



CAYMAN ISLANDS  
**MONETARY AUTHORITY**

REGULATORY  
**HANDBOOK**  
APPENDICES 1

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## **C1 – Paper by Division**

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MEETING # \_\_\_\_\_

ITEM # \_\_\_\_\_

Paper by the (NAME OF DIVISION)

\_\_\_\_\_

Issue

Background

Regulatory Considerations

Governance

Recommendation

The (Name of Division) recommends that the Cayman Islands Monetary Authority adopt the following.

The Cayman Islands Monetary Authority hereby...

It is further recommended that the Executive Secretary to the Board be authorised...

Name  
Division  
Date

## **C2 – Paper by the Managing Director**

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MEETING # \_\_\_\_\_

ITEM # \_\_\_\_\_

### **Paper by the Managing Director**

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#### **Issue**

#### **Background**

#### **Regulatory Considerations**

#### **Governance**

#### **Recommendation**

The Management Committee recommends that the Board adopt the following recommendation(s)

The Cayman Islands Monetary Authority hereby .....

The Cayman Islands Monetary Authority hereby authorises the Executive Secretary to the Board

Cindy Scotland  
Managing Director

Date

**C3a – Extract Board Submission**

**CONFIDENTIAL**

**BOARD EXTRACT**

FROM MINUTES OF THE CAYMAN ISLANDS MONETARY AUTHORITY  
EXECUTIVE COMMITTEE OF THE BOARD MEETING

TO: Managing Director, Cayman Islands Monetary Authority

**THE FOLLOWING EXTRACT FROM MINUTES OF THE EXECUTIVE  
COMMITTEE OF THE BOARD ITEM NO ##### OF MEETING NO #####  
HELD ON ##### IS FORWARDED TO YOU FOR:**

ACTION

INFORMATION

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**EXECUTIVE SECRETARY TO THE BOARD**

**ITEM #**

**TITLE OF SUBMISSION**

Previous Reference: Item # ##### of Minutes of Meeting No  
###/##

The Executive Committee of the Board

**C3b – Sample Extract Board Submission****CONFIDENTIAL****BOARD EXTRACT**

FROM MINUTES OF THE CAYMAN ISLANDS MONETARY AUTHORITY  
EXECUTIVE COMMITTEE OF THE BOARD MEETING

**TO: Managing Director, Cayman Islands Monetary Authority**

The following Extract from Minutes of the Executive Committee of the Board Item No 002 of Meeting No 025/03 held on 11<sup>th</sup> September 2006 is forwarded to you for:

**ACTION**

**INFORMATION**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**EXECUTIVE SECRETARY TO THE BOARD**

**ITEM #002**

**XX Company**

The Executive Committee of the Board agreed to accept the surrender of the Category “B” Banking Licence and Trust Licence held by XX Company, a company incorporated in XX.

The Executive Committee of the Board granted approval to XX Company, a company incorporated in XX, for the issue of a Category “B” Banking Licence and a Trust Licence with exemption from the provisions of Section 16(2) of the Banks and Trust Companies Law (2013Revision) subject to the submission of the following:

- a) Certificate of Registration.
- b) Confirmation of consolidated supervision from the Federal Deposit Insurance Corporation and the XX Banking Department.

The Executive Committee of the Board granted approval for exemption from the provisions of Section 7(1) of the Banks and Trust Companies Law (2013 Revision), subject to the condition that they notify the Authority of:

- (i) Any change in control of the licensee.
- (ii) The acquisition by any person or group of persons of shares representing more than ten per cent of the issued share capital or total voting rights of the licensee's parent company.

The Executive Committee of the Board granted approval that the 2007 fees paid for the existing XX Company, be applied to the "new" XX Company based on the fact that it is the same entity carrying on the same business as the existing licensee.

The Executive Secretary to the Board was authorised to send a letter of approval forthwith.

### C4a – Management Committee Extract

**CONFIDENTIAL**

#### MANAGEMENT COMMITTEE EXTRACT

FROM MINUTES OF THE CAYMAN ISLANDS MONETARY AUTHORITY  
MANAGEMENT COMMITTEE MEETING

TO: HOD NAME, DIVISION

The following Extract from Minutes of the Management Committee Item No #####  
of Meeting No ##### held on ##### is forwarded to you for :

ACTION

INFORMATION

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**EXECUTIVE SECRETARY TO THE BOARD**

**ITEM #**

**TITLE OF SUBMISSION**

Previous Reference: Item # ##### of Minutes of Meeting  
No ###/##

The Management Committee



**C4b – Sample Management Committee Extract****CONFIDENTIAL****MANAGEMENT COMMITTEE EXTRACT**

FROM MINUTES OF THE CAYMAN ISLANDS MONETARY AUTHORITY  
MANAGEMENT COMMITTEE MEETING

**TO: Head of Insurance, Cayman Islands Monetary Authority**

The following Extract from Minutes of the Management Committee Meeting Item No 007 of Meeting No MC026/06 held on 11<sup>th</sup> September 2006 is forwarded to you for:

**ACTION**

**INFORMATION**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**EXECUTIVE SECRETARY TO THE BOARD**

**Item 007**

**XX Insurance Company**

The Management Committee granted approval for the issue of a Class “A” Insurer’s Licence subject to receipt and approval by the Authority of the following:

- a) Certified copy of the Memorandum and Articles of Association
- b) Certificate of Incorporation
- c) Evidence of receipt of capital
- d) Satisfactory completion of the due diligence process
- e) Confirmation of Fronting Company
- f) Confirmation of Reinsurer

The licence may be issued when all outstanding requirements of the Law and elements of the proposal have been met.

## **C5 – Board Delegation of Powers to the Managing Director**

**19<sup>th</sup> September 2007**

**DELEGATION OF POWERS** by the Board of Directors (“the Board”) of the Cayman Islands Monetary Authority (“the Authority”) to the Managing Director of Authority (“the Managing Director”)

**WHEREAS** by virtue of Section 13(3) of the Monetary Authority Law (2013Revision), the Managing Director is entrusted with the day to day administration of the Authority to the extent of the authority delegated by the Board;

**AND WHEREAS** the Managing Director had been appointed as the Chief Officer of the Authority, pursuant to Section 47(2) of the Public Management and Finance Law (2013 Revision) (“the PMFL”);

**AND WHEREAS** pursuant to Section 47(3) of the PMFL the Board is required to delegate to the Chief Officer power to manage the Authority;

**AND WHEREAS** the Board desires to record in writing its delegation to the Managing Director/Chief Officer the powers of day-to-day administration and management of the Authority in accordance with Section 13(2) of the Monetary Authority Law and Section 47(3) of the Public Management and Finance Law;

The Board hereby delegates to the Managing Director/Chief Office to the extent permitted by the PMFL, the MAL and all other relevant laws the following powers and responsibilities:

1. The achievement of the Budget and Ownership and Purchase Agreements of Authority as approved by the Board.
2. The day to day administration and management of the Authority, including:
  - Personnel recruitment and management of staff in accordance with the Staff Handbook and all other related policies that may be approved by the Board from time to time.
  - Dismissal of all staff (except Deputy Managing Director) in accordance with the Staff Handbook and the Labour Law.
  - Supervision of and responsibility for the various divisions of the Authority in the carrying out of the regulatory, cooperative and advisory functions and the operations of the Authority in accordance with the Monetary Authority Law (2013Revision), the regulatory and other relevant laws and any relevant policies and procedures approved by the Board.

