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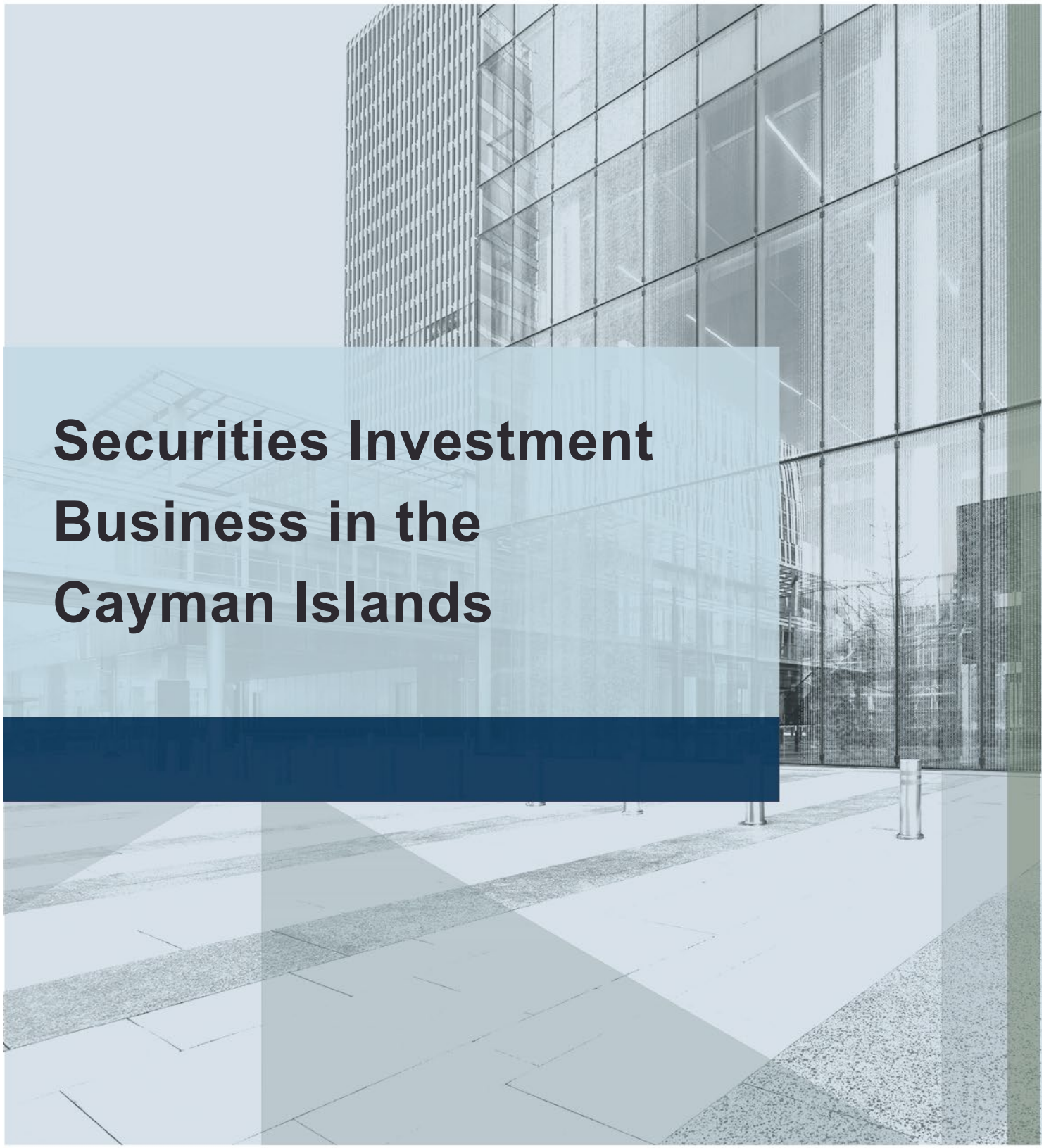

Securities Investment Business in the Cayman Islands

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Preface

This publication has been prepared for the assistance of those who require information about the Securities Investment Business Act (Revised). It deals in broad terms with the requirements of Cayman law and it is not intended to be exhaustive but merely to provide information which we hope will be of use to our clients. We recommend that our clients seek legal advice in the Cayman Islands on their specific proposals before taking steps to implement them.

