



# **REGULATORY HANDBOOK**

**Volume 1**

**OCTOBER 2024**

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# Glossary of Acronyms

## In this Regulatory Handbook -

“AML” means Anti-Money Laundering

“AMLCO” means Anti-Money Laundering Compliance Officer

“AMLR” means Anti-Money Laundering Regulations (2018 Revision)

“ASBA” means Association of Supervisors of Banks of the Americas

“AMLSG” means Anti-Money Laundering Steering Group

“Authority” means the Cayman Islands Monetary Authority

“Board” means the Board of Directors

“BCBS” means Basel Committee on Banking Supervision

“BCP” Basel Core Principles

“BOTs” means British Overseas Territories

“BTCA” means Banks and Trust Companies Act

“CAIR” means Caribbean Association of Insurance Regulators

“CARTAC” means Caribbean Regional Technical Assistance Centre

“CIG” means Cayman Islands Government (the “Government”)

“CILPA” means Cayman Islands Legal Professionals Association

“CIMA” means Cayman Islands Monetary Authority (the “Authority”)

“CFT” means Countering the Financing of Terrorism<sup>1</sup>

“CFATF” means Caribbean Financial Action Task Force

“CGBS” means Caribbean Group of Banking Supervisors

“CPF” means Countering Proliferation Financing

“DMLRO” means Deputy Money Laundering Reporting Officer

“DNFBPs” means Designated Non-Financial Business and Professions

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<sup>1</sup> Also used for Combating the Financing of Terrorism.

## Glossary of Acronyms

“EU” means European Union

“FATF” means Financial Action Task Force

“FRA” means the Financial Reporting Authority

“FSP” means Financial Services Provider

“FSB” Financial Stability Board

“FSR” means Financial Stability Report

“GIFCS” means Group of International Financial Centre Supervisors

“GIICS” means Group of Collective Investment Scheme Supervisors

“GNs” means Guidance Notes on the Prevention and Detection of Money Laundering

“Handbook” means the Regulatory Handbook

“HOD” means Head of Division

“IAIS” means International Association of Insurance Supervisors

“ICPs” means Insurance Core Principles

“IFC” means International Financial Centre

“IFCCBS” means Irving Fisher Committee on Central Bank Statistics

“IMF” means International Monetary Fund

“IOSCO” means International Organisation of Securities Commissions

“KYC” means Know Your Customer

“MAA” means the Monetary Authority Act

“MC” means the Management Committee

“MFA” Mutual Funds Act

“MOFSC” means the Ministry of Financial Services and Commerce (“Ministry”)

“MLRO” means the Money Laundering Reporting Officer

“MOU” means Memoranda of Understanding

## Glossary of Acronyms

“NGFN” means Network for Greening the Financial System

“NRA” means National Risk Assessment

“OBE” means Officer of the Most Excellent Order of the British Empire

“OGCISS” means Offshore Group of Collective Investment Scheme Supervisors

“ORA” means Overseas Regulatory Authority

“PAA” means Public Authorities Act

“POCA” means Proceeds of Crime Act

“PMFA” means Public Management and Finance Act

“RBA” means Risk-Based Approach

“SAR” means Suspicious Activity Report

“SIBA” means Securities Investment Business Act

“SAGCs” means Statutory Authorities and Government Companies

“SOG” means Statement of Guidance

“SPLA” means Standards in Public Life Act

“TFS” means Targeted Financial Sanctions<sup>2</sup>

“VASP” means Virtual Asset Services Providers

“VASPA” means Virtual Services Providers Act

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<sup>2</sup> Related to terrorism and terrorist.

# 1. Introduction

## 1.1. Statutory Basis for Issuance

The Regulatory Handbook (the “Handbook”) is issued under section 48 of the Monetary Authority Act (the “MAA”) by the Board of Directors. The MAA also sets out the purpose of the Handbook and the procedures for making amendments to it to ensure that statutory obligations and commitments are followed within the guidelines and operations set forth.

## 1.2. Purpose of the Regulatory Handbook

The Handbook sets out the policies and procedures that are to be followed by the Authority in performing its principal functions. It emphasises the Authority’s commitment to transparency and accountability and the constant thrust to improve operations and provide regulated persons<sup>3</sup> with relevant information. All policies and procedures in the Handbook are consistent with any acts, regulations, or policy directions given or made thereunder.

Under section 48(2) of the MAA, the Handbook includes and is not limited to, policies and procedures for:

- Giving reasons for the Authority’s decisions;
- Giving warning notices to persons affected adversely by proposed actions of the Authority; and
- Receiving and dealing with complaints against the Authority’s actions and decisions

Accordingly, the Authority’s issuance of the Handbook comprises a three (3) volume publication as follows:

- Volume 1 – The Regulatory Handbook and its Appendices, *which should be read in conjunction with the following:*
- Volume 2 – The Enforcement Manual and its Related Procedures
- Volume 3 – The Complaints Policies

Given the dynamic nature of the financial services industry in the Cayman Islands, the Handbook will be subject to ongoing review and revision by the Authority to ensure that it effectively reflects any changes in its policies and procedures.

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<sup>3</sup> For the purpose of this Handbook, a **regulated person(s)** means any natural or legal person or arrangement that has been given authorisation by the Authority, as defined in this Handbook, and pursuant to the relevant acts and regulations.

The Handbook does not have the effect of creating any rule or statement of principle or guidance<sup>4</sup> which directly or indirectly presents a new obligation or requirement concerning the conduct of regulated persons or their officers or employees. As such, under section 48(4) of the MAA, the Authority has not consulted with the private sector associations (“PSAs”) and the Ministry responsible for Financial Services for the issuance of the Handbook.

Notwithstanding, regulated persons are encouraged to review the Handbook in conjunction with any relevant laws and, as applicable, any regulatory measures issued by the Authority from time to time in order to obtain a holistic appreciation of the relationship between their legal and regulatory obligations and the policies and procedures performed by the Authority.

The Handbook is binding on all the Board members, committees, officers, and staff of the Authority. The Board is responsible for ensuring adherence to the Handbook and keeping its contents under continuous review. In furtherance of this responsibility, the Authority will issue updates to the Handbook and its Appendices as required. Any amendments to the Handbook and its Appendices will be issued via the Gazette and published on the website.

Stakeholders are encouraged to make good use of the Handbook, seek clarity, and provide feedback to the Authority, where necessary.

### 1.3. Regulatory Philosophy

Per section 6(3)(c) of the MAA, the Authority’s philosophy is to fulfil its regulatory and supervisory mandates with national standards and principles, recognising the international character of globalised markets. This is necessary for the Authority to preserve the competitive position of the financial services sectors in the Islands. As such, the Authority adheres to the applied international standards promulgated by the following international standard setters summarised in the following table:

<b>International Standard Setters</b>	<b>Applied Standards and/or Principles</b>	<b>Website for Reference</b>
<b>Basel Committee on Banking Supervision (BCBS)</b>	Basel Core Principles (BCPs)	<a href="http://www.bis.org">www.bis.org</a>
<b>International Association of Insurance Supervisors (IAIS)</b>	Insurance Core Principles (ICPs)	<a href="http://www.iaisweb.org">www.iaisweb.org</a>
<b>Group of International Financial Centre Supervisors (GIFCS)</b>	Standard on the Regulation of Trust and Corporate Service Providers	<a href="http://www.gifcs.org">http://www.gifcs.org</a>
<b>International Organisation of Securities Commissions (IOSCO)</b>	Objectives and Principles of Securities Regulation	<a href="http://www.iosco.org">www.iosco.org</a>
<b>Financial Action Task Force (FATF)</b>	International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation	<a href="http://www.fatf-gafi.org">www.fatf-gafi.org</a>

<sup>4</sup> Issued separately by the Authority pursuant to section 34 of the MAA.

<sup>5</sup> Formerly known as, Offshore Group of Banking Supervisors (“OGBS”)

While holding itself to these standards, the Authority is currently a charter member of the IAIS and is a member of the IOSCO. In addition, the Authority is represented in various international bodies including the following:

- the Caribbean Financial Action Task Force (“CFATF”);
- the Working Group on Cross Border Banking,
- the Caribbean Group of Bank Supervisors (“CGBS”),
- the Caribbean Association of Insurance Supervisors (“CAIR”),
- the Association of Supervisors of Banks of the Americas (“ASBA”),
- the Group of International Insurance Centre Supervisors (“GIICS”),
- the Offshore Group of Collective Investment Schemes Supervisors (“OGCISS”),
- the Group of International Financial Centre Supervisors (“GIFCS”),
- the Irving Fisher Committee on Central Bank Statistics (“IFCCBS”), and
- the Network for Greening the Financial System (“NGFN”)

Collaboration with these bodies aims mainly to ensure that CIMA’s regimes over the regulated financial services sectors adopt international standards and best practices for robust and efficient regulation and oversight. In addition, these relationships help to ensure the jurisdiction remains abreast of the developments affecting offshore financial centres and plays an active role in international regulatory developments. Further, CIMA also seeks to contribute its expertise and share knowledge with these international bodies and other regulators.

Moreover, the Authority seeks to adopt best practices in its approach where there are no established international standards.

## 2. Overview of the Authority

### 2.1. The Evolution of the Authority

The Authority was established as a corporate body under the MAA in 1996 (officially enacted on 1 January 1997). The Authority was the product of a merger between the Financial Services Supervision Division, a government department responsible for financial regulation, and the Cayman Islands Currency Board (a statutory body exclusively responsible for currency matters). The Authority inherited the roles and responsibilities of its predecessors along with the objectives of enhancing the regulation of the financial services industry and promoting financial stability.

As a statutory body, the Authority is subject to the provisions of the Public Management and Finance Act ("PMFA"). This covers *inter alia* the Authority's expenditure budget for each financial year and the preparation, maintenance, auditing, and publication of the Authority's accounts. The Authority is required to put forward its budget proposal to the Cabinet, via the Ministry for approval by Parliament. The Authority can sue and be sued in its own right. Essentially, it is a separate legal entity from the Cayman Islands Government (the "CIG" or the "Government"), while being answerable to the Government in the conduct of its affairs.

For historical context, prior to being operationally independent, the primary responsibility of the Authority with respect to financial regulation was the supervision of regulated persons pursuant to the regulatory acts and the monitoring of compliance with the money laundering regulations. The Government had the ultimate decision-making power with respect to the issuance of licences and the exercise of disciplinary powers. On the currency side, the Authority was given responsibility for the issuance and redemption of the Cayman Islands' currency, and the management of the Currency Reserve on behalf of the Government.

In 2003, an amendment to the MAA was enacted to provide for an operationally independent Authority. The main impact of the revised legislation was in relation to the Authority's key functions of licensing, ongoing supervision, and enforcement. The Authority's Board of Directors became solely responsible for operational decision-making, including responsibility for the licensing and registration of regulated financial business in or from the Cayman Islands. The currency function remained unchanged under operational independence.

Today, the Authority is one of the Statutory Authorities and Government Companies ("SAGCs") which are semi-autonomous bodies with the CIG. CIMA is accountable to the Government and continues to collect licensing and other fees on behalf of the Government. The Authority holds and manages such fee income paid into the Government's executive bank account. At the time of writing, if there is any funding surplus, it is paid into the General Reserve, unless agreed otherwise by the Cabinet. For the benefit of all public stakeholders, the Authority is required to publish an Annual Report which comprehensively documents information about its operations, activities, and financial condition for the preceding year.

## 2.2. Highlights of the Regulated Financial Services Sector in the Cayman Islands

The Cayman Islands is recognised as an international financial centre, offering a wide range of sophisticated financial products and services. Regulated financial services sectors include:

- Banks and other deposit-taking institutions
- Non-banking financial intermediaries (for example, money service businesses)
- Insurance
- Investment funds (including mutual funds and private funds) and administrators
- Securities investment businesses
- Directors
- Trusts and corporate services
- Virtual asset service providers

Over the past 30 years, the Cayman Islands financial sector has matured and emerged as one of the most prominent international financial centres hosting over forty of the world's top banks. The Islands' insurance industry remains the world's leading domicile for healthcare captives and the second largest for captives, with over 500 companies. The jurisdiction is also number one in the overall world market for offshore hedge funds.

## 2.3. Principal Functions of the Authority

The principal functions of the Authority are set out under section 6(1) of the MAA, summarised as follows:

- **Monetary functions:** issue and redeem Cayman Islands currency and manage the currency reserve;
- **Regulatory functions:** supervise and regulate financial services industry, enforce anti-money laundering compliance, issue the regulatory handbook on policies and procedures, and issue rules and statements of principles and guidance;
- **Co-operative functions:** assist overseas regulatory authorities with consolidated supervision; and
- **Advisory functions:** provide advice to the Cayman Islands Government on monetary, regulatory and cooperative matters.