- Supervision of and responsibility for the carrying out of the currency functions (including the investment of the reserves) of the Authority on behalf of the Cayman Islands Government.
  - Notwithstanding the above, the Managing Director shall consult with the Board in the recruitment and termination of the Deputy Managing Director
3. Doing all acts and deeds as are necessary and possible promptly to implement decisions of the Board.
  4. Providing timely technical advice and guidance on matters affecting policy and strategy and their implementation in the Managing Director's scope of expertise and otherwise seeking such technical/professional advice as the Managing Director may deem necessary.
  5. Public relations and representation of Authority at local and international forums.
  6. Financial management and reporting in accordance with the Public Management and Finance Law (2013Revision) and with the policies and procedures approved by the Board.
  7. Execution and delivery for and on behalf on the Authority of any deeds, contracts, agreements or other instruments with value of up to CI\$99,999 in accordance with the signing authority set forth in the "Authorised Signatures of the Cayman Islands Monetary Authority".
  8. Responsibility for the functioning of the Management Committee and Executive Committee as outlined in the "Procedures for Dealing with Licensing and Supervisory Matters".
  9. Assignment of responsibilities within the Authority.
  10. Determining the day-to-day priority of the work of the divisions within the Authority in accordance with the Goals, Objects and Strategies of Authority and the Work Plan determined by the Board.
  11. Any other powers, duties and responsibilities that the Managing Director, by virtue of having executive responsibility for the day-to-day administration and management of the Authority, would normally be expected to undertake or would otherwise be implied by law as a consequence of holding that position.

## **EXTERNAL RELATIONS**

### **D1 – Dealing With Requests For Assistance From an Overseas Regulatory Authority (ORA)**

#### **A. Legislative Framework**

1. The responsibility of the Cayman Islands Monetary Authority (the “Authority”) to provide assistance to overseas regulatory authorities (“ORA”) arises from the cooperative functions of the Authority under section 6 (1) (c) of the Monetary Authority Law (2018 Revision) (“the MAL”). The scope of the duty is set out in more detail in sections 50 (3) to (8) and 51 of the MAL.
2. The Authority will generally assist an ORA in the exercise of its regulatory functions including the conduct of civil and administrative proceedings to enforce laws, regulations and rules administered by the ORA. It may also consent to the use of information shared for the purposes of the criminal investigation or prosecution of a charge which pertains to the contravention of laws and regulations administered by the ORA or to assist a self-regulatory organisation with surveillance and enforcement activities where it is involved in the supervision of conduct that is the subject of the request.
3. An ORA is defined in section 2 of the MAL as “an authority which, in a country or territory outside the Islands, exercises functions corresponding to;
  - (a) any of the regulatory functions of the Authority; or
  - (b) any additional functions as may be specified in regulations including the conduct of civil and administrative investigations and proceedings to enforce laws, regulations and rules administered by that Authority”.
4. As no regulations have been enacted to date, only paragraph (a) of the above definition is relevant for the purposes of these procedures.
5. Pursuant to section 34 (9) of the MAL, where the Authority is satisfied that assistance should be provided to an ORA, the Authority may issue a direction to a person to provide specified information, produce specified documents or give specified assistance.
6. Under section 51 of the MAL the Authority may, after consultation with the Minister for Financial Services, enter into a Memorandum of Understanding with Overseas Regulatory Authorities. The Minister shall be notified by the Authority of each MOU and

the MOU is to be published promptly in the Gazette. The Authority must act in accordance with the MAL.

#### B. Procedures

7. Where a request from an ORA is received by the Authority the following procedures shall apply:
  - 1) The supervisory or other division/department receiving the request, shall forward a copy of the request along with a standard form to the Legal Division which addresses the following matters:
    - (a) the name of the requesting authority;
    - (b) the nature of the information or other assistance requested such as the description of the facts underlying specific questions to be asked and sensitivity of the matter;
    - (c) whether the entity or person which is the subject of the request is regulated by the Authority and/or whether the information requested is likely to be found in the Cayman Islands;
    - (d) the information requested serves no other purpose than those directly related to fulfilling a supervisory and/or regulatory function of the Requesting Authority i.e. a valid purpose;
    - (e) the information requested serves the purpose of ensuring compliance with Laws and regulations related to the request or Requesting Authority; or
    - (f) the information requested shall not be used for any other purpose than those specified in the request or will not be disclosed without prior consent.
  - 2) Upon receipt of a request for assistance, the Legal Division will first determine whether the requesting body falls within the definition of an ORA within the terms of section 2 of the MAL. In deciding whether assistance should be granted, regard should be had to the matters set out in section 6(2), (3), and section 50(4), (8) of the MAL.
  - 3) As such, the Legal Division will review all requests for assistance against the criteria set out in section 50 (4) of the MAL such as whether:
    - (a) corresponding assistance would be given to the Authority in the recipient jurisdiction;
    - (b) the inquiries relate to a breach of a legal requirement which has a parallel or involves the assertion of a jurisdiction recognized in the Cayman Islands; and

- (c) it is in the public interest to give the assistance sought.
- 4) The Legal Division will also have regard to the provisions of section 50(8) of the MAL which require that before the requested assistance can be provided-
    - (a) the Authority must be satisfied that the recipient authority is subject to adequate legal restrictions on further disclosures;
    - (b) an undertaking has been provided by the recipient authority to not disclose information without the prior consent of the Authority;
    - (c) the Authority must be satisfied that the assistance requested is required for the regulatory purposes of the recipient authority;
    - (d) the Authority must be satisfied that information provided will not be used in criminal proceedings against the person providing the information other than for an offence of perjury,
  8. The Legal Division will make a record of the request, which will include a file number. All further correspondence relating to a particular request must include a reference to the internal file number for the purpose of keeping track of the requests and making input into the ORA log kept by the Legal Division.
  9. The Legal Division will return to the supervisory division a memorandum indicating whether or not the request is in conformity with the requirements of the MAL and noting particularly whether any further undertakings required by Law or other additional information need to be provided by the requesting ORA.
  10. The supervisory or other division on receiving a memorandum from the Legal Division shall reply to the ORA with the information requested or where a further undertaking is required by the MAL or additional information is necessary, require the ORA to provide the undertaking or additional information before any information is provided.
  11. The supervisory or other division will endeavour to acknowledge the receipt of the request to the requesting ORA within three (3) business days of receiving the request. With respect to routine requests (e.g., regulator to regulator requests such as confirmations in relation to a regulated entity's identity and good standing) the Authority endeavours to complete a request within 30 business days of the receipt of the request subject to receiving all the information and consents required to process the request. In case of a request that is non-routine, the Authority endeavours to complete within 60 business days where it is practical to do so i.e., where the Authority has received all the information and consents required to process the request, and there are no extraordinary circumstances or technical impediments that prevent completing the response (e.g. outstanding litigations before the court).
  12. The supervisory or other division will as a general practice, within 24 hours of responding to a request forward a copy of its response to the Legal Division for the purpose of updating the ORA log with respect to each request.

