



BRITISH HALLMARKING COUNCIL

Framework document





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Foreword

This Framework Document has been drawn up by the Department for Business, Energy and Industrial Strategy (BEIS) in collaboration with the British Hallmarking Council (the BHC).

This document sets out the broad framework within which the BHC will operate, and defines the relationship between BHC and BEIS, as the sponsor department, to fulfil its statutory responsibilities as laid down in Schedule 4 paragraph 18(2) of the Hallmarking Act 1973 (HMA). The framework document identifies and draws on the formal governance documentation relating to the BHC. To avoid duplication or contradiction, they are:

- 1. The Hallmarking Act 1973
- A summary of the functions and duties of the BHC as provided by the Hallmarking Act Section 13
- 3. The Annual Report & Accounts
- 4. The Corporate Statement
- 5. The Standing Orders for the BHC
- 6. The code of conduct for members of public bodies (issued by the Cabinet Office in 2011)
- 7. Regulators' Code and Growth Duty

This document does not convey any legal powers or legal responsibilities. It is signed and dated by BEIS and the BHC. Copies of this document and any subsequent amendments have been placed in the Libraries of both Houses of Parliament and made available to members of the public through the GOV.UK website:

www.gov.uk/government/organisations/british-hallmarking-council.

Amendments to this document may be made from time to time as circumstances dictate.

1 Sponsorship of the BHC

- 1.1 The BHC has legal responsibility for the effective and efficient management of its affairs and BEIS is committed to supporting the BHC to fulfil this role. In consultation with the BHC, the BEIS policy sponsor provides Ministers and the Principal Accounting Officer with assurance that the BHC is operating in line with government policy, delivering the expected policy intent and acting in accordance with its statutory functions. The sponsor team is also responsible for holding the BHC to account in relation to its Accounting Officer duties on behalf of BEIS's Principal Accounting Officer.
- 1.2 Within BEIS, the relevant sponsorship teams will maintain a close working relationship with their counterparts in BHC on all issues. The sponsorship function will be based on a transparent, fair, proportionate and well-understood model of working in partnership, tailored towards the complexities of the organisation. It will ensure that there are effective and efficient department processes and systems to support governance activities. This includes implementing a BEIS-wide policy to establish four levels of sponsorship within the department. The assistant director in the Office for Product and Safety Standards in BEIS is the policy sponsor and the main point of contact for BHC within the department. This assistant director and his/her team will undertake the day to day relationship management and will be responsible for overall coordination between these levels of sponsorship.
- 1.3 There will also be three other sponsor roles within the department:
 - a ministerial champion providing ministerial oversight and support for key priorities. This will be the minister responsible for this policy area.
 - a policy champion accountable for the overall relationship, identified as the director in the Office for Product and Safety Standards within BEIS, and
 - a corporate governance sponsor working with policy sponsors on governancerelated issues (identified as a senior post within the Partnerships Team in BEIS)

Overall aims of the British Hallmarking Council

- 1.4 The Secretary of State has agreed that the aims of the BHC should be as follows.
 - To supervise the hallmarking activities of the 4 Assay Offices in the United Kingdom and to ensure there is adequate provision of hallmarking within the UK.
 - BEIS vision is an economy that works for everyone so that there are great places in every part of the UK for people to work and for businesses to invest, innovate and grow. One element of this is to promote competitive markets and responsible business practices. Hallmarking regulation contributes to this by protecting consumers (including businesses acting as consumers) from purchasing undercarated (less pure than purported) precious metals. This helps to deliver confidence in the market for precious metals.
- 1.5 The BHC is an Executive Non-Departmental Public Body established by the Hallmarking Act 1973. It is funded entirely by contributions from the UK's four Assay Offices (AOs) according to a formula laid out in the HMA. Its accounts are audited by the National Audit Office and they, together with the Annual Report, are laid before Parliament as required by the HMA.