Section 6(2) of the MAA states that in performing its functions and managing its affairs, the Authority shall –

- a. act in the best economic interests of the Islands;
- b. promote and maintain a sound financial system in the Islands;
- c. use its resources in the most efficient and economical way;
- d. have regard to generally accepted principles of good corporate governance;

- e. comply with this and any other law including any regulations or directions made or given there under; and
- f. have such ancillary powers as may be required to fulfil the functions set out in paragraphs (a) to (e).

Furthermore, section 6(3) MAA states that:

"In performing its regulatory functions and its co-operative functions, the Authority shall, in addition to complying with the requirements of subsection (2) –

- a. endeavour to promote and enhance market confidence, consumer protection and the reputation of the Islands as a financial centre;
- b. endeavour to reduce the possibility of financial services business or relevant financial business being used for the purpose of money laundering or other crime;
- c. recognise the international character of financial services and markets and the necessity of maintaining the competitive position of the Islands, from the point of view of both consumers and suppliers of financial services, while conforming to internationally applied standards insofar as they are relevant and appropriate to the circumstances of the Islands;
- d. recognise the principle that a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction;
- e. recognise the desirability of facilitating innovation in financial services business;
- f. recognise the need for transparency and fairness on the part of the Authority;
- g. endeavour to promote and facilitate innovation, competition, consumer benefits and the development of technology and services that encourage and promote financial inclusion."

#### **2.4. Legislative Obligations of the Authority**

The Public Authorities Act ("PAA") provides uniform regulation of the management and governance of public authorities in the Cayman Islands, including the CIMA. The purpose of a public authority is to help the Cayman Islands Government ("CIG") achieve its policy objectives when those objectives are more effectively accomplished through the use of separate legal entities rather than through the civil service.

Specifically, the MAA is the legal instrument that governs the establishment, obligations, functions, duties, and responsibilities of CIMA, as explained in the *'Evolution of the Authority'* in section 2.1 of this Handbook.

There are also supplemental obligations on the Authority established in other pieces of legislation enacted by the CIG, as summarised below:

#### **Regulatory Acts:**

- Banks and Trust Companies Act
- Building Societies Act
- Companies Management Act
- Cooperative Societies Act
- Directors Registration and Licensing Act
- Development Bank Act
- Insurance Act
- Money Services Act
- Mutual Funds Act
- Private Funds Act
- Securities Investment Business Act
- Virtual Assets (Service Providers) Act

#### **Other Relevant Acts:**

- Anti-Corruption Act
- Companies Act
- Health Insurance Act
- Proceeds of Crime Act
- Public Management and Finance Act
- Standards of Public Life Act

Further, in keeping with all its legislative obligations, all decisions and actions of the Authority are guided by the principles of lawfulness, rationality, proportionality, and procedural fairness.

## **2.5. The Authority's Strategy**

The Authority's strategy is formulated and expressed in its mission statement, which communicates the overall purpose and goal of the organisation. The vision statement provides insight into what the Authority aims to achieve in the medium to long term. The Authority's values reflect the core principles, ethics, and underlying behaviours and culture adopted by the management team and staff of the Authority.

### **2.5.1. Mission Statement**

To protect and enhance the integrity of the financial services industry of the Cayman Islands.

### **2.5.2. Vision Statement**

A thriving, innovative and well-regulated Cayman Islands financial services system and currency that meets applicable international standards and provides value to stakeholders.

### **2.5.3. Values**

- **Teamwork:** We empower each other to work at our productive best.
- **Accountability:** We hold ourselves and each other accountable for our responsibilities and commitments.
- **Excellence:** We aspire to the highest standards of performance.
- **Collaboration:** We achieve common goals through successful working relationships.
- **Integrity:** We encourage and expect honest and ethical behaviour by our employees.
- **Respect:** We honour the public's trust by showing respect for those with whom we interact, considering differing points of view and ensuring people are treated the way we would like to be treated.

## 3. Structure and Responsibilities

### 3.1 The Board of Directors

Section 11(1) of the MAA establishes that there shall be a board of directors of the Authority which, shall be responsible for the governance, policy, and performance of the Authority and the general conduct of its affairs and business.

In performing its functions, the behaviours and actions of the Board of Directors (whether individually or collectively) are governed by key ethical standards and principles as described in a Code of Conduct and Conflict of Interest Statement<sup>6</sup> (published by the Authority's website). The Board is accountable to the Cabinet for its actions.

#### **3.1.1. Board Composition**

The Board is appointed by the Cabinet and comprises of the Managing Director<sup>7</sup> and up to nine other Directors, including the Chairperson and Deputy Chairperson. The Cabinet appoints the directors of the Board, each of whom shall be a fit and proper person and shall have demonstrated to the satisfaction of the Cabinet substantial knowledge and experience of the functions of the Authority.

Section 12(2)(b) of the MAA states that Directors be initially appointed for a period of three (3) years and eligible for reappointment. Further, section 14(1) establishes that no person may be appointed or remain a director of the Authority if they are an elected member of the Parliament, or an official member of the Cabinet.

The composition and quorum of the Authority's appointed Board of Directors are detailed in **A1 of the Appendices**.

#### **3.1.2. Board Committee Roles and Responsibilities**

To increase effectiveness in executing its responsibilities and duties<sup>8</sup>, the Board has established five (5) sub-audit. Highlights of the main mandates and responsibilities of the Board sub-committees are as follows:

##### **a) Audit & Finance Sub-Committee**

- Assists the Board in fulfilling its oversight responsibilities relating to CIMA's financial position and operations.
- Monitors and reviews the effectiveness of CIMA's financial reporting process, systems of internal controls, audit processes, and compliance with relevant acts and regulations so far as financial matters are concerned.

<sup>6</sup> Pursuant to sections 2, 18(1), 19 and 20 of the MAA; section 21(1) of the PAA; and section 29 of the SPLA

<sup>7</sup> *ex officio* Director

<sup>8</sup> In accordance with the powers provided for under section 16(1) – (4) of the MAA

### **b) Human Capital Sub-Committee**

- Establishes a compensation philosophy for the Authority.
- Reviews the Authority's goals and objectives relevant to the compensation of all staff regarding such goals and objectives.

### **c) Governance Sub-Committee**

- Reviews and periodically evaluates the management structure of CIMA including such issues as the authority and responsibilities of senior management, span of control, etcetera.
- Review resource allocation by function to help ensure that adequate resources are being committed to their highest and best uses and meeting reasonable cost-benefit standards.
- Periodically review codes of conduct framework for both CIMA personnel and members of the Board.

### **c) Policy & Legislative Sub-Committee**

- Review with management, proposed amendments or additions or deletions to the legislative, regulatory and supervisory frameworks in and relevant to the jurisdiction and make recommendations on the same to the Board.
- Reviews and make recommendations regarding CIMA's domestic and international cooperation, that is, relationships with other competent authorities, and international standard-setting bodies and organisations.

### **d) Risk Sub-Committee**

- Facilitates the establishment of a robust risk management framework including processes for identifying, managing, and monitoring critical risks within CIMA.
- Review and monitor CIMA's risk exposures and strategies and oversee the execution of the risk management framework including the relevant policies and procedures and ensure that they are continuously improved in keeping with changes in the business environment.
- Ensures that key internal and external risks including emerging risks are identified, prioritised and adequate mitigation measures are applied.
- Oversees the conduct of risk management assessments, reviews these results and reports critical risk matters to the Board.

## **3.2 The Management Committee**

The Board is ultimately responsible for licensing, supervisory, and other decisions. The Board has delegated such decision-making powers to the Management Committee ("MC"), which is a statutory committee, under section 16(1) of the MAA. The MC performs operational decision-making of the Authority and considers issues that impact the Authority. A primary responsibility of the MC is to manage matters relating to licensing, supervision, enforcement actions, and any other matters so delegated by the Board. Any decision of the MC or any committee so appointed shall be deemed to be a decision of the Board.<sup>9</sup>

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<sup>9</sup> Section 15(5) of the MAA

### **3.2.1. Powers Delegated to the Management Committee**

Pursuant to section 15(5)(a) of the MAA, specific duties and decision-making powers that the Board has delegated to the MC include *inter alia*:

1. to cancel licences and certificates of registrations of funds which:
  - a) have ceased carrying on or attempting to carry on business;
  - b) are not compliant with the requirements to file annual audited financial statements and pay annual fees and or penalties;
2. to approve all licensing and supervisory matters;
3. to approve or cancel the registration of regulated persons when the power to do so has not been specifically delegated to the relevant division;
4. to consider and initiate enforcement actions; and to impose administrative fines and any other matter that the Board may delegate to it from time to time.

### **3.2.2. Composition**

Section 16(2) of the MAA establishes the composition of the MC as follows —

- a) the managing director;
- b) a deputy managing director;
- c) the head of each regulatory and each supervisory division within the Authority, or such person as may be designated by the head to act in that head's absence; and
- d) such other senior officer of the Authority as the MD may, with the approval of the Board, designate.

In addition, the MD may designate an employee of the Authority to act as secretary to the MC performing such duties as the MC may determine.<sup>10</sup> The Board approved constitution and quorum of the Authority's MC are detailed in **A2 of the Appendices**.

### **3.2.3. Reporting to the Board**

In performing its delegated powers and duties, the MC is subject to ethical standards and principles regarding Codes of Conduct and Conflict of Interest similar to those of the Board. In relation to its accountability for all licensing and supervisory decisions taken, the MC provides periodic reports to the Board through the MD.

### **3.3. Other Established Committees of the Board**

In addition to the MC, the Board has established the Executive Committee (the "EC") and the Oversight Committee (the "OC") and has delegated specific duties and decision-making powers.

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<sup>10</sup> Section 16(3) of the MAA

### **3.3.1. The Executive Committee**

The EC assists the Board in carrying out some of its management functions. This committee includes a subset of the Board, such as the Chairperson and Deputy Chairperson. The EC is primarily responsible for the following *inter alia*:

- making enforcement decisions, except for any matter delegated to another Board appointed committee.
- dealing with any matter within the jurisdiction of the Board that is of an urgent nature and cannot await the next Board meeting.
- dealing with any other matter referred to it by the Board from time to time for a decision.

### **3.3.2. The Oversight Committee**

The OC manages the Authority's Administrative Fine Regime and Procedure for Lost Contact. The OC comprises the MD and members of senior management at the Authority. The main responsibilities of the OC include *inter alia*:

- to review the evidence gathered during the investigation stage to determine whether it is sufficient to prove (on the balance of probabilities) that a breach occurred;
- to request further information or evidence, prior to making its recommendation;
- to recommend the initial amount of an administrative fine, based on the relevant principles, fine criteria, any weight given to the mitigating or aggravating factors and, if relevant, any agreed discount agreements;
- to consider any representations made by the party during the representation period or earlier;
- to conduct the discount negotiation process and settle the terms of the discount agreement, where the party chooses to negotiate;
- to recommend whether there has been a breach and the final fine amount to the MC/EC, as the case may be; and
- to do such matters and examine such parties as may be required.

## **3.4. The Managing Director**

The MD has been appointed as the Chief Officer of the Authority, under section 47(3) of the PMFA and by section 13(2-3) of the MAA. The MD is entrusted with the day-to-day administration of the Authority to the extent of the powers delegated by the Board. The powers delegated to the MD by the Board include determining the day-to-day priority of the work of the Divisions within the Authority in accordance with the goals, objectives and strategies of the Authority and the work plan, as approved by the Board; the assignment of responsibilities within the Authority; and doing all acts and deeds that are necessary and possible to promptly implement decisions of the Board.

### 3.5. Business Conduct of the Authority's Staff

All employees of the Authority are expected to conduct their private and business affairs in such a manner and with such ethics and integrity that no conflict of interest can be construed. The work of the Authority is carried out in such an environment that is free from any suggestions or improper influence.

A conflict of interest occurs when an employee's private interest interferes in any way with the interests of the Authority as a whole. A conflict of interest shall be deemed to exist whenever an employee has a financial interest, direct or indirect, in any principal dealing with the Authority, and that interest is of such extent or nature that it might reasonably affect his/her judgement, or decisions exercised on behalf of the Authority.

All interests are declared upon commencement of employment and at the beginning of every calendar year thereafter by the completion of an Individual Notice of Interest Form and provision of relevant details to the Authority's Human Resources Division. In addition, as a part of CIMA's internal policies and procedures, all employees immediately notify the Human Resources Division of all changes in the information previously disclosed in an Individual Notice of Interest Form if or when any change results in a conflict of interest that did not previously exist.

