



# CAYMAN ISLANDS MONETARY AUTHORITY

To: All Licensees

From: Cayman Islands Monetary Authority

Date: October 2016

## **Supervisory Issues and Information Circular**

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We are pleased to share the second edition of the Cayman Islands Monetary Authority's (the "Authority") *Supervisory Issues and Information Circular*. The document aims to raise awareness in the industry, of common regulatory and thematic issues identified through our off-site and on-site supervisory practices and highlight regulatory developments for the financial industry in the recent and upcoming year.

Below are a number of regulatory and supervisory matters that we wish to bring to your attention at this time. We expect that all licensees/registrants will be mindful of these in the normal course of conducting business as well as in the development of new business strategies, plans and ventures in the future.

### **Payment of Annual Fees**

On an annual basis the Authority sends reminders, as a courtesy, regarding upcoming annual fees. The Authority also conducts random spot audits of its files and will reach out to those entities where it detects outstanding fees or filings that the entity must submit in order to be in full compliance with the laws, regulations, and various regulatory measures that apply to the licence or registration of that entity. Failing to receive a reminder of this nature from the Authority does not excuse an entity from any of the requirements that are attached to its licence or registration. The Authority is required to take enforcement action or apply penalties where licensees and registrants fail to submit annual fees and regulatory filings, regardless of whether that entity received a courtesy reminder. In extraordinary circumstances, the Authority may consider the waiver of penalties. However, licensees and registrants should note that not receiving a fee reminder notice will not be acceptable justification for late or non-payment.

### **Requirements/Timelines for Licence Applications**

The Authority reminds licensees and the financial industry of the timelines associated with licence applications, the cancellation of licences, changes in ultimate beneficial ownership, transfers/changes in shares, etc. The timelines were reviewed and have been revised for greater consistency across regulatory divisions. Please refer to **Appendix E2** of the Authority's Regulatory Handbook for current timelines.

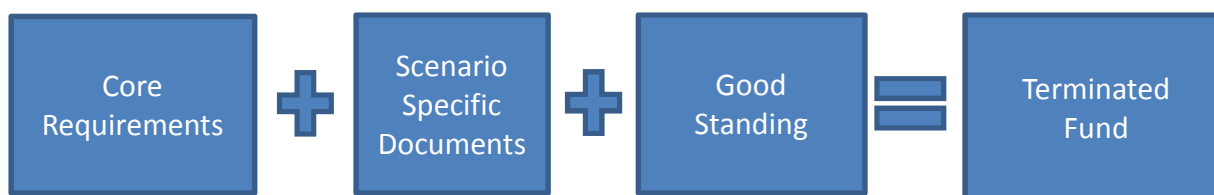
The Authority requires the submission of complete packages, inclusive of the due diligence documentation, to assist in more effective and efficient reviews of applications. It must be noted that the Authority will not commence its formal processing of an application until a

complete package has been received. The requirements for a licence application can be found in the regulations that accompany regulations to the relevant regulatory law. In addition, licensing requirements are detailed for each license type on the Authority's website.

## Terminations of Mutual Funds

As we come to the last quarter of the calendar year, many funds have submitted or are in the process of submitting an application to terminate their registration, or cancel their licence with the Authority. The Authority encourages funds to submit the requisite documents as soon as possible to avoid delays, or incurring any additional requirements, licence or registration fees. A fund can either submit all of the documents necessary to fully terminate its registration/cancel its licence or provide only the core requirements to change its status from "Active" to "Licence under Termination (LUT)". The core requirements are: (a) the original certificate of registration; (b) certified copy of the Operator's resolution, which should indicate the date on which the fund will cease or has ceased to carry on business as a regulated mutual fund; and (c) the prescribed surrender fee.

It is important to note that the fund also needs to be in good standing with the Authority in order to complete the de-registration/licence cancellation process.