Copies of the Securities Investment Business Act (Revised) and any other legislation referred to herein are available from this Firm upon request.

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TABLE OF CONTENTS

1. PRELIMINARY

The Securities Investment Business Act ("**SIBA**") provides structure for the regulation of persons carrying on securities investment business in or from the Cayman Islands, and is administered by the Cayman Islands Monetary Authority (the "**Authority**"). The stated objective of the SIBA is to define licensable and registrable activities and, through the Authority's supervision, ensure that such activities are undertaken by fit and proper persons in accordance with accepted supervisory standards of conduct for securities investment business.

2. LICENCE REQUIREMENT

Any person, company, limited liability company, or partnership (whether general, limited liability or exempted) which is incorporated or registered in the Cayman Islands (or which is incorporated or registered outside the Cayman Islands but has an established place of business in the Cayman Islands) and is carrying on securities investment business (see section 4 below) must be registered or hold a licence issued by the Authority unless they qualify for an exemption from this requirement. The following examples of service providers carrying on securities investment business from a place of business in the Cayman Islands, should expect to be required to apply for registration or a licence (unless qualifying for an exemption):

- investment managers
- investment advisers
- market makers
- broker/dealers
- market intermediaries

The SIBA provides an exhaustive list of activities which constitute the carrying on of securities investment business (see section 4, Meaning of "Securities Investment Business" below). In order to apply for a licence, the entity must submit an APP-101-29 licence application form to the Authority along with supporting documentation prescribed by the Authority's Application Checklist and the prescribed application fee of CI$500/US$610. Additional fees will be payable upon the grant of the licence. The licence fee will vary depending on the activity being undertaken, however, fees range from CI$2,000/US$2,440 to CI$8,000/US$9,756.

The holder of a licence must pay the prescribed annual renewal fees on or before the 15th January of each year. Surcharges of one-twelfth of the fee are payable for every month thereafter. A licensee's licence will lapse in the event that the renewal fee remains unpaid for 3 full months after the 15th of January. However, the licence may still be renewed if within one month from the lapsing of the licence, the renewal fee, surcharges and an administration fee of 10% of the renewal fee are paid to the Authority. Any changes to the information disclosed as part of the application process must be notified to the Authority within 7 days.

EU Connected Managers (whether or not already licensed under SIBA) carrying on securities investment business in relation to the activities described at sections 4.5-4.7 below may apply to be licensed under SIBA as an EU Connected Manager. The Authority will have the power to request information from or about the EU Connected Manager, conduct onsite inspections or permit an EU regulator to, and may apply to the Grand Court for orders to preserve assets of investors in an EU Connected Fund.

A licence is not required where either: (a) the business being conducted is an "excluded activity"; or (b) the entity conducting the securities investment business is a "non-registrable person" (see section 5, "Exemptions from Licensing" below).

3. REGISTRATION REQUIREMENTS

Certain entities may apply for registration rather than full licensing under the SIBA including entities:

(a) carrying on securities investment business exclusively for one or more companies within the same group;

(b) carrying on securities investment business by a person established in the Cayman Islands who is regulated by a recognised overseas regulatory authority where the securities investment business is being carried on in that country; or

(c) carrying on securities investment business exclusively for one or more of the following classes of persons: a sophisticated person[1], a high net worth person[2] or a company, partnership or trust of which the shareholders, unit holders or limited partners are all sophisticated persons or high net worth persons (hereinafter referred to as "**Sophisticated Investors**").

An applicant for registration as a registered person under the SIBA must submit the requisite APP-101-75 application form to the Authority through its REEFS online portal, along with the prescribed application fee of CI$5,000/US$6,100.

Information and documentary requirements include the following:

(a) client list (to include both regulated and unregulated entities);

(b) details of all directors, principals of the general partner and managing members (as appropriate) (to include at least two natural persons);

(c) details of senior officers or managers (excluding anti-money laundering officers – see further below);

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[1] A "sophisticated person" is someone regulated by the Authority or an overseas regulatory authority recognised by the Authority or whose securities are listed on a recognised securities exchange or who, by virtue of knowledge and experience in financial and business matters, is reasonably to be regarded as capable of evaluating the merits of a proposed transaction and participates in each transaction with a value or in monetary amounts of at least CI$80,000 (approximately US$100,000).

