



Cayman Islands Mutual Funds – Cancellation of Licence or Certificate of Registration of Regulated Mutual Funds



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Cayman Islands Monetary Authority Rule and Regulatory Procedure on Cancellation of Licence or Certificate of Registration of Regulated Mutual Funds

On 30 March 2015, the Cayman Islands Monetary Authority (“CIMA”) issued the Rule on Cancellation of Licence or Certificate of Registration of Regulated Mutual Funds (the “Rule”), [click here](#) for link to the Rule, and Regulatory Procedure for Cancellation of Licences issued pursuant to Section 5 and Certificates of Registration issued pursuant to Sections 4(3) and 4(1)(B) of the Mutual Funds Law (the “Regulatory Procedure”), [click here](#) for link to the Regulatory Procedure.

Rule - Timing of Application to CIMA for Cancellation of a Licence or Certificate of Registration

The Rule sets out a prescribed timeframe in which mutual funds must apply to CIMA to cancel a licence or certificate of registration.

A mutual fund is required to make an application to CIMA for the cancellation of a licence or certificate of registration when the mutual fund intends to cease to carry on, or has ceased to carry on, business as a mutual fund under the Mutual Funds Law on the earlier of: (i) 21 days from the date the mutual fund ceases to carry on business; or (ii) before 31 December of the year the mutual fund ceases to carry on business.¹

Regulatory Procedure - Change to Audit Waiver

Paragraph 7.1 of the Regulatory Procedure provides that unless a mutual fund qualifies for an audit waiver, it must provide audited accounts from the date of the last financial year end (for which audited statements have been filed) either to the date of commencement of winding up where third party liquidators have been appointed or the date of the final distribution (if no third party liquidators have been appointed).

CIMA’s Regulatory Policy on Audit Waivers dated August 2008 provides that CIMA may consider an exemption of audit where: (i) a fund has not launched but does not wish to be deregistered; (ii) a fund has not launched

¹ For this purpose, a mutual fund ceases to carry on business on the date stated in the resolution of the operators, shareholders or unit holders unless CIMA has grounds to believe that the date is a date other than that stated.



and is being liquidated or wound up; (iii) a fund has launched but has been unsuccessful in raising the appropriate seed capital for sustainability; (iv) a fund is unable to obtain audited accounts due to events such as bankruptcy proceedings, legal or regulatory enforcement actions; or (v) a fund has been placed in compulsory liquidation and CIMA is satisfied with the appointment of the liquidator and the scope of the review. Despite this Regulatory Policy, it has been CIMA's practice prior to 1 April 2015, to generally allow an audit waiver request to mutual funds in respect of "stub" financial accounting periods where the mutual fund has been active but wishes to surrender its mutual fund licence or certificate of registration prior to the end of its current financial period. This practice will cease when the Regulatory Procedure is implemented.

The effect of the Regulatory Procedure is that any mutual fund wishing to surrender its licence or certificate of registration is required to arrange for an audit for any "stub" accounting period falling after the last financial year end. This will apply even in circumstances where the mutual fund subsequently intends to commence a solvent voluntary liquidation and submit a final liquidator's report to CIMA.

Transition period before the Rule and Regulatory Procedure come into effect

CIMA has confirmed that there will be a transition period to 1 October 2015 before the Rule and Regulatory Procedure come into effect.

What does this mean for a Mutual Fund that wishes to cancel its licence or certificate of registration in 2015?

Any mutual fund wishing to cancel its licence or certificate of registration in 2015 and obtain the benefit of the "stub" year audit waiver should ensure that its complete application is submitted to CIMA on or prior to **30 September 2015**.

Further Guidance

For further guidance on the Rule and Regulatory Procedure or for assistance with cancellation of mutual fund licences or certificates of registration please contact us.



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