2.2 and must have sufficient expertise as a Board to understand the important issues relating to operation and control of the licensee. Although the Board may delegate certain functions to committees or management, it may not delegate its ultimate responsibility to ensure that an adequate, effective, comprehensive and transparent corporate governance framework is in place. This statement must be clearly communicated to Board members and senior management.

HC-1.2.5 When a member of the board of directors is inducted, the chairman of the Board, or the licensee's legal counsel or compliance officer, or other individual delegated by the chairman of the board, should review the Board's role and duties with that person, particularly covering legal and regulatory requirements and Module HC (see also HC-4.3.1).

HC-1.2.6 The licensee should have a written appointment agreement with each director which recites the directors' powers and duties and other matters relating to his appointment including his term, the time commitment envisaged, the committee assignment if any, his remuneration and expense reimbursement entitlement, and his access to independent professional advice when that is needed.

HC-1.2.7 The Board should adopt a formal Board charter or other statement specifying matters which are reserved to it, which should include but need not be limited to the specific requirements and responsibilities of board directors.

Additional Guidance

HC-1.2.8 In assessing the licensee's strategic plans (see Paragraph HC-1.2.2), the CBB would expect the Board to address the licensee's current and future aspirations with respect to its position in the market place, its size, products, value and other key aspirations that would be considered important by investors. Furthermore, the Board should demonstrate that it is able to identify proactively and understand the significant risks that the licensee faces in achieving its business objectives. A description of the licensee's strategy should be included in the annual financial statements.



MODULE	HC: High-Level Controls
CHAPTER	HC-1: The Board

HC-1.2 Role and Responsibilities (continued)

HC-1.2.9

The Board must have effective policies and processes in place for:

- (a) Ensuring a formal and transparent Board nomination process;
- (b) Appointing senior managers, and ensuring that they have the necessary integrity, technical and managerial competence, and experience;
- (c) Overseeing succession planning, and minimising undue reliance on key individuals;
- (d) Reviewing key senior management and Board remuneration packages and ensuring such packages are consistent with the corporate values and strategy of the licensee and encourage prudent risk taking;
- (e) Monitoring and evaluating management's performance in implementing agreed strategy and business plans, and ensuring appropriate resources are available; and
- (f) Approving budgets and reviewing performance against those budgets.

HC-1.2.10

The Board must be able to demonstrate that the licensee's operations, individually and collectively:

- (a) Are measured, monitored and controlled by appropriate, effective and prudent risk management systems commensurate with the scope of the licensee's activities. The systems must produce information on a timely basis, and in a form and quality appropriate to the needs of the different recipients;
- (b) Are supported by an appropriate control environment. The risk management and financial reporting functions must be independent of business lines and must be run by individuals not involved with the day-to-day running of the various business areas; and
- (c) Make effective use of the work of internal and external auditors.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.3 Composition

HC-1.3.1 The Memorandum and Articles of Association of licensees must adequately set out procedures for the appointment, removal and retirement of directors.

HC-1.3.2 The Board should have a minimum of 3 members and no more than 5 members, and should regularly review its size and composition to ensure that it is small enough for efficient decision-making yet large enough to have members who can contribute from different specialties and viewpoints. The Board should recommend changes in Board size to the shareholders when a needed change requires amendment of the licensee's Memorandum of Association.

HC-1.3.3 It is not expected that every Board member is proficient in all areas, but collectively the Board is expected to have the required expertise. The CBB expects Board members to undertake relevant training on a regular basis to help them fulfill their responsibilities as board members.

HC-1.3.4 Potential non-executive directors should be made aware of their duties before their nomination, particularly as to the time commitment required. Where applicable, the Nominating Committee should regularly review the time commitment required from each non-executive director and should require each non-executive director to inform the Committee before he accepts any Board appointments to another company. One person should not hold more than three directorships in public companies in Bahrain with the provision that no conflict of interest may exist, and the Board should not propose the election or reelection of any director who does.

HC-1.3.5 To fulfil its responsibilities outlined in Section HC-1.2, the Board of licensees must periodically assess its composition and size and, where appropriate, reconstitute itself and its committees by selecting new directors to replace long-standing members or those members whose contributions to the licensee or its committees is not adequate.

HC-1.3.6 To demonstrate compliance with Rule HC-1.3.5, the Board should be able to demonstrate that it regularly considers (e.g. every one or two years) the mix of executive, non-executive and independent non-executive Directors, and skills and experience, that it requires. See also Paragraph HC-1.3.2.

HC-1.3.7 A Board member must not serve in two or more competing licensees.

HC-1.3.8 The appointment of Board members is conditional on the approval of the CBB (See Section AU-1.2).



MODULE	HC: High-Level Controls
CHAPTER	HC-1: The Board

HC-1.4 Decision Making Process

HC-1.4.1 The Board must be collegial and deliberative, to gain the benefit of each individual director’s judgment and experience.

HC-1.4.2 The Board must meet frequently but in no event less than four times a year. All directors must attend the meetings whenever possible and the directors must maintain informal communication between meetings.

HC-1.4.3 Individual board members must attend at least 75% of all Board meetings in a given financial year to enable the Board to discharge its responsibilities effectively (see table below). Voting and attendance by proxies for board meetings are prohibited at all times.