[2] A high net worth person is an individual whose net worth is at least CI$800,000 (approximately US$1,000,000) or any person that has total assets of not less than CI$4,000,000 (approximately US$5,000,000).

(d) details of all shareholders who are natural persons, accompanied by a personal questionnaire for each shareholder with a shareholding of 10% or more;

(e) details of all corporate shareholders as well as the first and last names of each 10% or greater ultimate beneficial owner ("**UBO**"), accompanied by a personal questionnaire for each UBO;

(f) register of directors or equivalent showing persons who act in a similar capacity to a director;

(g) register of members/ shareholders/ managing members (as appropriate) reflecting the beneficial owners and UBOs;

(h) an organisational chart in pictorial format outlining whether the applicant operates as a single structure or has affiliates (both financial and non-financial) by way of common ownership. For each affiliate, the applicant must provide the (i) name of the entity; (ii) jurisdiction of incorporation; (iii) nature of the business; and (iv) name of the regulatory body who has oversight of the affiliate's business, if applicable; and

(i) details of the natural persons appointed as the anti-money laundering compliance officer, deputy anti-money laundering compliance officer (if any), money laundering reporting officer and deputy money laundering reporting officer, together with their curriculum vitae in each case.

Following registration (which may take up to 6 weeks for approval) registered persons must notify the Authority within 21 days of any material change in any information filed.

4. MEANING OF "SECURITIES INVESTMENT BUSINESS"

The SIBA contains a wide definition of "securities investment business" which includes carrying on any of the following activities by way of business:

4.1. Dealing in securities

Buying, selling, subscribing for, or underwriting securities, or offering or agreeing to do so, either as principal or agent. A person will be "dealing" with respect to a particular transaction only if he continuously holds himself out as carrying on that business or the transaction is a result of him continuously soliciting members of the public (e.g. persons other than licensed or exempted persons).

4.2. Arranging deals in securities

Making arrangements with a view to: (i) another person (whether as a principal or an agent) buying, selling, subscribing for, or underwriting; or (ii) a person who participates in the arrangements of buying, selling, subscribing for or underwriting investments.

4.3. Managing securities

Managing securities belonging to another person in circumstances involving the exercise of discretion.

4.4. Investment advice

Giving or offering, or agreeing to give, to persons in their capacity as an investor or potential investor, advice on the merits of their buying, selling, subscribing for or underwriting a security, or exercising any right conferred by a security to buy, sell, subscribe for or underwrite a security.

4.5. Managing EU Connected Funds

Performing investment management functions, comprising risk or portfolio management for one or more "EU Connected Funds"[3].

4.6. Marketing EU Connected Funds

Marketing the shares, trust units or partnership interests of an EU connected Fund to investors or potential investors in a Member State.

4.7. Acting as Depositary of an EU Connected Fund

In accordance with the relevant laws and regulations implementing AIFMD in any Member State.

The SIBA defines "**securities**" in quite broad terms. In addition to items such as shares, bonds and warrants, the definition also includes such things as units in a unit trust, limited partnership interests, debt instruments, options, futures and contracts for differences.

4.8. Virtual Asset Service Providers

The SIBA provides for circumstances in which "virtual assets" are considered to be securities. Virtual assets are defined as a digital representation of value that can be digitally traded or transferred and can be used for payment or investment purposes but do not include a digital representation of fiat currencies. SIBA also contemplates contracts made for investment purposes not only on a recognised securities exchange but also on any virtual asset trading platform in the case of virtual assets.

5. EXEMPTIONS FROM LICENSING AND REGISTRATION

There are two principal types of exemption for "excluded activities" and "non-registrable persons".

