

Regulatory Handbook

Volume 1 | November 2026

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List of Acronyms and Definitions

AML	means Anti-Money Laundering
AMLCO	means Anti-Money Laundering Compliance Officer
AMLR	means Anti-Money Laundering Regulations
AMLSG	means Anti-Money Laundering Steering Group
ASBA	means Association of Supervisors of Banks of the Americas
Authority	means Cayman Islands Monetary Authority ("CIMA")
Board	means Board of Directors
BCBS	means Basel Committee on Banking Supervision
BCP	means Basel Core Principles
BOTs	means British Overseas Territories
BTCA	means the Banks and Trust Companies Act
CAIR	means Caribbean Association of Insurance Regulators
CARTAC	means Caribbean Regional Technical Assistance Centre
CFT	means Countering the Financing of Terrorism[1]
CFATF	means Caribbean Financial Action Task Force
CGBS	means Caribbean Group of Banking Supervisors
CBC	means Cayman Islands Customs and Border Control
CIBFI	means Cayman Islands Bureau of Financial Investigations
CIG	means Cayman Islands Government (the "Government")
CILPA	means Cayman Islands Legal Professionals Association
CIMA	means Cayman Islands Monetary Authority (the "Authority")
CPF	means Countering Proliferation Financing
DCI	means the Department of Commerce and Investment
DMLRO	means Deputy Money Laundering Reporting Officer
DNFBPs	means Designated Non-Financial Business and Professions
EU	means European Union
FATF	means Financial Action Task Force
FRA	means the Financial Reporting Authority
FSP	means Financial Services Provider
FSB	means Financial Stability Board
FSR	means Financial Stability Report
GIFCS	means the Group of International Financial Centre Supervisors
GIICS	means the Group of Collective Investment Scheme Supervisors
GNs	means Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing in the Cayman Islands

1 Also used for Combating the Financing of Terrorism

Handbook	means the Regulatory Handbook
HOD	means Head of Division
IACC	means the Inter-Agency Coordination Committee
IAIS	means International Association of Insurance Supervisors
ICPs	means Insurance Core Principles
IFC	means International Financial Centre
IFC	means Irving Fisher Committee on Central Bank Statistics
IMF	means International Monetary Fund
IOSCO	means the International Organisation of Securities Commissions
KYC	means Know Your Customer
MAA	means the Monetary Authority Act
MACI	means the Maritime Authority of the Cayman Islands
MC	means the Management Committee
MFA	means the Mutual Funds Act
MFS	means Ministry of Financial Services and Commerce
MLRO	means the Money Laundering Reporting Officer
MOFSC	means the Ministry of Financial Services and Commerce ("Ministry")
MOU	means Memoranda of Understanding
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
ODPP	means Office of the Director of Public Prosecutions
ORA	means Overseas Regulatory Authority
PAA	means the Public Authorities Act
POCA	means Proceeds of Crime Act
PMFA	means the Public Management and Finance Act
RBA	means Risk-Based Approach
SAR	means Suspicious Activity Report
SAGCs	means Statutory Authorities and Government Companies
SC	means Sanctions Coordinator
SGO	means Solicitor General Office
SIBA	means Securities Investment Business Act
SOG	means Statement of Guidance
SPLA	means the Standards in Public Life Act
SWG	means Sanctions Working Group
TFS	means Targeted Financial Sanctions[2]
VASP	means Virtual Asset Services Providers
VASPA	means the Virtual Services Providers Act