Meetings per year	75% Attendance requirement
4	3
5	4
6	5
7	5
8	6
9	7
10	8

HC-1.4.4 The absence of Board members at Board and committee meetings must be noted in the meeting minutes. In addition, Board attendance percentage must be reported during any general assembly meeting when Board members stand for re-election (e.g. Board member XYZ attended 95% of scheduled meetings this year).

HC-1.4.5 The chairman should take an active lead in promoting mutual trust, open discussion, constructive dissent and support for decisions after they have been made.

HC-1.4.6 In the event that a Board member has not attended at least 75% of Board meetings in any given financial year, the licensee must immediately notify the CBB indicating which member has failed to satisfy this requirement, his level of attendance and any mitigating circumstances affecting his non-attendance. The CBB shall then consider the matter and determine whether disciplinary action, including disqualification of that Board member pursuant to Article 65 of the CBB Law, is appropriate. Unless there are exceptional circumstances, it is likely that the CBB will take disciplinary action.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.4 Decision Making Process (continued)

HC-1.4.7 To meet its obligations under Rule HC-1.4.3 above, the Board should meet preferably no less than four times per year. The CBB recommends that meetings should take place once every quarter to address the Board's responsibilities for management oversight and performance monitoring. Furthermore, Board rules should require members to step down if they are not actively participating in Board meetings. Board members are reminded that non-attendance at board meetings does not absolve them of their responsibilities as directors. It is important that each individual director should allocate adequate time and effort to discharge his responsibilities. All Directors are expected to contribute actively to the work of the Board in order to discharge their responsibilities and should make every effort to attend board meetings where major issues are to be discussed. Licensees are encouraged to amend their Articles of Association to provide for telephonic and videoconference meetings. Participation in board meetings by means of video or telephone conferencing is regarded as attendance and may be recorded as such.

HC-1.4.8 The chairman must ensure that all directors receive an agenda, minutes of prior meetings, and adequate background information in writing before each Board meeting and when necessary between meetings. All directors must receive the same Board information. At the same time, directors have a legal duty to inform themselves and they must ensure that they receive adequate and timely information and must study it carefully.

HC-1.4.9 The Board must maintain adequate records of its meetings, such that key decisions and how they are arrived at can be traced.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.5 Independence of Judgment

HC-1.5.1 The Board must ensure that it has at least one independent director, in order to provide sufficient independent scrutiny of management.

HC-1.5.2 Every director must bring independent judgment to bear in decision-making. No individual or group of directors must dominate the Board's decision-making and no one individual must have unfettered powers of decision.

HC-1.5.3 Executive directors must provide the Board with all relevant business and financial information within their cognizance, and must recognise that their role as a director is different from their role as an officer.

HC-1.5.4 Non-executive directors must be fully independent of management and must constructively scrutinise and challenge management including the management performance of executive directors.

HC-1.5.5 The chairman of the Board should be an independent director so that there will be an appropriate balance of power and greater capacity of the Board for independent decision making.

HC-1.5.6 The chairman and/or deputy chairman must not be the same person as the CEO.

HC-1.5.7 The Board should review the independence of each director at least annually in light of interests disclosed by them. Each independent director shall provide the Board with all necessary and updated information for this purpose.



MODULE	HC: High-Level Controls
CHAPTER	HC-1: The Board

HC-1.6 Directors' Access to Independent Advice

HC-1.6.1

The Board should ensure that individual directors have access to independent legal or other professional advice at the licensee's expense whenever they judge this necessary to discharge their responsibilities as directors and this must be in accordance with the licensee's policy approved by the Board.

HC-1.6.2

Whenever a director has serious concerns which cannot be resolved concerning the running of the licensee or a proposed action, he should consider seeking independent advice and should ensure that the concerns are recorded in the Board minutes and that any dissent from a Board action is noted or delivered in writing.

HC-1.6.3

Upon resignation, a non-executive director should provide a written statement to the chairman, for circulation to the Board, if he has any concerns such as those in Paragraph HC-1.6.3.



MODULE	HC:	High-Level Controls
CHAPTER	HC-1:	The Board

HC-1.7 Directors' Communication with Management

HC-1.7.1

The Board should encourage participation by management regarding matters the Board is considering, and also by management members who by reason of responsibilities or succession, the CEO believes should have exposure to the directors.



MODULE	HC: High-Level Controls
CHAPTER	HC-1: The Board

HC-1.8 Committees of the Board

- HC-1.8.1 While the evaluation is a responsibility of the entire board, it should be organised and assisted by an internal board committee and, when appropriate, with the help of external experts.
- HC-1.8.2 The Board or a committee may invite non-directors to participate in, but not vote at committee meetings so that the committee may gain the benefit of their advice and expertise in financial or other areas.
- HC-1.8.3 Committees should act only within their mandates and therefore the Board must not allow any committee to dominate or effectively replace the whole Board in its decision-making responsibility.
- HC-1.8.4 Committees may be combined provided that no conflict of interest might arise between the duties of such committees.
- HC-1.8.5 Every committee should have a formal written charter similar in form to the model charter which is set forth in Appendix A of this Module for the Audit Committee.



MODULE	HC:	High-Level Controls
CHAPTER	HC-2:	Approved Persons Loyalty

HC-2.1 Principle

HC-2.1.1 The approved persons must have full loyalty to the licensee.



