Conyers Dill & Pearman

Cayman Islands Anti-Money Laundering Regulatory Update - February 2018

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Since our Cayman Islands Regulatory Update in October 2017, the Cayman Islands has introduced further anti-money laundering legislation and guidance, including the:

- *Anti-Money Laundering (Amendment) Regulations, 2017*;
- *Proceeds of Crime (Amendment) Law, 2017*; and
- *Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands* (the "Guidance Notes").

The recent revisions to the anti-money laundering laws particularly impact all persons carrying out a "relevant financial business" ("RFB") as defined under the *Proceeds of Crime Law (2017 Revision)* (the "Law"). An important change in the Law is the expansion of the definition of RFB to include two new categories of activity: (1) "otherwise investing, administering or managing funds or money on behalf of other persons" (which would include, for example, venture capital and private equity funds); and (2) "underwriting and placement of life insurance and other investment related insurance".

Any person carrying out RFB is required to comply with the Anti-Money Laundering Regulations (as amended) and to implement a comprehensive anti-money laundering programme within its business. The purpose of such programmes is to protect the integrity of the Cayman Islands' financial sector through the establishment and maintenance of a compliance culture within each RFB, and such programmes must include, *inter alia*, the following elements:

- adopting appropriate systems and procedures to ensure that a risk based approach is used to identify, assess and understand money laundering and terrorist financing risks;
- well documented anti-money laundering compliance programmes with robust systems and training in place for existing employees and procedures to ensure high standards when hiring new employees;
- enhanced "know your customer" processes including risk management systems to identify potentially high risk customers (such as politically exposed persons);
- implementing group-wide programmes to ensure information is shared across different business groups, subject to appropriate confidentiality safeguards;
- designation of persons at management level in the roles of Compliance Officer, Money Laundering Reporting Officer, and Deputy Money Laundering Reporting Officer; and
- maintaining appropriate internal controls, including written records of policies, procedures, and customer due diligence information, for provision to regulatory authorities as required.

The Guidance Notes provide helpful guidelines to assist financial service providers ("FSPs") in complying with their anti-money laundering obligations and, in addition to general guidance, provide sector specific guidance in relation to a number of industries, including funds, investment business and insurance.

Although the Guidance Notes are described as guidance, FSPs are reminded that in deciding whether a person has committed an offence under the relevant Anti-Money Laundering legislation, the Courts are required to consider whether such person followed any supervisory guidance issued or adopted at the time.

Those persons carrying out activities that fall within the new definition of RFB have until 31 May 2018 to comply with the Anti-Money Laundering Regulations (as amended).

For additional information, please contact Richard Fear or Craig Fulton, or your usual Conyers Dill & Pearman contact.

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