

Anti-Money Laundering Audits Required For Securities Investment Business Excluded Persons 证券投资业务豁免人士须进行反洗钱审计

Cayman financial services providers, including entities carrying on securities investment business (“SIB”) are required to comply with *the Proceeds of Crime Law (2018 Revision)*, the *Anti-Money Laundering Regulations (2018 Revision)* (the “AMLRs”) and associated Guidance Notes on the *Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands, December, 2017* (as amended) (the “Guidance Notes”) in order to prevent and report money laundering, terrorist financing and proliferation financing. The Guidance Notes provide, amongst other things, that financial services providers should, on a regular basis, conduct an AML/CFT audit, the frequency of which should be commensurate with the entity’s nature, size, complexity and risks identified during its risk assessments.

By [Notice dated 25 January 2019](#) the Cayman Islands Monetary Authority (“CIMA”) confirmed that they have been requesting that entities carrying on SIB that are registered with CIMA as “excluded persons” (the “Company”) have their AML/CFT systems and procedures audited by suitably qualified entities to check for compliance with the AMLRs. The scope of such audit reports should at a minimum assess whether:-

- The Company’s AML/CFT policies and procedures, internal controls/risk management and implementation of the same are adequate;
- The Company and its directors are carrying on business in a fit and proper manner;

开曼金融服务供应商（包括从事证券投资业务的实体）须遵守《*犯罪收益法*》（2018年修订本）、《*反洗钱条例*》（2018年修订本）（下称“反洗钱条例”）及2017年12月的《*开曼群岛防止和侦查洗钱及资助恐怖主义指引*》（经修订）（下称“指引”），以防止和举报洗钱、恐怖分子资金筹集及武器扩散等活动。指引规定（其中包括）金融服务供应商定期进行反洗钱/反恐融资审计，审计频率应视乎实体的性质、规模、复杂程度及风险评估过程所识别的风险而定。

开曼金融管理局于2019年1月25日发出通知，确认其一直要求从事证券投资业务并向开曼金融管理局登记为“豁免人士”的实体（下称“公司”）的反洗钱/反恐融资系统及程序须由合格机构进行审计，以检查是否符合反洗钱条例。有关审计报告的范围应至少评估：

- 公司的反洗钱/反恐融资政策及程序、内部控制/风险管理及实施情况是否恰当；
- 公司及其董事是否以适当方式经营业务；

- The Company conducts periodic reviews of its operations against the AML/CFT and current industry best practice;
 - The Company maintains a relevant client risk matrix and has in place adequate identification procedures around the on-boarding of clients i.e. know your client, client due diligence, customer risk rating, enhanced due diligence standards;
 - The Company has adequate internal reporting procedures, including the maintenance of a suspicious activity reporting log;
 - The Company has adequate record-keeping procedures and maintenance thereof in accordance with prescribed periods as required under the ALMRs;
 - The Company has adequate identification and record keeping policies and procedures relating to wire transfers;
 - The Company provides adequate AML training to its management, staff and in particular, the Money Laundering Reporting Officer (the “MLRO”);
 - In cases where group-wide AML policies are adapted, a gap analysis has been conducted to ensure compliance with the Cayman Islands’ AML/CFT framework;
 - There is demonstrated separation of the role of the Anti-Money Laundering Compliance Officer and the MLRO from the shareholders of the Company; and
 - The Company’s marketing material includes false or misleading representations, or omissions that could ultimately mislead investors.
- 公司是否定期检视其业务是否符合反洗钱／反恐融资规定及当前业内的最佳做法；
 - 公司是否构建相关客户风险矩阵，并制定充分的客户认证程序，即了解客户、客户尽职调查、客户风险评级和提高尽职调查标准；
 - 公司是否有充分的内部申报程序，包括保存可疑活动申报纪录；
 - 公司是否有充分的纪录程序，并根据反洗钱条例在指定期限保存相关纪录；
 - 公司是否对电汇设有充分的识别及保存纪录政策及程序；
 - 公司有否为其管理人员、雇员及（尤其是）洗钱申报主管提供充足的反洗钱培训；
 - 倘集团调整其整体的反洗钱政策，则有否进行差异分析以确保符合开曼群岛反洗钱／反恐融资框架；
 - 反洗钱合规主管及洗钱申报主管的角色是否与公司股东有明确区分；及
 - 公司的营销材料有否虚假或误导的陈述或有否遗漏而可能最终误导投资者。

Going forward, the AML/CFT audit reports will be used by CIMA to aid them in their assessment of entities’ ongoing compliance with the ALMRs and the frequency for subsequent AML/CFT audit reports to be provided.

Should you have any queries please contact either CIMA’s Securities Supervision Division at contactsecurities@cimoney.com.ky or your usual Conyers Dill and Pearman contact.

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.

展望未来，反洗钱／反恐融资审计报告将被用于协助开曼金融管理局评估实体是否持续遵守反洗钱条例，及监察其后提交反洗钱／反恐融资审计报告的频率。

阁下如有任何疑问，请发电邮至 contactsecurities@cimoney.com.ky 联系开曼金融管理局证券监管部，或联系阁下的康德明律师事务所日常联络人。

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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