

UPDATE

Regulatory Law Update

Welcome to our update on legal and regulatory developments in the Cayman Islands

New AML Regulations in force

The Anti-Money Laundering Regulations, 2017 (the **Regulations**) came into force on 2 October 2017, aligning the Cayman Islands more closely with the Financial Action Task Force recommendations and global practice. The new Regulations represent an extension and enhancement of Cayman's previous AML regime. However, they will not apply to unregulated investment funds and some insurance entities until 31 May 2018.

A more comprehensive briefing on the new Regulations can be accessed [here](#).

The related Guidance Notes have recently been updated, which will address how the Regulations will apply in practice.

New administrative fines

The Monetary Authority (Administrative Fines) Regulations 2017 (the **AFR**) came into force on 15 December 2017.

The Cayman Islands Monetary Authority (**CIMA**) now has the power to impose fines ranging from CI\$5,000 to CI\$1 million. Breaches of the applicable regulations fall into the categories of minor, serious and very serious, but the imposition of fines for some minor breaches is not discretionary. In addition, fixed fines of CI\$5,000 may continue to be imposed until the breach stops or is remedied, or the total of the initial fine and all continuing fines reaches CI\$20,000.

A comprehensive briefing on the new AFR will follow shortly.

AEOI Update

The Department for International Tax Cooperation (the **DITC**) issued two updates in relation to the Automatic Exchange of Information Portal (**AEOI Portal**) on 7 November 2017:

- **AEOI Portal Availability:** The Cayman Islands AEOI Portal is currently offline. The reopening of the AEOI Portal will be communicated through an Industry Advisory and on the AEOI Portal News and Updates page of the DITC website;
- **AEOI Portal Team Communications:** The AEOI Portal Team have cleared a backlog of technical queries, issues and requests which were emailed to the AEOI Portal mailbox. The AEOI Portal Team continue to work through the remaining Financial Institution (**FI**) termination requests. If you emailed the AEOI Portal Team prior to 13 September 2017 with regards to an issue not relating to FI terminations on the AEOI Portal and have not received a response, we suggest you contact them again.

Amendments to the beneficial ownership regime

The Companies (Amendment)(No.2) Law, 2017 and the Limited Liability Companies (Amendment)(No.3) Law, 2017 came into force on 13 December 2017. They contain amendments to Part XVIIIA (Beneficial Ownership Registers) and Part 12 (Beneficial Ownership Registers) of the respective laws.

The headline points to note are as follows:

- The definition of "regulatory law" has been updated. The term now means a law defined as a regulatory law under section 2 of the Monetary Authority Law (2016 Revision), other than the Directors Registration and Licensing Law, 2014.
- The list of entities to which the beneficial ownership register (BOR) requirement does not apply has been extended, although companies and limited liability companies registered as "excluded persons" under the Securities Investment Business Law (SIBL) are now caught. The excluded entities are now those which are:
 - (a) listed on the Cayman Islands Stock Exchange or an approved stock exchange;
 - (b) licensed or registered under a "regulatory law" (other than a company which is registered as an excluded person under the SIBL);
 - (c) managed, arranged, administered, operated or promoted by an approved person as a special purpose vehicle, private equity fund, collective investment scheme or investment fund, including where the vehicle, fund or scheme is a Cayman Islands exempted limited partnership;
 - (d) regulated in a jurisdiction included in a list published by the Anti-Money Laundering Steering Group of countries and territories whose AML legislation is deemed to be equivalent to Cayman's AML legislation;
 - (e) a general partner of a vehicle, fund or scheme referred to in (c) above, which vehicle, fund or scheme:
 - (i) is registered or holds a licence under a regulatory law; or
 - (ii) is managed, arranged, administered, operated or promoted by an approved person;
 - (f) holding directly a legal or beneficial interest in the shares of a legal entity which holds a licence under:
 - (i) the Banks and Trust Companies Law;
 - (ii) the Companies Management Law;
 - (iii) the Insurance Law;
 - (iv) Part III of the Mutual Funds Law; or
 - (v) SIBL; or
 - (g) exempted by the Regulations.
- The definition of "approved person" has also been amended to make it clear that persons registered as "excluded persons" under SIBL do not qualify.

The amendments also impose a positive obligation on companies which are exempt from the BOR requirements to provide their corporate service provider with a declaration of exemption, indicating the grounds on which that entity is exempted, together with an instruction that the declaration be filed with the relevant authority.

Corporate service providers are now required to deposit beneficial ownership information regularly, and will be deemed to have committed an offence for any default.

A more comprehensive briefing on the amendments to the BOR regime will follow shortly.

Mourant Ozannes would be pleased to assist with any questions or advice in relation to the matters outlined above. For more information, please contact a member of our Financial Services & Regulatory team.

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