

AML/CFT Inherent Risks – AIR-157-01: frequently asked questions

(a) Which entities should be completing the AML/CFT Inherent Risks – AIR-157-01 form?

Response – *ALL Category A and ALL Category B Bank Licence holders and ALL Money Services Providers are required to complete the form.*

(b) How do I complete the form and where can I find the guidance notes for completing the form?

Response – *The form is available on the Regulatory Enhanced Electronic Forms Submission (“REEFS”) platform. The guidance notes for the completion of the forms can be found on the following link <https://www.cima.ky/reefs-forms-guidance-notes>.*

(c) What is the time span and the period for completion of the forms? What is the deadline for reporting? Will there be any extensions granted?

Response – *The data should be submitted for the year 1 July 2018 to 30 June 2019. Firms should complete as at 30 June 2019 for active clients as at 30 June 2019. The deadline for reporting is 30 August 2019 and there will be no extensions granted.*

(d) Can a bank provide a data file to the Cayman Islands Monetary Authority “(the Authority) for subsequent population by the Authority into the templates? What is the frequency of submitting the report?

Response – *No, the bank needs to populate the template and submit through the REEFs platform. Currently the AML/CFT forms are one-time submissions, however, this could change if the Authority required additional updated information, however, the Licensees would be notified if this was the case.*

(e) On Tab A Client/Customers what is the differentiator between reporting lines “Other Banks – Unrelated” and “Financial Institutions”?

Response – *The “Other Banks – Unrelated” category should be used for clients that are banks and are not related to the Licensee. The “Financial Institutions” category should be used for clients that offer financial services (such as funds, fund of funds, insurance companies, securities brokers etc) but are not banks.*

(f) On Tab A Client/Customers - Special Purpose Vehicles is a very broad category, how do you define a special purpose vehicle?

Response – *“The Authority considers the legal definition of “Special purpose vehicle” and expects banks to have knowledge of their clients’ businesses. Therefore, assets and deposits held for client/customers formed for a specific purpose should be reported in A21.*

(g) Should the Value of Deposits/Assets Held by High Net Worth Individuals (“HNWI”) include real estate pledged as collateral?

Response – *Banks should include only the total value of assets and deposits under their custody and/or management in Section A33.*

- (g) For HNWI that are Politically Exposed Persons (“PEPs”), is the net worth threshold still CI\$800K as mentioned in A33 above for HNWI?

Response – *The net worth threshold for High Net Worth Individuals is CI\$800K .*

- (h) What are the defining criteria for Lending – Retail and Lending Non – Retail?

Response – *In the Authority’s “Rules, Conditions and Guidelines on Minimum Capital Requirements (Pillar 1) issued February 2010, retail exposures are defined as outlined in A.9 Claims Included in the Regulatory Retail Portfolios:*

Lending Retail

“Banks may apply a 75% risk weight to claims that qualify under the regulatory retail portfolio. To qualify under the regulatory retail portfolio the exposure must meet the following criteria:

- a) Orientation Criterion - The exposure is to an individual person or persons or to a small business;*
- b) Product Criterion - The exposure takes the form of any of the following:*
 - (i) Revolving credits and lines of credit (including credit cards and overdrafts);*
 - (ii) Personal term loans and leases (e.g. instalment loans, auto loans and leases, student and educational loans, personal finance;) and*
 - (iii) Small business facilities and commitments.*

The notations follow the methodology used by Standard & Poor’s and by Moody’s Investors Service. The A-1 rating of Standard & Poor’s includes both A-1+ and A-1-11. This category includes all non-prime and B or C ratings.

- c) Granularity Criterion - The Authority must be satisfied that the regulatory retail portfolio is sufficiently diversified to a degree that reduces the risks in the portfolio (i.e. aggregate exposure to one counterparty or a group of connected counterparties must not exceed 0.2% of the regulatory retail portfolio); and*

- d) Low value of individual exposures – “The maximum aggregated exposure to one counterparty or group of connected counterparties must not exceed an absolute threshold of €1 million or its US\$ equivalent converted at the appropriate spot rate. ”*

Lending non-retail:

This category should include all lending exposures (such as corporate and commercial lending) but excluding:

- government and PSE*
- group entity lending*
- retail*
- and trade finance jurisdiction supervisors may determine what constitutes a major stock index in their jurisdiction, which in some cases may permit inclusion of more than one index.*

- (i) For the purpose of question A3 and A4, if clients/customers are regulated funds, is each individual fund considered the Ultimate Beneficial Owner (“UBO”) or the bank must drill down to the UBOs of the individual funds?

Response – *The Banks are expected to drill down to the UBOs of each individual fund however, the information provided to should be limited to the definition of the UBO in accordance with section 2. (1)(a) – (c) of the Anti-Money Laundering Regulations (2018 Revision).*

- (j) When providing the details of the parent company (B01 – B07) do you consider the immediate controlling parent entity, or you drill down to the ultimate controlling parent entity?

Response – *The Authority is looking for the immediate controlling parent and ultimate parent entity. Subsidiaries and affiliates should be considered from a legal perspective.*

- (k) If you are in the process of de-registering and have not received a response from the authority, should you complete the form?

Response – *Banks are required to comply with all the necessary regulatory filings until confirmation of termination is received from the Authority.*

- (l) We do not conduct securities business and do not have securities clients in our Cayman Islands entity, do we have to file these reports?

Response – *Yes, if the Bank is registered as a securities investment business – excluded person with the Authority, it is required to file.*

- (m) Our entities have Banking and Excluded Person licenses; thus, we received the same AML forms from two different divisions (trust and banking). How should we proceed with filings, reporting 4 forms (2 per license) or consolidate answers in only 2 forms?

Response – *The Banks are expected to complete forms for the Banking and Excluded Person licences separately. Banks that hold SIBL licences are required to complete four (4) forms.*

- (n) What is the definition of the term “total value of assets” held, from the AIR-157-01 Inherent risk form? Does this mean deposits held at the Cayman entity, and should we also include the accrued interest on the deposit accounts?

Response – *Total value of assets refers to all client/customer assets under the Bank’s custody including but not limited to deposits and Assets under Management. The Bank should include both the principle and accrued interest relating to those assets.*

The total value of assets and deposits classified under section A33, A34 and A35 should agree to the total assets reported under A05 – A32 for these clients.