5.1. Excluded Activities

Excluded activities are not considered to fall within the definition of securities investment business. These exemptions take the person carrying on such activities outside the scope of the SIBA entirely. These "**excluded activities**" include but are not limited to:

[3] An "EU Connected Fund" is a fund (open or closed ended) which is either (i) managed by a person whose registered office is in a Member State (being either a member of the EU or a part of the EEA in which the AIFMD has been implemented) and whose regular business is managing one or more alternative investment funds; or (ii) marketed to investors or potential investors in a Member State, in each case, as notified to the Authority as being identified to the relevant competent authority of a Member State in accordance with the relevant law implementing the AIFMD in the Member State.

(a) issuing, redeeming or repurchasing your own securities or virtual assets which are securities under the SIBA or making arrangements in relation to such activities or dealing in securities by applying proprietary assets other than as an underwriter;

(b) dealing in securities evidencing indebtedness where the person dealing provided the financial accommodation which created that indebtedness;

(c) dealing in securities for risk management purposes in connection with a non-securities investment business;

(d) dealing in securities or giving legal, accounting or other advice as a necessary or incidental part of carrying on a non-securities investment business;

(e) the provision of finance to enable a person to deal in securities.

5.2. Non-registrable Persons

The second set of exemptions relates to "non-registrable persons" and includes persons:

(a) carrying on securities investment business only in the course of acting in any of the following capacities:

(i) director,

(ii) partner (limited and general),

(iii) manager of a limited liability company,

(iv) liquidator (including a provisional liquidator),

(v) trustee in bankruptcy,

(vi) receiver of an estate or company,

(vii) executor or administrator of an estate,

(viii) a trustee acting together with co-trustees in their capacity as such or acting for a beneficiary under the trust,

in each case, provided that the person does not hold themself out as carrying on securities investment business other than as necessary or incidental to their role and they are not separately remunerated for such securities investment business activities; or

(b) carrying on securities investment business in connection with a joint enterprise.

6. DIRECTORS REGISTRATION AND LICENSING

The Directors Registration and Licensing Act (the "**DRLA**") seeks to regulate directors of certain "covered entities" established in the Cayman Islands, including certain registered persons under SIBA referred to in paragraph 3 above.

Directors of the SIBA registered person entities (i) carrying on securities investment business exclusively for one or more companies within the same group; and (ii) carrying on securities investment business exclusively for Sophisticated Investors, are required to register or be licenced with the Authority pursuant to the terms of the DRLA.

The DRLA applies to each category of director whether or not the director is resident in the Cayman Islands.

Fees are payable at the time of application and annually on or before the 15th January in each year.

Registration as a registered director is administered through an online process and confirmation of registration is usually within 48 hours. Licensing as a professional director (appointed for twenty or more covered entities) and/or corporate director is also administered through an online process and confirmation of licensing is usually within four weeks. Certain requirements must be satisfied before registration or licensing is granted by the Authority.

Significant financial penalties and criminal sanctions apply in the event that a person acts as a director without first being licensed or registered under the DRLA and in the event that a person fails to inform the Authority of changes to their original registration or licence application. For information on the DRLA, please see our publication "Directors Registration and Licensing in the Cayman Islands".

7. GENERAL PROVISIONS

The following key provisions of the SIBA are of particular interest:

(a) a contract, transaction or instrument entered into by a person in the course of carrying on securities investment business in contravention of the requirement to be registered or obtain a licence under the SIBA shall not be rendered unenforceable by reason of a failure to be registered or obtain a licence required by the SIBA;

(b) subject to certain exceptions, notification to the Authority (in the case of registered persons) or the Authority's approval (for licensees) is required to transfer or dispose of any shares or interests of a company or partnership registered or licensed under SIBA;

(c) licensees and registered persons shall separately account for the funds and property of each client and for the licensee's own funds and property;

(d) a licensee must have their accounts audited annually by an approved auditor and filed within six months of the end of the licensee's financial year;

(e) a licensee requires the Authority's approval to open outside the Cayman Islands a subsidiary, branch, agency or representative office or to change its name.

The SIBA also contains provisions relating to enforcement by the Authority including powers to revoke registration or licenses, replace directors/officers, appoint controllers, and to make court applications for injunctions, restitution orders and warrants to enter and to search premises.