- 1.6 The statutory functions of the BHC are set out in HMA Section 13 and are as follows:
 - to ensure that adequate facilities for assaying and hallmarking are available as from time to time required in the UK and supervising the activities of AOs accordingly;
 - to take all steps appearing to be open to BHC for ensuring the enforcement of the law with respect to hallmarking;
 - to advise the Secretary of State with respect to all matters concerning the application of the HMA including any matter which may be referred to the BHC by the Secretary of State;
 - to advise the Secretary of State on: making of orders and regulations under the HMA; amending the law as it affects hallmarking, whether directly or indirectly, including advice as to the application of some or all of the provisions of the HMA to any metal other than gold, silver, platinum and palladium;
 - to fix the maximum charges for assaying and hallmarking of articles of precious metal manufactured in or intended for sale in the UK;
 - to advise the Secretary of State on any need for the establishment of a further AO
 or for the closure of, or amalgamation with, another AO;
 - to assist those enforcing the HMA by the provision of such technical and other services of the BHC as may be available, to appoint such officers as the BHC considers appropriate to act as inspectors and otherwise for detecting offences and enforcing the HMA by or on behalf of the BHC, and, otherwise than in Scotland, to institute proceedings accordingly;
 - to authorise any AO to carry on its business in whole or in part (subject to any conditions which may be specified by the BHC) in such place, whether in the United Kingdom or elsewhere, as may be specified by the BHC additional to the place at which the AO is otherwise authorised;
 - to make arrangements (temporary or permanent) whereby facilities specified in any case by the BHC need not be afforded at an AO, but are afforded at another AO or at other AOs;
 - to issue directions or regulations to AOs regarding the equipment to be provided and procedures to be adopted in the assaying and hallmarking, as well as directions/regulations on any other of the provisions of the HMA;
 - to do anything within the BHC's powers to facilitate the proper discharge of any or all of its functions.
- 1.7 The BHC's annual objectives are published in their Corporate Statement and can be accessed via the GOV.UK website.

Governance and accountability

2 BHC's legal origins of powers and duties

2.1 The BHC is a statutory body whose powers and duties are set out in the HMA. It is also a regulator and must have regard to the Regulators' Code and Growth Duty when developing the policies and principles guiding its regulatory activities and when setting standards or giving guidance in relation to other regulatory activities.

3 Ministerial responsibility

- 3.1 The Secretary of State for Business, Energy and Industrial Strategy accounts for the BHC's business in Parliament and is responsible for appointing 10 of the 16-19 Council members in accordance with the Commissioner for Public Appointments' Governance Code and the principles of public appointments.
- 3.2 The Secretary of State is not normally involved in day to day management of the BHC and designates a BEIS sponsor to manage the BHC from within the department. Currently this role is carried out through the Office for Product Safety and Standards, a departmental Office of BEIS.
- 3.3 The Minister, through his or her designated sponsor of the BHC, shall provide the policy lead for the BHC together with other necessary support as may be required from time to time.

4 BEIS Accounting Officer's specific accountabilities and responsibilities as Principal Accounting Officer

- 4.1 The BEIS Permanent Secretary as Principal Accounting Officer (PAO) of BEIS has designated the Chair of the BHC as the Accounting Officer. The respective responsibilities of the PAO and Accounting Officers for Arm's Length Bodies are set out in the appointment letter which was sent to the Accounting Officer on appointment, including Chapter 3 of Managing Public Money.
- 4.2 The PAO is accountable to Parliament for any BEIS resources provided to the BHC. Under current arrangements as specified in the HMA there are no specific resources provided other than sponsorship and policy support, the costs of which are met by BEIS. The BHC is funded in its entirety by contributions from the UK's four AOs according to a formula prescribed in the HMA.
- 4.3 The PAO is responsible for advising the responsible minister:
 - in accordance with its agreed Corporate Statement on an appropriate framework of targets for the BHC in the light of the department's wider strategic aims;
 - how well the BHC is performing its role, meeting targets, and delivering value for money.