2 Related to terrorism and terrorists and proliferation financing.

In this Regulatory Handbook, the following definitions are provided:	
Word / Term	**Definition / Meaning for the Purpose of this Handbook**
AMLRs:	means the Anti-Money Laundering Regulations issued pursuant to the Proceeds of Crime Act and includes any guidance issued in relation thereto.
Authority:	means the Cayman Islands Monetary Authority or "CIMA" established under the MAA.
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
Authorised Person(s):	means any natural or legal Person or arrangement that has been given authorisation by the Authority, pursuant to the Regulatory Acts, also known as Regulated Person(s) or Regulated Entity(ies)[3].
Behaviour:	means any kind of conduct, including action or inaction.
Breach:	means a contravention of a Regulatory Act, or a Regulatory Measure, which includes an act or omission. Breaches are classified as either Minor, Serious or Very Serious under the Section 42A (2) of the MAA as outlined in the MA (Administration Fine) Regulations.
Chief Executive Officer:	means the Chief Executive Officer (the "CEO") pursuant to Section 24 of the Public Authority Act, appointed in accordance with Section 13 of the MAA. Also known as the Managing Director pursuant to Section 11(2) (a) of the MAA.
Company:	means any corporate body formed or registered under the Companies Act, the Limited Liability Companies Act or the Limited Liability Partnerships Act of the Cayman Islands and includes foreign companies.
Controller:	means a Person appointed by the Authority pursuant to the Regulatory Acts to take control of the affairs of a company as defined in Companies Act.
Enforcement Action:	is action taken by the Authority against an entity or a person as a result of a failure to comply with a Regulatory Act or a direction issued in accordance with the MAA. Enforcement Action ranges across a spectrum of seriousness up to and including cancellation of a licence or registration.
Financial Crime:	means any kind of criminal conduct relating to money (whether virtual or fiat) or to financial services or markets and includes money laundering, terrorism financing, or proliferation financing.
Management Committee:	means a statutory committee, under Section 16(1) of the MAA. The Board has delegated decision-making powers so the MC can perform operational decision-making of the Authority and consider issues that impact the Authority.
Money Laundering:	means doing any act which constitutes an offence under Sections 19 to 22 of the Terrorism Act or Section 144 (10) of the Proceeds of Crime Act or, in the case of an act done otherwise than in the Islands, would constitute such an offence if done in the Islands.
Officer:	means a Person in a position of control over an entity, however so described, which includes a director, partner, management committee member, chief executive, manager, secretary, operator or other similar officer, or a Person purporting to act in that capacity.

3 the definition of Authorised Person(s) include Registered Person(s), Registrant(s), Licencee(s), Licence-holder(s), and Supervised Person(s) under the Regulatory Acts

Word / Term	Definition / Meaning for the Purpose of this Handbook
On-site Inspection:	means to inspect the affairs of Authorised Persons in order to determine whether they are complying with the Regulatory Acts and policies and thus operating in a sound and prudent manner.
Oversight Committee:	means a committee constituted in accordance with Section 17 of the MAA and convened when required by the Chief Executive Officer for the purpose of considering the imposition of a Discretionary Fine or any other Enforcement Action.
Party:	means an Authorised Person, whether a licensee or a registrant, subject to the Authority's regulatory functions under the Regulatory Acts or monitored by the Authority under the AMLRs
Person:	includes natural Persons, corporate bodies and any individual or entity acting in a position of control or ownership over assets or rights in accordance with a legal arrangement.
Principles:	mean the principles as outlined in Section 42F(1)(b) of the MAA to be considered by the Authority when making a fine decision, which prevail over other criteria considered.
Regulatory Functions:	means the statutory functions of the Authority specified in Section 6 of the MAA.
Regulatory Acts:	means any one or more of the Acts as prescribed in Section 2 of the MAA and Regulations made under them or the Proceeds of Crime Act, and any other Act and Regulations that may be prescribed by the Cabinet under Section 46 of the MAA.
Regulatory Measures:	means any rules, statements of principle, or guidance, or policies and procedures issued by the Authority in accordance with the MAA.
Stakeholder:	means a depositor, investor, policyholder, client, customer, creditor, member of, an entity managed or administered by or any other third party with an interest in an Authorised Person.
Supervisory Division:	means one of the following divisions within the Authority: Anti-Money Laundering Division, Banking Supervision Division, Fiduciary Services Division, Investments Supervision Division, Insurance Supervision Division, Securities Supervision Division or the Virtual Asset Service Providers and Fintech Innovation Division.

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 Authorised Persons 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(3) 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:
- Volume 2 – The Enforcement Manual and its Related Procedures; and
- 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.

The Handbook does not have the effect of creating any rule or statement of principle or guidance[4] which directly or indirectly presents a new obligation or requirement concerning the conduct of Authorised 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, Authorised 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.

4 Issued separately by the Authority pursuant to Section 34 of the MAA

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:

Table 1: International standard setters

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

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 Group of International Financial Centre Supervisors ("GIFCS");
- the Irving Fisher Committee on Central Bank Statistics ("IFC"); 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 and is operationally independent 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 Authorised Persons pursuant to the Regulatory Acts and the monitoring of compliance with the anti-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 fees; such fee income is paid into the Government's executive bank account. 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:

a. Banks and other deposit-taking institutions
b. Non-banking financial intermediaries (for example, money service businesses)
c. Insurance
d. Investment funds (including mutual funds and private funds) and administrators
e. Securities investment businesses
f. Directors
g. Trusts and corporate services
h. 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, summarized as follows:

a. **Monetary functions**: issue and redeem Cayman Islands currency and manage the currency reserve;

b. **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;

c. **Co-operative functions:** assist overseas regulatory authorities with consolidated supervision; and

d. **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) of the 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; and