8. INSIDER DEALING AND MARKET MANIPULATION

The SIBA created two new offences in the Cayman Islands. They are:

(a) **Creation of false or misleading market** – a person is guilty of this offence if he or she creates or does anything which is calculated to create a false or misleading appearance of active trading in any listed securities[4] or with respect to the market for or price of any such securities; and

(b) **Insider dealing** – subject to various defences available under the SIBA, a person commits the offence of insider dealing if he or she has information as an insider and he or she deals, or encourages another person to deal in listed securities that are price-affected securities (meaning that the information, if made public, would be likely to have a significant effect on their value) in relation to the information possessed, or he or she discloses the information other than in the proper performance of his or her employment, office or profession, to another person.

A person convicted of either of these offences is liable to a fine of up to CI$10,000 (approximately US$12,500) and imprisonment for up to 7 years.

9. DE-REGISTRATION OF A REGISTERED PERSON

A registered person may apply to the Authority for de-registration where a registered person ceases to carry on any regulated activity under Schedule 2 of the SIBA in circumstances where the registered person is (i) being wound up; (ii) merging with another registered person; (iii) being transferred to another jurisdiction; or (iv) has never carried on business. Prior to applying for de-registration, all fees and regulatory filings must be submitted and up to date and any queries settled with the Authority. The de-registration process is the same for exempted companies, partnerships, unit trusts and foreign companies. The Authority aims to provide a letter confirming de-registration within two to four weeks of the filing being made.

In order to de-register the following core requirements must be fulfilled, regardless of the reason for de-registration:

(a) a DRP-103-75 application form;

(b) a letter notifying the Authority of the applicant's intention to de-register the registered person in accordance with section 5(4B) of the SIBA must be submitted within 21 days of ceasing to carry on a regulated activity;

(c) a fee of CI$500 (US$610);

[4] For these purposes, a "listed security" means any security which is listed on the Cayman Islands Stock Exchange or a virtual asset trading platform which is a recognised securities exchange.

(d) a certified copy of directors' resolutions indicating the date on which the registered person ceased to carry on any regulated activities or, alternatively, stating that the registered person never carried on such business, must be filed;

(e) an affidavit by the directors of the registered person must be filed deposing to the following: (i) the date the registered person ceased conducting securities investment business; (ii) the reason for cessation of business; (iii) the registered person has operated in accordance with its constitutional documents; (iv) all client relationships have been properly terminated or transferred (v) the registered person has not conducted its securities investment business and has not wound up such business in a manner that is prejudicial to its clients and creditors; and (vi) the registered person intends to either continue as a legal entity in the Cayman Islands, apply to be struck off the relevant register or merge with another registered person.

Where an entity applies to de-register having ceased carrying on securities investment business but wishes to continue as an entity, the resolutions and affidavit above must provide (i) the date that the registered person ceased conducting securities investment business; (ii) that the entity will continue to operate as a particular entity or company; and (iii) the purpose of the entity going forward. This scenario is not currently captured in the DRP-103-75 form and the Authority has expressed that as a result, sections A03-A07 of the form may be left blank, so long as the letter submitted with the application for de-registration addresses the basis for this omission.

The following additional documents are required by the Authority, depending on the circumstances in which the registered person ceases to carry on regulated activity:

(a) Voluntary winding up:

  (i) notice of voluntary winding up: Companies Winding Up Rules, 2018 ("**CWR**"), Form 19;

  (ii) consent to act: CWR, Form 20; and

  (iii) declaration of solvency: CWR, Form 21

(b) Court supervised winding up: A certified copy of the Supervision or Winding Up Order issued by the Grand Court is required.

(c) Merger: An application to the Authority for prior approval of the merger must be submitted, accompanied by:

  (i) resolutions of merging and surviving parties;

  (ii) plan of merger and appendices; and

  (iii) any other such documents the Authority may require.

(d) Transfer to another jurisdiction: A directors' affidavit must be provided deposing to the following: (i) the reason for the transfer and the name of the jurisdiction to which the

Registered Person is being transferred; (ii) the Registered Person has operated in accordance with its articles of association and constitutive documents; and (iii) the transfer is not prejudicial to the Registered Person's clients or creditors.