MODULE	HC: High-Level Controls
CHAPTER	HC-2: Approved Persons Loyalty

HC-2.2 Personal Accountability

HC-2.2.1 The Board and its members must act with honesty, integrity, due skill and care, and in the best interests of the licensee, its shareholders and clients.

HC-2.2.2 In assessing compliance with Paragraph HC-2.2.1, the CBB will take into account all actions of the Board and its members. The interest of the licensee includes the licensee's continued compliance with all relevant rules and regulations, and the interests of employees, clients and other stakeholders. The interest of shareholders includes the current and future value of the licensee, its status as a going concern, transparency and disclosure of information to the market. The interest of clients includes ensuring that the licensee fulfils its obligations under its terms of business and treats all clients fairly and pays equal regard to the interests of all clients.

HC-2.2.3 Each member of the board must understand that under the Commercial Companies Law 2001, as amended, he is personally accountable to the licensee and the shareholders if he violates his legal duty of loyalty to the licensee, and that he can be personally sued by the licensee or the shareholders for such violations.

HC-2.2.4 A licensee's Board must establish and disseminate to all employees of the licensee a corporate code of conduct.

HC-2.2.5 The code of conduct must establish standards by giving examples or expectations as regards:

- (a) Honesty;
- (b) Integrity;
- (c) The avoidance or disclosure of conflicts of interest;
- (d) Maintaining confidentiality;
- (e) Professionalism;
- (f) Commitment to the law and best practices; and
- (g) Reliability.

HC-2.2.6 The Board must establish and disseminate to employees policies and processes for the identification, reporting and prevention or management of potential conflicts of interest, including matters such as:

- (a) Related party transactions;
- (b) The misuse of the licensee's assets; and
- (c) The use of privileged information for personal advantage ('insider trading').



MODULE	HC:	High-Level Controls
CHAPTER	HC-2:	Approved Persons Loyalty

HC-2.2 Personal Accountability (continued)

HC-2.2.7 Any transaction in which Board members or any member of management have potential conflicts of interest should either be proscribed or require formal documented approval by the Board, with measures taken to manage those conflicts (see also Paragraph HC-2.4.1).

HC-2.2.8 The Board must ensure that policies and procedures are in place to ensure that necessary customer confidentiality is maintained.

HC-2.2.9 The duty of loyalty includes a duty not to use property of the licensee for his personal needs as though it was his own property, not to disclose confidential information of the licensee or use it for his personal profit, not to take business opportunities of the licensee for himself, not to compete in business with the licensee, and to serve the licensee's interest in any transactions with the company in which he has a personal interest.

HC-2.2.10 For purposes of Paragraph HC-2.2.9, an approved person must be considered to have a “personal interest” in a transaction with the company if:

- (a) He himself;
- (b) A member of his family (i.e. spouse, father, mother, sons, daughters, brothers or sisters); or
- (c) Another company of which he is a director or controller, is a party to the transaction or has a material financial interest in the transaction.



MODULE	HC:	High-Level Controls
CHAPTER	HC-2:	Approved Persons Loyalty

HC-2.3 Avoidance of Conflicts of Interest

HC-2.3.1 Licensees must maintain an organisational structure that minimises the risk of conflicts of interest arising.

HC-2.3.2 For the purposes of Rule HC-2.3.1, the CBB would expect licensees to separate front and back office functions.

HC-2.3.3 Each approved person must make every practicable effort to arrange his personal and business affairs to avoid a conflict of interest with the licensee.

HC-2.3.4 Board members must absent themselves from any discussion or decision-making that involves a subject where they are incapable of providing objective advice, or which involves a subject, transaction or proposed transaction where there is a potential conflict of interest.



MODULE	HC:	High-Level Controls
CHAPTER	HC-2:	Approved Persons Loyalty

HC-2.4 Disclosure of Conflicts of Interest

HC-2.4.1

Each approved person of licensees must inform the entire Board of conflicts of interest as they arise. Board members must abstain from voting on the matter in accordance with the relevant provisions of the Commercial Companies Law 2001, as amended. This disclosure must include all material facts in the case of a contract or transaction involving the approved person. The approved persons must understand that any approval of a conflict transaction is effective only if all material facts are known to the authorising persons and the conflicted person did not participate in the decision.

HC-2.4.2

Board members must declare annually in writing all of their interests (and those of their family) in other enterprises or activities (whether as a Director, shareholder, senior executive or other form of participation) to the Board (or appropriate Board sub-Committee).

HC-2.4.3

The Board should establish formal procedures for:

- (a) Periodic disclosure and updating of information by each approved person on his actual and potential conflicts of interest; and
- (b) Advance approval by directors or shareholders who do not have an interest in the transactions in which a card processing services', credit reference bureaus', and payment service providers' approved person has a personal interest. The Board should require such advance approval in every case.



MODULE	HC:	High-Level Controls
CHAPTER	HC-2:	Approved Persons Loyalty

HC-2.5 Disclosure of Conflicts of Interest to Shareholders

HC-2.5.1

The licensee must disclose to its shareholders through Annual General Meetings any abstention from voting motivated by a conflict of interest and must disclose to its shareholders any authorisation of a conflict of interest contract or transaction in accordance with the Commercial Companies Law 2001, as amended.