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 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.

a. Mission Statement

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

b. Vision Statement

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

c. Values

i. Teamwork: We empower each other to work at our productive best.

ii. Accountability: We hold ourselves and each other accountable for our responsibilities and commitments.

iii. Excellence: We aspire to the highest standards of performance.

iv. Collaboration: We achieve common goals through successful working relationships.

v. Integrity: We encourage and expect honest and ethical behaviour by our employees.

vi. 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[5]. The Board is accountable to the Cabinet for its actions.

a. Board Composition

The Board is appointed by the Cabinet and comprises of the Chief Executive Officer[6] 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 are initially appointed for a period of three (3) years and are 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.**

b. Board Committee Roles and Responsibilities

To increase effectiveness in executing its responsibilities and duties, the Board has established five (5) sub-committees[7]. Highlights of the main mandates and responsibilities of the Board's sub-committees are as follows:

i. 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.

ii. 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.

iii. 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 the code of conduct framework for both CIMA personnel and members of the Board.

5 Pursuant to Sections 2, 18(1), 19 and 20 of the MAA; Section 21(1) of the PAA; and Section 29 of the SPLA
6 the managing director as an ex officio director
7 In accordance with the powers provided for under Section 17 (1) – (3) of the MAA

iv. **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.

v. **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[8].

a. 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:

i. to cancel licences and certificates of registrations of funds which:
   - have ceased carrying on or attempting to carry on business;
   - are not compliant with the requirements to file annual audited financial statements and pay annual fees and/or penalties;

ii. to approve all licensing and supervisory matters;

iii. to approve or cancel the registration of Authorised Persons when the power to do so has not been specifically delegated to the relevant division;

iv. 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. However, urgent decisions and enforcement actions involving administrative fines greater than CI$500K, will be taken by the full Board or any other delegation that the Board appoints.

8 Section 15(5) of the MAA

b. Composition

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

i. the Chief Executive Officer ("CEO");

ii. Either of:

- Chief Operations Officer "COO"
- Chief Supervision Officer "CSO"
- Chief of Legal Affairs, Enforcement, AML/CFT Officer "Chief LEA Officer"

iii. 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

iv. such other senior officer of the Authority as the CEO may, with the approval of the Board, designate.

In addition, the CEO may designate an employee of the Authority to act as the secretary to the MC, to perform such duties as the MC may determine[9].

The Board approved constitution and quorum of the Authority's MC are detailed in **A2 of the Appendices.**

c. 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 CEO.

3.3. Other Established Committees of the Board

In addition to the MC, the Board has established the Oversight Committee (the "OC") and has delegated specific duties.

The Oversight Committee

The OC manages the Authority's Administrative Fine Regime. The OC comprises the CEO and members of senior management at the Authority. The main responsibilities of the OC include inter alia:

a. 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;

b. to request further information or evidence, prior to making its recommendation;

c. 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;

d. to consider any representations made by the party during the representation period or earlier;

e. to conduct the discount negotiation process and settle the terms of the discount agreement, where the party chooses to negotiate;

f. to recommend whether there has been a breach and the final fine amount to the MC, as the case may be; and

g. to do such matters and examine such parties as may be required.

9 Section 16(3) of the MAA

3.4. The Chief Executive Officer

The MD (now titled CEO) has been appointed as the Chief Executive Officer of the Authority, under Section 47(3) of the PMFA and by Section 13(2-3) of the MAA. The CEO 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 CEO 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 the 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 must 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. The structure is currently organised as follows:

a. **Supervisory Divisions –** responsible for the assessment of the licence or registration application for presentation to the MC for approval, and supervisory oversight of Authorised Persons, including on-site and off-site supervision;

b. **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;

c. **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; and

d. **Chief Executive Officer'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 for International Tax Cooperation, the Cayman Islands General 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:

a. prepares and provides advice to the Government on various legal and regulatory matters;

b. makes recommendations to Cabinet through the Ministry for approval of certain matters such as amendments to legislation or regulations;

c. consults with the Ministry on new or amended regulatory measures approved by the Board; and

d. 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, statements of principles, and statements of guidance issued to Authorised Persons are published on the Authority's website; along with regulatory policies and procedures, 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 Authorised 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 that Authorised 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;

d. an estimate of the associated costs and benefits; and

e. the expiration date for the consultation period for the proposed measure[10].

10 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:

a. the issuance or amendment of rules or statements of principle or guidance concerning the conduct of Authorised Persons and their officers and employees;

b. the issuance or amendment of statements of guidance concerning the requirements of the AMLRs; and

c. 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 the 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 gazettement and publication of same under the "Prior Consultation" page of the Authority's website.

