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Regulatory Update (Cayman Islands)

(Anti-Money Laundering Regulations and CIMA Guidance Notes)



Following the observations made by the Caribbean Financial Action Task Force (“CFATF”) in its Mutual Evaluation Report of the Cayman Islands, there has been a number of changes to the Anti-Money Laundering Regulations (“AMLRs”) and the AML/CFT Guidance Notes that impact all Financial Service Providers (“FSPs”) including Funds and Administrators.

Anti-Money Laundering Regulations

◀ ▶ Removal of Equivalent Jurisdiction List

With effect from 5 August 2020, the Equivalent Jurisdiction List will no longer be in place. Financial Service Providers (“FSPs”) or their AML/CFT service provider must assess themselves what level of money laundering and terrorist financing risk a country has. For the purposes of the country risk assessment, the factors and sources that should be taken into consideration include reports published by FATF, UN, IMF and the World Bank. The country risk assessment should be documented.

Customers that may be subject to simplified due diligence should be from a country deemed to be low risk from an AML/CFT perspective.

◀ ▶ Beneficial Ownership Threshold

The AMLRs require the beneficial owners of legal persons to be identified and verified at a threshold of 10%. Some AML/CFT service providers outside of Cayman Islands apply a beneficial ownership threshold greater than 10% based on their local laws. Previously, CIMA had advised that an “equivalency of outcome” could be used when an FSP was placing reliance on the AML/CFT policies and procedures of an administrator in a different jurisdiction.

More recently however, CIMA has corresponded with industry bodies to advise that there can be no deviation from the 10% threshold in the AMLRs. It is expected that CIMA will publish guidance on the beneficial ownership threshold in 2020 but for the moment all FSPs should ensure this threshold is applied to new investors and beneficial owners. Where necessary, FSPs should put a plan in place to remediate existing investors as part of ongoing monitoring requirements.

◀ ▶ Eligible Introducers

The AMLRs have been updated to capture the requirement for Eligible Introducer (“EI”) arrangements to include the identity of the applicant and their beneficial owners. With the removal of the Equivalent Jurisdiction lists, Eligible Introducers and nominees should be located in a low risk country. Eligible Introducer testing remains in place and FSPs are required to test on a periodic basis to ensure that the Eligible Introducers can provide the requested due diligence documentation and information on request.

Guidance Notes Updates

The Guidance Notes were updated on 5 February 2020 to include updates on:

- Assessing Risk and Applying a Risk Based Approach
- Targeted Financial Sanctions
- Ongoing Monitoring

Below summarises some of the key changes to the Guidance Notes.

Assessing Risks and Applying a Risk-Based Approach

The latest Guidance Notes include an updated section on assessing risks and applying a risk-based approach providing clarity on what is expected of FSPs. FSPs should consider all relevant risk factors, determine a risk level and have controls in place to mitigate these risks. FSPs should adopt and document policies and procedures that are appropriate to their size, business and complexity. FSPs should monitor their controls and identify any new risks that may impact them.

As part of their risk assessment, FSPs should consider customer, product, service, geographical and delivery channel risk. Senior management should establish the risk tolerance of the FSP and identify the risks they are willing and not willing to accept. The risk assessment should be documented and reviewed annually.

Ongoing Monitoring

Ongoing monitoring requires that documents and information collected as part of the customer due diligence process remain up to date and accurate. Ongoing monitoring also requires that transactions are reviewed to ensure they are consistent with the FSP's knowledge of their customer.

FSPs or their service providers should have policies and procedures in place in relation to ongoing monitoring including periodic reviews in line with the customer's AML/CFT risk and action to be taken in the event of a trigger event related to the customer.

FSPs or their service providers should have a process in place to monitor unusual transactions. Where transaction monitoring picks up an alert, there should be a process in place to further investigate and make a suspicious activity report, where appropriate, to the Financial Reporting Authority.

Targeted Financial Sanctions

The Guidance Notes include an updated section on Targeted Financial Sanctions to clarify what policies and procedures FSPs should have in place. FSPs have an obligation to develop a comprehensive programme to comply with the applicable measures and to monitor business relationships.

FSPs should regularly monitor the sanctions in place and review their new and existing clients against the list of designated persons/entities and the consolidated list maintained by the United Kingdom Office of Financial Sanction Implementation.

Where there is a sanction hit, registered funds must be frozen and the details reported to the Governor through the Financial Reporting Authority.

The Guidance Notes also provide comprehensive screening advice that FSPs should follow.

Meeting Your New Obligations

Carne is the premier global provider of fund solutions to the asset management industry. Our risk based approach and technology driven solutions are used by some of the world's largest investment managers to meet their ongoing risk and regulatory requirements. We offer a range of services that can help you to ensure you meet the new Anti-Money Laundering requirements.

If you would like further information or if you are looking for a service provider for AML Officer services, please contact your Carne Relationship Manager or any of the Carne contacts below.

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