MODULE	HC:	High-Level Controls
CHAPTER	HC-3:	Audit Committee and Financial Statements Certification

HC-3.1 Principle

HC-3.1.1

The Board of all licensees must have rigorous controls for financial audit and reporting, internal control, and compliance with law.



MODULE	HC:	High-Level Controls
CHAPTER	HC-3:	Audit Committee and Financial Statements Certification

HC-3.2 Audit Committee

HC-3.2.1 The Board of licensees should establish an audit committee commensurate with the size, complexity and nature of its business. The audit committee should consider having at least three directors.

HC-3.2.2 The majority of the directors should be independent including the Chairman.

HC-3.2.3

Where there is an audit committee, it must:

- (a) Review the company's accounting and financial practices;
- (b) Review the integrity of the licensees' financial and internal controls and financial statements;
- (c) Review the licensees' compliance with legal requirements;
- (d) Recommend the appointment, compensation and oversight of the licensees' external auditor; and
- (e) Recommend the appointment of the internal auditor (whether in-house or outsourced).

HC-3.2.4

The Board or Audit Committee must ensure that the external audit firm and its partners are truly independent of the licensee and have no financial or other relationship with the licensee. Audit findings must be used as an independent check on the information received from management about the licensees' operations and performance and the effectiveness of internal controls.



MODULE	HC:	High-Level Controls
CHAPTER	HC-3:	Audit Committee and Financial Statements Certification

HC-3.3 Audit Committee Charter

- HC-3.3.1 The audit committee should adopt a written charter which shall, at a minimum, state the duties outlined in Paragraph HC-3.2.4 and the other matters included in Appendix A to this Module.
- HC-3.3.2 A majority of the audit committee should have the financial literacy and information technology qualifications stated in Appendix A.
- HC-3.3.3 The Board should adopt a “whistleblower” program under which employees can confidentially raise concerns about possible improprieties in financial or legal matters. Under the program, concerns may be communicated directly to any audit committee member or, alternatively, to an identified officer or employee who will report directly to the Audit Committee on this point.



MODULE	HC:	High-Level Controls
CHAPTER	HC-3:	Audit Committee and Financial Statements Certification

HC-3.4 CEO and CFO Certification of Financial Reporting

HC-3.4.1

The licensee's CEO and chief financial officer must state in writing to the audit committee and the Board as a whole the licensee's annual and, where applicable, interim financial statements present a true and fair view, in all material respects, of the licensee's financial condition and results of operations in accordance with applicable accounting standards.



MODULE	HC:	High-Level Controls
CHAPTER	HC-4:	Appointment, Training and Evaluation of the Board

HC-4.1 Principle

HC-4.1.1 Licensees must have rigorous procedures for appointment, training and evaluation of the Board.



MODULE	HC:	High-Level Controls
CHAPTER	HC-4:	Appointment, Training and Evaluation of the Board

HC-4.2 Board Nominations to Shareholders

HC-4.2.1

Each proposal by the Board to the shareholders for election or reelection of a director must be accompanied by a recommendation from the Board, and the following specific information:

- (a) The term to be served, which may not exceed three years (but there need not be a limit on reelection for further terms);
- (b) Biographical details and professional qualifications;
- (c) In the case of an independent director, a statement that the Board has determined that the criteria of independent director have been met;
- (d) Any other directorships held;
- (e) Particulars of other positions which involve significant time commitments, and
- (f) Details of relationships between:
 - (i) The candidate and the licensee, and
 - (ii) The candidate and other directors of the licensee.

HC-4.2.2

The chairman of the Board should confirm to shareholders when proposing reelection of a director that, following a formal performance evaluation, the person's performance continues to be effective and continues to demonstrate commitment to the role. Any term beyond six years (e.g. two three-year terms) for a director should be subject to particularly rigorous review, and should take into account the need for progressive refreshing of the Board.



MODULE	HC:	High-Level Controls
CHAPTER	HC-4:	Appointment, Training and Evaluation of the Board

HC-4.3 Induction and Training of Directors

HC-4.3.1

The chairman of the Board of licensees must ensure that each new director receives a formal and tailored induction to ensure his contribution to the Board from the beginning of his term. The induction must include meetings with senior management, visits to company facilities, presentations regarding strategic plans, significant financial, accounting and risk management issues, compliance programs, its internal and external auditors and legal counsel.

HC-4.3.2

All continuing directors must be invited to attend orientation meetings and all directors must continually educate themselves as to the licensee's business and corporate governance.

HC-4.3.3

Management, in consultation with the chairman of the Board, should hold programs and presentations to directors respecting the licensees' business and industry, which may include periodic attendance at conferences and management meetings.



MODULE	HC:	High-Level Controls
CHAPTER	HC-5:	Remuneration of Approved Persons

HC-5.1 Principle

HC-5.1.1 The licensee must remunerate approved persons fairly and responsibly.



MODULE	HC: High-Level Controls
CHAPTER	HC-5: Remuneration of Approved Persons

HC-5.2 Remuneration Structure

HC-5.2.1

The Board of Directors must:

- (a) Review the licensee's remuneration policies and amounts for approved persons taking into account total remuneration including salaries, fees, expenses and employee benefits which must be approved by the shareholders; and
- (b) Recommend Board members remuneration based on their attendance and performance.

