



Cayman Islands Investment Entities - AML Officers' responsibilities

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The Cayman Islands has adopted measures aimed at enhancing its anti-money laundering ("AML") and combatting the financing of terrorism ("CFT") legislative framework with the introduction of new legislation and the amendment of existing legislation. The Proceeds of Crime Law (2018 Revision) and Anti-Money Laundering Regulations, 2018 (together the "AML Legislation") are now in force in the Cayman Islands and the Cayman Islands Monetary Authority ("CIMA") has issued updated Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands (the "Guidance Notes"), providing general guidance for compliance with the AML Legislation.

As a result of the changes introduced by the AML Legislation, CIMA licensed, regulated and unregulated investment entities are required to adopt supplemental procedures to ensure compliance with the requirements of AML Legislation ("New Procedures"). The New Procedures will need to be undertaken in addition to previously existing requirements for the identification and verification of investors. The adherence to record keeping requirements, the establishment of internal controls and communication for ongoing monitoring and the maintenance of a training programme, among others. The AML Legislation specifically incorporates a requirement for each regulated and unregulated investment entity to appoint a natural person to fulfil the roles of Anti-Money Laundering Compliance Officer ("AMLCO"), Money Laundering Reporting Officer ("MLRO") and Deputy MLRO (together the "AML Officers"). Further details of these roles and the responsibilities of each office are set out below.

### Appointment of the Anti-Money Laundering Compliance Officer (AMLCO)

The AMLCO is required to oversee the comprehensive AML/CFT compliance programme required to be implemented by the investment entity in order to comply with the AML Legislation. The AMLCO's responsibilities can be carried out directly by the AMLCO or by way of oversight of the procedures adopted by the investment entity's delegate for compliance with its obligations under AML legislation.

#### The AMLCO's responsibilities include:

- developing and maintaining systems and controls (including documented policies and procedures) in line with evolving anti-money laundering and counter terrorism (AML/CFT) requirements;
- ensuring that subscription procedures are in compliance with the legislation governing Anti-Money Laundering and Countering Financing of Terrorism in the Cayman Islands and the Guidance Notes on the prevention and detection of money laundering and terrorist financing in the Cayman Islands issued by the Cayman Islands Monetary Authority;
- approving new subscribers, in keeping with legislated Know Your Client (KYC) requirements and the investment entity's own policies and guidelines;
- screening investors against sanctions lists and other lists published by competent authorities and international standard setting bodies;
- maintaining AML/CFT oversight over the investment entity's activities;
- ensuring regular audits of the investment entity's AML/CFT programme;
- maintaining various registers, as necessary, which should include logs with respect to declined business, PEPs<sup>1</sup>, and requests from competent authorities particularly in relation to investigations;
- advising directors/ employees of AML/CFT compliance issues that need to be brought to their attention;
- reporting periodically to directors as appropriate, on AML/CFT systems and controls;
- responding promptly to requests for information by the relevant competent authorities;

<sup>1</sup> Politically Exposed Persons

- evaluating and assigning a risk rating to subscribers;
- evaluating existing investors presenting risk;
- analyzing and validating the scoring procedure for subscribers and investors;
- ongoing monitoring of investor due diligence and transactions;
- analyzing and monitoring investor activity according to the risk class;
- analyzing and monitoring high risk/PEP investor activity or activity requiring special scrutiny;
- ensuring a speedy and appropriate reaction to any matter in which money laundering is suspected;
- advising and training directors/employees on developments and implementing internal policies, procedures and AML/CFT controls; and
- maintaining all necessary training, client due diligence and transaction records for at least a period of five (5) years.

## Appointment of the Money Laundering Reporting Officer (MRLO) / Deputy MLRO

The AML Legislation requires that all staff are aware of the reporting chain and procedures to be followed in the event of a suspicious activity being discovered. The MLRO is the person to whom suspicious activity reports are made.

### The MLRO's (and in his/her absence the DMLRO) responsibilities include:

- ensuring that a list or register of all documents missing from investors' files is maintained and updated as necessary;
- ensuring a speedy and appropriate reaction to any matter in which money laundering is suspected;
- advising and training directors/employees on developments and implementing internal policies, procedures and AML/CFT controls; and
- maintaining all necessary training, client due diligence and transaction records for at least a period of five (5) years.

<sup>2</sup> Financial Reporting Authority

These requirements are mandatory; acts or omissions which constitute offences under the AML Legislation may now attract fines of up to **US\$600,000**.

## Appointment of AML Officers

CIMA has confirmed the following in relation to the appointment and regulatory notifications required to be made in relation to AML Officers:

- At present, in accordance with CIMA's notice issued on 24th September 2018 all unregulated Cayman entities conducting investment business have until 31st December 2018 to appoint natural persons to fulfil the roles of Anti-Money Laundering Compliance Officer, Money Laundering Reporting Officer and Deputy Money Laundering Reporting Officer (collectively the "AML Officers").
- Regulated Cayman entities had to make such appointments by 30th September 2018 and have until 31st December 2018 to notify CIMA of the appointments via CIMA's REEFS portal.
- There is no current requirement for unregulated entities to notify CIMA of the appointment of AML Officers.
- Unregulated investment entities include any Cayman domiciled entity which is "otherwise investing, administering or managing funds or money on behalf of other persons".
- The amendments to the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands mentioned in CIMA's notice of 24th September 2018 have yet to be issued.

It is important that the operators of Cayman Island investment entities consider these new requirements and whether or not they are subject to these new requirements.

## How can SMP assist?

SMP provides specialist AML and CFT services to Cayman investment entities to ensure compliance with the requirements set out in the AML Legislation and Guidance Notes. These services include accepting delegation of the New Procedures and the provision of AML Officers.

**For more information on these services please contact your SMP Corporate Officer who will be happy to assist you with any queries you may have.**

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