### 3.6. Organisational Structure of the Authority

The Authority carries out its day-to-day activities through Divisions and units. The structure is currently organised as follows:

- **Supervisory Divisions** - responsible for the licensing or registration and supervisory oversight of regulated persons, including on-site and off-site supervision;
- **Regulatory Support (Non-supervisory) Divisions** - comprising of the legal, policy development and enforcement functions of the Authority, in addition to systemic and macroprudential surveillance and currency management;
- **Operational Divisions** - which provide support services and resources for the Authority's core functions and processes to ensure that the Authority's employees can systematically and efficiently perform their duties;
- **Managing Director's Office** - which provides the overarching guidance for the Authority including strategic planning and execution, special projects, risk, and control functions to ensure that the Authority achieves its mission and objectives.

The Authority's high-level organisational structure is illustrated on the Authority's website.

## 4. The Authority's External Stakeholder Relationships

### 4.1. The Cayman Islands Government and Domestic Competent Authorities

The Authority maintains relationships with the Government and with domestic competent authorities such as the Department of Tax Cooperation, the Cayman Islands Registry and the Cayman Islands Auditors Oversight Authority, to name a few. The Authority's stakeholder relationships primarily involve collaborative interactions and requests for authorisation on regulatory affairs. The Authority:

- prepares and provides advice to the Government on various legal and regulatory matters;
- makes recommendations to Cabinet through the Ministry for approval of certain matters such as amendments to legislation or regulations;
- consults with the Ministry on new or amended regulatory measures approved by the Board;
- manages the issue and redemption of legal tender notes and coins on behalf of the Government;

### 4.2. General Public Disclosure

The Authority endeavours to consistently provide timely and comprehensive information to its stakeholders. In pursuit of this objective, the Authority issues several publications including an Annual Report, statistical digests, supervisory circulars, social media and web pages, and regular press releases. In addition, all rules and statements of guidance issued to regulated persons are published on the Authority's website along with licensing requirements, statistical information, statutory reporting forms, and their associated schedules. The Authority is committed to transparency and disclosure and utilises its website as the main platform to keep regulated persons and their stakeholders up to date with developments impacting the jurisdiction.

### 4.3. Financial Services Private Sector

In the execution of its regulatory responsibilities, the Authority develops and issues regulatory measures to document the obligations and guidance, which regulated persons must adhere to. These measures take the form of rules, statements of principles, statements of guidance (and in some cases, regulatory policies, and procedures). The Authority engages with the financial services industry through collaborative initiatives and consultations, the latter of which is formalised through a private sector consultation process that involves the opportunity for feedback prior to the creation and issuance of new or amended regulatory measures.

Section 4(1) of the MAA establishes the Authority's obligation to consult the PSAs when seeking to create new or amended rules, statements of principle, and statements of guidance. The consultation process includes:

- a) an explanation of the purpose behind the measure;
- b) the reasoning for the measure;
- c) an explanation of how other countries and territories have adopted similar measures; and
- d) an estimate of the associated costs and benefits associated; and
- e) the expiration date for the consultation period for the proposed measure <sup>11</sup>.

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<sup>11</sup> The consultation period is usually no less than 30 days unless Authority considers that a measure is urgently required for the protection of members of the public, the Authority may specify a period less than thirty days or postpone private sector consultation until after the measure has been adopted (Section 4(3) of the MAA).

The proposed measures subject to the consultation process include:

- the issuance or amendment of rules or statements of principle or guidance concerning the conduct of regulated persons and their officers and employees;
- the issuance or amendment of statements of guidance concerning the requirements of the AMLRs; and
- the issuance or amendment of rules or statements of principle or guidance to reduce the risk of financial services business.

Each consultation proposal and the corresponding measure are posted to the "Consultation" page of the Authority's website.

The formal point of contact for consultation with industry is the Heads or Chairpersons of PSAs as listed under schedule 3 of the MAA. Representations from each PSA can be made within the consultation period, to which the Authority provides a written response in the form of a Summary of the Consultation and Feedback Statement. Based on the legislative requirements, the Authority accepts representations in the form of a consolidated set of comments on a proposed measure through a relevant PSA.

Following the consultation, the Authority will review and issue the final Board-approved measure, including any necessary amendments arising from the feedback received during the consultation, through gazettment and publication of same under the "Prior Consultation" page of the Authority's website.

#### **4.4. Other External Stakeholder Relationships**

##### ***4.4.1. International Standard-Setting Bodies***

The Authority is also an active member of the international standard-setting bodies in financial supervision and holds executive-level positions within several of the organisations. CIMA's observance and stakeholder relationships with these bodies are covered in Section 1.3. Regulatory Philosophy herein.

##### ***4.4.2. The Anti-Money Laundering Steering Group***

The group is comprised of members including MD of the Authority, the Chief Officer for Financial Services, the Attorney General, the Solicitor General, the Commissioner of the Royal Cayman Islands Police Department, the Collector of Customs, the Director of Public Prosecutions, and the Chief Officer or Director, as the case may be, of the department in Government charged with responsibility for monitoring compliance with the AMLRs made under section 145 in relation to persons conducting "relevant financial business" who are not otherwise subject to such monitoring by the Authority. The group is responsible for overseeing the Cayman Islands Anti-Money Laundering ("AML") policies and systems, ensuring effective collaboration between regulators and law enforcement, advising the government on AML issues, and monitoring the interaction and cooperation with overseas agencies.

#### **4.4.3. Supervisory Forum**

In conjunction with the Department of Commerce and Investment, the Registrar of Non-Profit Organisations, the Cayman Islands Professional Accountants Association, and the Cayman Islands Legal Professionals Association (“CILPA”), the Authority has formed the Supervisors Forum (“Forum”). The role of the Forum is to provide a national-level platform for AML/CFT/CPF/TFS supervisors to discuss common issues relating to regulation, enforcement, risks, trends, and other matters. Members of the Forum discuss issues that arise from carrying out their functions, in order to come to a consensus on a national approach to AML/CFT/CPF/TFS.

#### **4.4.4. Inter-Agency Coordination Committee**

Pursuant to the Proceeds of Crime Act, the Inter-Agency Coordination Committee (“IACC”) is responsible for the implementation of AML/CFT/CPF/TFS policies established by the Anti-Money Laundering Steering Group (“AMLSG”), facilitating the coordination and cooperation among supervisors, enforcement authorities and other competent authorities, as well as assessing the risks of money laundering, the financing of terrorism, proliferation financing and/or financial sanctions in the Cayman Islands. In this regard, CIMA maintains relationships with the Office of the Director of Public Prosecutions, the Financial Reporting Authority, Customs and Border Control, the Cayman Islands Bureau of Financial Investigations, Cayman Islands Legal Practitioners Association, Department of Commerce and Investments, Registrar of Companies, the MOFSC, and the Anti-Corruption Commission, among others.

#### **4.4.5. Proliferation Inter-Agency Group**

The Proliferation Inter-Agency Group (“PIAG”) was established to facilitate domestic cooperation and coordination amongst competent authorities and relevant agencies in the Cayman Islands relating to detecting and countering proliferation and proliferation financing networks. The PIAG is chaired by the Sanctions Coordinator and its members include representatives from CIMA, the Office of the Director of Public Prosecutions, the Financial Reporting Authority, Customs and Border Control, the Cayman Islands Bureau of Financial Investigations, the Department of Commerce and Investments, Registrar of Companies, the Ministry of Financial Services, and the Maritime Authority. The PIAG reports to the Inter-Agency Coordination Committee.

#### **4.4.6. Financial Stability Board**

The Financial Stability Board (“FSB”) is an international body that monitors and makes recommendations about the global financial system. It promotes global financial stability by coordinating the development of regulatory, supervisory and other financial sector policies and conducts outreach to non-member countries. It fosters a level playing field by encouraging coherent implementation of these policies across sectors and jurisdictions. The FSB, working through its members, seeks to strengthen financial systems and increase the stability of international financial markets. The policies developed in the pursuit of this agenda are implemented by jurisdictions and national and financial authorities, including in the Cayman Islands.

The FSB has six (6) Regional Consultative Groups (“RCGs”). The RCG for the Americas has been co-chaired by the MD of the Authority, Mrs. Cindy Scotland, OBE, for two consecutive terms between 2019 and 2023.

#### **4.4.7. International Economic Organisations**

The Authority also maintains a cooperative relationship with global economic developmental organisations including the following:

- The European Union ("EU")
- The Organisation for Economic Co-operation and Development ("OECD")
- The International Monetary Fund ("IMF")
- The Caribbean Regional Technical Assistance Centre ("CARTAC")

#### **4.5 Overseas Regulatory Authorities ("ORAs")**

The Authority has a legal responsibility under section 6(1)(c) of the MAA to assist ORAs, as part of its cooperative function. The internal procedures provide a clear definition of what constitutes an ORA and the actions to be taken by the Authority upon receipt of a request for assistance from an ORA. The internal procedures are detailed in **B1 of the Appendices**.

Also under the MAA, the Authority can enter a memorandum of understanding ("MOU") with other ORAs. MOUs assist in the quality and timeliness of information on the operations of regulated persons overseas; reduce the cost of obtaining such information; and streamline the administrative processes when requests are received.

The Authority has established objective criteria that an ORA must meet before entering an MOU with it. The details of the criteria are given in **B2 of the Appendices** and the sample format for an MOU is given in **B3 of the Appendices**.

## 5. Financial Sector Oversight - Introduction

### 5.1. Overview

The Cayman Islands is a leading international financial centre attracting business from a global market. Consequently, the Authority is charged with the responsibility for the regulation and supervision of numerous diverse financial service providers. A carefully calibrated approach taken to supervision is a key element in the maintenance of the Cayman Islands as a first-class international financial centre that adheres to international standards. This is reflected in the Authority's mission statement: "to protect and enhance the integrity of the financial services industry of the Cayman Islands". The Authority is responsible for the regulation and supervision of financial service providers, pursuant to its powers delegated in the MAA and the regulatory acts.

### 5.2. Regulatory Functions

In keeping with its regulatory philosophy and obligations set forth in section 34(1) of the MAA, the Authority fulfils its regulatory function by issuing rules, statements of guidance and statements of principles to establish its expectations regarding business conduct and regulatory compliance, as well as prudential standards and reporting requirements. The Authority has also developed and issued regulatory policies that set out criteria for its approach to decision-making and actions taken by the Authority and regulatory procedures that establish the actions that the Authority will carry out in performing its supervisory and cooperative functions. The Authority's Policy & Development Division, in conjunction with other Divisions, manages the Authority's consultative process and research and develops new and amended regulatory measures for further approval by the Board of Directors.

In addition, the Authority supports the jurisdiction's legal framework for building a robust financial services sector. Through its Policy and Development Division, in conjunction with other Divisions, the Authority proposes legislative updates and amendments to the relevant acts or regulations (as necessary) for further approval, legislative drafting and enactment by the parliament of the Cayman Islands.

Regulated persons are obligated to operate in accordance with the jurisdiction's legislation and regulatory measures issued by the Authority, and they are given considerable scope in applying these requirements to the products and services they provide. The supervisory processes are aimed at monitoring regulated persons' adherence to the established requirements and guidance and include initial authorisation of activities and ongoing off-site supervision and on-site inspections.

### 5.2. Supervisory Functions

The primary objectives of the supervisory functions are for the Authority to gain a thorough understanding of the nature of regulated persons, their business operations, the risks they face and how they manage those risks ensuring that they are well understood by the relevant stakeholders. The ultimate aim is to assure that regulated persons remain compliant with the applicable statutory and regulatory requirements for promoting and maintaining a sound financial system in the Cayman Islands.

The Authority has adopted a Risk Based Approach (“RBA”) to supervision. Supervisory functions are carried out by the Authority’s Supervision Divisions that focus on specific financial service sectors. This approach is efficient and flexible since it takes into consideration the nature, size and complexity of business activities and the extent of risk within each regulated person. The methodology aims to profile the risks faced by regulated persons so that supervisory efforts can be appropriately targeted to said persons or specific areas based on their business model activities and overall risks. Regulated persons are rated as high-risk can expect increased monitoring activities by Authority. The methodology covers specific risk factors in the following broad risk groups: economic and regulatory, strategic, legal and compliance, operational, prudential, market conduct and AML/CFT/CPF/TFS.

#### **5.4. Scope of Application**

The Authority recognises that there is a limit to the extent it can exhaustively supervise regulated persons providing financial services in or from the Cayman Islands. The Authority’s supervisory role is primarily to:

- 1) limit the conduct of regulated activities to owners and managers who are “fit and proper” persons;
- 2) ensure regulated activities are conducted in accordance with the acts and the agreements that authorise them (e.g., licencing agreements);
- 3) ensure that internal weaknesses in a regulated person’s operations, including its procedures, systems, and prudential standards are identified and control mechanisms are put in place to rectify same;
- 4) enforce adherence to reasonable prudential limits to risk-taking in relation to the products, services, and business models that regulated persons have chosen;
- 5) enforce accurate disclosure of each regulated person’s financial condition so that the public can evaluate for itself the risk of conducting business with such a person;
- 6) to clarify the risks that the public faces in dealing with various classes of regulated persons that it regulated and thus to promote public confidence in dealing with these persons;
- 7) assure that if in spite of the above, a regulated person fails, its exit from the Cayman Islands market is timely, fair, and efficiently managed.