The fund must be up-to-date with the submission of audited financial statements in order to complete the de-registration/licence cancellation process. The Authority therefore, wishes to remind the industry that, in accordance with section 7.1 of the Cancellation Policy, unless a fund qualifies for an audit waiver, it must provide audited accounts from the date of the last financial year end (for which audited statements have been filed), either to the date of commencement of the winding up, where third party liquidator(s) have been appointed, or the date of the final distribution if no third party liquidator(s) have been appointed.

The Authority requires that all outstanding documents and/or fees necessary to complete the de-registration/licence cancellation process are submitted within six (6) months of the date of the application. For further information please see the Authority's Notice on De-registration of LUT and LUL Funds, dated 29 September 2016 which is posted on the Authority's website, or contact the Investments and Securities Division by email at [terminations@cimoney.com.ky](mailto:terminations@cimoney.com.ky).

## Resignation & Surrender of Registered/Licensed/Corporate- Directors

Directors are also reminded of the proper procedures with regard to resignation from a covered entity and/or surrendering the director's registration or licence in accordance with The Directors Registration and Licencing Law, 2014 ("DRLL").

## Resignation

If a director no longer wishes to be registered or licensed as a director of a covered entity, the director must liaise with the covered entity's registered office and ensure that the Authority receives written resolutions or an updated register of directors, stamped by the Registrar of Companies, to duly notify the Authority of the director's resignation. Please note that resignation of the director from a covered entity will not automatically result in a surrender of the director's registration or licence under the DRLL.

## Surrender

If a director no longer wishes to be registered or licensed as a director in accordance with the DRLL, he/she must first resign as a director of all covered entities, then log into the Director Gateway, complete the requisite information under "Surrender" and pay the relevant surrender fee.

Once the director has paid the surrender fee, the Authority will check its records to confirm that the director is no longer listed as a director on any covered entity. If he/she remains as a director on a covered entity, the Authority will be unable to process his/her surrender application.

In addition to submitting the surrender fee, the director is required to submit a formal letter which **MUST** contain the following information:

- that he/she has resigned as a director of all covered entities;
- that he/she no longer plans to act as a director on any covered entity; and
- that if he/she would like to act on any other covered entity or wishes to resume directorship services after he/she has surrendered his/her registration or licence, he/she will re-apply under the DRLL.

The director is responsible for updating his/her records accordingly and must complete the requirements to surrender his/her registration or licence before the 31<sup>st</sup> of December to avoid accruing next year's annual fees, as well as penalties calculated at 1/12th of the annual fee for every month or part of a month after the 15th of January in each year that the fee is not paid.

Directors who will continue to provide directorship services and wish to remain current with their registration or licence status under the DRLL **MUST**, on or before the 15th of January in each calendar year, renew their registration or licence through the Director Gateway by providing to the Authority the information in the prescribed form and paying the prescribed annual fee.

For technical issues encountered while submitting a Registration request in the Director Gateway, please send a screenshot and details regarding your issue to [directorsregistration@cimoney.com.ky](mailto:directorsregistration@cimoney.com.ky). For issues related to a Licence request, please send a screenshot and details regarding your issue to [directorslicensing@cimoney.com.ky](mailto:directorslicensing@cimoney.com.ky).

## **Regulatory Enhanced Electronic Forms Submissions (REEFs) and Fund Annual Return Form (FAR) Updates**

The Authority's Regulatory Enhanced Electronic Forms Submission system Project (REEFS) was launched on 5 January 2015. The system aims to provide enhanced online access for submission of new licence applications, various change applications by licensees, and financial, prudential and statistical returns. It is envisioned that REEFS will simplify and improve the process by which licensees are able to make certain applications to the Authority and track the progress of such applications.

REEFS is also expected to enable the Authority's management to better monitor submissions to ensure that the Authority provides efficient and timely turnaround to industry, thereby improving customer experience and supervisory efficiency.

As at the date of publication, the following returns are being filed through the REEFs platform:

Fiduciary Services - BAR Form - June 2015  
Investment and Securities -FAR Form- April 2015  
Insurance Supervision - Quarterly and Annual Returns - July 2015  
- Business Plan Changes - July 2015

Industry should also note that the FAR Form has been updated and FAR 3.0 is now mandatory for filings made after 1 July 2016. In addition, for funds with a year-end date of 15 September 2015 and later, an individual FAR Form is now required to be submitted for each sub-fund, series trust or segregated portfolio within a multi-fund operating structure.

