

CAYMAN ISLANDS AML REGULATIONS GUIDANCE NOTES

On 2 October 2017, new Anti-Money Laundering Regulations 2017 (the “Regulations”) came into force in the Cayman Islands. In mid-December 2017, the Cayman Islands Monetary Authority (“CIMA”) issued its updated Guidance Notes under the Regulations (the “Guidance Notes”).

Following KB Associates’ publication relating to the Guidance Notes issued in Q1 2018, CIMA, on 29 March 2018, issued clarification confirming that all Cayman domiciled funds (both regulated and unregulated) and other entities carrying out relevant financial business will be required to appoint natural persons to the roles of AML Compliance Officer (“AMLCO”), Money Laundering Reporting Officer (“MLRO”) and Deputy MLRO (“DMLRO”). CIMA has issued a deadline of 30 September 2018 for all existing entities to appoint an AMLCO, MLRO and DMLRO. New entities registering as at 1 June 2018 must comply at the time of the submission of the registration application.

Where an AMLCO/MLRO/DMLRO (together “AML Officers”) has been appointed to a Cayman domiciled entity, CIMA expects such entity to:

- ensure that the appointed person has ‘adequate and appropriate knowledge and expertise to perform the function’;
- conduct a risk assessment of the person before entering into an agreement with such persons;
- have a formalised agreement with the person, setting out the obligations and responsibilities of both parties involved;
- review policies and procedures of the appointed person prior to entering into a formalised agreement;
- ensure that the appointed person adopts the Cayman Islands standards in relation to the performance of the function.

Appointed persons must satisfy the following criteria and undertake the following responsibilities:

Person appointed as AMLCO must:

- possess sufficient skill and experience to perform the role;
- have sufficient seniority and authority;
- have regular contact with the Board of Directors (the “Board”);
- have sufficient resources;
- have unfettered access to all information necessary to appropriately perform the AML/CFT compliance function.

Responsibilities of the AMLCO are:

- maintaining various logs including those with respect to PEPs and requests from competent authorities;
- to respond promptly to requests for information by the relevant competent authorities;
- to develop and maintain systems and controls;
- to report periodically to the Board on the fund’s system and controls;
- advise the Board of AML/CFT compliance issues that need to be brought to its attention;
- ensure regular audits of the AML/CFT program.

Persons appointed MLRO and DMLRO must:

- act autonomously;
- be independent;
- have sufficient access to all relevant material in order to make an assessment as to whether activity is or is not suspicious.

Responsibilities of MLRO and DMLRO are:

- to be the point of contact for all suspicious activity reports;
- to report suspicious activity with the appropriate authorities.

The same individual can act as AMLCO and either MLRO or DMLRO but the roles of MLRO and DMLRO must be two separate persons. The DMLRO must be “of similar status and experience to the MLRO”.

The activities currently performed by the KB Associates MLRO team on a fund Board’s behalf include, but are not limited to:

- providing individuals to act as AML Officers;
- acting as point of contact for all AML/CFT related issues;
- provision of quarterly reporting to fund Boards;
- review of relevant regulation/legislation and briefing the Board on such developments;
- the establishment of appropriate AML risk framework;
- provision of annual AML training to fund Boards;
- undertaking of regular internal audits of the AML/CFT programme;
- maintenance and monitoring of the required policies and procedures manuals;
- maintenance of PEP and Suspicious Transaction logs;
- filing of Suspicious Transaction Reports to the relevant authorities;
- responding to requests from regulatory bodies.

The key point is that natural persons are identified and appointed by 30 September 2018 (with respect to existing funds and 1 June 2018 with respect to new funds) to fulfil each of the AML Officer positions.

KB Associates’ Services

KB Associates offers a range of services to investment funds including:

- The provision of individuals to act as AML Officers;
- The provision of UCITS/AIF management company services;
- The provision of designated persons to perform UCITS business plan and AIFMD programme of activity managerial functions;
- The provision of UCITS/AIF operational support;
- The provision of director and company secretary services.

If you wish to discuss any of the matters described above, please contact Frank Connolly at frank.connolly@kbassociates.ie or on +353 1 667 1987.