It is not the Authority’s role to ensure that the regulated person operates profitably and successfully, which is the role and responsibility of its owners, governing bodies, and management.

## 5.5. Categories of Regulation and Supervision

The Authority's supervisory function is divided into three (3) broad categories summarised as follows, and detailed in the subsections hereunder:

- 1) the licensing process whereby the Authority uses established criteria to assess applications to conduct regulated financial services activities in or from the Cayman Islands;
- 2) monitoring, which includes off-site supervision and on-site inspection; and
- 3) enforcement.

The decision-making powers of the Authority for licensing, supervisory and other matters are vested in the Authority's Board, which it has delegated to the MC. The detailed procedures for the Authority's licencing and supervisory framework are set out in the Responsibility for Licensing, Registration and Other Supervisory Matters (segmented per financial services sector) in **C1 to C7 of the Appendices**.

## 6. Financial Sector Oversight: Authorisations, Fitness & Propriety and Terminations

### 6.1. The Authorisation Process

The objective of the authorisation process is for the Authority to review and assess applications and supporting documents submitted by Financial Service Providers (“FSPs”) to establish legal and compliance sufficiency and due diligence, with a view to approve or prohibit the conduct of regulated activities in or from the Cayman Islands. Authorisation is followed by the issuance of a documented licence or certificate of registration (as applicable). This process is designed to establish suitable barriers to entry to the Cayman Islands’ market to providers whose owners, directors, and managers are fit and proper, along with an assessment of the category or class of regulated activities conducted by the FSP as prescribed in the relevant regulatory acts.

Applications for authorisation are received and managed by the respective Supervisory Divisions based on the regulated activities conducted. The Authority aims to ensure that each application for authorisation is dealt with efficiently and expeditiously, subject to the receipt of all requisite documentation as outlined in the relevant Regulatory Licensing Policies as issued by the Authority and published on the website (segmented per financial services sector).

A table illustrating the categories or classes of authorisations issued by the Authority pursuant to the regulatory acts can be referenced within the **Appendices** to the Regulatory Handbook.

### 6.2. The Authorisation Process

A fundamental part of the authorisation process includes an assessment of the suitability of the directors, officers, and managers of regulated persons. The Authority has issued a personal questionnaire that applicants for authorisation by the Authority complete. The authority assesses whether applicants satisfy the requirements of the appropriate regulatory acts with respect to fitness and propriety. Pursuant to section 3 of the MAA, in determining whether a person is a fit and proper person, regard shall be had to all circumstances including that person’s:

- Honesty, integrity and reputation;
- Competence and capability; and
- Financial soundness.

Accordingly, the Authority’s requirements and processes for authorisation are detailed in the Regulatory Policy – Fitness and Propriety and in the Regulatory Procedure – Assessing Fitness and Propriety, as issued by the Authority and published on the website (segmented per financial services sector).

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<sup>13</sup> For the purpose of this Regulatory Handbook, “authorisation” means any approval or approval with conditions, clearance, certificate, registration, licence, permit, or exemption that has been issued by the Authority to any individual or entity to conduct regulated financial services business, operation or activity in or from within the Cayman Islands. In regulatory measures published by the Authority, the Authority references licenses, or certificates of registration (as appropriate) when it has approved a regulated person to conduct regulated financial services activities or business in or from within the Cayman Islands. However, the definition of “authorisation” seeks to capture licenses, certificates of registration, and any other type of approval that may be issued by the Authority in accordance with the regulatory laws.

### **6.3. Terminations or Cancellations**

The procedures for the voluntary cancellation or surrender of a licence or certificate of registration follow a standard course of action across each relevant Supervisory Division. Similar to the principle that the applications for a licence may be subject to varying requirements depending on the nature, size and complexity of the regulated person, there are varying termination requirements according to the sector and type of business activities that the regulated person conducts. In particular, the Authority has established distinctive procedures for cancellation or surrendering a licence or certificate of registration of an investment fund.

Notably, the voluntary cancellation or surrendering of a licence or certificate of registration is not considered an enforcement action.

Voluntary cancellation or surrender of a licence or certificate of registration by winding up does not always involve liquidation (either voluntary or compulsory). In such cases of liquidation, however, the Authority has the discretion to revoke the licence, rather than allow a regulated person to surrender it.

The specific procedures carried out by the Authority to cancel (or revoke) licences or certificates of registration are detailed in the relevant regulatory acts and regulatory procedures, relevant to each financial services sector, are issued by the Authority and published on the website.

### **6.4. Notice of Authorisations and Terminations**

The public is notified by the Authority through the Gazette and publications on the website on the following:

- Authorisations and cancellations for licences and certificates of registration;
- suspensions of licences;
- revocations of licences; and
- change of name for regulated persons.

The above is updated periodically by the relevant Division and submitted through a memorandum to the relevant information arm of the CIG for publication in the subsequent issue of the gazette.

### **6.5. Payment Procedures for Authorisations and Terminations**

The Authority is responsible for the receipt and processing of all fees, in relation to approvals and cancellations of licences or certificates of registration on behalf of the Government. The Authority's Finance Division manages this process. Applicable fees in relation to licences and certificates of registration are detailed in the relevant regulations under the regulatory acts.

### **6.6. Management Committee Procedures with Respect to Authorisation and Supervision**

To elaborate on the duties in section 3.2 of the Handbook, the MC is responsible for procedures regarding the oversight of licensing, supervisory, enforcement, and other matters, as delegated by the Board. The MC meets periodically, and on an extraordinary basis as required, to discuss, review, and make decisions on applications proposed.

Concerning authorisation and supervisory matters, such applications are presented as papers for decision-making to the MC by a designated MC member, on behalf of an applicant or regulated person.

The approach is that each Supervisory Division is responsible for the assessment of applications received by the Authority. The delegation for decision-making for authorisations and/or cancellations forms a part of the responsibilities of the MC which have been delegated by the Board.

The Authority applies a risk-based approach to approving applications. Accordingly, the MC facilitates the execution of the appropriate risk management methodologies by each Division, to allow for effective review of such applications. Given their risk profiles, approved regulated persons are subject to appropriate ongoing supervision and inspection, to effectively manage those risks and safeguard the market and stakeholders.

#### **6.6.1. Record Retention**

The Authority maintains proper records of all matters deliberated and decided upon by the MC and the Board, stored electronically or otherwise for a minimum of five (5) years as legislatively required by public authorities.

# 7. Financial Sector Oversight: Supervision & Prudential Monitoring

## 7.1. Off-site Supervision

The Authority utilises a risk-based approach to off-site supervision and monitoring. This is consistent with the on-site inspections, which are both based on an assessment of the regulated person's compliance with applicable legislation, regulatory measures, codes of practice, and internationally accepted standards/principles.

Off-site monitoring is complemented by on-site inspections and is an integral part of the supervisory process. While the on-site work is conducted at intervals determined by each Supervisory Division, the off-site monitoring process is continuous.

The level of supervisory oversight of regulated persons is contingent on the risk level as determined by specific risk indicators unique within each financial services subsector. Off-site supervision may be supplemented with meetings with regulated persons, as determined by the Authority. These meetings generally cover strategic initiatives, adherence to acts and international standards/principles, and a discussion of financial information. Discussions are usually high-level and may involve the governing body or senior management of the regulated person.

In conducting financial sector oversight, requisite fee payments may be applicable with making certain applications to the Authority. Applicants should refer to the relevant acts or regulations to confirm where prescribed fees may apply.

### 7.1.1. Objectives of Off-site Supervision

- Review, understand, and explain the genesis of all significant matters disclosed by financial statements and regulatory reports to the Authority;
- Obtain satisfactory explanations for all material variances between periodic financial statements and regulatory reports;
- Ensure that Supervisory Divisions employ a systematic and consistent approach to monitoring regulated persons;
- Detect early warning signs of potential problems within regulated persons;
- Assist on-site examiners in focusing their work on areas of high risk and key deficiencies for each regulated person;
- Assist on-site examiners by following up with each regulated person's progress on its remedial actions and any recommendations made as a result of the on-site inspection;
- Provide meaningful reports on each regulated person and industry to the relevant HOD;
- Correspond with the industry regarding their electronic submissions of required financial reports and prudential returns via the Authority's designated platform.<sup>14</sup> Financial information collated and managed within this platform includes, but is not limited to:
  - o Audit financial statements or any account information
  - o Documentation for new applications for licensing or registration
  - o Change requests for existing licensing or registration information
  - o Change requests or updates for directors, business plan, address information

<sup>14</sup> At the time of writing, the Authority's online portal for electronic submissions is titled the "Regulatory Enhanced Electronic Forms Submissions" ("REEFS")

- Respond to queries received from regulated persons and the public;
- Investigate customer complaints; and
- Process approvals and other requests from regulated persons.

### **7.1.2. Considerations for Successful Off-site Supervision**

The success of off-site monitoring depends heavily on the Authority's ability to assess timely and accurate information provided by the regulated person(s) in accordance with the applicable regulations. In addition, analysts of the Authority use care, skill, and judgment in interpreting information provided by regulated persons.

Supervisory manuals are internally established to guide analysts in considering and interpreting information provided by regulated persons. In their off-site reviews, analysts consider quantitative factors as well as qualitative indicators such as management's qualifications, reputation, and experience of such persons.

### **7.1.3. In achieving the objectives of off-site supervision, some of the key off-site activities include:**

#### **7.1.3.1. Coordinating Meetings with Regulated Persons**

The Authority will, in most cases, aim to meet annually with representatives of regulated persons in the Cayman Islands to discuss their operations. The Authority may exempt a regulated person from annual meetings and schedule meetings as required in the case of those that have minimal activities<sup>15</sup>, or any other reason as determined by the Authority. Meetings may be arranged by the regulated person or the Authority, and the agenda can range from discussing strategic initiatives to the adherence to standards and legislation to the discussion of financial information. The Authority may have these meetings with the directors, senior officers, staff, or representatives of a parent institution or another regulator of the regulated person.

#### **7.1.3.2. Reviewing Business Plans for Regulated Persons**

As a part of ongoing supervision and to ensure that the Authority's information on regulated persons remains accurate and reflective of the current business practices, an updated business plan is periodically requested, along with a current list of directors. The updated business plan normally includes an updated summary description of the business conducted, key objectives and any new products, staffing, and other relevant information. The Authority refers regulated persons to the applicable licensing policy for the specific information required for a business plan, relevant to the type of regulated person.

Once a business plan has been filed with the Authority, it is the responsibility of the relevant Supervisory Division to review the business plan to ensure that the information provided is compliant with regulatory requirements. In reviewing the business plan, the Authority relies on the regulatory acts to determine whether a regulated person is exempted from the information requirements, in particular regarding the list of directors, or other senior officers. If the business plan is considered insufficient, the Authority may request further information as appropriate and will contact the regulated person in writing to request the additional information to ensure that the Authority's records are accurate and up to date.

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<sup>15</sup> for example the operation of an offshore bank branch

#### **7.1.3.3. The Approval of Names with Restricted Words**

The various regulatory acts either prohibit the use of titles of persons that connote the regulated business or make it an offence to use restricted words in names without the Authority's approval. Such approval is subject to the receipt of certain information to enable the Authority to assess whether the use of such words in a name will be misleading and to assess the potential for an applicant using the restricted word to hold itself out to the public in a misleading manner.

#### **7.1.3.4. Change of Name**

The change of name requirements varies for each regulated financial sector. The Authority's Supervisory Division responsible for oversight of a regulated person reviews a written application for the change of name, to determine whether the request will be granted. Applicants should note that a Change of Name form can be obtained from the Registrar of Companies.

The following are some of the considerations reviewed within the request for a change of name:

- Reason(s) for the change of name
- Submission of the original licence or certificate of registration
- A certified copy of the shareholder's resolution to change the name of the company
- A certified copy of the Certificate of Incorporation

#### **7.1.3.5. The Approval of an Auditor**

The regulatory acts require the Authority to approve the appointment of an auditor to a regulated person. The approval process requires the Authority to assess the suitability of the proposed auditor through the application of the criteria as stated in the Regulatory Policy on Approval of an Auditor. Once an Auditor is approved by the Authority, the Auditor is added to the Authority's List of Local Approved Auditors (for specific financial services sectors, the approved list is published on the Authority's website).

#### **7.1.3.6. Change of Auditors**

The Authority's Supervisory Division, responsible for oversight of a regulated person, reviews the written request for a change of auditors. Some of the considerations reviewed within the requests to determine whether the request will be granted include the reason(s) for wishing to remove their current auditor, along with the name of the proposed auditor. The Authority will confirm that the proposed new auditor is on the Authority's list of locally approved auditors for various industry sectors and request confirmation of consent from the new auditor of their willingness to act for the person. The Authority may also request a letter of confirmation from the former auditor that their services are no longer provided to the regulated person and of the reason(s) for the discontinuation.