4.4. Other External Stakeholder Relationships

a. 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.

b. The Anti-Money Laundering Steering Group

The group is comprised of members including the CEO of the Authority, the Chief Officer for Financial Services, the Attorney General, the Solicitor General, the Commissioner of the Royal Cayman Islands Police Service, the Collector of Customs, the Director of Public Prosecutions, the Chairperson of the Anti-Corruption Commission 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.

c. Supervisors' Forum

The members of the Supervisors' Forum (the "Forum") are CIMA, the Cayman Islands General Registry, the Department of Commerce and Investment, the Legal Services Supervisory Authority, and the Cayman Islands Institute of Professional Accountants. 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.

d. 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 ("ODPP"), the Financial Reporting Authority ("FRA"),

Customs and Border Control ("CBC"), the Cayman Islands Bureau of Financial Investigations ("CIBFI"), the Cayman Islands Legal Practitioners Association ("CILPA"), the Department of Commerce and Investments, the Registrar of Companies ("DCI"), the Ministry of Financial Services and Commerce ("MOFSC"), and the Anti-Corruption Commission, among others.

e. Sanctions Working Group (SWG)

The AMLSG approved the establishment of the Sanctions Working Group ("SWG") in June 2022 to be a sub-working group under the Inter-Agency Coordination Committee[11]. The SWG has responsibilities for enhancing effectiveness for FATF Immediate Outcomes[12] under IO.10 (Terrorism Financing - Preventive Measures and Financial Sanctions) and Immediate Outcome[12] under IO.11 (Proliferation Financing Financial Sanctions). The Proliferation Inter-Agency Group ("PIAG") that was previously responsible for IO.11 is now subsumed in the SWG. SWG Members include: the Sanctions Coordinator ("SC") (which is the Chair), CIMA, the ODPP, the Solicitor General Office ("SGO"), the FRA, CBC, the CIBFI, the DCI, the MOFSC, and the Maritime Authority of the Cayman Islands ("MACI").

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

g. International Economic Organisations

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

i. The European Union ("EU")

ii. The Organisation for Economic Co-operation and Development ("OECD")

iii. The International Monetary Fund ("IMF")

iv. 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 Authorised 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 into 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. MOUs entered into by the Authority are published via the gazette, pursuant to section 51(3) of the MAA.

11 The AMLSG powers are found under Section 5 of the Proceeds of Crime Act (2025 revision), whereby an interagency subgroup could be convened thus: 5 (2) (e) promoting effective collaboration among competent authorities in a manner that ensures the compatibility of the requirements for combating money laundering and terrorist financing with the law protecting personal data, privacy and related matters in the Islands.

12 Pg. 122 – pg. 127 FATF Methodology 22 Feb 2013.pdf.coredownload.inline.pdf

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 the 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 researches 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.

Authorised Persons are obligated to operate in accordance with the jurisdiction's legislative framework 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 Authorised Persons' adherence to the established requirements and guidance, and include the initial authorisation of activities and ongoing off-site supervision and on-site inspections.

5.3. Supervisory Functions

The primary objectives of the supervisory functions are for the Authority to gain a thorough understanding of the nature of Authorised Persons, their business operations, the risks that they face and how they manage those risks, while ensuring that they are well understood by the relevant stakeholders. The ultimate aim is to assure that Authorised 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 Authorised Person. The methodology aims to profile the risks faced by Authorised Persons so that supervisory efforts can be appropriately targeted to said persons or specific areas based on their business model activities and overall risks. Authorised 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 that it can exhaustively supervise Authorised Persons providing financial services in or from the Cayman Islands. The Authority's supervisory role is primarily to:

a. limit the conduct of regulated activities to owners and managers who are "fit and proper" persons;

b. ensure regulated activities are conducted in accordance with the acts and the agreements that authorise them (e.g., licencing agreements);

c. ensure that internal weaknesses in an Authorised Person's operations, including its procedures, systems, and prudential standards, are identified and control mechanisms are put in place to rectify the same;

d. enforce adherence to reasonable prudential limits to risk-taking in relation to the products, services, and business models that Authorised Persons have chosen;

e. enforce accurate disclosure of each Authorised Person's financial condition so that the public can evaluate for itself the risk of conducting business with such a person;

f. clarify the risks that the public faces in dealing with various classes of Authorised Persons that it regulates, and thus to promote public confidence in dealing with these persons; and

g. assure that if in spite of the above, an Authorised 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 Authorised 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:

a. the licensing process whereby the Authority uses established criteria to assess applications to conduct regulated financial services activities in or from the Cayman Islands;

b. monitoring, which includes off-site supervision and on-site inspection; and

c. 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 applicants to ensure that the owners, directors and management of financial service providers 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 being 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. Fitness and Propriety

A fundamental part of the authorisation process includes an assessment of the suitability of the directors, officers, and managers of Authorised Persons. The Authority has issued a personal questionnaire that applicants for authorisation by the Authority must 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:

a. Honesty, integrity, and reputation;

b. Competence and capability; and

c. 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).

