



# NOTICE

17 June 2019

## MUTUAL FUNDS LAW (2019 REVISION)

### Audit Requirements and Filings: Regulated Funds - Frequently Asked Questions

The Cayman Islands Monetary Authority (the "Authority") outlines below, for your reference, its response to frequently asked questions relating to the audit requirements and filing of audited accounts in relation to regulated funds:

#### 1. What are the audit requirements for a regulated fund?

**Answer:** A regulated fund, pursuant to section 8(1) of the Mutual Funds Law (2019 Revision) ("MFL"), is required to have its accounts audited annually by an auditor approved by the Authority. The regulated fund is also required to submit its audited accounts, along with the Fund Annual Return ("FAR")<sup>1</sup>, to the Authority within six months of the end of each financial year.

#### 2. What audit period should a regulated fund's FINAL audited accounts cover?

**Answer:** Section 7.1 of the [Regulatory Procedure Cancellation of Licences issued pursuant to section 5 and Certificates of Registration issued pursuant to Sections 4\(3\), and 4\(1\)\(b\) of the Mutual Funds Law \("MFL"\)](#) states "...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)<sup>2</sup> have been appointed, or the date of the final distribution if no third party liquidator(s) have been appointed."

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<sup>1</sup> The Fund Annual Return ("FAR") is an electronic form that fund operators must use to provide the Authority with general, operating and financial information about the regulated fund and/or associated sub-funds/SPs, as necessary. This electronic document must be completed and filed for every regulated fund at that time that the fund's audited accounts are filed.

<sup>2</sup> In accordance with the Audit Waiver Policy, a third party liquidator, "means individuals, serving as liquidators in a voluntary liquidation of a fund, who are not the operators or currently engaged service providers (excluding an Auditor of the fund)."

**3. Who is responsible for making requests for audit waivers or audit extensions on behalf of a regulated fund?**

**Answer:** The Authority will accept requests for audit waivers or audit extensions on behalf of a regulated fund from the operators of the fund, or a service provider to which this responsibility has been assigned.

**4. If a fund has outstanding fees or audited accounts will it be able to file its audited accounts for the current year?**

**Answer:** Yes. While the fund will be required to address all outstanding regulatory matters, it will not impact its ability to file its audited accounts for the current year.

**5. Under what circumstances can a regulated mutual fund qualify for an audit waiver?**

**Answer:** The conditions where the Authority may exempt a regulated fund from audit requirements are outlined in Section 4.4. of the [Regulatory Policy Exemption from Audit Requirement for a Regulated Mutual Fund](#) ("Audit Waiver Policy").

**6. What information is required to process an audit extension request?**

**Answer:** Pursuant to section 8(4) of the MFL, the Authority may grant an extension to the six month period in which the fund is expected to file. A regulated fund must submit a written request (in the form of a duly signed and dated cover letter on official letterhead), from a current service provider (Administrator, Investment Manager/Advisor, Legal Counsel, Manager or Registered/Principal Office) or Operator, along with the application fee<sup>3</sup>.

The request must be made **on the day of or prior to the expiration of the regulated fund's audit filing deadline**<sup>4</sup>. The request should be sent via e-mail to [EReporting@cimoney.com.ky](mailto:EReporting@cimoney.com.ky) with the **full legal name of the regulated fund and the purpose of the e-mail explicitly specified in the subject line.**

All requests for audit filing extensions beyond the first month (**2<sup>nd</sup> and 3<sup>rd</sup> audit extension requests**) **must** be accompanied by a letter from the regulated mutual fund's auditor, which explains the reason(s) for the delay.

Extensions are granted in one-month increments, up to a maximum of three (3) extensions.

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<sup>3</sup> Each month audit extension request incurs its own application fee – each request made separately for the applicable period) of CI\$500.00 / US\$609.76 (there is an additional US\$7.50 bank charge for each wire transfer) must be received by the Authority.

<sup>4</sup> Late request submissions maybe subject to additional review and a longer processing time by the Authority and the regulated mutual fund will be and remain in breach of sections 8(1) and 8(2) of the Mutual Funds Law (as revised) until the Authority receives the necessary audited financial statements (via the REEFS Portal) or the request is processed.

**7. Will an audit extension request received after the filing deadline be processed by the Authority?**

**Answer:** Yes. However, the fund will be recorded as being in breach of the MFL for failure to file such extension request in advance of the deadline.

**8. If there are audited accounts outstanding from previous years, will the regulated fund have to file audit extension requests in respect of these years in order for the audit extension request for the current year to be processed?**

**Answer:** No. The fund will be recorded as being in breach for the previous years for failure to file the audited accounts for those periods and will remain in this status until such time that these outstanding accounts are filed.