HC-5.2.2

Remuneration (including incentives, bonuses and other rewards) of approved persons must be sufficient enough to attract, retain and motivate persons of the quality needed to run the licensee successfully, but the licensee must avoid paying more than is necessary for that purpose.

HC-5.2.3

Where remuneration is structured so as to link rewards to corporate and individual performance, criteria should avoid excessive focus on short-term profitability measures, without due regard to the longer-term consequences of actions taken.



MODULE	HC:	High-Level Controls
CHAPTER	HC-5:	Remuneration of Approved Persons

HC-5.3 Directors' Remuneration

HC-5.3.1

The review of Directors' remuneration must be a standing item on the licensee's Annual General Meeting agenda, and must be considered by shareholders at every Annual General Meeting. Directors' remuneration and bonuses to executive directors must be clearly disclosed in the annual financial statements.

HC-5.3.2

Directors' remuneration should also comply with all applicable laws, such as Legislative Decree No. 21 of 2001, with respect to promulgating the Commercial Companies Law.

HC-5.3.3

Remuneration of non-executive directors must not include performance-related elements such as grants of shares, share options or other deferred stock-related incentive schemes, bonuses, or pension benefits.



MODULE	HC:	High-Level Controls
CHAPTER	HC-5:	Remuneration of Approved Persons

HC-5.4 Senior Management Remuneration

HC-5.4.1 Remuneration of senior management must be structured so that a portion of the total is linked to licensee and individual performance and aligns their interests with the interests of the shareholders.

HC-5.4.2 Such rewards may include grants of shares, share options and other deferred stock-related incentive schemes, bonuses, and pension benefits which are not based on salary.

HC-5.4.3 If a senior manager is also a director, his remuneration as a senior manager must take into account compensation received in his capacity as a director.

HC-5.4.4 All share incentive plans must be approved by the shareholders.

HC-5.4.5 All performance-based incentives should be awarded under written objective performance standards which have been approved by the Board and are designed to enhance shareholder and company value, and under which shares should not vest and options should not be exercisable within less than two years of the date of award of the incentive.

HC-5.4.6 All policies for performance-based incentives should be approved by the shareholders, but the approval should be only of the plan itself and not of the grant to specific individuals of benefits under the plan.



MODULE	HC:	High-Level Controls
CHAPTER	HC-6:	Management Structure

HC-6.1 Principle

HC-6.1.1

The Board of licensees must establish a clear and efficient management structure.



MODULE	HC: High-Level Controls
CHAPTER	HC-6: Management Structure

HC-6.2 Establishment of Management Structure

HC-6.2.1 The Board must approve and review at least annually the licensees' management structure, responsibilities and authorities.

HC-6.2.2 The Board must appoint senior management whose authority must include management and operation of current activities of the licensees, reporting to and under the direction of the Board. The senior managers must include at a minimum:

- (a) A CEO;
- (b) A chief financial officer;
- (c) An internal auditor;
- (d) A compliance officer/MLRO (see HC-6.5 and AU-1.3); and
- (e) must also include such other approved persons as the Board considers appropriate and as a minimum must include persons occupying controlled functions as outlined in Paragraph AU-1.3.2.

HC-6.2.3 For purposes of HC-6.2.2 given the nature, scale and complexity of its business, licensees may appoint a part-time or a seconded internal auditor.



MODULE	HC: High-Level Controls
CHAPTER	HC-6: Management Structure

HC-6.3 Titles, Authorities, Duties and Reporting Responsibilities

HC-6.3.1 Licensees must maintain clearly documented and communicated staff responsibilities and reporting lines.

HC-6.3.2 For the purposes of Rule HC-6.3.1, licensees should maintain and document their delegated authority structure as well as written terms of reference for staff positions.

HC-6.3.3 For the purpose of Paragraph HC-6.3.1, the responsibilities and reporting lines must among other matters include the following:

- (a) The CEO must have authority to act generally in the licensee's name, representing the licensee's interests in concluding transactions on the licensee's behalf and giving instructions to other approved persons and licensee employees;
- (b) The chief financial officer must be responsible and accountable for:
 - (i) The complete, timely, reliable and accurate preparation of the licensee's financial statements, in accordance with the accounting standards and policies of the licensee (see HC-3.4.1); and
 - (ii) Presenting the Board with a balanced and understandable assessment of the licensee's financial situation;
- (c) The internal auditor's (see HC-6.4) duties must include providing an independent and objective review of the efficiency of the licensee's operations. This would include a review of the accuracy and reliability of the licensee's accounting records and financial reports as well as a review of the adequacy and effectiveness of the licensee's risk management, control, and governance processes; and
- (d) The compliance officer's (see HC-6.5) duties include maintaining effective systems and MLRO controls for compliance with applicable requirements in the Kingdom's legislation and those set by the CBB, and those established under any other statute or regulator to which they are subject.

HC-6.3.4 The Board must also specify any limits which it wishes to set on the authority of the CEO or other senior managers, such as monetary maximums for transactions which they may authorize without separate Board approval.



MODULE	HC:	High-Level Controls
CHAPTER	HC-6:	Management Structure

HC-6.4 Internal Audit

HC-6.4.1 Licensees must consider establishing an internal audit function commensurate with the size, complexity and nature of its business to monitor the adequacy of their systems and controls.

HC-6.4.2 The internal audit function must be independent of the senior management, reporting either to the Board or its Audit committee. The internal audit function must not be combined with any other function.

