

By [Notice](#) of 20 July 2018 the Cayman Islands Monetary Authority (“CIMA”) has responded to a number of frequently asked questions by confirming that all funds (regulated and unregulated) that conduct relevant financial business in or from within the Cayman Islands must appoint suitably qualified managerial level natural persons as Anti-Money Laundering Compliance Officer (“AMLCO”), Money Laundering Reporting Officer (“MLRO”) and Deputy Money Laundering Reporting Officer (“DMLRO”) (together the “AML Officers”). The MLRO and DMLRO must be two different natural persons.

Specific Structures

CIMA clarified that segregated portfolio companies should make the AML Officer appointments only at the core fund company level as individual segregated portfolios do not constitute separate funds. For funds structured as a series trust, the AML Officer appointments should also be made at the fund level unless an individual trust of a series trust has been established to operate as a standalone fund in which case it should appoint its own AML Officers. As a general matter, fund offering documents should disclose that AML Officers have been appointed but full biographical details are not required so long as the investors are able to obtain further information about such persons.

开曼群岛金融管理局（下称“开曼金管局”）于2018年7月20日发出[通知](#)，回应若干常见问题，指明所有在开曼群岛境内或以开曼群岛为注册地从事相关金融业务的基金（无论是否受监管），必须委任具备合适资格的管理层自然人担任反洗钱合规主任、反洗钱汇报主任及副反洗钱汇报主任（统称“反洗钱人员”）。反洗钱汇报主任及副反洗钱汇报主任须由两名不同的自然人担任。

具体架构

开曼金管局解释，独立投资组合公司只需在核心基金公司委任反洗钱人员，因为个别投资组合公司并非独立基金。对于以系列信托形式成立的基金，同样应在基金层面委任反洗钱人员，除非系列信托中的个别信托以独立基金的形式成立和运作，这种情况下则须委任其本身的反洗钱人员。一般而言，基金发售文件须披露已委任反洗钱人员，但若投资者能获得该等人员的更多资料，便须在发售文件中披露该等人员的完整履历。

“Independence”

It is expected that AML Officers should be independent and have the ability to undertake their duties and responsibilities efficiently and without conflicts of interest. By “independent”, CIMA is referring to independence of decision making as opposed to independence from the fund or its activities.

AML Officers outside the Cayman Islands

AML Officers may be based outside of the Cayman Islands so long as they satisfy the suitability criteria in the [Guidance Notes](#)¹ and are able to comply with all anti-money laundering and countering of terrorist financing obligations, required as a matter of Cayman law. In the event that a MLRO or DMLRO is based outside of the Cayman Islands and is required to file a suspicious activity report ("SAR") in their own jurisdiction, they should also file a SAR in Cayman with the Financial Reporting Authority.

Timing for Notification to CIMA

All existing regulated funds must confirm the appointment of their AML Officers with CIMA via CIMA's REEFS portal on or before 30 September 2018. For new funds that are seeking licensing or registration, the requisite information should be filed at the time the licensing or registration application is made. There is currently no CIMA fee applicable to AML Officer appointments. In the case of unregulated funds, whilst the AML Officer appointments must be made by 30 September 2018 there is no requirement to confirm details of the same to CIMA.

Funds in the process of deregistering

Unless a fund has provided CIMA with a formal deregistration/ cancellation application, it must appoint AML Officers and notify CIMA of the same. A fund that is already in LUT or LUL status is not required to appoint AML Officers unless the basis for the deregistration/ cancellation is that it qualifies to continue as a closed ended fund or as a Section 4(4)² fund in which case it would continue to conduct relevant financial business and therefore be required to appoint AML Officers.

¹ Sections 2C and 9B of Part II of the *Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands* of 13 December 2017.

² Section 4(4) of the *Mutual Funds Law (2015 Revision)*.

“独立性”

反洗钱人员应具备独立性，能够在不导致利益冲突的前提下有效履行职责。开曼金管局对“独立”的定义是可独立决策而非独立于相关基金或基金业务。

开曼群岛境外的反洗钱人员

反洗钱人员可居住在开曼群岛境外，但须符合[指引说明](#)的适当准则，且能履行开曼群岛法律规定的所有反洗钱及打击恐怖分子融资的义务。倘反洗钱汇报主任及副反洗钱汇报主任居住在开曼群岛境外且须在其所属司法管辖区提交可疑活动报告（下称“SAR”），则该 SAR 应同时提交开曼群岛金融报告局备案。

通知开曼金管局的期限

目前所有受监管基金必须于 2018 年 9 月 30 日或之前透过开曼金管局的 REEFS 门户网站向开曼金管局确认已委任反洗钱汇报主任。对于正在申请牌照或注册的新基金，须在申请牌照或注册时提交所需资料。目前无需就委任反洗钱人员向开曼金管局交费。不受监管基金须于 2018 年 9 月 30 日或之前委任反洗钱人员，但毋须向开曼金管局确认委任的具体资料。

正在撤销注册的基金

除非基金已向开曼金管局正式提交撤销/取消注册申请，否则必须委任反洗钱人员并向开曼金管局报告。已取得中止牌照（“LUT”）或清盘牌照（“LUL”）的基金毋须委任反洗钱人员，除非该基金的撤销/取消注册是因为其符合资格以封闭式基金或第 4 (4) 条²的基金形式存续，因此在此情况下该基金仍继续从事相关金融业务，所以亦须委任反洗钱人员。

¹ 2017年12月13日发布的《开曼群岛防止与侦查洗钱及恐怖主义融资的指引说明》(Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands) 第二部分第2C节及第9B节

² 互惠基金法 (*Mutual Funds Law*) (2015年修订本)。

This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

本文并非法律意见，其内容亦非详尽无遗，只可作为概览及一般参考资料。感谢您的垂阅！

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