10. ANTI-MONEY LAUNDERING, COUNTER TERRORIST FINANCING AND COUNTER PROLIFERATION FINANCING COMPLIANCE

SIBA regulated entities are considered to be carrying on "Relevant Financial Business" as defined in the Proceeds of Crime Act (2024 Revision) (the "**POCA**") and are subject to the POCA, the Anti-Money Laundering Regulations (2023 Revision), (the "**Regulations**") and the Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing in the Cayman Islands (the "**Guidance Notes**", collectively with the POCA and the Regulations, the "**AML Regime**") issued by the Authority.

Pursuant to the AML Regime, SIBA regulated entities are required to have internal reporting procedures in place to (1) identify and report suspicious activity; (2) monitor and ensure internal compliance with laws relating to money laundering; and (3) test that their AML system is consistent with the Regulations and the Guidance Notes (the "**Procedures**"). As part of the Procedures SIBA regulated entities are required to:

(a) adopt a risk based approach to identify, assess and understand money laundering, terrorist financing and proliferation financing risks, including the identification of assets subjected to targeted financial sanctions and clearly document or keep a written record of the risk analysis approach taken;

(b) put in place identification and verification procedures to identify customers and observe lists of countries published by any competent authorities that are non-compliant and do not sufficiently comply with Financial Action Task Force recommendations and undertake ongoing due diligence measures on the basis of materiality and risk;

(c) have in place record keeping policies and procedures and due diligence information and ensure that transaction records should be available without delay upon a request by competent authorities;

(d) have internal systems and controls relating to audit function, outsourcing, employee screening and training which is proportionate to the nature, scale and complexity of its activities;

(e) appoint an Anti-Money Laundering Compliance Officer ("**AMLCO**"), to act as compliance officer, who shall have overall responsibility for ensuring compliance by the SIBA regulated entity with the AML Regime; and

(f) appoint a Money Laundering Reporting Officer ("**MLRO**"), to act as MLRO and a Deputy MLRO ("**DMLRO**"), who shall have responsibility for receiving reports of, investigating and reporting suspicious activity in accordance with the Guidance Notes.

The Guidance Notes provide, amongst other things, that financial services providers should, on a regular basis, conduct an anti-money laundering/ countering of terrorist financing/ countering of proliferation financing ("**AML/CFT/CPF**") audit, the frequency of which should be commensurate with the entity's nature, size, complexity and risks identified during its risk assessments. The Authority is empowered to require that entities registered as excluded persons have their AML/CFT/CPF systems and Procedures audited by suitably qualified entities to check for compliance with the Regulations.

While the ultimate responsibility for maintaining and implementing satisfactory Procedures remains with the SIBA entity, the obligations may be met by delegating or outsourcing those functions, including to persons who are subject to the anti-money laundering requirements of a country assessed as having a low risk of money laundering, terrorist financing and proliferation financing. AMLCO, MLRO and DMLRO appointments and any changes thereto must be notified to the Authority together with certain prescribed information, including the individuals' curriculum vitae in each case. For further information on the AML Regime, please contact your Conyers contact.

11. FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)

11.1. What is FATCA?

FATCA is a US federal law that aims to reduce tax evasion by US persons. FATCA has significant extra-territorial implications and, most notably, requires foreign financial institutions ("**FFIs**") to report information on accounts of US taxpayers to the US Internal Revenue Service ("**IRS**"). If an FFI fails to enter into the necessary reporting arrangements with the IRS, a 30% withholding tax is imposed on US source income and other US related payments of the FFI.

In order to facilitate reporting under and reduce the burden of compliance with FATCA, the Cayman Islands has signed a Model 1B intergovernmental agreement with the US (the "**US IGA**"). The US IGA allows Cayman Islands entities that are FFIs to comply with the reporting obligations imposed by FATCA without having to enter into an agreement directly with the IRS. Instead, a Cayman Islands FFI may report directly to the Cayman Islands Tax Information Authority (the "**TIA**") and, provided it complies with the relevant procedures and reporting obligations, will be treated as a deemed compliant FFI that is not subject to automatic withholding on US source income and other US related payments.