#### **7.1.3.7. The Recognition and Approval of an Actuary**

The Insurance Act empowers the Authority to approve the appointment of an actuary to an applicable regulated person. The approval process requires the Authority to assess the suitability of the proposed actuary in compliance with specific provisions in the Insurance Act. The Authority's process and considerations of the minimum criteria to approve an actuary are outlined in the *Regulatory Policy on the Recognition and Approval of an Actuary*.

#### **7.1.3.8. Change of Actuary**

The Authority's Supervisory Division, responsible for oversight of a regulated person, reviews the written request for a change of actuary.

The Authority will consider written notice of the proposed change, inclusive of any supporting documentation such as the outgoing actuary's resignation or termination letter, in the approval of the new actuary. The process and considerations for an application for change in actuary by a regulated person are also stated in the Regulatory Policy on the Recognition and Approval of an Actuary.

#### **7.1.3.9. Change in Principal/Registered Office or Authorised Agent**

The Authority's Supervisory Division, responsible for oversight of a regulated person, reviews the written request for a change in Principal/Registered Office or Authorised Agent. Some of the considerations reviewed within the request to determine whether it will be granted include the reason(s) for the change, the name and location of the Principal / Registered Office or Authorised Agent; or a letter of confirmation from the new appointees of their willingness to accept the appointment; or a statement that they are aware of their obligations under the relevant acts. The Authority issues an approval letter to a regulated person once all required information is received.

#### **7.1.3.10. Letters of Good Standing**

The Authority's Supervisory Division, responsible for overseeing a regulated person, reviews requests from regulated persons or other interested parties for letters of good standing. The scope of the Authority's issuance of these letters is limited to confirmation that at the time of writing (at minimum), the regulated person is up to date with filing all supervisory reports and fee payments. The Authority's issuance of a letter of good standing does not intend to provide any opinion or validate the standing, performance, or financial viability of a regulated person. A sample Letter of Good Standing is illustrated in **D1 of the Appendices**.

#### **7.1.3.11. Data Collection and Dissemination**

To conduct effective supervision and to make informed decisions, the Authority (and the financial services industry itself) reviews and analyses timely and reliable information about the financial condition of individual regulated persons and the collective financial services system. This is achieved through the assessment of regulatory returns or reports, and other prudential statistics filed by regulated persons. This is the key function of the Financial Stability and Statistics Division ("FSSD") at the Authority. The analytics undertaken by this Division provide important information to support the ongoing monitoring and inspection of regulated persons. Regulated persons should refer to the Policy on Prudential Reports and Statistical Returns, which is available on the Authority's website.

As part of CIMA's mandate to ensure stability within the domestic financial system, the Authority developed and published its first-ever annual *Financial Stability Report (the "FSR")* in 2023. The FSR provides an assessment of our local financial system, including salient trends and vulnerabilities over the reporting period. This was in addition to the regular publications of various regulatory report templates, annual statistics, and statistical surveys (segmented per financial services sector). These reports are available on the Authority's website.

#### **7.1.3.12. Granting of Extensions for the Filing of Supervisory Reports**

The Authority adheres to provisions in acts and regulations in relation to reviewing the obligations of a regulated person's submission of audited accounts of its operations and regular prudential returns. As a part of the off-site supervision process, the Supervisory Division responsible for overseeing a regulated person conducts reviews and analyses of these financial and prudential information.

In some circumstances, the Authority may grant regulated persons extensions to file audited accounts or prudential returns. While the Authority encourages all regulated persons to submit their returns by the established reporting timelines, it recognises that there may be situations where this is not possible. In such circumstances, the Authority reviews written submissions by regulated persons requesting a formal extension before the deadline. Extensions may be available in minimum 30-day segments. If the Authority does not receive and approve a written request for an extension in a timely manner, this may result in a late filing fee being levied and/or the inability of the Authority to issue a letter of good standing.

#### **7.1.3.13. Change in Financial Year-End**

The Supervisory Division responsible for oversight of a regulated person reviews a written request to change its financial year-end. Some of the considerations reviewed within the request to determine whether it will be granted include a statement of the reasons for the change of their current financial year-end; the new financial year-end; confirmation of the change by the auditor; and a copy of the director/shareholder resolution (in the case of a bank and mutual fund administrator).

#### **7.1.3.14. Approval of Stock Exchanges**

The regulatory acts of the Cayman Islands refer to stock exchanges that may be “specified” or “recognised” by the Authority. The Authority has issued a Regulatory Policy for the approval of Stock Exchanges that outlines the criteria used to determine whether a stock exchange is approved for these regulatory acts. This Regulatory Policy is available on the Authority’s website for referral and should be read in conjunction with the list of approved stock exchanges, which is updated periodically.

#### **7.1.3.15. Other Key Off-Site Activities**

- Reviewing the policies and procedures of regulated persons
- Reviewing applications for authorisation or cancellation and preparation of papers for CIMA’s MC for review and decision upon;
- Vetting directors, managers, and controllers of regulated persons to ensure fitness and propriety is maintained on an ongoing basis;
- Vetting applications for changes in beneficial ownership;
- Analysing financial reports and prudential returns;
- Reviewing audited financial statements or accounts and reconciling with financial reports and prudential returns;
- Reviewing correspondence from regulated persons.

## **7.2. On-site Supervision**

As stipulated in section 6(1)(b) of the MAA, a principal function of the Authority is its regulatory function, namely, to regulate and supervise financial services business carried on in or from within the Islands in accordance with the MAA and the regulatory acts; (ii) to monitor compliance with the AMLRs; and (iii) to perform any other regulatory or supervisory duties that may be imposed on the Authority by any other act. Fundamental to the Authority’s ability to execute its regulatory function is its ability to perform ongoing monitoring. The Authority has a range of supervisory tools available to monitor regulated persons’ ongoing compliance with regulatory requirements, including, but not limited to, conducting on-site inspections. The on-site supervisory process is fundamental to the effectiveness of the Authority’s supervisory functions. The procedure for ongoing monitoring includes the Authority conducting on-site inspection exercises on a regulated person.

During these inspections, the Authority aims to:

- Understand the regulated person and its environment;
- Detect weaknesses and deficiencies on a timely basis;
- Provide an objective evaluation of the soundness of the regulated person and its management of risks;
- Gather information on matters identified as requiring additional guidance from the Authority
- Guide supervisory personnel;
- Promote the consistent application of examination/inspection procedures;
- Provide feedback via inspection reports (where appropriate) to record findings and requirements that the regulated person must undertake to improve compliance with their regulatory obligations; and
- Enhance the quality and effectiveness of on-site examinations.

Due to the diverse nature and scope of activities conducted by a regulated person, on-site examiners will draw on their professional experience and judgement and will tailor the application of procedures outlined in this Handbook commensurate with the specific circumstances and risk profile of the regulated person being inspected.

### **7.2.1 Types of On-site Inspections**

On-site inspections take on different forms, depending on the regulated person being inspected and the depth of the inspection. The following sections describe the various types of on-site inspections. The main categories of on-site inspections include Full Scope Inspections, Limited Scope Inspections, and Thematic Inspections. Other on-site inspections include Desk Reviews, Surprise Inspections, and Exploratory Visits.

#### **7.2.1.1. Full Scope Inspection**

A full-scope inspection will usually involve a review of all lines of business and all areas of its operations undertaken by the regulated person.

#### **7.2.1.2. Limited Scope Inspection**

A limited scope inspection focuses on a particular segment(s) of a regulated person's business operations or a particular theme that might be of interest to the Authority, such as AML/CFT/CPF/TFS or Information Technology ("IT") systems. While the reasons for carrying out a limited-scope inspection can vary, ordinarily such an inspection will be conducted under the following circumstances:

- Unusual results are found following off-site analysis of annual/quarterly financial statements;
- Follow-up on findings of a prior inspection report;
- Unusual complaint volume either in respect of one line of business or in respect of a particular departmental function;
- Concerns expressed by stakeholders; and
- In the event of changes to the regulated person's operations, for example, changes in key persons or management positions or an acquisition of a new line of business.

In addition, a limited-scope inspection may alternatively consist of a review of a regulated person's adherence to the AMLRs.

### **7.2.1.3. Thematic Inspection**

A thematic inspection is an in-depth review of a specific risk (area) for a selection of regulated persons. Thematic inspections allow the Authority to benchmark practices and identify outliers and best practices. The process of thematic supervision starts with the selection of themes based on risk analyses, reviews from previous years or incidents/compliance issues that are known from ongoing supervision.

### **7.2.2 The Role of Examiners**

On-site examiners are expected to have a high level of familiarisation with the regulated person's business in order to assess if they are operating in a sound and prudent manner, complying with applicable regulatory requirements. Therefore, one of the primary roles of the examiner is to assist the Authority with identifying key risk areas of the regulated person's operations, including its governance structure and oversight, risk management framework, operational systems and controls, market conduct, and assessing compliance with regulatory requirements and expectations.

Responsibilities of on-site examiners include:

- Inspection planning and coordination;
- On-site testing and document review analysis; and
- Post-inspection reporting.

Examiners are representatives of the Authority and are obligated to conduct their business in a manner in compliance with the key standards and principles required by all CIMA staff. Notably, the information reviewed during the on-site inspection process regarding the company and its stakeholders remains strictly confidential between the regulated person and the Authority, except for instances where the examiner has a reporting obligation pursuant to relevant legislation.

Upon completion of an on-site inspection, examiners prepare an Inspection Report ("the Report") to collate the findings of the on-site monitoring exercise.

### **7.2.3 The Objectives of an On-site Inspection Report**

The main objectives of the Report are to document and inform the Authority of the purpose, scope and methods applied in conducting the inspection, along with the resulting inspection findings, conclusions, and remediation requirements.

Notably, the Authority is not legally obligated to release the Report to the regulated person, and there may be instances where the Authority may opt not to do so.

### **7.2.4 Inspection Findings and Reporting**

The Report contains the examiner's finding(s), conclusion(s) and the Authority's requirements for corrective action. The view of the management of the regulated person, whether representing assurances of correction or disagreement with the examiner's position, may also be stated in the Report. Requirements are to be ascribed according to priority levels of attention; and assigned remediation timelines for corrective actions.

### **7.2.5 Categories of Matters Arising from Inspection Reports**

Any deficiency of a regulatory or statutory nature is categorised and addressed as: Matters Requiring Immediate Attention ("MRIA"); structured as "High Priorities" and Matters Requiring Attention ("MRA") comprising of "Medium" or "Low Priorities".

The key distinctions between MRIs and MRAs are the nature and severity of matters requiring corrective action, as well as the immediacy with which the breach or compliance deficiency needs to be rectified. At the discretion of the Authority, where the examiner identifies an MRI, the Authority may direct the regulated person, through its directors or management to address such matters immediately. Whereas if the examiner identifies an MRA, the Authority may direct the regulated person to address such matters within a specified time. In addition, at the direction of the Authority, regulated persons provide up-to-date reports, at designated intervals, to communicate the status of the requirements, the remedial actions taken by the regulated person, and the estimated completion date for full remediation.

***High Priority - MRIs, can be any one or more findings that:***

- demonstrate a mismatch or inconsistency in the regulated person’s risk appetite and controls;
- have the potential to expose the regulated person to severe unmitigated risks;
- constitute a significant violation of or non-compliance with any acts, regulation, or regulatory measures such as a Rule, or Statement of Guidance;
- constitute policy or procedural deficiencies;
- have the potential to pose a significant risk to the safety and soundness of the regulated person’s operations and the jurisdiction;
- are repeat findings that have escalated in importance due to insufficient attention or inaction by the regulated person, its directors or management;
- are recurring findings requiring attention, regardless of their nature;
- is an isolated exception(s) impacting individual accounts or policies, if the account or policy has sustained a loss or is likely to sustain a loss; and/or
- have the potential to cause significant consumer harm or reputational damage.

***Medium Priority - MRAs can be any one or more that:***

- the Authority has identified as important, for example, ineffective application or partial compliance with a Rule or Statement of Guidance, and which the Authority requires the regulated person, its directors or management to address over a reasonable and specified period;
- are technical or minor violations, where swift corrective action is assured;
- are isolated exceptions (other than the type listed in the MRIs above) where directors or management of the regulated person has agreed to take appropriate corrective action. Where exceptions are symptomatic of an overall weakness, the Authority will treat them as MRI.

***Low Priority - MRA includes:***

- minor violations, where corrective action is assured.

***7.2.6 Inspection Follow-up***

Following an inspection, the Authority will continue to monitor the regulated person’s progress in addressing the inspection requirements and may exercise discretion to perform follow-up inspection(s) to examine and verify that remedial actions have been fully addressed and adopted.