HC-6.4.3 Where licensees outsource part or all of their internal audit function, the outsourcing arrangements must provide for an adequate level of scrutiny of the licensees. A licensee cannot outsource its internal audit function to its external auditor.

HC-6.4.4 Prior approval from the CBB is required for material outsourcing arrangements, including all outsourcing of internal audit. Note that in all such cases, the licensee retains ultimate responsibility for the adequacy of its outsourcing function, and is required to identify the person within the licensee responsible for internal audit: this person should be an approved person (see Section AU-1.2).

HC-6.4.5 Internal audit functions must have terms of reference that clearly indicate:

- (a) The scope and frequency of audits;
- (b) Reporting lines; and
- (c) The review and approval process applied to audits.

HC-6.4.6 Internal audit function must report directly to the Board/Audit committee. They must have unrestricted access to all the appropriate records of the licensees. They must have open and regular access to the Audit Committee, the Board, the Chief Executive, and the licensees' external auditor.



MODULE	HC: High-Level Controls
CHAPTER	HC-6: Management Structure

HC-6.5 Compliance/MLRO

HC-6.5.1

Licensees must take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements in the Kingdom's legislation and those set by the CBB, and those established under any other statute or regulator to which they are subject.

HC-6.5.2

Depending on the nature, scale and complexity of its business, licensees should consider having a separate compliance function. A compliance function should:

- (a) Document its organisation and responsibilities;
- (b) Be appropriately staffed with competent individuals;
- (c) Have unrestricted access to the licensees' relevant records; and
- (d) Have ultimate recourse to the Board.

HC-6.5.3

The compliance function/MLRO must not be combined with the internal audit function or any other operational function as such combination may lead to a conflict of interest.



MODULE	HC:	High-Level Controls
CHAPTER	HC-7:	Communication between Board and Shareholders

HC-7.1 Principle

HC-7.1.1

The licensees must communicate with shareholders, encourage their participation, and respect their rights.



MODULE	HC:	High-Level Controls
CHAPTER	HC-7:	Communication between Board and Shareholders

HC-7.2 Conduct of Shareholders' Meetings

HC-7.2.1

The Board must observe both the letter and the intent of the Company Law's requirements for shareholder meetings. Among other things:

- (a) Notices of meetings must be honest, accurate and not misleading. They must clearly state and, where necessary, explain the nature of the business of the meeting;
- (b) Meetings must be held during normal business hours and at a place convenient for the greatest number of shareholders to attend;
- (c) Notices of meetings must encourage shareholders to participate by proxy and must refer to procedures for appointing a proxy and for directing the proxy how to vote on a particular resolution. The proxy agreement must list the agenda items and must specify the vote (such as "yes," "no" or "abstain");
- (d) Notices must ensure that all material information and documentation is provided to shareholders on each agenda item for any shareholder meeting, including but not limited to any recommendations or dissents of directors;
- (e) The Board must propose a separate resolution at any meeting on each substantially separate issue, so that unrelated issues are not "bundled" together;
- (f) In meetings where directors are to be elected or removed the Board must ensure that each person is voted on separately, so that the shareholders can evaluate each person individually;
- (g) The chairman of the meeting must encourage questions from shareholders, including questions regarding licensees' corporate governance guidelines;
- (h) The minutes of the meeting must be made available to shareholders upon their request within 30 days from the date of receipt of the request and must be endorsed at the next general assembly; and
- (i) Disclosure of all material facts must be made to the shareholders.

HC-7.2.2

The licensee must require its external auditor to attend the annual shareholders' meeting and be available to answer shareholders' questions concerning the conduct and conclusions of the audit.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari’a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.1 The Board

HC-8.1.1 Licensees should be headed by an effective, collegial and informed Board of Directors (‘the Board’).

Role and Responsibilities

HC-8.1.2 All members of the board of directors should understand the Board’s role and responsibilities under the Bahrain Commercial Companies Law (2001) and its amendments and any other laws or regulations that may govern their responsibilities from time to time. In particular:

- (a) The Board’s role as distinct from the role of the shareholders (who elect the Board and whose interests the Board serves) and the role of officers (whom the Board appoints and oversees); and
- (b) The Board’s fiduciary duties of care and loyalty to the licensee and the shareholders (see HC-8.2).

HC-8.1.3 The Board’s role and responsibilities include but are not limited to:

- (a) The overall business performance and strategy for the licensee;
- (b) Causing financial statements to be prepared which accurately disclose the licensee’s financial position;
- (c) Monitoring management performance;
- (d) Approving the agenda for shareholders’ meetings;
- (e) Monitoring conflicts of interest and preventing abusive related party transactions; and
- (e) Assuring equitable treatment of shareholders including minority shareholders.

HC-8.1.4 The members of the board of directors are responsible both individually and collectively for performing the responsibilities outlined in Paragraph HC-8.1.3. Although the Board may delegate certain functions to committees or management, it may not delegate its ultimate responsibility to ensure that an adequate, effective, comprehensive and transparent corporate governance framework is in place.

HC-8.1.5 When a member of the board of directors is inducted, the chairman of the Board, assisted by company legal counsel or compliance officer, should review the Board’s role and duties with that person, particularly covering legal and regulatory requirements and Module HC.