**9. How much is the FAR filing Fee?**

**Answer:** As per The Mutual Funds (Annual Returns) (Amendment) Regulations there is a fee of CI\$300.00 to file a FAR, which becomes due at the time the FAR is submitted.

A FAR fee is generated for every FAR filed, regardless of the fund structure (standalone, multi-structure, segregated portfolio company, underlying segregated portfolio, feeder fund, sub-fund, etc.) or regulated status (Active, Licence Under Termination ("LUT") or Licence Under Liquidation ("LUL") status).

**10. What is the process to reject a previous filing of audited accounts and FAR submitted via the REEFS Portal?**

**Answer:** The fund or the Authority may request to have the relevant FAR rejected due to incomplete or inaccurate data in the FAR. The Authority requires a written request from the regulated fund's Operator(s) or approved auditor to be sent to [EReporting@cimoney.com.ky](mailto:EReporting@cimoney.com.ky) with the **full legal name of the regulated fund and the purpose of the e-mail** explicitly specified in the subject line. The request should clearly state the reason(s) why the specified set of audited accounts and the associated FAR need to be rejected by the Authority<sup>5</sup>.

**11. Will the Authority amend an audit row within the REEFS Portal to show an audit stub period?**

**Answer:** No. The Authority will not amend any audit row periods within the REEFS Portal to show an audit stub period. The REEFS Portal automatically generates a regulated fund's audit filing row at the end of its current financial year and as a result, the approved auditor should file the relevant audited

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<sup>5</sup> There is no application fee to request a rejection of previously submitted (via the REEFS Portal) audited financial statements on behalf of a regulated mutual fund. **There is no additional FAR fee for re-submission of audited financial statements and FAR.**

financial statements and FAR in that current financial year's audit filing row, which allows filings for an audit period of up to a **maximum of 18 months**.

**12. What are the reason(s) an approved auditor cannot locate a regulated fund or any of its sub-fund(s)/SP(s) in the dropdown list within the REEFS Portal?**

**Answer:**

The auditor may not be able to locate a fund, sub-fund(s)/SP(s) because:

- The Authority has not been duly notified that the auditor is now the auditor of record for the fund, sub-fund(s) or SP(s);
- The Authority has not been duly notified of the creation of the sub-fund(s) or SP(s); and/or
- Changes submitted to the Authority advising of the auditor's appointment or creation of the sub-fund(s) or SP(s) are pending completion.

In such instances, The Authority should be advised, via an e-mail sent to [EReporting@cimoney.com.ky](mailto:EReporting@cimoney.com.ky), that the regulated fund and/or of its sub-fund(s)/SP(s) cannot be located within the REEFS Portal. The email should have the full legal name of the regulated fund and/or its sub-fund(s)/SP(s), as well as the purpose of the e-mail explicitly specified in the subject line). In the event that this is also the initial notification to the Authority that the auditor is now the auditor of record for the fund, sub-fund(s) or SP(s) or that the sub-fund(s) or SP(s) have been created, the supporting requisite documentation must also be attached in the email.

**13. Why do I see audit filing rows in the REEFS Portal that do not apply to the regulated fund?**

**Answer:** If the visible audit filing rows within the REEFS Portal do not apply to the regulated fund in question, please disregard them and file within the row applicable to the financial year-end of the audited accounts being submitted. The Authority will in due course remove the rows that are not applicable.

**14. When do audit filing rows become available to enable the filing of audited accounts?**

**Answer:** The REEFS portal automatically generates a regulated fund's audit filing row at the end of its current financial year. As an example, for a fund with a December financial year-end, the audit filing row becomes available on 1<sup>st</sup> January of the calendar year immediately following such financial year-end and remains open until 30<sup>th</sup> June. This will allow for the filing of the relevant audited accounts and FAR at any time during this period. If the audited accounts and FAR are not filed on or before 30<sup>th</sup> June, or the relevant audit

extension request(s) submitted to and approved by the Authority, the filing row for the applicable year will automatically close<sup>6</sup>.

**-END-**

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<sup>6</sup> The fund should email the Authority via [EReporting@cimoney.com.ky](mailto:EReporting@cimoney.com.ky) with the full legal name of the regulated mutual fund and the purpose of the e-mail explicitly specified in the subject line) which clearly explains the issue or make the extension request if applicable. Auditors are encouraged to have the relevant discussion with the fund prior to the applicable deadline to ensure that all is in order and that the specified rows are available to submit the respective filings.