## 8. AML/CFT/CPF/TFS Oversight Regime

### 8.1 Overview

The CIG has undertaken a far-reaching programme to enforce measures to reduce and prevent the occurrence of money laundering, terrorist financing, proliferation financing, and other related threats. The CIG has committed to cooperating with international efforts and standards for combating money laundering, terrorism, and proliferation financing, as well as sanctions monitoring to prevent criminals from manipulating the financial industry of the Cayman Islands. The Authority is responsible for monitoring compliance with the AMLRs under section 6(1)(b)(ii) of the MAA for persons conducting relevant financial business, under the regulatory acts.

However, for persons conducting relevant financial business that falls outside of the regulatory acts, the Cabinet has assigned the responsibility for monitoring compliance with the AMLRs to other departments of the Government in accordance with section 4(9) of the Proceeds of Crime Act ("POCA"). Therefore, the responsibility for the licensing, regulatory, monitoring, and enforcement activities for these such persons (including Designated Non-Financial Business and Professions ("DNFBPs")) is not within the ambit of the Authority.

Historically, money laundering has been concentrated in the traditional banking sector. However, criminals have responded to the measures taken by banks and have sought to convert illicit funds earned to or mix them with legitimate income before they enter the banking system, thus making them harder to detect. In recent times, non-bank financial institutions and the financial services sectors in general have become increasingly vulnerable to threats of money laundering, terrorism financing, and proliferation financing. As such, the Authority's AML/CFT/CPF/TFS oversight regime includes the AMLRs and Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing, and Proliferation Financing ("GNs") (as issued and published on the Authority's website) which apply to all FSPs operating in and from the Cayman Islands.

The regime requires FSPs to implement an RBA in their framework to ensure measures commensurate to the risks identified and allow resources to be allocated in the most efficient ways. As such, FSPs should develop RBAs that are appropriate to the peculiarities of their organisation, structure, and business activities. Part II, Section 3 of the GNs comprehensively outlines what FSPs must consider in identifying, assessing, and applying the RBA. These factors include the size, nature, and complexity of their operations, their products, services, delivery channels, customer types, geographic locations in which they or their customers operate, and any other relevant risk categories. The GNs distinguish between higher-risk categories and lower-risk categories depending on factors such as the products and services and/or the geographic location of the customer base.

In addition, The GNs include the requirements for regulated persons related to Know Your Customer ("KYC) and/or monitoring procedures to be in place to manage the enhanced risks of money laundering and associated financial crimes. Under 5 (2) (a) POCA, where the Steering Group considers it necessary to do so, and after consultation with the Authority, it will designate jurisdictions as having measures for AML/CFT/CPF/TFS that are equivalent to required standards and legislation enacted in the Cayman Islands.

## 8.2 The Duty of Vigilance

The Authority has framed its AML/CFT/CPF/TFS regulatory systems around international supervision standards such as the FATF/CFATF's globally recognised standards. The AMLRs provide the jurisdiction's legislative framework for AML/CFT/CPF/TFS while the GNs provide guidelines to FSPs for preventing and combating money laundering, terrorist financing, and proliferation financing, in response to international vigilance philosophies. Ultimately, the role of the Authority is to ensure that persons conducting "relevant financial business", as detailed in Schedule 6 of the POCA, are following the AMLRs. The legal authority to do so is contained in section 6(1) of the MAA.

Pursuant to Part IX of the AMLRs, and according to FATF's standards, an underlying mandate therein is that all regulated persons are required to appoint an Anti-Money Laundering Compliance Officer ("AMLCO") who shall be accountable for developing and implementing a comprehensive AML/CFT/CPF/TFS framework for the regulated person. The AMLCO's role is to ensure that measures set out in the AMLRs are adopted by any person or entity carrying out relevant financial business and to function as the point of contact with competent authorities for the purpose of the AMLRs.

In addition, all regulated persons are required to appoint a suitably qualified and experienced officer at the managerial level in their institution as Money Laundering Reporting Officer / Deputy Money Laundering Reporting Officer ("MLRO/DMLRO"). The MLRO/DMLRO is the person to whom a report is to be made of any information or other matter that comes to the attention of a person carrying out relevant financial business and which, in the opinion of the person, gives rise to knowledge or suspicion or reasonable grounds for knowing or suspecting that another person is engaged in money laundering or terrorist financing; or knowledge or suspicion or reasonable grounds for knowing or suspecting that the transaction or attempted transaction relates to money laundering or terrorist financing.

All regulated persons have a duty to constantly remain vigilant in deterring criminals from engaging in any form of money laundering, terrorist financing, proliferation financing, sanction evasion, or related activities. Although the task of detecting crime falls to law enforcement agencies, regulated persons are called upon to assist law enforcement agencies in the prevention and detection of money laundering activities and to react in accordance with the laws in the reporting of knowledge or suspicion of such. Regulated persons are guided to note the information gathering and investigative powers of the Authority as outlined comprehensively in **Volume 2 of the Handbook - The Enforcement Manual** and its related Procedures including the Procedures for Issuing Administrative Fines, and Procedures for Lost Contact *inter alia*.

Consistent with the GNs Part II, Section 2, regulated persons, in performing their duty of vigilance, are required to maintain the following systems and programmes within their AML/CFT/CPF/TFS framework *inter alia*:

- Customer due diligence measures;
- Policies and procedures to undertake a RBA;

- Internal policies, procedures, and controls to combat ML/TF, including appropriate compliance management arrangements;
- Adequate systems to identify ML/TF risks relating to persons, countries, and activities which should include checks against all applicable sanctions lists;
- Record keeping procedures;
- Internal reporting procedures;
- Screening procedures to ensure high standards when hiring employees;
- An appropriate employee training programme;
- An audit function to test the AML/CFT system; and
- Group-wide AML/CFT programmes.

### **8.3 The AML/CFT/CPF/TFS Monitoring Process**

The purpose of this section of the Handbook is to set out the general procedures that are followed in the conduct of an on-site inspection with respect to the Authority's assessment of an institution's AML/CFT/CPF/TFS policies and procedures and measures.

The major objective of the supervision process is to gain a thorough understanding of a regulated person's operations, the risks it faces, and how it deals with these risks and to ensure that these are well understood by the relevant public. As mentioned, the Authority has adopted the RBA to supervise which is central to the on-site inspection process. This approach is efficient and flexible since it takes into consideration the nature of business activities and the extent of risk within each regulated person. It seeks to profile the risks faced by the regulated persons so that supervision can be better targeted at areas and regulated persons where overall risks are higher. The methodology covers specific risk factors in the broad risk groups such as economic and regulatory, strategic, legal and compliance, operational, prudential, market conduct, and AML/CFT/CPF/TFS. Regulated persons rated as high-risk can expect enhanced monitoring from the Authority. In conducting these specific inspections, examiners consider the specific circumstances and risk profile of a regulated person and may adjust the scope of the inspection accordingly.

In addition, an examiner(s) keeps in mind that the criminal element is frequently able to breach the money laundering safeguards enacted by certain jurisdictions. The Authority's goals are therefore to monitor the adherence of its regulated persons to the AMLRs through both off-site monitoring and on-site inspection.

Further, if necessary, an examiner(s) may consider engaging outside assistance to scope out a detailed money laundering review to be conducted by the institution's external auditors pursuant to the relevant section of the regulatory acts.

An examiner(s) ensures that adequate procedures are in place to identify suspicious activities and combat money laundering and related threats. The inspection processes aim to review the written procedural manuals and guidelines that provide sufficient detail to enable the employees of regulated persons to perform their functions in accordance with the goals and direction of management and in line with relevant legislation.

In executing their role, an examiner(s) determines if the regulated person has a risk profile suggestive of:

- Non-compliance with the applicable legislative framework including the MAA, the AMLRs, the POCA, the Terrorism Act, the Proliferation Financing (Prohibition) Act as well as other applicable legislation and accepted standards of best practice; and
- Ineffective internal compliance programmes

### **8.3.1. AML/CFT/CPF/TFS On-site Inspections**

In conducting the on-site inspection, the examiner reviews, and addresses, among others, the following enquiries based on the AMLRs and the size, nature, and complexity, and risk profile of the regulated person:

- Has the institution implemented the risk-based approach to AML/CFT/CPF/TFS?
- Has the institution established adequate internal compliance programmes and procedures?
- Has the institution developed a written compliance programme?
- Does the written compliance programme provide for a system of internal controls to ensure ongoing compliance; a designation of a qualified individual(s) to act as the AMLCO responsible for coordinating and monitoring day-to-day compliance; and training for appropriate personnel as set out in section 5(d) of the AMLRs?
- Are all suspicious transactions reported to the MLRO / DMLRO?
- Are all staff aware of who the MLRO/DMLRO/AMLCO is?
- Is the MLRO/DMLRO/AMLCO represented in the Compliance Association?
- Was the compliance programme approved by the institution's board of directors and was approval noted in the minutes? If a subsidiary or branch institution, was the compliance programme approved at the head office or home country level?
- Does the institution provide an annual report to its board of directors or senior management covering its AML/CFT/CPF/TFS measures and compliance programme?
- Best practice requires that the board of directors of a regulated person receives a report at least annually, prepared by the internal auditor, the compliance officer, or senior management on AML/CFT/CPF/TFS controls and procedures.
- Even if a regulated person has a documented viable internal compliance programme, the examiner(s) verify that the internal compliance programme is being complied with. Deficiencies may be discovered during a compliance review that may evidence a lack of, or the complete omission, of adequate internal compliance procedures.
- Examiners also confirm that the following basic enquiries have been addressed in the regulated person's annual report to its board of directors or, in the case of a branch, to the appropriate head or parent office:
  - Are AML/CFT/CPF/TFS procedures in place; do they comply with all policies, controls, and statutory requirements; and are they being followed?
  - Does the institution's written compliance programme include procedural guidelines for the detection, prevention, and reporting of suspicious transactions?
  - Does the institution's compliance programme include written procedural guidelines for meeting the reporting and record-keeping requirements of the POCA, AMLRs, and GNs?
  - Do the procedural guidelines include provisions for the retention of either the original, microfilm, copy or other reproduction of the items and is each item retained for at least five (5) years?

### **8.3.2. Summary of the Risk-Based Approach ("RBA")**

The AMLRs require regulated persons to apply an appropriate RBA to their AML/CFT/CPF/TFS programmes. The adoption of this approach is an effective way to prevent or mitigate money laundering and related financial crimes as it enables the persons to tailor their AML/CFT/CPF/TFS measures commensurate with the risks identified and allows resources to be allocated in the most efficient manner. As such, FSPs should develop a suitable RBA for their organisation, structure, and business activities. Where appropriate and feasible, the RBA should be articulated on a consolidated or group-wide basis.

As is the case for a regulated person, senior and risk management should understand the nature and level of the risks to which such person is exposed and ensure that systems and processes are in place to identify, assess, monitor, manage, and mitigate ML/TF/PF/TFS risks. The law requires that regulated persons are proactive in determining what is the level of overall risk and the appropriate level and type of mitigation to be applied, considering all the relevant risk factors. This would include the risks that are identified at the national level through the National Risk Assessment ("NRA") or similar assessment, by a relevant authority (whichever is most recently issued).

Regulated persons are also required at the onset of their origination, to understand their business risks, and know who their applicants for business and customers are, what they do, in which jurisdictions they operate, and their expected level of activity with the person.

Other pertinent relevant RBA criteria that are considered in the Authority conducting its on-site inspection process:

- Identify ML/TF/PF/TFS risks relevant to them
- Assess ML/TF/PF/TFS risks in relation to their applicants/customers (including beneficial owners); country or geographic area in which persons reside or operate and where the regulated person operates; products, services, and transactions that the person offers; and delivery channels
- Design and implement policies, controls and procedures that are approved by senior management to manage and mitigate the ML/TF/PF/TFS risks that they identified and commensurate with assessments above
- Evaluate mitigating controls and adjust as necessary
- Monitor the implementation of systems mentioned above and improve systems where necessary
- Keep their risk assessments current through ongoing reviews and, when necessary, updates
- Document the RBA including implementation and monitoring procedures and updates to the RBA
- Have appropriate mechanisms to provide risk assessment information to competent authorities.

In addition, in employing the RBA, higher risks identified by regulated persons require enhanced measures to be put into place to manage and mitigate those risks. Correspondingly, where the risks are lower, simplified measures may be permitted. However, simplified measures are not permitted whenever there is a suspicion of ML/TF/PF/TFS regarding an applicant or potential customer. In the case of some very high-risk situations or situations that are outside the regulated person's risk tolerance, the person is guided not to accept business from the applicant or potential customer, or to exit the relationship with the customer.