11.2. FATCA Classification for Cayman Islands Managers and Advisers

Although Cayman Islands managers and advisers fall within the definition of Investment Entity (and therefore FFI), the US IGA contains an exemption for a Cayman Islands FFI that qualifies as an Investment Entity solely because it (a) renders investment advice to, and acts on behalf of, or (b) manages portfolios for, and acts on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a participating FFI. Accordingly, Cayman Islands managers and advisers will generally not be required to register with the IRS and report on their own account. They may, however, be required to self-certify as non-financial foreign entities.

11.3. Required Steps

Cayman Islands Reporting financial institutions ("**FIs**") are required to have a Global Intermediary Identification Number ("**GIIN**") directly from the Internal Revenue Service of the United States. For newly

incorporated funds qualifying as a Cayman Islands Reporting FI, a GIIN should be obtained as soon as possible and, in any event within 30 days of commencing business.[5] Further, Cayman Islands Reporting FIs are required to identify reportable accounts and report certain designated information to the TIA in accordance with prescribed timeframes. Significant penalties and/or enforcement action can result in the event of a failure to report. All Cayman FIs that have reporting obligations are required to notify the TIA by 30 April in the first calendar year in which they are required to comply. Full reporting is then due on or before 31 July in each year. For further information on FATCA please see our publication "The Impact of FATCA on Cayman Entities".

12. COMMON REPORTING STANDARD (CRS)

12.1. What is CRS?

CRS is a global information exchange regime developed to facilitate and standardize the automatic exchange of information ("**AEOI**") on residents' assets and income between participating jurisdictions on an annual basis. The Cayman Islands have implemented the CRS through The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (2021 Revision) pursuant to the Tax Information Authority Act (2021 Revision) (the "**TIA Act**").

Similarly to FATCA, the CRS requires certain Cayman Islands FIs to identify the tax residency of their account holders and then to report information on reportable accounts held by individuals and entities. For the CRS there are notification requirements for both reporting and non-reporting FIs.

For CRS purposes, FI is a broad concept and includes, amongst other things investment entities whose income is primarily attributable to (re)investing or trading in financial assets, if the relevant entity is "managed by" another FI. In some cases, organisations that have been unaffected by FATCA may find that they are required to comply with CRS. Some of the key differences between FATCA and CRS are as follows:

- CRS is based on tax residency rather than citizenship;
- more Cayman entities will be affected as the scope of applicable exemptions is narrower;
- thresholds for *de minimis* financial accounts are significantly reduced under the CRS compared to FATCA;
- The CRS does not impose withholding tax.

12.2. CRS Classification for Cayman Islands Managers and Advisers

Cayman Islands managers and advisers are classified as reporting FIs for CRS purposes and are required to put in place appropriate policies and procedures regarding CRS compliance. Unlike other investment entities such as investment funds, equity and debt interests of investment managers or advisers will only be treated as a "Financial Account" if the interests were created to avoid the reporting obligation. They may therefore confirm in their notification form on the AEOI Portal that they have no

[5] Tax Information Authority (International Tax Compliance) (United States of America) Regulations (2021 Revision), s. 4(2).

financial accounts and will not have a reporting obligation unless and until such confirmation is no longer correct.

12.3. Required Steps

Cayman Islands Reporting FIs are required to establish and maintain written policies and procedures to comply with and apply the CRS. Similar, to FATCA, Cayman Islands Reporting FIs will need to adapt their onboarding procedures for new investors in order to capture the requisite information that needs to be reported in order to be compliant with the CRS. The TIA has issued tax self-certification forms to assist Cayman Islands Reporting FIs with their reporting requirements. Cayman Islands Reporting FIs should have all new and existing clients complete self-certification forms.

A Cayman Islands FI, being either a Cayman Islands Reporting FI or a Non-Reporting FI, must notify the TIA no later than 30 April in the first calendar year in which it is required to comply with the reporting obligations. On or before 31 July each year, a Cayman Islands Reporting FI will also be required to report certain information in respect of each of its "reportable accounts" to the TIA. For further information on the CRS, please see our publication "The Cayman Islands and the Common Reporting Standard Issued by The Organisation for Economic Co-Operation and Development".