The Authority continues to work on and improve the REEFS portal, which will bring online other application or termination forms, returns and change requests. It stands ready to respond with assistance to any queries that it may receive regarding set up or usage of the REEFS portal. REEFs specific email queries can be sent to the following email addresses:

- [ContactInvestments@cimoney.com.ky](mailto:ContactInvestments@cimoney.com.ky) -for queries by entities that engage in investments and securities business;
- [ContactFiduciary@cimoney.com.ky](mailto:ContactFiduciary@cimoney.com.ky) - for queries by entities that engage in trust and corporate services business;
- [ContactBanking@cimoney.com.ky](mailto:ContactBanking@cimoney.com.ky) - for queries by banking entities that hold a trust licence; and
- [ContactInsurance@comoney.com.ky](mailto:ContactInsurance@comoney.com.ky) - for queries by licensees with respect to entities that engage in insurance business.

## **Basel II and III: international regulatory framework for banks**

### ICAAP and Stress Testing Guidance

Since 2011 banks incorporated in the Cayman Islands have been required to implement Basel II's Internal Capital Adequacy Assessment Process (ICAAP) on an annual basis, which includes a requirement for banks to stress test their balance sheets to determine the possible impact a stressed economic environment could have on them. From the Authority's review of ICAAPs submitted, it is apparent that very few banks have undertaken stress testing and reflected the results in their Pillar II calculations. For this reason, the Authority

will be issuing, in the coming months, further guidance specifically in relation to stress testing. Industry will be consulted in due course.

### Basel III

To date, the Authority has implemented most aspects of the Basel II Accord. The Basel Committee on Banking Supervision (BCBS) has since updated the Accord. The update, referred to as Basel III, includes, amongst other changes, the introduction of two liquidity ratio minimum standards, the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR). The two ratios were developed to (i) promote short-term resilience of a bank's liquidity risk profile, by ensuring that it has sufficient high quality liquid resources to survive an acute stress scenario lasting for one month [LCR]; and (ii) promote resilience over a longer time horizon by creating additional incentives for a bank to fund its activities with more stable sources of funding on an ongoing structural basis [NSFR].

The Authority is in the process of drafting guidelines on the application of these two liquidity ratios as minimum standards. Industry will be consulted in the coming months once the Authority has drafted the liquidity framework to incorporate the LCR and NSFR minimum requirements.

## **Regulatory Issues**

Our supervisory work over the last year brought to our attention a few regulatory issues which at times contributed to licensees compromising the quality of service provided to customers, as well as compliance and supervisory breakdowns. An important issue identified during this year was a degree of noncompliance with the Rule and Statement of Guidance on Market Conduct- Class A Insurers, Agents and Brokers.

### **Disclosures by Insurers**

It has come to the Authority's attention, during onsite inspections and in the course of correspondence with some licensees, that some insurers, broker and agents are not fully compliant with the Rule on Market Conduct's 'policy wording, disclosure and assessing customer needs' i.e. Rule 5.3. In particular, we have noticed that some insurers are not fully disclosing all charges and costs related to a policy to their customers. We have also come across examples of estimated returns that are potentially misleading, as they provide gross estimated returns rather than net estimated returns i.e. the estimated return after all charges and costs have been deducted.

The Authority's expectation is that our licensees continue to treat their customers fairly at all times. This includes, amongst other things, ensuring that licensees use the appropriate policy wordings, disclosure and assess customers' needs. When estimates and illustrations are used, they must provide the client with a more realistic picture of what the policy might be worth in the future. Licensees must also be mindful of the written information they must provide to customers before or at the time of concluding the contract, in compliance with the Rule on Market Conduct Rules. The Authority will continue to focus on these areas as part of its ongoing onsite inspections, and expects full compliance.