

Alert

Important Cayman Islands Securities Investment Business Law Changes

Authors: Alan Dickson, Partner | Maree Martin, Counsel and Head of Knowledge Management

The Cayman Islands *Securities Investment Business Law (2019 Revision)* (the “SIB Law”) has been amended by the *Securities Investment Business (Amendment) Law, 2019* (the “Amendment Law”) to, amongst other things, require certain “excluded persons” who currently benefit from an exemption from the requirement to be licensed under the SIB Law to re-register and become regulated under the SIB Law (as amended). “Excluded persons” subject to these new registration requirements that are relevant entities under the *International Tax Co-operation (Economic Substance) Law, 2018* (the “ES Law”) must consider the potential application of the economic substance test set out in the ES Law (the “ES Test”).

In addition, such excluded persons who are currently registered with the Cayman Islands Monetary Authority (“CIMA”) must complete CIMA’s AML/ CFT reporting forms by 15 August 2019.

Background

The Cayman Islands Government adopted the Amendment Law in response to international developments as to the appropriate regulatory overview of persons engaged in securities investment business. Schedule 4 of the SIB Law contained a list of “excluded persons” that did not require a licence to conduct securities investment business. Certain of those excluded persons listed at paragraphs 1, 4 and 5 of [Schedule 4](#) were required to register with CIMA, make annual filings and pay an annual fee. The other excluded persons listed in paragraphs 2, 3 and 6 of Schedule 4 were non-registrable.

The Amendment Law

The Amendment Law substantially amends the requirements of the SIB Law for registration by certain former “excluded persons” and CIMA’s regulatory powers in respect of such persons, who are now required to become SIB Law registrants and for new registrants. Schedule 4 as amended (“Persons required to be registered under Section 5(4)”) rather than “Excluded persons”) now only lists the categories of registrable persons formerly listed in paragraphs 1, 4 and 5 (“**Registered Persons**”).

According to a [CIMA notice dated 19 June 2019](#) re-registration is subject to the applicant:

- being in good standing under the SIB Law;
- having shareholders, directors and senior officers who are deemed by the Authority to be fit and proper persons;
- having a minimum of two directors (or, according to the Amendment Law one corporate director);
- having directors in good standing that are currently registered or licensed under the *Directors Registration and Licensing Law, 2014* (as amended); and
- filing, on or before 15 August 2019 the AML/ CFT reporting forms.

Under the SIB Law as amended by the Amendment Law new registrants who would formerly register as an excluded person must register as a Registered Person. Such registrants are not to commence their securities investment business until CIMA approves their registration as a Registered Person.

Action Required

Excluded persons subject to registration under the SIB Law as a consequence of the Amendment Law who wish to continue conducting securities investment business must re-register with CIMA by 15 January 2020 by completing CIMA's "Application to Re-Register under SIBL as a Registered Person" Form RRP-160-75.

Whether or not an affected excluded person intends to re-register, they must complete CIMA's AML/ CFT reporting forms AIR-157-75 and ARC-158-75 by 15 August 2019. Completion of the AML/ CFT reporting forms is necessary to enable CIMA to assess the money laundering and terrorist financing risks associated with SIB Law registrant's current operations.

Entities that fail to (i) file the AML/ CFT reporting forms by 15 August 2019; or (ii) re-register by 15 January 2020 must cease

conducting securities investment business in or from within the Cayman Islands and will be deregistered by CIMA.

Economic Substance

A Registered Person that is a "relevant entity" under the ES Law must consider if it is carrying on a "relevant activity" under the ES Law. If it is, this will give rise to a requirement for such Registered Person to satisfy the ES Test. The ES Law provides that a relevant entity that acts as a discretionary manager of an investment fund (as defined in the ES Law) is carrying on the relevant activity of "fund management business" (as defined in the ES Law) and as such, is subject to the ES Test. Where applicable, this requirement will have effect upon the date of the relevant entity's registration as a Registered Person.

For further information or assistance, please contact your usual Conyers attorney.

Authors:

Alan Dickson

Partner

alan.dickson@conyers.com

+1 345 814 7790

Maree Martin

Counsel and Head of Knowledge Management

maree.martin@conyers.com

+1 345 814 7781

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