



CAYMAN ISLANDS MONETARY AUTHORITY

20 July 2018

NOTICE

RE: Anti-Money Laundering Regulations (“AMLRs”)/Guidance Notes¹ (“GN”) - Frequently Asked Questions: Funds

The Cayman Islands Monetary Authority (the “Authority”) outlines below, for your reference, its response to frequently asked questions relating to the AMLRs/GN in relation to funds:

1. Do all Cayman-domiciled funds (regulated and unregulated) need to appoint an Anti-Money Laundering Compliance Officer (“AMLCO”), Money Laundering Reporting Officer (“MLRO”) and Deputy Money Laundering Reporting Officer (“DMLRO”) to their entities?

Answer: Yes. Pursuant to regulations 3(1) and 33 of the AMLRs, a fund, (regulated or unregulated), which conducts relevant financial business as per Schedule 6 of the Proceeds of Crime Law (2018 Revision) and is doing business in or from within the Cayman Islands, must designate a natural person, at managerial level, to act as its AMLCO, MLRO and DMLRO.

2. Does the AMLCO, MLRO and DMLRO for these funds need to be a natural person?

Answer: Yes. Pursuant to regulations 3(1) and 33 of the AMLRs, a fund doing business in or from within the Cayman Islands must designate a natural person, at managerial level, to act as its AMLCO, MLRO and DMLRO. The same natural person may act as both the AMLCO and MLRO (or DMLRO). However, the MLRO and DMLRO must be two different natural persons.

¹ Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands

3. Does a fund that is a Segregated Portfolio Company (“SPC”) need to appoint an AMLCO, MLRO and DMLRO to each respective Segregated Portfolio (“SP”) (connected to the SPC)?

Answer: The appointment of the AMLCO, MLRO and DMLRO is to the fund. In the case of a SPC, these appointments will be to the core company. As the underlying SPs are not separate funds, it is not required that an AMLCO, MLRO and DMLRO be also appointed to each SP.

4. Does a fund that is a Series Trust need to appoint an AMLCO, MLRO and DMLRO to each respective Trust?

Answer: The appointment of the AMLCO, MLRO and DMLRO is to the fund. However, a Series Trust may opt to establish each individual trust as a standalone fund in its own right and may, in some instances, register/licence each such trust with the Authority. Whether regulated or unregulated, if an individual trust of a Series Trust has been established to operate as a standalone fund, it is required to appoint its own AMLCO, MLRO and DMLRO.

5. Who is deemed suitable to be appointed as the AMLCO, MLRO and DMLRO for these funds and to what extent, if any, will there be limitations on such appointments (e.g. independence or capacity issues)?

Answer:

The positions of AMLCO, MLRO and DMLRO are expected to be held by a natural person:

- at managerial level who meets all other criteria as per Section 2C and Section 9B of Part II of the GN; and
- who has independence and autonomy in conducting these roles, as well as the ability to carry out their duties and responsibilities efficiently and without any conflict of interests prejudicing the discharge of their obligations as set out in the AMLRs and GN.

The Financial Service Provider (“FSP”) should be able to demonstrate that person(s) designated as an AMLCO/MLRO/DMLRO are independent and have the capacity to undertake the assigned function(s).

6. Are the AMLCO, MLRO and DMLRO required to have specific knowledge and understanding of the Cayman Islands’ AML/CFT requirements?

Answer: Yes. FSPs should ensure that their AMLCO, MLRO and DMLRO have specific knowledge regarding the applicable Cayman Islands legislative, regulatory and other requirements to discharge their respective functions efficiently and assist FSPs to comply with the applicable AML/CFT obligations.

7. What does it mean to be “independent...[have] no vested interest in the underlying activity” in relation to a MLRO/DMLRO?

Answer: An MLRO/DMLRO should be independent in their decision-making, with there being sufficient checks and balances in place to prevent conflicts of interest for the person appointed in this role. Any independent person employed by a service provider to the fund (such as an administrator and/or an investment manager) may be appointed as an MLRO/DMLRO.

8. Can the AMLCO, MLRO and DMLRO be based outside of the Cayman Islands?

Answer: Yes. The AMLCO, MLRO and DMLRO may be based outside of the Cayman Islands, provided they otherwise meet the suitability criteria for the relevant role as set out in the GNs, under Section 2C and Section 9B of Part II of the GN, and are able to comply with all AML/CFT obligations under Cayman Islands law.

9. If the MLRO or DMLRO is based outside of the Cayman Islands and is required to file SARs in their own jurisdiction, are they also required to file SARs in the Cayman Islands?

Answer: Yes. All SARs relating to Cayman Islands funds must be filed in the Cayman Islands with the Financial Reporting Authority.

10. How do regulated funds confirm the appointment of the AMLCO, MLRO and DMLRO to the Authority?

Answer:

- Each regulated fund is required to complete the requisite form for each appointee and submit such form via the Authority’s REEFS portal².
- For existing regulated funds, submission of the requisite forms via the Authority’s REEFS portal is to be done on or before September 30, 2018.
- For new funds (applying to be registered or licensed on or after 1 June 2018), the provision of the requisite information is required at the time of the submission of the registration/licence application via the Authority’s REEFS portal.
- For all regulated funds:
 - there is currently no fee applicable for the appointment of an AMLCO, MLRO and DMLRO; and
 - any changes to the information provided in relation to the AMLCO, MLRO and DMLRO will require an updated submission via the Authority’s REEFS portal.

² Please be advised that access to the REEFS portal is limited to local service providers, such as the Registered Office, who have completed the process to become authorized users of the portal.

11. Are funds required to include in their offering documents biographical or other information relating to the persons appointed as AMLCO, MLRO and DMLRO?

Answer: No. However, the Authority expects each fund to disclose in its offering document the fact that the fund has designated an AMLCO, MLRO and DMLRO and details as to how investors may obtain further information in respect of such persons.

12. How do unregulated funds confirm the appointment of the AMLCO, MLRO and DMLRO?

Answer: Unregulated funds are expected to appoint an AMLCO, MRLO and DMLRO by September 30, 2018; however, they are not at this point required to confirm such appointments to the Authority.

13. Are funds in LUT/LUL status required to appoint a MLRO, DMLRO and AMLCO?

Answer: Funds that are in LUT/LUL status are not required to appoint a MLRO, DMLRO or AMLCO. However, a fund that is de-registering/canceling its licence on the basis that it qualifies as per section 4(4) of the Mutual Funds Law, or is now a closed-ended fund, is required to appoint a MLRO, DMLRO and AMLCO as it continues to conduct relevant financial business.

14. If a fund has not yet formally applied to the Authority to de-register/cancel as a regulated fund but is currently in the winding up process, is it required to appoint an MLRO, DMLRO and AMLCO?

Answer: A fund that has not yet provided formal notice of its intention to wind-up its operations, through the submission of a de-registration/cancellation application, is considered to be actively conducting business and therefore is required to appoint a MLRO, DMLRO and AMLCO.

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