- 4.4 The PAO is also responsible for ensuring arrangements are in place to:
 - take a strategic overview of the BHC's performance;
 - monitor the BHC's activities;
 - address significant problems in the BHC, making such interventions as are judged necessary;
 - periodically carry out an assessment of the risks both to the department and the BHC's aims and activities;
 - inform the BHC of relevant government policy in a timely manner; and
 - bring concerns about performance of the BHC to the attention of the sponsor, require explanations and assurances that appropriate action has been taken if necessary, and, as appropriate to the departmental board requiring explanations and assurances that appropriate action has been taken.
- 4.5 The sponsor team within the Office for Product Safety and Standards is the primary contact for the BHC. The team are the principal source of advice to the responsible minister on the discharge of his or her responsibilities in respect of the BHC. They also support the PAO on his or her responsibilities in respect of the BHC.
- 4.6 In consultation with the Chair, the sponsor team liaise with the BHC and as a matter of course, will be invited to attend its meetings, contributing as and when necessary.

5 Responsibilities of the Accounting Officer

- 5.1 The Accounting Officer's responsibilities are laid out in the 'Dear Accounting Officer Letter' issued by the Permanent Secretary of BEIS. He or she is responsible for safeguarding such public funds for which he or she has charge; for ensuring propriety, regularity, value for money and feasibility in the handling of those public funds; and for the day-to-day financial management of the BHC. In addition, he or she should ensure that the BHC is run based on the standards, in terms of governance, decision-making and financial management that are set out in Box 3.1 of Managing Public Money.
- 5.2 Responsibilities to the sponsor department (BEIS/OPSS)

The Accounting Officer's responsibilities include:

- establishing, in agreement with the department, the BHC's corporate and business plans in the light of the department's wider strategic aims and agreed priorities;
- informing the department of progress in helping to achieve the department's policy objectives and in demonstrating how resources are being used to achieve those objectives; and
- ensuring that timely forecasts and monitoring information on performance and finance are provided to the department; that the department is notified promptly if over or under spends are likely and that corrective action is taken; and that any significant problems whether financial or otherwise, and whether detected by internal audit or by other means, are notified to the department in a timely fashion.

5.3 The Accounting Officer is also responsible for:

- signing the accounts and ensuring that proper records are kept relating to the
 accounts and that the accounts are properly prepared and presented in
 accordance with any directions issued by the Secretary of State;
- on behalf of the BHC, preparing and signing a Governance Statement covering corporate governance, risk management and oversight of any local responsibilities, and a statement of internal control for inclusion in the annual report and accounts;
- ensuring that effective procedures for handling complaints about the BHC are established and made widely known within the organisation;
- acting in accordance with the terms of this document, <u>Managing Public Money</u> and other instructions and guidance issued from time to time by the department, the Treasury and the Cabinet Office;
- giving evidence, normally with the PAO, when summoned before the Public Accounts Committee on the BHC's stewardship of public funds.

6 Responsibilities of the Secretary

6.1 The Secretary is responsible for:

- preparing the BHC's Annual Report and Accounts and ensuring that they are in a form which can be readily audited by the National Audit Office (NAO) as required by the HMA and the subsequent laying of the Annual Report and Accounts before Parliament;
- ensuring that the members of the BHC are advised, in a timely manner, about meetings of the BHC and, together with the Chair, provide an agenda prior to any meetings, take and circulate minutes of meetings and ensure that any matters arising from meetings are followed through;
- ensuring that any guidance notices provided by the BHC for either the AOs, the trade or members of the public are circulated as necessary and made available on the BHC website:
- the day-to-day financial management of the BHC.

7 Responsibilities of the Chair

- 7.1 The Chair is elected for a three year term by a majority of the members of the BHC. It is preferable that the Chair is also the Accounting Officer so that he/she can ensure the Council has arrangements for good governance.
- 7.2 Communications between the BHC and the responsible minister should normally be through the sponsor team or the BHC Chair. The Chair is responsible for ensuring that policies and actions support the responsible minister's wider strategic policies and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the BHC.

7.3 The Chair's personal responsibilities are as follows.

The Chair is responsible to the minister. Communications between the BHC's board and the responsible minister should normally be through the Chair. He or she is responsible for ensuring that policies and actions support the responsible minister's wider strategic policies and that its affairs are conducted with probity. Where appropriate, these policies and actions should be clearly communicated and disseminated throughout the BHC.

The Chair has the following leadership responsibilities:

- formulating the board's strategy;
- ensuring that the board, in reaching decisions, takes proper account of guidance provided by the responsible minister or the department;
- promoting the efficient and effective use of staff and other resources;
- delivering high standards of regularity and propriety; and
- representing the views of the board to the general public.