13. POWERS OF REGULATION, SUPERVISION AND INVESTIGATION

The Authority is responsible for supervision and enforcement in respect of persons to whom the SIBA applies and the investigation of persons who they reasonably believe to be carrying on or purporting to carry on securities investment business without being registered or licenced.

The Authority's powers include the ability to obtain regular returns and conduct on-site inspections in order to determine that a registered person or licensee is in compliance with the SIBA, The Anti-Money Laundering Regulations and is otherwise in a sound financial condition.

If the Authority has reasonable grounds to believe that a registered person or licensee will become unable to meet its obligations when they fall due, has failed to comply with a condition of its registration or licence or may be in breach of the requirements of the SIBA or AML Regime, it may, at the expense of the registered person or licensee (where applicable):

(a) revoke the registration or licence;

(b) amend, revoke or impose conditions or further conditions upon the registration or licence;

(c) apply for a Court order to protect the interests of clients or creditors including an injunction or restitution or disgorgement order;

(d) publish breaches in the Cayman Gazette or other official publication;

(e) require the registered person or licensee to obtain an auditor's report on its anti-money laundering systems and procedures;

(f) require the substitution of any director or officer or the divestment of ownership or control;

(g) appoint a third party to advise the registered person or licensee on the proper conduct of its affairs and report back to the Authority;

(h) appoint a person to assume control of the registered person or licensee's affairs having the powers of a receiver or manager;

(i) report breaches of The Anti-Money Laundering Regulations to the Director of Public Prosecutions; or

(j) require such other action to be taken by the registered person or licensee as the Authority reasonably believes necessary.

If the Authority has reasonable grounds for suspecting that a person is carrying on securities investment business in contravention of the requirement to be registered or licensed, the Authority may, by written notice, require that person or any other person to provide such information, and/or produce documents which may reasonably be required for the purpose of investigating the suspected contravention. In such circumstances, the Authority may also require that person or any other person to attend an interview and answer questions relevant for determining whether such contravention has occurred. Officers, servants or agents of the Authority may, with a warrant, also enter premises for the purposes of seeking information or documents, asking questions or making copies of documents.

Under the SIBA, the Authority may seek court orders to wind up a company or dissolve a partnership which has carried on securities investment business in contravention of the SIBA. The Authority may also seek orders to restrain or remedy such contraventions, or to restrain the disposal of assets or to require the restitution of profits to persons which have, for example, suffered loss as a result of the contravention.

In certain circumstances failure to comply with a direction given by the Authority can result in fines of up to KYD100,000/USD121,950 or imprisonment of up to five years (or both).

14. ADMINISTRATIVE FINES REGIME

The Authority has significant new powers to impose administrative fines on licensed and regulated individuals and entities. These range from non-discretionary fines of CI$5,000/US$6,100 for a minor breach to CI$1,000,000/US$1,220,000 for a very serious breach. The Authority would be able to impose cumulative fines of up to CI$20,000/US$24,390 for a single minor breach. It is important that individuals and entities take note, as contraventions or failures to act could give rise to fines. The Monetary Authority (Administrative Fines) Regulations (2022 Revision) (the "**Regulations**") contain the prescribed provisions attracting fines, the basis upon which discretion may be exercised, the process for imposing fines, appeals, payment and enforcement. Schedule 1 of the Regulations sets out the prescribed regulatory law provisions and corresponding breach categories in relation to a wide range of legislation including the SIBA – these categories range from offences considered to be minor in nature to breaches categorised as very serious.

15. ECONOMIC SUBSTANCE REQUIREMENTS

Pursuant to the International Tax Co-operation (Economic Substance) Act (2024 Revision) (the "**ES Act**"), all Cayman Islands entities must notify the TIA of, amongst other things, whether they are carrying out relevant activities and if so, whether or not the entity is a relevant entity by way of filing an Annual Economic Substance Notification. A registered person who constitutes a "relevant entity" and who acts as a discretionary manager of an investment fund (as defined in the ES Act) will be deemed to be carrying on the relevant activity of fund management business for the purposes of the ES Act and accordingly will be subject to the economic substance test set out in the ES Act. See our publication "Cayman Islands: Economic Substance Requirements" for further details.