



NOTICE

22 December 2016

Administrative Termination - Frequently Asked Questions

The Cayman Islands Monetary Authority (the "Authority") outlines below, for your reference, its response to frequently asked questions relating to the administrative termination:

Question: Is a fund canceled as an administrative action, pursuant to section 30(16) of the Mutual Funds Law (2015 Revision) ("MFL"), still liable for any outstanding fees?

Answer: All funds that have been canceled as an administrative action, pursuant to section 30(16) of the MFL, have been removed from regulatory supervision including the settlement of fees. Entities that have been removed from regulatory supervision are no longer regulated by the Authority and therefore no longer fall under the definition of "mutual fund" as set out in the MFL.

Question: If a fund has paid the annual fee each year, can it still be subject to this administrative action?

Answer: Although funds may have fulfilled certain regulatory obligations (i.e. fees/other filings), they may not have provided the required documents to complete the termination process as per the Cancellation Rule/Regulatory Procedure. Therefore, such fund could be terminated as an administrative action by the Authority, unless an extension has been requested and granted.

Question: Will the Authority sanction the operators associated with funds that have been canceled as an administrative action?

Answer: As indicated in the industry advisory ("Advisory") dated 29 September 2016, where a Mutual Fund Licence or Certificate of Registration has been canceled as an administrative action, the Authority will also consider whether it is appropriate to take action under the relevant regulatory law where the Authority determines that a Fund in LUL or LUT is the subject of wrongdoing, or circumstances give rise to questions about the fitness and propriety of operators or service providers.

Question: How can I determine the funds for which I am responsible that have been canceled as an administrative action?

Answer: The Authority will provide a list, upon request, of such funds.

Question: Will the Authority reverse its decision to cancel a fund as an administrative action?

Answer: The Authority's decision to cancel a Mutual Fund Licence or Certificate of Registration for failure to provide long outstanding de-registration requirements will not be reversed, unless in exceptional circumstances.

Question: Will the Authority contact a fund to advise that it could become subject to cancellation as an administrative action?

Answer: The Authority will, as set out in the Advisory, contact the fund during the six month period to seek any outstanding documents and/or fees as well as a comprehensive update on the status and progress of the winding down or liquidation of the fund. It is the Authority's expectation that the fund take responsibility for providing timely updates on the progress of the termination of the fund during the six month period as indicated in the Advisory.

Question: What is the procedure for requesting an extension and what information does the Authority require in order to consider an extension request?

Answer: The Authority expects the fund to request an extension prior to the expiration of the six month period. Failure to do so will result in the Authority cancelling the Certificate of Registration or Mutual Fund Licence as an administrative action. The Authority requires ongoing updates with sufficient details outlining valid reasons for the delay, indicating the status of the outstanding requirements including timelines for bringing the termination of the fund to a prompt closure.

Question: Are funds in Licence Under Termination ("LUT") or Licence Under Liquidation ("LUL") status expected to file audited accounts, particularly when the fund has been in such status for an extended period of time?

Answer: Pursuant to section 7.1 of the Regulatory Procedure - Cancellation of Licences issued pursuant to section 5 and Certificates of Registration issues pursuant to Sections 4(3), and 4(a)(b) of the MFL, unless a Fund qualifies for an audit waiver, it must provide audited accounts from the date of the last financial year end (for which audited statements have been filed) either to the date of commencement of the winding up where third party liquidator(s) have been appointed, or the date of the final distribution if no third party liquidator(s) have been appointed.