The Chair also has an obligation to ensure that:

- the work of the board and its members are reviewed and are working effectively;
- the board has a balance of skills appropriate to directing the BHC's business, as set out in the Government Code of Good Practice for Corporate Governance;
- Board members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she, together with the other board members, receives appropriate training on financial management and reporting requirements and on any differences that may exist between private and public sector practice;
- the responsible minister is advised of the BHC's needs when board vacancies arise;
- he or she assesses the performance of individual board members when being considered for re-appointment;
- there is a Board Operating Framework in place setting out the role and responsibilities of the Board consistent with the Government Code of Good Practice for Corporate Governance
- there is a code of practice for board members in place, consistent with the Cabinet Office Code of Conduct for Board Members of Public Bodies.

And, more generally:

- to provide the leadership required by the BHC;
- to organise the affairs of the BHC in such a manner that the responsibilities set out by the HMA are fulfilled;
- to work with BHC members to further the aims and objectives of the BHC, including advising the BHC on its performance compared with its aims and objectives;

- to work with the Secretary of State and BEIS through the sponsor team to meet the government of the day's policy objectives in so far as that lies within the power of the BHC;
- to work with the Secretary to ensure compliance requirements are met as far as is reasonable and practicable given the resources available to the BHC;
- together with the Secretary, to draw up the agenda for meetings and to chair them in an efficient and proper manner ensuring that all members of the BHC are able to contribute fully in the work of the BHC.

The Chair also has a responsibility to ensure that the BHC and its composition comply with the UK Code of Corporate Governance and specifically that:

- the work of the BHC and its members is reviewed from time to time and is working effectively;
- BHC members are fully briefed on terms of appointment, duties, rights and responsibilities;
- he or she assesses the performance of individual BHC members when being considered for re-appointment;

8 BHC Board Members' responsibilities

- 8.1 Individual board members should:
 - comply at all times with the <u>Code of Conduct for Board Members of Public Bodies</u> and with the rules relating to the use of public funds and to conflicts of interest;
 - not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
 - comply with the board's rules on the acceptance of gifts and hospitality, and of business appointments;
 - act in good faith and in the best interests of the BHC.
- 8.2 The constitution of the BHC is set out in Schedule 4 of the HMA. This states that it shall comprise at least 16 but no more than 19 members. Ten members are appointed by the Secretary of State for BEIS. The remainder comprise six members appointed by the AOs: two from London, two from Birmingham, and one each from Sheffield and Edinburgh. The final three members are elected by the Council. In practice, and to ensure equal AO representation, two of the final three are nominated by Sheffield and Edinburgh Assay Offices. The third is the Chair who is elected by the whole Council.
- 8.3 In accordance with public law principles and the Nolan principles for standards in public life, individual board members should specifically:
 - comply at all times with the <u>Code of Conduct for Board Members of Public Bodies</u> and with the rules relating to the use of public funds and to conflicts of interest;

- not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
- comply with the BHC's rules on the acceptance of gifts and hospitality, and of business appointments;
- act in good faith and in the best interests of the BHC at all times;
- act for the purposes of the BHC, as set out in the Hallmarking Act 1973 s 13, and
 for no other, improper, purpose. They must be guided by those statutory purposes
 at all times when participating in the BHC's decision-making. Members must not
 therefore act as advocates for, or representatives of, any other body or individual
 or allow the interests of any other body or individual to be determinative of, or
 unduly influence, the position they should adopt as members of the Council. Any
 member not acting, or appearing not to act, in accordance with these principles,
 may be required by the Council to refrain from participating in debate and/or from
 voting.
- 8.4 The BHC should ensure that effective arrangements are in place to provide assurance on risk management, governance and internal control. The BHC is expected to assure itself of the effectiveness of the internal control and risk management systems.
- 8.5 The BHC is specifically responsible for:
 - through the sponsor team, ensuring that the responsible minister is kept informed
 of any changes which are likely to impact on the strategic direction of the BHC or
 on the attainability of its targets, and determining the steps needed to deal with
 such changes;
 - ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the BHC operates within the limits of its statutory authority and in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the BHC takes into account policy guidance issued by the sponsor department;
 - ensuring it receives and reviews regular financial information concerning the management of the BHC; is informed in a timely manner about any concerns about the performance of the BHC; and provides positive assurance to the sponsor department that appropriate action has been taken on such concerns;
 - demonstrating high standards of corporate governance at all times.