HC-8.1.6 The licensee should have a written appointment agreement with each director which recites the directors’ powers and duties and other matters relating to his appointment including his term, the time commitment envisaged, the committee assignment if any, his remuneration and expense reimbursement entitlement, and his access to independent professional advice when that is needed.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari’a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.1 The Board (continued)

HC-8.1.7 The Board should adopt a formal Board charter or other statement specifying matters which are reserved to it, which should include but need not be limited to the specific requirements and responsibilities of board directors.

Composition

HC-8.1.8 The Board should have no more than 15 members, and should regularly review its size and composition to ensure that it is small enough for efficient decision-making yet large enough to have members who can contribute from different specialties and viewpoints. The Board should recommend changes in Board size to the shareholders when a needed change requires amendment of the licensee’s Memorandum of Association.

HC-8.1.9 Potential non-executive directors should be made aware of their duties before their nomination, particularly as to the time commitment required. The Board should regularly review the time commitment required from each non-executive director and should require each non-executive director to inform the Board before he accepts any Board appointments to another company. One person should not hold more than three directorships in public companies in Bahrain with the provision that no conflict of interest may exist, and the Board should not propose the election or reelection of any director who does.

Decision Making Process

HC-8.1.10 The Board should be collegial and deliberative, to gain the benefit of each individual director’s judgment and experience.

HC-8.1.11 The chairman should take an active lead in promoting mutual trust, open discussion, constructive dissent and support for decisions after they have been made.

HC-8.1.12 The Board should meet frequently but in no event less than four times a year. All directors should attend the meetings whenever possible and the directors should maintain informal communication between meetings.

HC-8.1.13 The chairman should ensure that all directors receive an agenda, minutes of prior meetings, and adequate background information in writing before each Board meeting and when necessary between meetings. All directors should receive the same Board information. At the same time, directors have a legal duty to inform themselves and they should ensure that they receive adequate and timely information and should study it carefully.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.1 The Board (continued)

Directors' Communication with Management

- HC-8.1.14 The Board should encourage participation by management regarding matters the Board is considering, and also by management members who by reason of responsibilities or succession, the CEO believes should have exposure to the directors.
- HC-8.1.15 Non-executive directors should have free access to the licensee's management beyond that provided in Board meetings. Such access should be through the Chairman of the Audit Committee or CEO. The Board should make this policy known to management to alleviate any management concerns about a director's authority in this regard.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.2 Approved Persons Loyalty

- HC-8.2.1 The Board should establish formal procedures for:
- (a) Periodic disclosure and updating of information by each approved person on his actual and potential conflicts of interest; and
 - (b) Advance approval by directors or shareholders who do not have an interest in the transactions in which a licensee's 'approved person' has a personal interest. The Board should require such advance approval in every case.

Disclosure of Conflicts of Interests to Shareholders

- HC-8.2.2 The licensee should disclose to its shareholders in the Annual Report any abstention from voting motivated by a conflict of interest and should disclose to its shareholders any authorisation of a conflict of interest contract or transaction in accordance with the Company Law.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.3 Financial Statements Certification

HC-8.3.1 The Board should have rigorous controls for financial audit and reporting, internal control, and compliance with law.

CEO and CFO Certification of Financial Statements

HC-8.3.2 To encourage management accountability for the financial statements required by the directors, the licensee's CEO and chief financial officer should state in writing to the audit committee and the Board as a whole that the licensee's interim and annual financial statements present a true and fair view, in all material respects, of the licensee's financial condition and results of operations in accordance with applicable accounting standards.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs and Shari'a Advisory/Review Services

HC-8.4 Appointment, Training and Evaluation of the Board

HC-8.4.1 The licensee should have rigorous procedures for appointment, training and evaluation of the Board.

Induction and Training of Directors

HC-8.4.2 The chairman of the Board should ensure that each new director receives a formal and tailored induction to ensure his contribution to the Board from the beginning of his term. The induction should include meetings with senior management, visits to company facilities, presentations regarding strategic plans, significant financial, accounting and risk management issues, compliance programs, its internal and external auditors and legal counsel.

HC-8.4.3 All continuing directors should be invited to attend orientation meetings and all directors should continually educate themselves as to the licensee's business and corporate governance.

HC-8.4.4 Management, in consultation with the chairman of the Board, should hold programs and presentations to directors respecting the licensee's business and industry, which may include periodic attendance at conferences and management meetings. The Board should oversee directors' corporate governance educational activities.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.5 Remuneration of Approved Persons

HC-8.5.1 Licensees should remunerate approved persons fairly and responsibly.

HC-8.5.2 Remuneration of approved persons should be sufficient enough to attract, retain and motivate persons of the quality needed to run the operations of the licensee successfully, but the licensee should avoid paying more than is necessary for that purpose.



MODULE	HC: High-Level Controls
CHAPTER	HC-8: TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.6 Management Structure

HC-8.6.1 The Board of the licensee should establish a clear and efficient management structure.

Establishment of Management Structure

HC-8.6.2 The Board should appoint senior management whose authority should include management and operation of current activities of the licensee, reporting to and under the direction of the Board. The senior managers should include at a minimum:

- (a) A CEO/ General Manager;
- (b) A chief financial officer and/ or Financial Controller;
- (c) Compliance Officer/MLRO

and should also include such other approved persons as the Board considers appropriate and as a minimum should include persons occupying controlled functions as outlined in Paragraph AU-1.2.2.