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 Authorised Person, there are varying termination requirements according to the sector and type of business activities that the Authorised 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 an Authorised 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. Publications

The public may be notified by the Authority through the Cayman Gazette and publications on the website, in such cases as:

a. authorisations and cancellations for licences and certificates of registration;

b. suspensions of licences;

c. revocations of licences; and

d. change of name for Authorised 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 gazettement.

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 Authorised 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 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 Authorised Persons are subject to appropriate ongoing supervision and inspection, to effectively manage those risks and safeguard the market and stakeholders.

6.7. 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 Authorised persons 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 Authorised Persons is contingent on the risk level as determined by specific risk indicators that are unique within each financial services subsector. Off- site supervision may be supplemented with meetings with Authorised 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 Authorised persons.

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.

a. Objectives of Off-site Supervision

i. Review, understand, and explain the genesis of all significant matters disclosed by financial statements and regulatory reports to the Authority;

ii. Obtain satisfactory explanations for all material variances between periodic financial statements and regulatory reports;

iii. Ensure that Supervisory Divisions employ a systematic and consistent approach to monitoring Authorised Persons;

iv. Detect early warning signs of potential problems within Authorised Persons;

v. Assist on-site examiners in focusing their work on areas of high risk and key deficiencies for each Authorised Person;

vi. Assist on-site examiners by following up with each Authorised Person's progress on its remedial actions and any recommendations made as a result of the on-site inspection;

vii. Provide meaningful reports on each Authorised Person and industry to the relevant HOD; and

viii. Correspond with the industry regarding their electronic submissions of required financial reports and prudential returns via the Authority's designated platform[13]. Financial information collated and managed within this platform includes, but is not limited to:

- Audited financial statements or any account information;
- Documentation for new applications for licensing or registration;
- Change requests for existing licensing or registration information;
- Change requests or updates for directors, business plan, address information;
- Respond to queries received from Authorised Persons and the public;
- Investigate customer complaints; and
- Process approvals and other requests from Authorised Persons.

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

b. 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 Authorised Persons in accordance with the applicable regulations. In addition, analysts of the Authority use care, skill, and judgment in interpreting information provided by Authorised Persons.

Supervisory manuals are internally established to guide analysts in considering and interpreting information provided by Authorised 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.

In achieving the objectives of off-site supervision, some of the key off-site activities include:

i. Coordinating Meetings with Authorised Persons

The Authority will, in most cases, aim to meet annually with representatives of Authorised Persons in the Cayman Islands to discuss their operations. The Authority may exempt an Authorised Person from annual meetings and schedule meetings as required in the case of those that have minimal activities[14], or any other reason as determined by the Authority. Meetings may be arranged by the Authorised Persons or the Authority, and the agenda can range from discussing strategic initiatives to 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 Authorised persons.

ii. Reviewing Business Plans for Authorised Persons

As a part of ongoing supervision and to ensure that the Authority's information on Authorised 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 Authorised Persons to the applicable licensing policy for the specific information required for a business plan, relevant to the type of Authorised Persons.

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 an Authorised 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 Authorised Person in writing to request the additional information to ensure that the Authority's records are accurate and up to date.

iii. 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.

iv. Change of Name

The change of name requirements vary for each regulated financial sector. The Authority's Supervisory Division, responsible for the oversight of an Authorised 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; and
- A certified copy of the Certificate of Incorporation.