9 Annual report and accounts

- 9.1 As required by the HMA, the BHC must publish an annual report of its activities together with its audited accounts after the end of each financial year so that it can be consolidated into BEIS' accounts. The BHC's financial year is a calendar year.
- 9.2 The BHC's Annual Report and Accounts must be laid before Parliament each year.

9.3 The Annual Report must:

- give a true and accurate account of the financial position of the BHC;
- comply with the NAO's audit requirements and recommendations arising therefrom;
- comply with the Treasury's Financial Reporting Manual (FreM); and
- outline the BHC's main activities and performance during the previous financial year and set out in summary form forward plans.

10 External audit

10.1 The External Auditor of the BHC is the Comptroller and Auditor General (C&AG) as required by the HMA.

10.2 The C&AG:

- will consult the department and the ALB on whom the NAO or a commercial auditor – shall undertake the audit(s) on his behalf, though the final decision rests with the C&AG;
- has a statutory right of access to relevant documents, including by virtue of section 25(8) of the Government Resources and Accounts Act 2000, held by another party in receipt of payments or grants from the BHC;
- will share with the sponsor department information identified during the audit process and the audit report (together with any other outputs) at the end of the audit, in particular on issues impacting on the department's responsibilities in relation to financial systems within the BHC;
- will, where asked, provide departments and other relevant bodies with Regulatory Compliance Reports and other similar reports which departments may request at the commencement of the audit and which are compatible with the independent auditor's role.
- 10.3 The C&AG may carry out examinations into the economy, efficiency and effectiveness with which the ALB has used its resources in discharging its functions. For the purpose of these examinations the C&AG has statutory access to documents as provided for under section 8 of the National Audit Act 1983. In addition, the ALB shall provide, in conditions to grants and contracts, for the C&AG to exercise such access to documents held by grant recipients and contractors and sub-contractors as may be required for these examinations; and shall use its best endeavours to secure access for the C&AG to any other documents required by the C&AG which are held by other bodies.

Right of access

10.4 The department has the right of access to all BHC records and personnel for any purpose including, for example, sponsorship audits and operational investigations.

Management and financial responsibilities

11 Managing Public Money and other government-wide corporate guidance and Instructions

11.1 Unless agreed by BEIS and, as necessary, HM Treasury, the BHC shall use best endeavours to follow the principles, rules, guidance and advice in Managing Public Money, referring any difficulties or potential bids for exceptions to the BEIS Sponsor Team in the first instance. A list of guidance and instructions with which the BHC should comply is in Appendix 1.

12 Risk management

12.1 The BHC shall ensure that the risks that it faces are dealt with in an appropriate manner, in accordance with its function, resource, relevant aspects of best practice in corporate governance, and develop a risk management strategy proportionate to its size, function and, where practicable, in accordance with the Treasury guidance Management of Risks: Principles and Concepts. It should adopt and implement policies and practices to safeguard itself against fraud and theft.

13 The BHC's Corporate Statement

13.1 The Chair shall, at the start of each year, produce a Corporate Statement in which it will review its performance against the previous year's objectives and list its objectives for the New Year. The objectives will be agreed by the sponsor department on behalf of the Secretary of State. The Chair will present the statement to be ratified by the BHC.

14 Budgeting procedures

General

- 14.1 The BHC is funded by contributions from the UK's four AOs and is not in receipt of public funds, although these funds from the AOs are considered to be public funds when received by the BHC. It has no staff or premises and holds no assets therefore its "budgeting" is not undertaken in the conventional sense. A forecast of expenditure is set at the beginning of each year (the BHC operates on a calendar year) based on costs incurred in previous years and what can be reasonably foreseen. Actual expenditure is then monitored against forecast and reported to each meeting of the BHC.
- 14.2 The Secretary, together with the Chair, shall prepare a forecast of likely expenditure based on the anticipated activity during that year which shall be presented to the BHC for approval at its first meeting in the calendar year.