13. Where the request involves the Authority giving its consent to use or onwardly disclose the information for the purposes of assisting a criminal investigation or prosecution, the Authority will also ensure that the requirements of section 50 (3)(c)(iii) have to be met.
14. Where it becomes necessary to share information provided with other local, regional, state, federal or international institution, the following requirements shall be met by the Authority where it is the “Requesting Authority”:
  - 1) notify the Requested Authority promptly;
  - 2) obtain prior explicit consent for onward disclosure (where necessary);
  - 3) prior to passing on information, ensure that the recipient agrees to maintain the confidential status of the information provided and has legal authority to do so; and
  - 4) use all reasonable legal means to protect the confidentiality of the information or to resist an enforceable demand where no consent for onward disclosure has been given
15. All responses (other than a holding response) shall be processed by the Legal Division. The Legal Division may however, request another division to respond to a particular request or to carry out related tasks to satisfy a request as the circumstances may require. Copies of any information provided (or an inventory thereof) shall be retained by the division in question.
16. Where the provision of assistance to an ORA requires the Authority to exercise its powers under Section 34 (9) to direct a person to provide specified information, produce specified documents or to give specified assistance, the Legal Division must review and sign off on the direction issued by the Authority.
17. For the avoidance of doubt, where the request for assistance is made pursuant to an MOU or Multi-lateral MOU, the Legal Division will assess and determine each request on a case-by-case basis and the procedures outlined above will also apply.

## **D2 – Criteria of Memorandum of Understanding**

### **Criteria for entering into negotiation with a view to entering into a Memorandum of Understanding**

#### **1. Rationale for the establishment of criteria**

Whereas a Memorandum of Understanding (MOU) will increase the quality and timeliness of information on licensees' operations overseas, will reduce the cost of obtaining such information and will streamline the administrative processes in Cayman when requests are received, there is nevertheless a need to establish some objective criteria that an Overseas Regulatory Authority (ORA) must meet before the Authority would consider entering into an MOU with it.

The MOU itself will provide conditions to be met by each party to the Understanding.

#### **2. The Background**

An MOU between regulatory bodies facilitates cross-border co-operation on information exchange, timely access to information and the ability to verify information. All are critical to conduct effective supervision, as well as to engender the international cooperation necessary to enhance financial stability and fight financial fraud. As stated in the KPMG Review of Financial Regulation in the Caribbean Overseas Territories and Bermuda, at page 160; "It is common practice between regulatory authorities for the terms and conditions of information exchange and investigative assistance to be set out in a Memorandum of Understanding signed between the authorities which will be co-operating with each other. Memorandum of Understanding usually require requests for assistance to be framed in terms of the specific activities which are being investigated by the foreign jurisdiction...."

As stated by the Technical Committee of the International Organisation of Securities Commissions in the preamble to its Principles for Memoranda of Understanding: "MOUs are statements of intent which do not impose legally binding obligations on signatories. As such, they have no power to overcome domestic laws and regulations, nor do they affect other channels of co-operation, such as mutual assistance in criminal matters. The strength of MOUs, however, is that they facilitate the exchange of information by accommodating the differences between regulators and by responding to changing legal environments."

#### **3. Objective criteria to be taken into account**

- 3.1 Nature of the ORA in terms of powers, duties and functions and its reputation in the international financial regulation community, in particular the jurisdiction's membership of and adherence to international standards of relevance. e.g. IOSCO, Basel, IAIS. Also, the impact upon the financial industry consequent upon entering into the



MOU in that negative publicity may invalidate the benefits of co-operation.

- 3.2 Nature of the requesting authority's jurisdiction, including whether its legal system provides for similar legal protections to those existing in the Cayman Islands. In particular, whether confidentiality laws are similar to that of the Cayman Islands and whether or not it respects the Rule of Law. Whether domestic secrecy or blocking laws, regulations and policies exist relating to the collection and provisions of information to foreign authorities. Such matters should be provided for in the MOU itself. The KPMG review also advised that; "Memoranda of Understanding should only provide for the exchange of confidential information when the foreign regulatory authority has demonstrated that they will be able to safeguard the confidentiality of information provided by the OT regulator." (p.160)
- 3.3 The ORA's laws, regulations and policies on the use of information and due process and enforcement powers should be consistent with that of the Authority.
- 3.4 A commitment to reciprocity should be made in the MOU itself but in addition, the Authority should be reassured that reciprocal assistance would be given by the ORA. In short there must be a clear benefit to Cayman in all respects.
- 3.5 Frequency and nature of requests for assistance received from and served upon the ORA in question. Where there have been numerous requests for assistance in the past then the jurisdiction may be considered for entering into an MOU subject to the other criteria.
- 3.6 Nature and extent of existing relationship with the ORA and past history of co-operation. One or more of the regulatory divisions of the Authority may have had past or on-going dealings with the ORA in question, and this should provide useful information which will be utilised in making the decision as to whether or not a MOU should be entered into with the ORA.
- 3.7 Consideration should also be given to whether there is a mutual recognition of the equivalency of AML/CFT legislation between the two jurisdictions and if not, why not.

#### **4. Further considerations**

- 4.1 The criteria set out above will often form part of the conditions for the MOU and wherever possible should be provided for in the MOU itself.
- 4.2 The criteria set out in 2 above will be applied by the Authority when considering an ORA with a view to entering into an MOU with that ORA. Once it is concluded that the agreed criteria are satisfied, then the Model MOU, as approved, will be used, subject to such necessary

amendments as approved by the Cabinet in accordance with the Approval Process determined by the Cabinet.

## **5. Multilateral MOUs**

Multilateral MOUs are MOUs established by regulatory standard setters (eg. IOSCO or IAIS) or groups of regulators normally from different countries (although different regulators from the same countries can be parties to a multilateral MOU). In the context of an MMOU the signatories agree that they will be bound by the common standards and obligations covered by the MMOU. When considering whether to recommend that the Authority become a signatory to the MMOU many of the considerations referred to in paragraph 3 above are applicable (eg. reciprocity). In addition the Authority will need to take into account the criteria set out in 5.1 to 5.3 below.