14 for example, the operation of an offshore bank branch

v. The Approval of an Auditor

The Regulatory Acts require the Authority to approve the appointment of an auditor to an Authorised 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).

vi. Change of Auditors

The Authority's Supervisory Division, responsible for the oversight of an Authorised 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 Authorised Persons and the reason(s) for the discontinuation.

vii. The Recognition and Approval of an Actuary

The Insurance Act empowers the Authority to approve the appointment of an actuary to an applicable Authorised 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.

viii. Change of Actuary

The Authority's Supervisory Division, responsible for oversight of an Authorised 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 a change in actuary by an Authorised Person are also stated in the Regulatory Policy on the Recognition and Approval of an Actuary.

ix. Change in Principal/Registered Office or Authorised Agent

The Authority's Supervisory Division, responsible for the oversight of an Authorised 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, 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 an Authorised Person once all required information is received.

x. Letters of Good Standing

The Authority's Supervisory Division, responsible for overseeing Authorised Persons, reviews requests from Authorised 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 Authorised 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 an Authorised Person. A sample Letter of Good Standing is illustrated in **D1 of the Appendices.**

xi. 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 Authorised Persons and the collective financial services system. This is achieved through the assessment of regulatory returns or reports, and other prudential statistics filed by Authorised 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 Authorised Persons. Authorised 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.

xii. 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 an Authorised 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 is responsible for overseeing Authorised Persons' conduct reviews and the analysis of relevant financial and prudential information.

In some circumstances, the Authority may grant Authorised Persons extensions to file audited accounts or prudential returns. While the Authority encourages all Authorised 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 Authorised 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.

xiii. Change in Financial Year-End

The Supervisory Division is responsible for the review of an Authorised Person's 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).

xiv. 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.

xv. Other Key Off-Site Activities

- Reviewing the policies and procedures of Authorised Persons;
- Reviewing applications for authorisation or cancellation and the preparation of papers for CIMA's MC for review and decision;
- Vetting directors, managers, and controllers of Authorised Persons to ensure that 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; and
- Reviewing correspondence from Authorised 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, (i) 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 Authorised 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 an Authorised Person.

During these inspections, the Authority aims to:

a. Understand the Authorised Person and their environment;

b. Detect weaknesses and deficiencies on a timely basis;

c. Provid an objective evaluation of the soundness of the Authorised Person and their management of risks;

d. Gather information on matters identified as requiring additional guidance from the Authority;

e. Guide supervisory personnel;

f. Promote the consistent application of examination/inspection procedures;

g. Provide feedback via inspection reports (where appropriate) to record findings and requirements that the Authorised Person must undertake to improve compliance with their regulatory obligations; and

h. Enhance the quality and effectiveness of on-site examinations.

Due to the diverse nature and scope of activities conducted by an Authorised 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 Authorised Person being inspected.

7.3. Types of On-site Inspections

On-site inspections take on different forms, depending on the Authorised 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.

a. Full Scope Inspection

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

b. Limited Scope Inspection

A limited scope inspection focuses on a particular segment(s) of an Authorised 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:

i. Unusual results are found following off-site analysis of annual/quarterly financial statements;

ii. Follow-up on findings of a prior inspection report;

iii. Unusual complaint volume either in respect of one line of business or in respect of a particular departmental function;

iv. Concerns expressed by stakeholders; and

v. In the event of changes to the Authorised 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 an Authorised Person's adherence to the AMLRs.

c. Thematic Inspection

A thematic inspection is an in-depth review of a specific risk (area) for a selection of Authorised Person. 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.

d. The Role of Examiners

On-site examiners are expected to have a high level of familiarisation with the Authorised Person's business, in order to assess whether they are operating in a sound and prudent manner and 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 Authorised 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:

i. Inspection planning and coordination;

ii. On-site testing and document review analysis; and

iii. Post-inspection reporting.

Examiners are representatives of the Authority and are obligated to conduct their business in a manner that is 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 Authorised 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. For some inspections, there will not be formal reports per se, particularly where there are no material deficiencies which the Authority wishes to bring to the attention of the Authorised Person. In these circumstances, the results of the inspections may be communicated via letters.

e. 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 Authorised Person, and there may be instances where the Authority may opt not to do so.

f. Inspection Findings and Reporting

The Report contains the examiner's finding(s), conclusion(s) and the Authority's requirements for corrective action. As a general rule, the Authority will first send out the Report in draft form to allow the Authorised Person an opportunity to respond and comment on the factual accuracy of the findings, and/or to represent assurances of correction or remediation. In the final Report, the Authority may then provide material updates relating to subsequent events and ascribe requirements according to priority levels of attention.

g. 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 MRIAs 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 a MRIA, the Authority may direct the Authorised Person, through its directors or management to address such matters immediately. Whereas if the examiner identifies an MRA, the Authority may direct the Authorised Person to address such matters within a specified time. In addition, at the direction of the Authority, Authorised Persons provide up-to-date reports, at designated intervals, to communicate the status of the requirements, the remedial actions taken by the Authorised Person, and the estimated completion date for full remediation.

i. High Priority - MRIAs, can be any one or more findings that:

- demonstrate a mismatch or inconsistency in the Authorised Person's risk appetite and controls;
- have the potential to expose the Authorised Persons to severe unmitigated risks;
- constitute a significant violation of or non-compliance with any acts, regulation, or regulatory measures such as a Rule or a Statement of Guidance;
- constitute policy or procedural deficiencies;
- have the potential to pose a significant risk to the safety and soundness of the Authorised Person's operations and the jurisdiction;
- are repeat findings that have escalated in importance due to insufficient attention or inaction by the Authorised 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.

ii. 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 Authorised Person, its directors or management to address over a reasonable and specified period;
- are technical or minor violations, where swift corrective action is assured; and/or
- are isolated exceptions (other than the type listed in the MRIAs above) where directors or management of the Authorised Person has agreed to take appropriate corrective action. Where exceptions are symptomatic of an overall weakness, the Authority will treat them as MRIA.

iii. Low Priority - MRA includes:

- minor violations, where corrective action is assured.

h. Inspection Follow-up

Following an inspection, the Authority will continue to monitor the Authorised 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 sector 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 by the Authority) 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 are commensurate to the risks identified and to 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 Authorised 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.

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 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 2 and 4 of the AMLRs, and according to FATF's standards, an underlying mandate therein is that all Authorised 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 Authorised 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, under Part 9 of the AMLRs, all Authorised 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 Authorised 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, Authorised 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. Authorised Persons are guided to note the information gathering and investigative powers of the Authority as outlined comprehensively in The Enforcement Manual – The Regulatory Handbook Volume 2 and its related procedures, including the Procedures for Imposing Administrative Fines, and Procedures for Lost Contact, inter alia.

Consistent with the GNs Part II, Section 2, Authorised 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:

a. Customer due diligence measures;
b. Policies and procedures to undertake a RBA;
c. Internal policies, procedures, and controls to combat ML/TF, including appropriate compliance management arrangements;
d. Adequate systems to identify ML/TF risks relating to persons, countries, and activities, which should include checks against all applicable sanctions lists;
e. Record keeping procedures;
f. Internal reporting procedures;
g. Screening procedures to ensure high standards when hiring employees;
h. An appropriate employee training programme;
i. An audit function to test the AML/CFT system; and
j. 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 an Authorised Person's operations, the risks it faces, 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 Authorised Person. It seeks to profile the risks faced by the Authorised Persons so that supervision can be better targeted at areas and Authorised 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. Authorised 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 an Authorised 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 Authorised 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 process aims to review the written procedural manuals and guidelines that provide sufficient detail, to enable the employees of Authorised 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 Authorised 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, rules, statements of guidance, and accepted standards of best practice; and
- Ineffective internal compliance programmes.

a. 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, complexity, and risk profile of the Authorised Person:

i. Has the institution implemented the risk-based approach to AML/CFT/CPF/TFS?

ii. Has the institution established adequate internal compliance programmes and procedures?

iii. Has the institution developed a written compliance programme?

iv. 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 the AMLRs?

v. Are all suspicious transactions reported to the MLRO / DMLRO?

vi. Are all staff aware of who the MLRO/DMLRO/AMLCO is?

vii. Is the MLRO/DMLRO/AMLCO represented in the Compliance Association?

viii. 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?

ix. 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?

x. Best practice requires that the board of directors of an Authorised Person receive a report at least annually, prepared by the internal auditor, the compliance officer, or senior management on AML/CFT/CPF/TFS controls and procedures.

xi. Even if an Authorised 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.

xii. Examiners also confirm that the following basic enquiries have been addressed in the Authorised 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?

b. Summary of the Risk-Based Approach ("RBA")

The AMLRs require Authorised 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 an Authorised Person, senior and risk management should understand the nature and level of the risks to which such a person is exposed and ensure that systems and processes are in place to identify, assess, monitor, manage, and mitigate AML/CFT/CPF/TFS risks. The law requires that Authorised 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).

Authorised 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 by the Authority when conducting its on-site inspection process:

i. Identify AML/CFT/CPF/TFS risks relevant to them;

ii. Assess AML/CFT/CPF/TFS risks in relation to their applicants/customers (including beneficial owners); country or geographic area in which persons reside or operate and where the Authorised Person operates; products, services, and transactions that the person offers; and delivery channels;

iii. Design and implement policies, controls and procedures that are approved by senior management to manage and mitigate the AML/CFT/CPF/TFS risks that they identified and commensurate with assessments above;

iv. Evaluate mitigating controls and adjust as necessary;

v. Monitor the implementation of systems mentioned above and improve systems where necessary;

vi. Keep their risk assessments current through ongoing reviews and, when necessary, updates;

vii. Document the RBA, including implementation and monitoring procedures and updates to the RBA; and

viii. Have appropriate mechanisms to provide risk assessment information to competent authorities.