### **8.3.3. Identification Procedures**

In accordance with the AMLRs, regulated persons must establish a written internal procedure so that, in the event of a suspicious activity being discovered, all staff are aware of the reporting chain and the procedures to follow. Such internal procedures should be periodically updated to reflect any legislative changes.

The Authority's examiners use internal checklists developed in alignment with the AMLRs and GNs to identify and record the results of an inspection. Inspection procedures include a review of the following aspects of the regulated person's RBA and AML/CFT/CPF/TFS programme *inter alia*:

#### **8.3.3.1. Assessment of Staff Training i.e. the appropriateness of staff training which focuses on:**

- Is the institution's training programme commensurate with its type of business and volume of transactions?
- Do staff, including, senior management personnel, receive AML training at regular intervals?
- Is there an on-going training plan and plan for on-going training and refresher courses?
- Do the records of any training programme(s) include the details of the content of the training programmes provided; the names of staff who have received the training; and the date on which the training was delivered?
- What are the results of any testing carried out to measure staff understanding of the AML/CFT/CPF/TFS requirements?
- Has the regulated person issued a clear statement of policies in relation to AML/CFT/CPF/TFS procedures?
- If this statement has been communicated in writing to all management and relevant staff, and whether it has been reviewed on a regular basis?

#### **8.3.3.2. Reporting of Suspicious Transactions**

- Are there appropriate procedures in place for the identification and validation of the identity of their clients?
- Has the regulated person designated a MLRO/DMLRO at a managerial level?
- Is the MLRO/DMLRO aware of where to file Suspicious Activity Reports ("SARs")?
- Does the institution maintain a log for SARs? If no, advise that it would be best practice to maintain a log?

#### **8.4. Financial Reporting Authority (“FRA”)**

As part of the inspection, the Authority may liaise with the FRA to ascertain whether there is suspicious or alleged illegal activity surrounding an institution. The FRA is appointed by the Cabinet under section 3(1) of POCA. The FRA is the body to which all suspicious activity reports are submitted.

#### **8.5. Reporting of Suspicious Transactions to the Authority**

The AMLRs require a person employed by the Authority who (a) obtains any information whilst acting in the course of any investigation, or discharging and functions, to which his appointment or authorisation relates; and (b) is of the opinion that the information indicates that a person has or may have been engaged in money laundering shall, as soon as reasonably practicable, disclose the information to the Reporting Authority or the Authority’s MLRO/DMLRO.

The Authority maintains that transactions identified as suspicious should not be discussed with the institution so as not to contravene section 139 of the POCA dealing with tipping off. Once the matter has been disclosed to the MLRO/DMLRO, guidance should be obtained from the Authority’s senior management regarding any communication with the institution regarding the transactions and non-compliance with the AMLRs.

#### **8.6. Inspection Reporting**

In compiling the report, the Authority’s examiner will assess whether a regulated person is complying with the AMLRs. To make an informed judgment, the examiner reviews the person’s policies and procedures, operations and testing of sufficient files and transactions to be able to report and decide on an institution’s compliance with the AMLRs.

Included in the report are assessments of the regulated person:

- Policies and procedures manuals to prevent money laundering
- Systems to prevent money laundering
- Training to prevent money laundering
- Client identification procedures
- Record keeping procedures
- Internal reporting procedures
- Reporting of suspicious transactions

In the event, that an examiner considers that a regulated person is not in compliance with the AMLRs, the deficiencies would first be identified in the inspection report, followed by an opportunity for the regulated person to remedy the shortcomings during the remediation process. Those deficiencies that remain outstanding, the results would be promptly escalated to the Authority’s MLRO and/or senior management for further decision making and action.

## **8.7. Compliance Programmes and Procedures**

The Authority recognises that the sophistication and comprehensiveness of a regulated person's internal compliance programme will be influenced by the nature and type of activities engaged in by the institution and the number of transactions. For example, a "wholesale" banking institution that conducts no cash transactions is required to have an internal compliance programme that ensures that the institution's employees have sufficient training to understand that all transactions are subject to the AMLRs; and that they understand the process that an employee ought to undertake if any transaction requires additional instructions or intervention from the AMLCO.

As an alternative, an institution that conducts a retail operation should have specific and comprehensive internal compliance procedures. All members throughout the group should maintain a programme to detect, and where necessary, report unusual or suspicious activities. Regulated persons operating on a group basis are encouraged to refer to the AMLRs for comprehensively reviewing how the Authority treats the applicable AML/CFT/CPF/TFS requirements.

## **8.8. Internal Audit/Independent Reviews**

Under the AMLRs, regulated persons are expected to place an appropriate effective risk-based independent audit function to perform periodic AML/CFT/CPF/TFS audits. These audits aim to evaluate their related systems or controls. Such an audit should be conducted by personnel that are independent of the underlying activities and related internal control process being audited.

In conducting its inspection exercises, the Authority's examiner(s) review and address the following key areas *inter alia*:

- the institution's written internal audit/ independent review procedures and determine that the internal audit function provides for review for compliance with the POCA and related AML/CFT/CPF/TFS acts and regulations;
- whether violations or serious deficiencies were noted during the internal audit review, does correspondence indicate that appropriate corrective action was taken; or
- whether the findings in the previous inspection report, in areas other than KYC compliance, indicate adequate internal controls and audit procedures.

### **8.8.1. Use of External Auditors in AML/CFT/CPF/TFS Programmes**

As part of the bilateral discussions held with the regulated persons' external auditors during the inspection, the Authority's examiner(s) endeavour to ascertain whether there are any significant control weaknesses. Even though the external auditors focus is on preparation and review of the person's financial statements, often they can shed light on an institution's business and control culture. The Authority's examiner(s) also rely on pertinent information on the following *inter alia*:

- Do the findings in the Management Letter or Internal Control Memorandum (if applicable) issued by the external auditors indicate any deficiencies in control procedures regarding KYC or internal control procedures in general?
- If violations or deficiencies were noted, has the institution taken appropriate corrective action?

### **8.9. The Process for Monitoring and Record Keeping**

Since regulated persons are required to maintain appropriate evidence to support their AML/CFT/CPF/TFS programmes, the critical aspects of the same are subject to ongoing review by the Authority. These aspects include client identification, account opening or new business documentation. The Authority also reviews adequate records identifying relevant financial transactions that should be kept for five (5) years following the closing of an account, the end of the transaction, or the termination of the business relationship. In some cases, such as for Trust transactions, the Authority reviews the procedures of the regulated person that calls for the retention of records for longer periods.

In addition, the Authority reviews to ensure that a regulated person's records can adequately isolate clients' transactions such that the nature of the transaction can be adequately identified, as well as its form, and where it took place within the persons' business (such as which branch or location).

Further, the Authority examines the MLRO/DMLRO/AMLCO's demonstrated knowledge and in-depth training on all aspects of the POCA, the AMLRs, and the regulated persons' internal policies; their suitability to manage initial and ongoing instructions on the determination and reporting of suspicious activities within the regulated person; on their feedback arrangements; and on new trends of criminal activity.

### **8.10. Reviewing AML/CFT/CPF/TFS Training**

The Authority provides oversight of regulated persons in relation to their compliance with Section 5 of the AMLRs on "Systems and Training to Prevent Money Laundering". This area of oversight covers procedures that a regulated person has in place for transactions carried out by, or on behalf of, any person who is or appears to be, engaged in money laundering, terrorist financing, or proliferation financing, or whose assets are subject to targeted financial sanctions applicable in the Islands. The Authority reviews the procedures of the regulated person with a view to ensuring that all its staff as well as its governing body can understand the procedures and their importance. The Authority also assesses whether regulated persons fully understand that they will be committing criminal offences if they contravene the provisions of the legislation.

Although general provisions are made in Section 5(d) of the AMLRs, they do not specify the exact nature of training to be given to staff, and therefore the Authority takes a specialised approach to review each regulated persons customised training programme to assess the suitability to its own needs (for example, depending on size, resources, and the type of business it undertakes). For smaller-sized regulated persons, with no in-house training function may wish to approach third parties such as specialist training agencies, firms of attorneys or legal practitioners, or the major firms of accountants or management consultants to design and conduct their training programmes. The Authority reviews the structure of said training programmes to ensure their compliance with all the requirements of the applicable legislation.

The Authority monitors the organisation, record keeping, and control of a regulated persons' training plans, which are normally overseen by the Compliance or Risk departments of the regulated person, often in conjunction with the AMLCO and/or others. The Authority examines the content of training courses and monitors records to ensure that the person's staff signs periodically to the effect that they have read the person's internal rulebook/handbook/procedures against money laundering and that they have participated in AML/CFT/CPF/TFS training.

#### **8.11. Other Anti-Money Laundering Issues**

As applicable, the Authority refers to the List of Countries and Territories Deemed to have Equivalent Legislation which are those considered to have a money laundering legislation and framework that is equal to or more rigorous than the money laundering regulations in the Cayman Islands. Consequently, this provides a level of comfort to regulated persons in the Cayman Islands who are conducting relevant financial business with persons (natural or legal or arrangements based in these countries/territories).

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# **APPENDICES TO THE REGULATORY HANDBOOK Volume 1**

**October 2024**

# Contents of the Appendices to the Regulatory Handbook

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## A1 – Composition & Quorum of the Board of Directors

Position	Name
Chairman	Mr. Garth MacDonald
Managing Director (Ex-Officio Member)	Mrs. Cindy Scotland
Deputy Chairman	Mr. Johann Moxam
Director	Mr. Ormond Williams
Director	Mr. Vaughan Carter
Director	Ms. Anna Goubault
Director	Mrs. Sabrina Foster
Director	Mrs. Helen Dombowsky
Director	Mr. Langston R.M. Sibbles
Director (Non-Voting)	Dr. Dax Basdeo

### Quorum

At every Board meeting, the quorum of the Board shall consist of no less than five directors<sup>1</sup> and decisions shall be adopted by a simple majority of the directors who are present and entitled to vote, except that, in the case of an equality of votes, the Chairperson shall, in addition, have a casting vote.<sup>2</sup>

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<sup>1</sup> Section 15 (3) of the MAA

<sup>2</sup> Sections 17(1) (g) and (i) of the PAA

## **A2 – Composition & Quorum of the Management Committee**

The Authority's Board has constituted the composition of the MC as follows:

### **Voting Members**

- the MD, as Chairperson;
- the Deputy Managing Director - Supervision;
- the Deputy Managing Director - Operations;
- the Deputy Managing Director – General Counsel;
- the Head of the Banking Supervision Division;
- the Head of the Insurance Supervision;
- the Head of the Fiduciary Supervision Division;
- the Head of the Investments Supervision Division
- the Head of the Securities Supervision Division;
- the Head of the Anti-Money Laundering Division;
- the Head of the Financial Stability and Statistics Unit;
- the Head of the Onsite Inspection Unit;
- the Head of the Compliance Division;
- the Head of the Policy & Development Division; and
- two (2) other officers from the MD's office, as the MD may deem necessary to appoint.

### **Non-voting Members**

- A Legal Counsel (in an advisory capacity); and
- Executive Assistant in the MD's Office- Secretary to the MC.

### **Quorum**

At every MC meeting, the quorum of the MC shall consist of:

- The Managing Director, as the MC Chairperson (voting member);
- a Deputy Managing Director (voting member);
- two (2) Supervisory Heads of Division (voting members);
- one (1) Non-Supervisory Head of Division (voting member); and
- one (1) Legal Counsel from the Legal Division (non-voting member)

Or in their absence, such other member of the MC as designated by the Managing Director.

## **EXTERNAL RELATIONS**

### **B1 – 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 Act (as amended) (“the MAA”). The scope of the duty is set out in more detail in sections 50 (3) to (8) and 51 of the MAA.
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 MAA 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 MAA, 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 MAA 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 MAA.

## 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 the 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 MAA. In deciding whether assistance should be granted, regard should be given to the matters set out in section 6(2), (3), and section 50(4), (8) of the MAA.
  - 3) As such, the Legal Division will review all requests for assistance against the criteria set out in section 50 (4) of the MAA such as whether

- (a) the inquiries relate to a breach of a legal requirement that has a parallel or involves the assertion of a jurisdiction recognized in the Cayman Islands; and
  - (b) 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 MAA 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 to keep track of the requests and make 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 conforms with the requirements of the MAA 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 MAA 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 it 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 onward 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 institutions, 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 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 under 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.

## **B2 – 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, on 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 on 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 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 deciding as to whether or not an 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 (e.g. 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 (e.g. 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 an 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.

## **B3 – 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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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 Act 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 to enable 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 party's 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 Authority's 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 the 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 involves 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 resolve 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 assist with 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 [ ]**

.....