- 5.1 The MMOU itself should contain appropriate grounds for denial of a request where a request from another signatory authority would require the Authority to act in a manner inconsistent with domestic laws or the public interest.
- 5.2 The benefits to be gained by the Authority and the jurisdiction should outweigh any negative costs involved in the Authority becoming a signatory to a MMOU.
  - 5.2.1 One of the benefits to consider would be whether entering into the MMOU would enhance the international reputation of the Authority and the Cayman Islands as a jurisdiction that adheres to appropriate international standards involving international cooperation.
  - 5.2.2 One of the costs to consider would be whether there would be an undue strain on the resources of the Authority in meeting the obligations under the MMOU.
- 5.3 The existing and/or potential signatories should be from jurisdictions that generally respect the rule of law and have broadly equivalent protections for the rights of persons likely to be impacted by the exchange of information under the MMOU.

## **D3 – Sample Format of a Memorandum of Understanding**

### **Memorandum of Understanding**

**BETWEEN THE**

Cayman Islands Monetary Authority (the “Authority”)

and the

[                                  ]

on the Exchange of Information  
for Co-operation and Consultation

[Place]

[Date]

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### **RECITALS**

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7. UNSOLICITED INFORMATION
8. PERMISSIBLE USES OF INFORMATION
9. CONFIDENTIALITY
10. RIGHTS OF REQUESTED AUTHORITY
11. CONSULTATION
12. COSTS OF INVESTIGATION
13. TERMINATION OF MEMORANDUM OF UNDERSTANDING
14. EFFECTIVE DATE

**WHEREAS:**

- A.** The Cayman Islands Monetary Authority (hereinafter the “Authority”) and the \_\_\_\_\_ (hereinafter “ ”) and together hereinafter referred to as “the Authorities” recognise the need for mutual cooperation between the Authorities in the carrying out of their regulatory and supervisory functions under the relevant laws, regulations and rules in their respective countries.
- B.** The Authorities further acknowledge the importance of compliance with relevant international standards established by international standard setting bodies such as the Basel Committee on Banking Supervision, The International Association of Insurance Supervisors (IAIS), the International Organisation of Securities Commissions (IOSCO) and the Financial Action Task Force (FATF).
- C.** The arrangements outlined below are intended to enhance the existing working relationship between the Authorities.

**1 DEFINITIONS**

**“Requesting Authority”** means the Overseas Regulatory Authority, within the terms of s. 2 of the Monetary Authority Law (2013Revision), making a request under this Memorandum of Understanding.

**“Requested Authority”** means the Authority to whom a request is made pursuant to paragraph 6 of this Memorandum of Understanding;

**“Person”** means a natural person, body corporate, partnership, or unincorporated association, government or political subdivision, agency or instrumentality of a government;

**“Financial Institutions”** mean the institutions and persons regulated and supervised by either of the Authorities, and

**“Jurisdiction”** means the country, state or other territory, as the case may be, in which either of the Authorities has legal authority, power and/or jurisdiction by law.

**“Memorandum of Understanding”** means the arrangements for both mutual co-operation and exchange of information between regulatory bodies.

**“Registered Person”** means any person carrying on banking or other financial business activities requiring registration by either of the Authorities in order to carry out those functions, who may or may not be subject to individual registration but who is subject to the operative legislation within the jurisdiction.

**2 INTENTION**

- 2.1 This Memorandum of Understanding sets forth a statement of intent of the Authorities to establish a framework for mutual assistance and to facilitate the

exchange of information between the Authorities to enforce or secure compliance with any laws, regulations or rules relating to the functions and duties of the Authorities in their respective jurisdictions.

- 2.2 The Authorities intend to provide one another with assistance under this Memorandum of Understanding to the full extent permitted by the laws, regulations and rules of their respective jurisdictions.
- 2.3 This Memorandum of Understanding will serve to promote the integrity, efficiency and financial soundness of financial institutions by improving the effective regulation, enhancing the supervision of cross-border transactions, and preventing fraudulent and other prohibited practices in [ ] and the Cayman Islands.
- 2.4 This Memorandum of Understanding does not create any binding legal obligations upon the Authorities.
- 2.5 The Authorities intend, where legal authorisation is lacking, to actively pursue all avenues towards obtaining, by law, all the necessary powers for the effective achievement of the objectives of the Memorandum of Understanding, and to keep each other informed of developments in connection therewith.
- 2.6 The provisions of this Memorandum of Understanding do not lead to the right of any person, directly or indirectly, to obtain, suppress or exclude any information or to challenge the execution of a request for assistance under this Memorandum of Understanding
- 2.7 The Authorities will use reasonable effort to provide each other, as permitted by the laws of their respective jurisdictions, with any information that they discover which leads to a suspicion of a breach or anticipated breach of rules or laws in the jurisdictions of the Authorities.

### **3. SCOPE**

- 3.1 Through the machinery set up by this Memorandum of Understanding, the Authorities agree to promote mutual assistance and exchange of information to enable the Authorities to perform their respective duties and functions effectively according to the laws, regulations and rules of their respective jurisdictions.
- 3.2 In terms of this general theme, the scope of this Memorandum of Understanding includes the following:
  - (a) Assisting in the discovery of and taking of action against unlawful activities and practices contrary to international standards subscribed to by the Authorities in relation to activities they regulate.
  - (b) Enforcement of the laws, regulations and rules relating to banking or other financial activities subject to regulation by the Authorities in their respective jurisdictions.

- (c) Regulation and supervision of banks, financial institutions, collective investment schemes and clearing and settlement activities;
- (d) Promoting and securing the fit and proper qualities of registered persons and the promotion of high standards of fair dealing and integrity of their conduct of business; and
- (e) Assisting in the carrying out of responsibilities for the prevention of and enquiries relating to money laundering under the laws of their respective jurisdictions including the proper implementation of anti-money laundering procedures by financial institutions.
- (f) Any matters agreed upon between the Authorities from time to time.

#### **4. UNDERTAKING OF INSPECTION VISITS**

- 4.1 The Requesting Authority may undertake or accompany inspection visits on Financial Institutions having business operations in or from the jurisdiction of the Requested Authority. Inspection visits will take place in accordance with the Requested jurisdiction.
- 4.2 All members of the inspection team will be required to give an undertaking of confidentiality prior to the commencement of any on-site inspection.
- 4.3 In the course of carrying out an inspection, an inspection team as referred to in 4.1 and 4.2 shall normally include a member of the Requested Authority's staff.

#### **5. REQUESTS FOR ASSISTANCE OR INFORMATION**

- 5.1 This Memorandum of Understanding does not affect the ability of the Authorities to obtain information from persons on a voluntary basis, provided that the existing Authorities observe procedures in the jurisdiction of each Authority for the obtaining of such information.
- 5.2 To facilitate communication and ensure continuity in the co-operation between the Authorities, each Authority designates the contact persons for communications under this Memorandum of Understanding.
- 5.3 A Requesting Authority will make requests for assistance in writing addressed to the contact officer of the Requested Authority.
- 5.4 The request will include -
  - (a) A description of both the subject matter of the request and the purpose for which the Requesting Authority seeks the assistance or information;
  - (b) A description of the assistance, documents or information sought by the Requesting Authority;

- (c) Any information in the possession of the Requesting Authority that might assist the Requested Authority in identifying the persons, bodies or entities believed by the Requesting Authority to possess the information sought, or the places where the Requested Authority may obtain such information;
- (d) The legal provisions concerning the matter that is the subject matter of the request and the relevance of the requested information to the specified laws or regulatory requirements;
- (e) Whether any other authorities, governmental or non-governmental, are co-operating with the Requesting Authority or seeking information from the confidential files of the Requesting Authority and to whom onward disclosure of information is likely to be necessary; and the desired period of time for the reply; and
- (f) In urgent circumstances, the Requested Authority will accept a request for assistance and will expedite to the extent possible a reply thereto by summary procedures or by means of communication other than the exchange of letters. Such urgent communications must be confirmed in writing as prescribed above by the contact person set out in Appendix A within five business days.