- 14.3 At each meeting the Secretary will prepare a statement showing actual expenditure against forecast.
- 14.4 This information will, be provided to the sponsor team who receive copies of all the papers for meetings as well as attending them.

15 Review of the BHC

15.1 In line with Cabinet Office requirements covering departmental arms-length bodies, the BEIS Partnership Team will undertake a tailored review of the BHC once in each Parliament.

16 Arrangements in the event that the BHC is wound up

- 16.1 BEIS shall put in place arrangements to ensure the orderly winding up of the BHC. In particular, it will ensure that the assets and liabilities of the BHC are passed to any successor organisation and accounted for properly. (In the event that there is no successor organisation, the assets and liabilities should revert to the sponsor department). To the extent that there remain financial assets these should be reassigned to the contributing assay offices in proportion to their contributions for the current financial year. To this end, BEIS shall:
 - ensure that procedures are in place in the BHC to gain independent assurance on key transactions, financial commitments, cash flows and other information needed to handle the wind-up effectively and to maintain the momentum of work inherited by any residuary body;
 - specify the basis for the valuation and accounting treatment of the BHC's assets and liabilities;
 - ensure that arrangements are in place to prepare closing accounts and pass to the Comptroller and Auditor General (C&AG) for external audit, and that, for non-Crown bodies funds are in place to pay for such audits. It shall be for the C&AG to lay the final accounts in Parliament, together with his report on the accounts;
 - arrange for the most appropriate person to sign the closing accounts. In the event that another Arms Length Body (ALB) takes on the role, responsibilities, assets and liabilities, the succeeding ALB AO should sign the closing accounts. In the event that the department inherits the role, responsibilities, assets and liabilities, the sponsor department's AO should sign.
- 16.2 The BHC shall provide BEIS with full details of all agreements where the BHC or its successors have a right to share in the financial gains of developers. It should also pass to the department details of any other forms of claw-back due to the BHC.

17 Freedom of information

17.1 The BHC is subject to the Freedom of Information Act. Such requests which are received will be dealt with by the Secretary in consultation with the Chair and the sponsor if necessary.

18 List of Appendices to the document

• Appendix 1 - List of government-wide corporate guidance instructions

Signed

GMM	floet blue
BEIS Sponsor Graham Russell MBE	BHC Chair Noel Hunter OBE
21 December 2018	20 December 2018
Date	Date

Appendix 1

Compliance with government-wide corporate guidance and instructions

The BHC shall comply as far as is appropriate and proportionate with the following general guidance documents and instructions:

- Appropriate adaptations of sections of Corporate Governance in Central Government Departments: Code of Good Practice www.gov.uk/government/publications/corporate-governance-code-for-central-government-departments
- Code of Conduct for Board Members of Public Bodies www.gov.uk/government/publications/board-members-of-public-bodies-code-of-conduct
- Appropriate aspects of the Code of Practice for Ministerial Appointments to Public Bodies
 https://publicappointmentscommissioner.independent.gov.uk/regulating-appointments/governance-code/
- Managing Public Money www.gov.uk/government/publications/managing-public-money
- Public Sector Internal Audit Standards www.gov.uk/government/publications/public-sector-internal-audit-standards
- Management of Risk: Principles and Concepts www.gov.uk/government/publications/orange-book
- HM Treasury Guidance on Tackling Fraud <u>http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/d/managing_the_risk_fraud_guide_for_managers.pdf.pdf</u>
- Relevant Dear Accounting Officer letters
- Regularity, Propriety and Value for Money
 http://webarchive.nationalarchives.gov.uk/20130129110402/http://www.hm-treasury.gov.uk/psr governance valueformoney.htm
- The Parliamentary and Health Service Ombudsman's Principles of Good Administration www.ombudsman.org.uk/improving-public-service/ombudsmansprinciples
- Consolidation Officer Memorandum, and relevant DAO letters
- Relevant Freedom of Information Act guidance and instructions (Ministry of Justice)
- Other relevant guidance and instructions issued by the Treasury in respect of Whole of Government Accounts
- Other relevant and specific instructions and guidance issued by the central and departments
- Specific instructions and guidance issued by the sponsor department

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