HC-8.6.3 For purposes of HC-8.6.2 (c) given the nature, scale and complexity of its business, licensees may appoint a part-time or a seconded corporate secretary.

Titles, Authorities, Duties and Reporting Responsibilities

HC-8.6.4 The Board should adopt by-laws prescribing each senior manager's title, authorities, duties and internal reporting responsibilities. This should be done in consultation with the CEO, to whom the other senior managers should normally report.

HC-8.6.5 These provisions should include but should not be limited to the following:

- (a) The CEO should have authority to act generally in the licensee's name, representing its interests in concluding transactions on its behalf and giving instructions to other senior managers and employees;
- (b) The chief financial officer should be responsible and accountable for:
 - (i) The complete, timely, reliable and accurate preparation of the licensee's financial statements, in accordance with the accounting standards and board approved policies; and
 - (ii) Presenting the Board with a balanced and understandable assessment of the licensee's financial situation;
- (c) The corporate secretary's duties should include arranging, recording and following up on the actions, decisions and meetings of the Board and of the shareholders (both at annual and extraordinary meetings) in books to be kept for that purpose; and
- (d) The internal auditor's duties should include providing an independent and objective review of the efficiency of the licensee's operations. This would include a review of the accuracy and reliability of the licensee's accounting records and financial reports as well as a review of the adequacy and effectiveness of the risk management, control, and governance processes.

MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.6 Management Structure (continued)

Titles, Authorities, Duties and Reporting Responsibilities

- HC-8.6.6 The Board should also specify any limits which it wishes to set on the authority of the CEO or other senior managers, such as monetary maximums for transactions which they may authorise without separate Board approval.
- HC-8.6.7 The corporate secretary should be given general responsibility for reviewing the licensee's procedures and advising the Board directly on such matters. Whenever practical, the corporate secretary should be a person with legal or similar professional experience and training.
- HC-8.6.8 At least annually, the Board should review and concur in a succession plan addressing the policies and principles for selecting a successor to the CEO, both in emergencies and in the normal course of business. The succession plan should include an assessment of the experience, performance, skills and planned career paths for possible successors to the CEO.



MODULE	HC: High-Level Controls
CHAPTER	HC-8: TPAs, Shari’a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.7 Communication between Board and Shareholders

HC-8.7.1 Licensees should communicate with shareholders, encourage their participation, and respect their rights.

Conduct of Shareholders’ Meetings

HC-8.7.2 The Board should observe both the letter and the intent of the Company Law’s requirements for shareholder meetings. Among other things:

- (a) Notices of meetings should be honest, accurate and not misleading. They should clearly state and, where necessary, explain the nature of the business of the meeting;
- (b) Meetings should be held during normal business hours and at a place convenient for the greatest number of shareholders to attend;
- (c) Notices of meetings should encourage shareholders to participate by proxy and should refer to procedures for appointing a proxy and for directing the proxy how to vote on a particular resolution. The proxy agreement should list the agenda items and should specify the vote (such as “yes,” “no” or “abstain”);
- (d) Notices should ensure that all material information and documentation is provided to shareholders on each agenda item for any shareholder meeting, including but not limited to any recommendations or dissents of directors;
- (e) The Board should propose a separate resolution at any meeting on each substantially separate issue, so that unrelated issues are not “bundled” together;
- (f) In meetings where directors are to be elected or removed the Board should ensure that each person is voted on separately, so that the shareholders can evaluate each person individually;
- (g) The chairman of the meeting should encourage questions from shareholders, including questions regarding the licensee’s corporate governance guidelines;
- (h) The minutes of the meeting should be made available to shareholders upon their request as soon as possible but not later than 30 days after the meeting; and
- (i) Disclosure of all material facts should be made to the shareholders.

HC-8.7.3 Licensees should require all directors to attend and be available to answer questions from shareholders at any shareholder meeting and, in particular, ensure that the chairs of the audit, remuneration and nominating committees are ready to answer appropriate questions regarding matters within their committee’s responsibility (it being understood that confidential and proprietary business information may be kept confidential).

HC-8.7.4 Licensees should require its external auditor to attend the annual shareholders’ meeting and be available to answer shareholders’ questions concerning the conduct and conclusions of the audit.



MODULE	HC:	High-Level Controls
CHAPTER	HC-8:	TPAs, Shari'a Advisory/Review Services, Crowdfunding Platform Operators and Other Ancillary Service Providers

HC-8.7 Communication between Board and Shareholders (continued)

HC-8.7.5 Licensees should maintain a company website. Licensees should dedicate a specific section of its website to describing shareholders' rights to participate and vote at each shareholders' meeting, and should post significant documents relating to meetings including the full text of notices and minutes. Licensees may also consider establishing an electronic means for shareholders' communications including appointment of proxies. For confidential information, licensees should grant a controlled access to such information to its shareholders.

HC-8.7.6 In notices of meetings at which directors are to be elected or removed licensees should ensure that:

- (a) Where the number of candidates exceeds the number of available seats, the notice of the meeting should explain the voting method by which the successful candidates will be selected and the method to be used for counting of votes; and
- (b) The notice of the meeting should present a factual and objective view of the candidates so that shareholders may make an informed decision on any appointment to the board.