## **6. EXECUTION OF REQUESTS**

- 6.1 Where the Requested Authority is satisfied in accordance with this Memorandum of Understanding and the laws governing the Requesting Authority that the assistance should be given, the Requested Authority will;
- (a) Provide information held in the files of the Requesting Authority;
  - (b) Obtain information, including statements and testimony, and gather documents in accordance with the laws and procedures in the jurisdiction of the Requested Authority.

Notwithstanding any other provision of this Memorandum of Understanding any person providing information or documents as a result of a request made under this Memorandum of Understanding will be entitled to all applicable rights and privileges of the laws in the jurisdiction of the Requested Authority. Assertions regarding rights and privileges arising exclusively under the laws applicable in the jurisdiction of the Requesting Authority will be preserved for consideration by Courts in that jurisdiction.

- 6.2 Each request will be assessed on a case-by-case basis by the Requested Authority to determine whether information can be provided under the terms of this Memorandum of Understanding.

## **7. UNSOLICITED INFORMATION**

Where one Authority has information that will assist the other Authority in the performance of its regulatory functions, the former may provide such information, or arrange for such information to be provided spontaneously, to



the extent permitted by the laws of its respective jurisdiction even though the other Authority has made no request. The terms and conditions of this Memorandum of Understanding will apply if the providing Authority specifies that it is passing the information under this Memorandum of Understanding.

## **8. PERMISSIBLE USES OF INFORMATION**

- 8.1 Any assistance or information provided under the terms of this Memorandum of Understanding shall be used by the recipient only for the purpose of enabling the Requested Authority to exercise regulatory functions, including the conduct of civil or administrative investigations and proceedings to enforce the laws, regulations or rules of the Requested Authority as specified in the request.
- 8.2 The Requesting Authority may not use information furnished for any purpose other than that identified in terms of paragraph 5.4(a) without the consent of the Requested Authority.
- 8.3 If the Requesting Authority wants to use the information obtained for any purpose other than that stated in terms of paragraph 5.4(a) the Requesting Authority must notify the Requested Authority of its intention and provide the Requested Authority with an opportunity to consent to, or oppose such use.
- 8.4 Where the Requesting Authority believes that sharing confidential information with a third party is necessary, it must inform the Requested Authority of the third parties interest in this information and it must provide the Requested Authority with the opportunity to consent to, or oppose such use.
- 8.5 The Requesting Authority may consult with the Requested Authority concerning the reasons for the objection if the Requested Authority opposes such use.

## **9. CONFIDENTIALITY**

- 9.1 The Authorities will, to the full extent permitted by the laws, regulations and rules of their respective jurisdictions, keep confidential:-
- (a) Any request for assistance or information pursuant to this Memorandum of Understanding;
  - (b) Any information received or provided pursuant to this Memorandum of Understanding; and
  - (c) Any matter arising during the operation of this Memorandum of Understanding, including consultations and unsolicited assistance.
- 9.2 The Requesting Authority shall not disclose the assistance or information obtained pursuant to this Memorandum of Understanding to third parties without the prior consent of the Requested Authority.

- 9.3 Notwithstanding the provisions of paragraphs 9.1 and 9.2, the confidentiality provisions of this Memorandum of Understanding shall not prevent the Authorities from informing the law enforcement or regulatory bodies in its jurisdiction of the request or from passing information received pursuant to a request provided that:
- (a) Such agencies or bodies have responsibility for prosecuting, regulating or enforcing rules or laws falling within the scope of this Memorandum of Understanding; or
  - (b) The purpose of passing on such information to such an agency or body falls within the scope of this Memorandum of Understanding; and
  - (c) An undertaking has been obtained from the recipient by the Requested Authority that it will maintain the confidentiality of the information.
- 9.4 The Authorities confidential treatment of assistance and information will continue when either Authority gives notice of its intent to cease co-operation under this Memorandum of Understanding. The Authorities understand that the laws, regulations and rules of their respective jurisdictions place limitations on use and disclosure of non-public information obtained pursuant to this Memorandum of Understanding.

## **10. RIGHTS OF REQUESTED AUTHORITY**

- 10.1 The Requested Authority may deny requests for assistance under the Memorandum of Understanding -
- (a) Where the request would require the Requested Authority to act in a way that would violate the laws of the jurisdiction of the Requested Authority;
  - (b) Where the request is not in accordance with the provisions of this Memorandum of Understanding;
  - (c) Where corresponding assistance would not be given in the country of or territory of the Requesting Authority;
  - (d) Where the request involves a breach of law or other requirement which has no close parallel in the country or territory of the Requested Authority or involve the assertion of a jurisdiction not recognised in the country or territory of the Requested Authority; or
  - (e) On the grounds of public interest.
- 10.2 Where the Requested Authority denies a request for assistance, or where assistance is not available under the law of the jurisdiction of the Requested Authority, the Requested Authority will provide the reasons why it is not granting the assistance. The Authorities will then consult pursuant to Clause 11.

- 10.3 The Authorities recognise that they intend nothing in the Memorandum of Understanding to either limit or enhance the powers of the Authorities under the laws of their respective jurisdictions to investigate or gather information or to take measures otherwise than as provided in the Memorandum of Understanding to obtain information, whether or not concerning a request under the Memorandum of Understanding.

## **11. CONSULTATION**

- 11.1 The Authorities will consult with each other to improve the operation of the Memorandum of Understanding and resolving any matters that may arise including but not limited to -
- (a) Matters of mutual interest to enhance co-operation and to protect investors by ensuring the stability, efficiency, and integrity of the financial services industry in their respective jurisdictions,
  - (b) The co-ordination of the supervision of financial institutions; and
  - (c) The administration of the laws, regulations and rules of their respective jurisdictions.

The purpose of such consultations is to assist in the development of mutually agreeable approaches for strengthening the financial services industries of their respective jurisdictions whilst avoiding, whenever possible, conflicts that may arise from the application of differing regulatory practices.

- 11.2 The Authorities will consider the need for additional measures for the exchange of investigation, enforcement, supervisory and surveillance information in the administration and enforcement of the laws, regulations and rules concerning financial institutions in their respective jurisdictions, on an ongoing basis. To this end, the Authorities will inform one another of the adoption of domestic measures that may affect their respective authority to provide assistance under this Memorandum of Understanding.
- 11.3 The Authorities may take practical measures as may be necessary to facilitate the implementation of the Memorandum of Understanding. As such, the Authorities may amend, relax or waive any of the terms of the Memorandum of Understanding.

