



APRIL, 2018

Cayman Islands Anti-Money Laundering Regulations Update

The Cayman Islands Monetary Authority (“**CIMA**”) has provided welcome clarification on certain points of ambiguity within the Anti-Money Laundering Regulations, 2017 (“**AML Regulations**”) which came into force on 2 October, 2017, and the corresponding guidance notes (“**Guidance Notes**”) issued by CIMA on 13 December, 2017 by way of a notice issued on 6 April, 2018 (the “**Notice**”).

This briefing provides a summary on the key areas of clarification.

I. Designation/Appointment of MLRO, AMCLO and DMLCO for Funds

It has been confirmed that all Cayman domiciled funds, (including private equity and single investor funds), are required to appoint natural persons who are suitably qualified and experienced as their AML Compliance Officer (“**AMLCO**”), Money Laundering Reporting Officer (“**MLRO**”) and Deputy MLRO (“**DMLRO**”) (collectively “**AML Officers**”).

The AML Officers must be identified and appointed by 30 September, 2018 with respect to existing fund and by 1 June, 2018 with respect to new funds. For CIMA registered funds, the names of the appointed individuals must be notified to CIMA via the REEFS online portal.

II. Delegation/Reliance and MLRO/AMLCO Functions

The AML Regulations permit any person carrying our relevant

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financial business (“**RFBs**”) (including funds) to delegate the performance of any function outlined in the AML Regulations to a person or to rely on a person to perform any function required to be performed under the AML Regulations. It is expected that funds might appoint their directors, employees of their investment manager, employees of their administrator, or employees of their other service providers to cover the required AML Officer roles. The AML Officers do not need to be independent of the fund or its services providers but they must be able to carry out their functions autonomously.

In delegating the AML Officer roles a fund will need to follow the outsourcing guidance contained in the Guidance Notes. There is no requirement to file copies of appointment resolutions or agreements with CIMA and for the time being there is no expectation that Offering Memoranda will be updated to include details of a fund’s AML Officers although this may become a requirement in the future. There is no restriction on the number of appointments which an AML Officer can accept although an individual should consider the number of appointments they are capable of taking on and some may be better resourced for multiple appointments than others. The natural person designated as the AMLCO may also be designated as the MLRO or as the DMLRO. The same individual cannot however act as both MLRO and DMLRO so each fund will need to designate at least two individuals as its AML Officers.

The AMLCO will be required to have AML oversight of the fund’s activities. This goes beyond responsibility for investor related AML issues and compliance requiring a risk analysis of the fund’s investment activities. It is expected that a fund will carry out and document a risk assessment of its intended investment activities and investors prior to launch, and it is recommended that this be documented in the fund’s launch resolutions. Clear reporting lines should be put in place from each fund delegate to the AML Officers and provision should be made for the AMLCO to receive regular AML related reports from all relevant parties. The AMLCO should also have open access and communication to a fund’s board of directors. The MLRO and DMLRO will act as key points of contact for all suspicious activity reports and will be responsible for making suspicious activity reports to the relevant authorities including the Cayman Financial Reporting Authority.

III. Gap Analysis for delegation to approved AML Steering Group (“AMLSG**”) Jurisdictions**

CIMA has confirmed that in terms of delegation of AML functions to a service provider outside of the Cayman Islands, it requires that a gap analysis be carried out even in circumstances where that service provider is located in a jurisdiction named on the AML Steering Group list of equivalent jurisdictions. The list of AMLSG jurisdictions should not be seen as a blanket certification of the suitability of a prospective delegate’s AML regime. The material point in any gap analysis is that a suspicious activity should be identified and reported (including to the Cayman Financial Reporting Authority) whether the delegate were applying the Cayman AML regime or their own AML regime. A granular comparison of each AML regime is not required and CIMA expects that service providers may decide to meet the requirement by conducting a one-off gap analysis which can be provided to all their prospective clients.

IV. Payments from Bank Accounts in Equivalent Jurisdictions

CIMA are expected to issue revised guidance on the AML regulations relating to simplified due diligence where payments are made to or from banks regulated in approved jurisdictions. Payments can be accepted from such banks in low-risk circumstances where the identity of the investor is known but full due diligence should be obtained before any onward payment is made. Pending the issue of revised guidance a payment back to the same account will not be considered an onward payment but it is expected that the revised guidance will require that this regulation is only relied upon in exceptional circumstances.

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