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RISK AND REGULATORY COMPLIANCE



SUBJECT

THE CAYMAN ISLANDS ANTI-MONEY LAUNDERING REGULATIONS, 2017

SUMMARY

In recent years, the Cayman Islands has significantly expanded its anti-money laundering legislative framework. The Money Laundering Regulations (2015 Revision) have recently been replaced by The Anti-Money Laundering Regulations, 2017 ("AML Regulations") on October 2, 2017. The AML Regulations provide enhancements to the existing anti-money laundering and counter-terrorist financing ("AML/CTF") framework, which reflect international standards and will update the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands ("the Guidance Notes"). The AML Regulations apply to "relevant financial businesses," meaning that both regulated and unregulated investment entities, insurance entities, and finance vehicles will now be subject to the AML Regulations and the mandatory procedure obligations. The AML Regulations will also be closely aligned with the Financial Action Task Force ("FATF") Recommendations, as well as reflect a risk based approach.

DETAILS

Background

Under the principal law, the Proceeds of Crime Law (2017 Revision), in addition to the requirements relating to record keeping, staff training, reporting of suspicious activity, and internal control procedures, the AML Regulations will now make it mandatory to assign a Deputy Money Laundering Reporting Officer. Requirements relating to the compliance systems include new requisites to screen employees upon hire and maintain adequate systems to identify risks related to persons, countries, and activities. These systems must include checks against all sanctions lists, as well as, countries that are not in compliance with the FATF recommendations.

An inclusive set of procedure requirements have been implemented including the adoption of risk rating policies and procedures. The policies and procedures will require the owners and/or beneficial owners of a business to take appropriate steps, such as identifying and assessing money laundering and terrorist financing risks in relation to their customers and the country in which the customers reside or operate.

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Owners or businesses assessed as high risk will require enhanced due diligence. Part VII of the AML Regulations address procedures that are applicable to politically exposed persons ("PEPs") and their family members and close associates. There is also a specific requirement to conduct EDD on a customer or business that is from a country with deficiencies in its AML/CTF regime.

Where a customer or business has been identified as low risk, persons conducting relevant financial business are permitted to apply simplified due diligence. In order for a customer or business to be identified as low risk, they must be consistent with the findings of the national risk assessment, or of a Supervisory Authority, such as the Cayman Islands Monetary Authority ("CIMA").

Any person who breaches the AML Regulations is deemed as committing an offence and is liable to a conviction and a fine up to CI\$500,000 (approximately \$600,000 USD) or on indictable conviction with an unlimited fine and imprisonment for up to two years. This is a significant increase in penalties from prior Regulations. In addition, under amendments to the Monetary Authority Law (2016 Revision) and proposed Monetary Authority (Administrative Fines) Regulations, 2017, which have not yet been applied, CIMA will have the power to impose administrative fines for non-compliance with the AML Regulations.

With the expansion of the AML Regulations to investment entities that were not previously in scope of the Guidance Notes and the additions to the FATF principles, there will be many steps needed to clarify and interpret the legislation.

BDO's Risk and Regulatory Advisory practice provides wide ranging regulatory compliance services. In particular with relevant financial businesses, our professionals have extensive experience in advising, developing, and implementing compliance programs to ensure compliance with the Cayman Islands Anti-Money Laundering Regulations and other laws and requirements. Leveraging our well-versed knowledge and expertise of Cayman Islands AML requirements and pulse with regulatory trends, our professionals are well-equipped to help you meet your organization's specific compliance needs.

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