## **12. COSTS OF INVESTIGATION**

If it appears that the Requested Authority will incur substantial costs in responding to a request for assistance under this Memorandum of Understanding, the Requested Authority may, as a condition to executing the requests, require the Requesting Authority to contribute to its cost in an amount agreed upon by the Authorities.

**13. TERMINATION OF THE MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding will continue in effect until the expiration of 30 days after either Authority gives written notice to the other Authority of its intention to terminate the Memorandum of Understanding. If either Authority gives such notice, this Memorandum of Understanding will continue to have effect with respect to all requests for assistance that the Authorities made before the effective date of notification until the Requesting Authority terminates the matter for which it requested assistance.

**14. EFFECTIVE DATE**

This Memorandum of Understanding will be effective from the date of its signing by the Authorities.

SIGNED at this day of 20XX

***FOR AND ON BEHALF OF  
THE CAYMAN ISLANDS MONETARY AUTHORITY***

.....

***FOR [ ]***

.....

## **THE SUPERVISORY APPROACH - LICENSING PROCESS**

### **E1 – Procedures for Dealing with Licensing & Supervisory Matters**

#### **1. Introduction**

As a result of operational independence of the Cayman Islands Monetary Authority (“CIMA”) decision-making is vested in the Board of Directors of the CIMA.

Government sets licensing fees and CIMA is the conduit through which licensing fees are collected and paid to Government.

#### **2. Responsibilities**

CIMA has two committees mandated to handle licensing and supervisory functions. An Executive Committee of the Board (“Executive Committee”), comprised of locally based directors and a Management Committee (“MC”) comprised of select members of CIMA’s senior management.

##### **Executive Committee**

With the exception of any matters on which the MLRO is obliged to report pursuant to the Money Laundering Regulations, the Executive Committee has responsibility for **all** enforcement decisions, and new licence applications under the Securities Investment Business Law (2015Revision), where that institutions does not already hold a licence from the Authority.

##### **Management Committee**

The MC has responsibility for licensing and supervisory matters as detailed in Appendix E2.

Licensing is the primary function of the MC. In addition the MC is responsible for consideration and initiation of enforcement actions, and any other matters that the Board may decide to delegate to it from time to time.

The MC may review a paper and decide that the scope of the matter is beyond the authority of the MC, and/or it may also prefer to seek the advice of the Executive Committee on specific matters. In such instances the paper is submitted onwards to the Executive Committee, together with all relevant information, including the MC’s recommendations.

#### **3. Composition & Quorum**

##### **Executive Committee of the Board**

The Executive Committee is comprised of six locally based CIMA directors, including the Chairman and Deputy Chairman of the Board of Directors. A quorum of three local directors is required in order for a meeting to be properly constituted. A decision is made by majority vote of those present.

##### **Management Committee**

In pursuit of its functions, the Board may delegate to a sub-committee or the Management Committee (MC) such licensing, supervisory and other powers and duties that the Board sees fit. A decision of the MC shall be deemed to be a decision of the Board, as the powers of the amended Law are vested with the Board.

The MC is comprised of the Managing Director as Chairperson, the Deputy Managing Director, the Legal Counsel and the Heads of the supervisory divisions or such person as may be designated by the Head to act in his or her absence. There are currently four regulatory Heads on the MC, representing the Insurance Supervision Division, Banking Supervision Division, Fiduciary Services Supervision Division, and the Investments and Securities Supervision Division. In addition, the Managing Director may, with the approval of the Board, designate such other senior officer of the Authority to sit on the Management Committee. A quorum of at least two of the Heads of the supervisory divisions must be present in addition to the Chairperson in order for a meeting to be properly constituted. The Chairperson's alternate may be any one of the Deputy Managing Director, the General Counsel, or the Head of a regulatory division not already included in the quorum, or in their absence, such other member of the MC as designated by the Managing Director. A decision is made by majority vote of those present.

#### **4. Conduct and Conflicts of Interest**

##### **Executive Committee of the Board**

Members of the Board are required to adhere to a strict Code of Conduct, Conflicts of Interest Code, and to the provisions of the Monetary Authority Law and to declare any conflicts of interest, including making an annual declaration of any conflicts of interest. (Appendices C2 and C3)

##### **Management Committee**

Members of the MC are required to adhere to a strict Code of Conduct and are required to declare any conflicts of interest. (Appendix C4).

#### **5. Meetings**

##### **Executive Committee of the Board**

The Executive Committee meets on Tuesday mornings as and when necessary, and all papers, including key background documents and file folders, must be submitted to the Executive Assistant to the Managing Director by 4:00pm on the preceding Tuesday for inclusion on the Agenda. In exceptional circumstances, papers received later than the preceding Tuesday may be brought before the Executive Committee for consideration, but the Chairperson must approve inclusion of a late paper. At each Executive Committee meeting, minutes are recorded, confirmed and retained.

The agenda and the supporting materials must be circulated to the local directors present in the Island no later than the preceding Friday. The agenda and supporting papers must be circulated by secured email to the foreign directors. Minutes of the meetings must be circulated to all directors by email within 3 working days of the meeting.

##### **Management Committee**

The MC meets weekly on a Tuesday morning, and all papers, including key background documents and file folders must be submitted to the Executive Assistant to the Managing Director by 4:00pm on the preceding Wednesday for inclusion on the agenda. In exceptional circumstances, papers received later than the preceding Wednesday may be brought before the MC for consideration, but the Chairperson must approve inclusion of a late paper. At each MC meeting, minutes are recorded, confirmed and retained by the Executive Assistant to the Managing Director.

## **6. Preparation of Papers for Approval**

### **Management Committee**

All papers (see samples Appendix C5 & C6) must be approved by the relevant Head of Division or in his/her absence the Deputy Head before submission to the MC for pre-approval/approval as appropriate. All papers must initially be emailed to the Executive Assistant to the Managing Director who will insert reference number details. The Executive Assistant to the Managing Director posts referenced papers electronically to the 'MO Submissions' folder on the internal computer network, in order that members of the MC may consider the paper in advance of the weekly meeting. At the time of posting the paper electronically, the file containing all pertinent information about the licensee with a signed copy of the submission must be forwarded to the Executive Assistant to the Managing Director, in order that all documentation may be available during the MC meeting as may be required.

### **Executive Committee of the Board**

Prior to a paper going forward to the Executive Committee it is subject to the procedure outlined above for MC pre-approval. The paper must be prepared in the format as outlined in Appendix C6. Once the MC approves a paper for onward submission to the Board the relevant Head informs his/her division and 9 copies (1 copy must be signed and retained by the Executive Secretary for his/her files) of the paper (on green copy paper) together with all pertinent files and documentation, are delivered to the Executive Secretary to the Board for addition to the Executive Committee's weekly agenda.