## Table Illustrating Authorisations Issued by CIMA

Regulatory Acts	Category or Class
Banks and Trust Companies Act	<ul style="list-style-type: none"> <li>• <b>Class "A" banks</b> provide services to domestic and international markets;</li> <li>• <b>Class "B" banks</b> usually provide services to international markets and facilitate inter-bank transactions;</li> <li>• <b>Restricted Class "B" banks;</b></li> <li>• <b>Controlled subsidiaries</b></li> <li>• <b>Trust Companies;</b></li> <li>• <b>Restricted Trust Companies</b></li> <li>• <b>Private Trust Companies</b> – to provide trust services to "connected persons"<sup>3</sup>.</li> </ul>
Insurance Act	<ul style="list-style-type: none"> <li>• <b>Class A Insurers</b> – domestic or external insurer to carry on business generally in or from within the Islands, providing insurance business to the "domestic" market;</li> <li>• <b>Class B Insurers</b> – exempted to carry on insurance business other than domestic business from within the Islands.</li> <li>• <b>Class C Insurers</b> – exempted to carry on insurance business involving the provision of reinsurance arrangements.</li> <li>• <b>Class D Insurers</b> – to carry on reinsurance business and such other business as may be approved in respect of any individual licence by the Authority.</li> <li>• <b>Insurance Managers</b> – a company to provide insurance expertise to or for class B insurers or class C insurers.</li> <li>• <b>Insurance Agents</b><sup>4</sup> – to solicit domestic business on behalf of not more than one general insurer and one long-term insurer.</li> <li>• <b>Insurance Brokers</b> – to arrange or procure, directly or through representatives, insurance or reinsurance contracts or the continuance of such contracts on behalf of existing or prospective</li> </ul>

<sup>3</sup> as defined in section 2(2) of the Private Trust Companies Regulations (as amended from time to time).

<sup>4</sup> who is not an insurer

Regulatory Acts	Category or Class
	policyholders.
Money Services Act	<ul style="list-style-type: none"> <li>• <b>Money Services Businesses</b> - the business of providing, in or from within the Islands, any of the following services money transmission; cheque cashing; currency exchange; the issuance, sale or redemption of money orders or traveller's cheques; and such other services as the Cabinet may specify by notice published in the Gazette.</li> </ul>
Securities Investment Business Act	<ul style="list-style-type: none"> <li>• <b>Market Makers; Broker-dealers; Securities Arrangers; Securities Advisors; Securities Managers</b> – regulated persons<sup>5</sup> conducting securities investment business.</li> </ul>
Mutual Funds Act	<ul style="list-style-type: none"> <li>• <b>Mutual Fund Administrators</b> – to manage (including to control all or substantially all the assets of a fund) or to administer a fund, to provide the principal office of a fund in the Islands or to provide an operator to a fund<sup>6</sup>.</li> <li>• <b>Mutual Funds</b> – companies, unit trusts or partnerships<sup>7</sup> that issue equity interests, pooling investor funds to spread investment risks and enabling investors in a mutual fund to receive profits or gains from the acquisition, holding, management or disposal of investments</li> </ul>
Private Funds Act	<ul style="list-style-type: none"> <li>• <b>Private Funds</b> – companies, unit trusts or partnerships<sup>8</sup> that issue or have issued investment interests, pooling investor funds to spread investment risks and enabling investors in a fund to receive profits or gains from the acquisition, holding, management or disposal of investments</li> </ul>
Companies Management Act	<ul style="list-style-type: none"> <li>• <b>Company managers</b> – to provide corporate services as listed in section 3(1) of the Companies Management Act or any other corporate services as may be prescribed under that section.</li> </ul>

<sup>5</sup> including registered persons as defined in the SIBA.

<sup>6</sup> but does not include – (a) the provision of a registered office to a mutual fund where the usual corporate secretarial and related services are provided; (b) in relation to a mutual fund, the maintenance of any register of equity interests or the filing and payment of fees under the Companies Act (as amended from time to time), the Partnership Act (as amended from time to time), the Exempted Limited Partnership Act (as amended from time to time), the Limited Liability Companies Act (as amended from time to time), the Limited Liability Partnership Act (as amended from time to time), the Trusts Act (as amended from time to time) or this Act; or (c) the activities of a general partner of a partnership which is a mutual fund.

<sup>7</sup> but does not include a person licensed under the Banks and Trust Companies Act (2021 Revision) or the Insurance Act, 2010, or a person registered under the Building Societies Act (2020 Revision) or the Friendly Societies Act (1998 Revision);

<sup>8</sup> but does not include a person licensed under the Banks and Trust Companies Act (2021 Revision) or the Insurance Act, 2010, or a person registered under the Building Societies Act (2020 Revision) or the Friendly Societies Act (1998 Revision);

Regulatory Acts	Category or Class
	<ul style="list-style-type: none"> <li>• <b>Corporate service providers</b> – to provide only the corporate services specified in section 3(1)(a) through (e) of the Companies Management Act.</li> <li>• <b>Controlled subsidiaries</b> – to provide trust services including the issuing of debt instruments or any other trust business connected with the trust business of its parent that holds a trust licence.</li> </ul>
Virtual Assets (Service Providers) Act	<b>Virtual Assets Service Providers including Issuers, Custodians, and Trading Platforms</b> – where virtual assets are defined as a means of digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes but does not include a digital representation of fiat currencies <sup>9</sup> .
Directors Registration and Licensing Act	The Act sets out criteria and the process an individual must go through when applying to become a <b>director</b> of an entity. It lists the types of directors, the associated fees and the expectations set out by the Authority.
Cooperatives Societies Act	<b>Credit Unions</b> (subject to registration with the Registrar of Cooperative Societies of the General Registry Department of the Cayman Islands Government).
Building Societies Act	<b>Building Societies</b> (subject to their incorporation incorporated by the Registrar of Companies (General Registry Department of the Cayman Islands Government)
Development Bank Act	<b>The Cayman Islands Development Bank</b> is the only development Bank established in the Cayman Islands in accordance with the Development Bank Act.

<sup>9</sup> Definitions of licensed activities are set out in Section 2 of the Virtual Asset (Service Providers) Act

# The Responsibility for Licensing, Registration and Other Supervisory Matters

## C1. Banking

Type of Approval	Responsibility
New Licence Applications (Category "A" Licensees)	MC
New Licence Applications (Category "B" Licensees)	MC
New Licence Applications (Money Services Business)	MC
Approval for change in ultimate beneficial ownership (controlling interest)	MC
Approval of an Auditor to audit licensed banks	Division
Approval for Issue, Transfer, Disposal of shares (no change in control)	Division
Approval for Surrender of Licence	Division
Approval for Change of Name	Division
Approval for change of financial year end	Division
Approval to open a subsidiary, branch, agency or representative office (for licensed activities only)	Division
Approval of Change of Auditors (Banks & Trust Companies Act)	Division
Extension of Filing of Regulatory Reports (e.g. QPR Form, Financial Statements)	Division
Amendments to the Business Plan	Division
Approval for use of the word "Bank" and its derivatives	Division
Approval for Change of Principal Office &/or Authorised Agent (Banks & Trust Companies Act)	Division
Director/Senior Officer Approval	Division
Amendments to ownership structure (no change in beneficial ownership)	Division
Approval for exceeding exposure limit of Rule 5.8 of the Rule on Large Exposures	Division
Approval for Section 16(2) BTCA Exemption	Division
Approval for Section 7(1) BTCA Exemption	Division

## C2. Fiduciary

Type of Approval	Responsibility
New Licence Application - Unrestricted Trust	MC
New Licence Application - Company Management Licence	MC
New Licence Application - Corporate Licence	MC
New Licence Application - Restricted Trust Licence	MC
New Licence Application - Nominee Licence	MC
Approval for change in ultimate beneficial ownership (controlling interest)	MC
Approval for Issue, Transfer, Disposal of shares- (no change in control)	Division
Approval for Surrender of Licence	Division
Approval for Change of Name	Division
Approval for change of financial year end	Division
Approval of Change of Auditors (Companies Management Act)	Division
Extension of Filing of Regulatory Reports (e.g. Biannual Form, Financial Statements)	Division
Approval of "authorised insurer" (Companies Management Act)	Division
Approval of "authorised/recognised custodian"	Division
Amendments to the Business Plan	Division
Approval for use of word "Trust"	Division
Approval for Change of Principal Office & Authorised Agent (Banks and Trust Companies Act)	Division
Approval of Agent Pursuant to the Banks & Trust Companies Act	Division
Approval of a branch, subsidiary, agency or representative office	Division
Registration of Controlled Subsidiaries or Private Trust Companies	Division
Cancellation of Registration of Controlled Subsidiaries or Private Trust Companies	Division
Director/Senior Officer Approval	Division
Amendments to ownership structure (no change in beneficial ownership)	Division

### C3. Insurance

Type of Approval	Responsibility
New Licence Application - Class A	MC
New Licence Application - Class B (sub-categories B(I) and B(ii))	MC
New Licence Application - Class B (sub-categories B(iii) and B(iv))	MC
New Licence Application - Class C	MC
New Licence Application - Class D	MC
New Licence Application - Insurance Manager	MC
New Licence Application - Agent	MC
New Licence Application - Broker	MC
Approval for change in ultimate beneficial ownership (controlling interest)	MC
Approval for change in ultimate beneficial ownership (controlling interest) - Class B group captives	Division
Approval for registration of a Portfolio Insurance Company	Division
Approval to add a Segregated Portfolio to an SPC	Division
Approval for Issue, Transfer, Disposal of shares (no change in control)	Division
Amendments to ownership structure (no change in beneficial ownership)	Division
New Licence Application - Class C (non-complex Catastrophe Bond vehicles)	Division
Approval to accept remedial action plan presented by licensees when capital falls below PCR	Division
Approval for Surrender of Licence	Division
Approval for Change of Name	Division
Approval for change of financial year end	Division
Approval to open a subsidiary, branch, agency or representative office (for licensed activities only) - Class A	Division
Approval of Change of Auditors (Insurance Act)	Division
Approval for use of word 'Insurance'	Division
Extension of Filing of Regulatory Reports	Division
Amendments to the Business Plan	Division
Director/Senior Officer Approval	Division

## C4. Investments

Type of Approval	Responsibility
New Mutual Fund Administrators Licence Application	MC
New Auditors Application-	MC
New Restricted Mutual Fund Administrators Licence Application	MC
Approval for change in ultimate beneficial ownership (controlling interest)	MC
Approval for Revocation of MFA Licence on voluntary surrender by licensee (MFL 30 (12))	MC
Cancellation of Registration/License of Mutual Fund (failing to comply with MFL sec.8 and/or 9) (Note 2)	MC
New Application – Japanese Regulations	Division
Director/Senior Officer Approval (MFA, SIBL & Sec. 5 Funds)	Division
New Mutual Fund Registration (Sec. 4(3) & 4(1)(b))	Division
New Mutual Fund Licence Application (Sec. 5)	Division
Voluntary Surrender of Registration and Deregistration of Mutual Fund (Sec. 4(3), 4(1)(b) & 5)	Division
Extension to Filing of Regulatory Reports (RF-1, Financials)	Division
Approval for Change of Name - Fund	Division
Issuance of new certificate for Change of Name - MFA	Division
Amendments to the Business Plan	Division
Approval for change of financial year end	Division
Approval of Change of Auditors	Division
Approval and Cancellation of the registration of private funds.	Division

## C5. Securities

Type of Approval	Responsibility
New Application – Securities Investment Business Licence	MC
Approval for Revocation of SIB Licence on voluntary surrender by licensee	MC
Approval for change for over 10% shareholding	MC
Approval and cancellation of Registered Persons (SIBA)	Division
Approval for change of financial year end	Division
Approval of Change of Auditors	Division
Approval for Issue, Transfer, Disposal of shares (no change in control)	Division
Approval for Surrender of Licence	Division
Approval for Surrender of RP Registration	Division
Approval for Change of Name	Division
Amendments to the Business Plan	Division
Approval for change in ultimate beneficial ownership (controlling interest)	Division
Amendments to ownership structure (no change in beneficial ownership)	Division
Approval for Change in Registered Office/Service Provider	Division
Approval for change in shareholding	Division
Approval of Directors	Division
Approval for establishing or opening subsidiaries and branches	Division
Approval for extension for filing regulatory reports	Division

## C6. Virtual Assets

Type of Approval	Responsibility
Approval or cancellation of the registration of a VASP	MC/Division
Approval or cancellation of the license of a VASP	MC/Division
Approval for virtual asset issuance	MC/Division
Director/Senior Officer Approval (including changes)	Division
Issuance of conditions for licensing in accordance with the regulatory law	Division
Approval of Auditors	Division
Approval for change of Auditors	Division
Approval for change in shareholding greater than 10%	Division

## Other

### D1 – Sample Letter of Good Standing

Mr. XXXXX  
Manager - Credit Department  
YYYYYYYYYYYYYYY  
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 XXX 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)".



# REGULATORY HANDBOOK

**OCTOBER 2024**



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