In addition, in employing the RBA, higher risks identified by Authorised 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 AML/CFT/CPF/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.

c. Identification Procedures

In accordance with the AMLRs, Authorised 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 Authorised Person's RBA and AML/CFT/CPF/TFS programme, inter alia.

d. Assessment of Staff Training, i.e. the appropriateness of staff training, which focuses on:

i. Is the institution's training programme commensurate with its type of business and volume of transactions?

ii. Do staff, including senior management personnel, receive AML training at regular intervals?

iii. Is there a plan for on-going training and refresher courses?

iv. 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?

v. What are the results of any testing carried out to measure staff understanding of the AML/CFT/CPF/TFS requirements?

vi. Has the Authorised Person issued a clear statement of policies in relation to AML/CFT/CPF/TFS procedures?

vii. If this statement has been communicated in writing to all management and relevant staff, and whether it has been reviewed on a regular basis?

e. Reporting of Suspicious Transactions

i. Are there appropriate procedures in place for the identification and validation of the identity of their clients?

ii. Has the Authorised Person designated a MLRO/DMLRO at a managerial level?

iii. Is the MLRO/DMLRO aware of where to file Suspicious Activity Reports ("SARs")?

iv. 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 of 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, the transactions, and non-compliance with the AMLRs.

8.6. Inspection Reporting

In compiling the report, the Authority's examiner will assess whether an Authorised Person is complying with the AMLRs, Regulatory Acts or Measures. 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, Regulatory Acts or Measures.

Some of the areas included in the report are assessments of the Authorised Person:

a. Policies and procedures manuals to prevent money laundering
b. Systems to prevent money laundering
c. Training to prevent money laundering
d. Client identification procedures
e. Record keeping procedures
f. Internal reporting procedures
g. Reporting of suspicious transactions

In the event that an examiner considers that an Authorised Person is not in compliance with the AMLRs, the deficiencies would first be identified in the inspection report, and the Authority will issue requirements will be issued separately to the Authorised Person.

A range of supervisory tools are available to Authority to ensure effective and timely remediation of Requirements. The chosen action will depend on the risks, nature of the deficiencies and the materiality of the potential breach, as well as the conduct of the Authorised Person and/or where there are significant delays in the completion of Requirements. The Authority may, for example:

a. Require remediation action plans with timelines and reporting schedules;
b. Request supervisory meetings with the management to discuss the progress of remediation;
c. Request independent AML audits;
d. Appoint a Special Advisor; and/or
e. Place the Authorised Person under enhanced monitoring on the High-Risk Entities list and/or refer the matter for enforcement action where appropriate and proportionate.

8.7. Compliance Programmes and Procedures

The Authority recognises that the sophistication and comprehensiveness of an Authorised 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. Authorised Persons operating on a group basis are encouraged to refer to the AMLRs to comprehensively review how the Authority treats the applicable AML/CFT/CPF/TFS requirements.

8.8. Internal Audit/Independent Reviews

Under the AMLRs, Authorised Persons are expected to put in 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.

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

   i. the institution's written internal audit/ independent review procedures and determine whether the internal audit function provides for review for compliance with the POCA and related AML/CFT/CPF/TFS acts and regulations;

   ii. whether violations or serious deficiencies were noted during the internal audit review, does correspondence indicate that appropriate corrective action was taken; or

   iii. whether the findings in the previous inspection report, in areas other than KYC compliance, indicate adequate internal controls and audit procedures.

b. Use of External Auditors in AML/CFT/CPF/TFS Programmes. As part of the bilateral discussions held with the Authorised 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:

   i. 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?

   ii. If violations or deficiencies were noted, has the institution taken appropriate corrective action?

8.9. The Process for Monitoring and Record Keeping

Since Authorised 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 Authorised Persons which may call for the retention of records for longer periods.

In addition, the Authority reviews to ensure that an Authorised 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 person's 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 Authorised Persons' internal policies; their suitability to manage initial and ongoing instructions on the determination and reporting of suspicious activities within the Authorised 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 Authorised 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 an Authorised 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 Authorised 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 Authorised 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 Authorised Persons customised training programme to assess its suitability to its own needs (for example, depending on size, resources, and the type of business that it undertakes). For smaller-sized Authorised Persons, with no in-house training function, they 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 an Authorised Person's training plans, which are normally overseen by the Compliance or Risk departments of the Authorised 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 Authorised Person's staff sign 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.



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