### **Cabinet**

Some functions of the CIMA remain the responsibility of Cabinet e.g. the issue of directives or regulations under the MAL. Prior to a paper going forward to Cabinet, it will have gone through the procedures outlined above for MC pre-approval and Executive Committee approval. Once approved by the Executive Committee the Executive Secretary forwards the paper to Cabinet through the Financial Secretary for consideration.

## **7. Records & Extracts**

A log of every paper received for consideration by the MC or the Executive Committee is retained in the Managing Director's office. Each paper is recorded and allocated a meeting number and an item number. Extracts (see sample Appendices C7a & C7b) is produced on yellow copy paper for all licensing/supervisory decisions taken by the MC or the Executive Committee. A copy of each extract is forwarded to the Head of

division from which the paper emanated. A master file containing all extracts is held in the Managing Director's office.

## **8. Licence Issuance, Communication & Gazetting**

If the MC or Executive Committee approves a paper, CIMA takes the appropriate action and communicates the decision to the relevant parties in a timely manner. Once the extract of a decision taken by the MC or Executive Committee has been completed/issued, the Executive Secretary to the Board acts in accordance with the decision. The MD is empowered to issue all licenses approved by the MC and the Executive Committee. If a licence is to be issued, the Head of the relevant regulatory division arranges for the licence to be prepared and submitted to the Managing Director's office for signature. Once licences or other associated paperwork are signed, they are returned to the Executive Secretary, in order that the necessary documentation may be despatched to the applicant and copied to the division.

The Head of the Investment & Securities Division is empowered to sign certificates for all registered funds approved by the Division.

Each division must ensure that those matters, which require gazetting or publication on CIMA's website, are forwarded to the Executive Secretary for publication in a timely manner.

## **9. Reporting**

The Managing Director provides quarterly reports to the Financial Secretary covering the following areas.

- Board Meetings convened
- General Policy Issues
- Overview of the Regulatory Divisions, detailing any trends and initiatives happening in the domestics and international markets
- International Initiatives
- Summary of Number of Licences (using comparatives)
- Comparison of Budgeted Revenue and Actual Revenue collected to date



**E2 – Time Lines**

<b>BANKING SUPERVISION TIMELINES</b>		
<b>Type of Approval</b>	<b>Responsibility</b>	<b>Time Frame</b>
Director/Senior Officer Approval	Division	3-6 weeks
New Licence Applications (Category “A” Licensees)	MC	6-8 weeks
New Licence Applications (Category “B” Licensees)	MC	6-8 weeks
New Licence Applications (Money Services Business)	MC	4-6 weeks
Amendments to ownership structure (no change in beneficial ownership)	Division	3 weeks
Approval for change in ultimate beneficial ownership (controlling interest)	MC	4-6 weeks
Approval for Issue, Transfer, Disposal of shares (no change in control)	Division	2 weeks
Approval for Surrender of Licence	Division	3 weeks
Approval for Change of Name	Division	2 weeks
Approval for change of financial year end	Division	1 week
Approval to open a subsidiary, branch, agency or representative office (for licensed activities only)	Division	4 weeks
Approval of Change of Auditors (Banks & Trust Companies Law)	Division	1 week
Extension of Filing of Regulatory Reports (e.g. QPR Form, Financial Statements)	Division	1 week
Amendments to the Business Plan	Division	3 weeks
Approval for use of the word "Bank" and its derivatives	Division	2 weeks
Approval for Change of Principal Office &/or Authorised Agent (Banks & Trust Companies Law)	Division	1 week
Make Regulations (S.27 of BTCL)	Cabinet	

<b>FIDUCIARY SERVICES TIMELINES</b>		
<b>Type of Approval</b>	<b>Responsibility</b>	<b>Time Frame</b>
Director/Senior Officer Approval	Division	3-6 weeks
New Licence Application - Unrestricted Trust	MC	6-8 weeks
New Licence Application - Company Management Licence	MC	6-8 weeks
New Licence Application – Corporate Licence	MC	6-8 weeks
New Licence Application - Restricted Trust Licence	MC	6-8 weeks
New Licence Application - Nominee Licence	MC	6-8 weeks
Amendments to ownership structure (no change in beneficial ownership)	Division	3 weeks
Approval for change in ultimate beneficial ownership (controlling interest)	MC	4-6 weeks
Approval for Issue, Transfer, Disposal of shares- (no change in control)	Division	2 weeks
Approval for Surrender of Licence	Division	4 weeks
Approval for Change of Name	Division	2 weeks
Approval for change of financial year end	Division	1 week
Approval of Change of Auditors (Companies Management Law)	Division	1 week
Extension of Filing of Regulatory Reports (e.g. Biannual Form, Financial Statements)	Division	1 week
Approval of "authorised insurer" (Companies Management Law)	Division	1 week
Approval of "authorised/recognised custodian"	Division	4 weeks
Amendments to the Business Plan	Division	3 weeks
Approval for use of word "Trust"	Division	2 weeks
Approval for Change of Principal Office & Authorised Agent (Banks & Trust Law)	Division	1 week
Approval of Agent Pursuant to the Banks & Trust Companies Law	Division	1 week
Approval of a branch, subsidiary, agency or representative office	Division	4 weeks
Registration of Controlled Subsidiaries or Private Trust Companies	Division	1 week
Cancellation of Registration of Controlled Subsidiaries or Private Trust Companies	Division	1 week
Make Regulations (S.27 of BTCL)	Cabinet	

<b>INSURANCE SUPERVISION TIMELINES</b>		
<b>Type of Approval</b>	<b>Responsibility</b>	<b>Time Frame</b>
Director/Senior Officer Approval	Division	3-6 weeks
New Licence Application - Class A	MC	6-8 weeks
New Licence Application - Class B (sub-categories B(i) and B(ii))	MC	5-6 weeks
New Licence Application - Class B (sub-categories B(iii) and B(iv))	MC	6-8 weeks
New Licence Application - Class C	MC	5-6 weeks
New Licence Application - Class D	MC	6-8 weeks
New Licence Application - Insurance Manager	MC	5 weeks
New Licence Application - Agent	MC	4 weeks
New Licence Application - Broker	MC	5 weeks
Approval for registration of a Portfolio Insurance Company	Division	5-6 Weeks
Approval to add a Segregated Portfolio to an SPC	Division	5-6 Weeks
Approval for Issue, Transfer, Disposal of shares (no change in control)	Division	2 weeks
Amendments to ownership structure (no change in beneficial ownership)	Division	3 weeks
Approval for change in ultimate beneficial ownership (controlling interest)	MC	4-6 weeks
Approval to accept remedial action plan presented by licensees when capital falls below PCR	Division	4-5 weeks
Approval for Surrender of Licence	Division	3 weeks
Approval for Change of Name	Division	2 weeks
Approval for change of financial year end	Division	1 week
Approval to open a subsidiary, branch, agency or representative office (for licensed activities only) – Class A	Division	4 weeks
Approval of Change of Auditors (Insurance Law)	Division	1 week
Approval for use of word ‘Insurance’	Division	2 weeks
Extension of Filing of Regulatory Reports	Division	1 week
Amendments to the Business Plan	Division	3 weeks
Make Regulations (S.23)	Cabinet	

