

BRIEFING NOTE

September 2021

CIMA issues Notice re: The Appointment, Duties and Responsibilities of Anti-Money Laundering Officers to Cayman Islands Investment Funds and other Registered and Licensed Entities.

The Cayman Islands Monetary Authority (“CIMA”) recently re-emphasized that all persons carrying out relevant financial business (“Licensees and Registrants”) are expected and required to ensure that their Anti-Money Laundering Compliance Officers (“AMLCOs”), Money Laundering Reporting Officers (“MLROs”) and their Deputies (together, the “AML Officers”) are fully aware of their respective duties and responsibilities as set out in the Anti-Money Laundering Regulations (2020 Revision) (as amended) (“AMLRs”) and will act in accordance with them.

Licensees and Registrants are further required to ensure that appropriate appointments and the discharge of the day-to-day functions of these AML Officers are made or occur in compliance with Regulations 3, 4, 33 and 34 of the AMLRs.

Anti-Money Laundering Compliance Officers (AMLCOs)

Part II Section 2 (C) of the Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing in the Cayman Islands (the “CIMA Guidance Notes”) states, among other things, that AMLCOs must have the authority and ability to oversee the effectiveness of the Licensee’s and/or Registrant’s AML/CFT systems, compliance with applicable AML/CFT legislation and guidance and the day-to-day operation of the AML/CFT policies and procedures. An AMLCO must be a person who is fit and proper to assume the role and who:

- (1) has sufficient skills and experience;
- (2) reports directly to the Board of Directors (“Board”) or equivalent;
- (3) has sufficient seniority and authority so that the Board reacts to and acts upon any recommendations made;
- (4) has regular contact with the Board so that the Board is able to satisfy itself that statutory obligations are being met and that sufficiently robust measures are being taken to protect the Licensee and/or Registrant against ML/TF risks;
- (5) has sufficient resources, including sufficient time and, where appropriate, support staff; and
- (6) has unfettered access to all business lines, support departments and information necessary to appropriately perform the AML/CFT compliance function.

Money Laundering Reporting Officers (MLROs)

Part II Section 9 (B) of the Guidance Notes states, among other things, that each CIMA Licensee or Registrant should designate a suitably qualified and experienced person as MLRO at management level, to whom suspicious activity reports (SARs) must be made by staff.

The CIMA Licensee or Registrant should ensure that the person acting as MLRO/Deputy MLRO:

- (1) is a natural person;
- (2) is autonomous (meaning the MLRO is the final decision maker as to whether to file a SAR);
- (3) is independent (meaning having no vested interest in the underlying activity of the Licensee or Registrant);
- (4) has and shall have access to all relevant material in order to make an assessment as to whether the activity is or is not suspicious; and
- (5) can dedicate sufficient time for the efficient discharge of the MLRO function, particularly where the MLRO/DMLRO has other professional responsibilities.

CIMA also reiterated that:

1. AML Officers must be versed in the different types of transactions that the business conducts which may give rise to opportunities for money-laundering, terrorist financing, proliferation financing and any direct or indirect activity with designated person or entities.
2. Where the AML Officer function is outsourced, the Licensee or Registrant retains ultimate responsibility for compliance with the AMLRs and must maintain adequate policies and procedures.

This publication is not intended to be a substitute for specific legal advice or a legal opinion. For specific advice and guidance on the appointment of AML Officers, please contact your usual Loeb Smith attorney or any of:

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