<b>INVESTMENT AND SECURITIES DIVISION TIMELINES</b>		
<b>Type of Approval</b>	<b>Responsibility</b>	<b>Timeframe</b>
New Application – Securities Investment Business Licence (SIBL) (Note 1)	MC	6-8 weeks
New Application – Japanese Regulations	Division	6-8weeks
Excluded Person Declaration – Securities Investment Business law	Division	1 week
Director/Senior Officer Approval (MFA, SIBL & Sec. 5 Funds)	Division	3-6 weeks
New Mutual Fund Administrators Licence Application	MC	6-8 weeks
New Auditors Application-	MC	4-6 weeks
New Mutual Fund Registration (Sec. 4(3) & 4(1)(b))	Division	1 week
New Mutual Fund Licence Application (Sec. 5)	Division	4 weeks
New Restricted Mutual Fund Administrators Licence Application	MC	6- 8 weeks
Approval for change in ultimate beneficial ownership (controlling interest)	MC	6-8 weeks
Issue, transfer, disposal, dealing in shares (MFA & Sec. 5 Funds) including approval of new shareholders (no change in control)	Division	2 weeks
Approval for Revocation of MFA Licence on voluntary surrender by licensee (MFL 30 (12))	Division	4-6 weeks
Approval for Revocation of SIB Licence on voluntary surrender by licensee (SIBL 17 (7))	MC	4-6 weeks
Voluntary Surrender of Registration and Deregistration of Mutual Fund (Sec. 4(3), 4(1)(b) & 5)	Division	2 weeks
Extension to Filing of Regulatory Reports (RF-1, Financials)	Division	1 week
Approval for Change of Name - Fund	Division	1 week
Issuance of new certificate for Change of Name - MFA	Division	2 weeks
Amendments to the Business Plan	Division	3 weeks
Approval for change of financial year end	Division	1 week
Approval of Change of Auditors	Division	1 week
Cancellation of Registration/License of Mutual Fund (failing to comply with MFL sec.8 and/or 9) (Note 2)	MC	
Make Regulations (s.39 MFL and s.11 SIBL)	Cabinet	

**Note 1:** Effective 06 November 2013, the Board of Directors of the Authority hereby delegates to the Management Committee the authority to make decisions with respect to applications for licensing of all institutions under the Securities Investment Business Law. The Board of Directors of the Authority ratified the Management Committee's decisions with respect to all prior SIBL licence applications in cases where the applicant was not a previous holder of a licence from the Authority.

**Note 2:** The task is performed by the Compliance Division.

# THE SUPERVISORY APPROACH – OTHER PROCESSES

## F1 – Sample Letter of Good Standing

Mr. XXXXX  
Manager - Credit Department  
YYYYYYYYYYYYYYYY  
P.O. Box GT  
Grand Cayman.

Dear \_\_\_\_\_,

YYY Company

The YYY is the holder of a <enter type> Licence effective <enter date of licence commencement> and issued under the <state law licence issued under> pertaining at that time.

At the date of writing, the Company is up-to-date with its filings to the Cayman Islands Monetary Authority.

Yours faithfully,

XX  
Head of XX Division

Note: For consistency purposes, when issuing Letter of Good Standing for **banking** licensees, the letter should reference the appropriate law in accordance with the following:-

1. Licences issued prior to 1989:  
“... issued (date) under The Banks and Trust Companies Regulation Law (Revised)”.
2. Licences issued between 1989 and 1995:  
“...issued (date) under The Banks and Trust Companies Law, 1989”.
3. Licences issued between 1995 and 2000:  
“...issued (date) under The Banks and Trust Companies Law, (1995 Revision)”.
4. Licences issued between 2000 and 2001:  
“...issued (date) under The Banks and Trust Companies Law (2000 Second Revision)”.
5. Licences issued after 2001 and 17<sup>th</sup> March 2003:  
“...issued (date) under The Banks and Trust Companies Law (2001 Revision)”.
6. Licences issued after 17<sup>th</sup> March 2003:  
“...issued (date) under The Banks and Trust Companies Law (2003 Revision)”.

## **F2 – Procedure for the Granting of Extensions for the Filing of Supervisory Reports**

### **Granting an Extension**

The Authority may grant extensions to licensees for the filing of supervisory reports, which include quarterly un-audited forms, reports, schedules, the annually audited financial statements, and the annual report of the Parent/Group where applicable.

### **Deadline for filings**

The quarterly un-audited Forms and Schedules are required by the Authority to be filed within 21 days following the quarter end.

The audited financial statements are required by the Authority to be filed within three months following the financial year- end.

### **Inability to meet deadline**

In the event that a licensee is unable to meet the deadline for filing their reports they may request an extension from the Authority for filing the reports.

### **Considerations for granting an initial extension**

For banking licensees the Authority will grant an extension where there are no supervisory concerns with the licensee. The Authority will grant a two-week extension for the filing of the quarterly un-audited Forms and Schedules, and a one-month extension for the filing of the annually audited financial statements and/or annual report of the group.

For Mutual Funds and Mutual Fund Administrators, the Authority will only grant an extension of one-month to the submission deadline for the filing of the of audited accounts if the fund is up to date with the payment of fees and the submission of the previous year(s) financial statements.

### **Considerations for granting an additional extension**

Further extensions requests for the filing of quarterly un-audited Forms and Schedules must be provided to the Authority in writing with an explanation acceptable for the extensive delay prior to the Authority granting any further extension.

Further extensions requests for the filing of annually audited financial statements/annual report must be provided to the Authority in writing with an acceptable explanation for the delay, along with confirmation that a draft copy of the financial statements will be submitted to the Authority as soon as possible.

### **Log the Extension in MARS**

Once an extension has been granted to a licensee for filing either its quarterly un-audited Forms/Schedules or its annually audited financial statements the extension period must be logged MARS System. This prevents an overdue notice being generated during the extension period.

**Issue the approval letter and place a copy of the correspondence on the licensee’s file**

For Mutual Funds the initial letter must state that further extension will require a letter from the fund’s auditors explaining the reason(s) for the delay.

**LIST OF EQUIVALENT JURISDICTIONS****G1 – List of Countries and Territories Deemed to have Equivalent Legislation**

The List of Countries and Territories Deemed to have Equivalent Legislation are those considered to have a money laundering legislation that is equal to or more rigorous than the money laundering regulations of the Cayman Islands and consequently provides a level of comfort to licensees and persons/entities conducting relevant financial business with persons and entities based in these countries/territories.

The list will be maintained by the Anti-Money Laundering Steering Group through consultation with the Authority. Furthermore, the list will be published on the Authority’s website, on any other government website determined by the AMLSG and in the Gazette.