

Deadline for Cayman Island's AML/CFT revision: 30th September 2018

Industry Experts Brooklands Fund Management Limited explain CIMA's regulation and how it can affect you

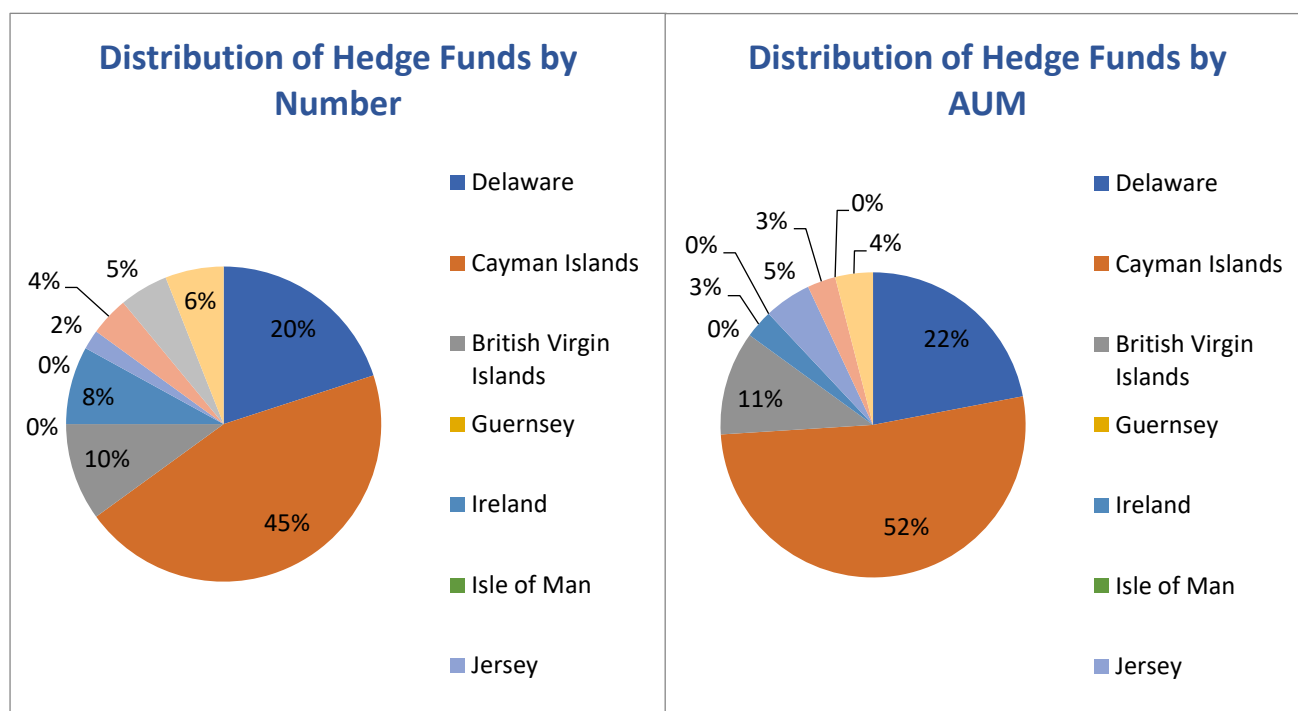
By Robert Pope

Hedge fund specialists Brooklands Fund Management Limited outline Cayman Island's Anti Money Laundering/ Counter Financing of Terrorism regulation, and explain how it affects managers of Cayman funds, focussing on the steps required prior to the deadline and the effects of non-compliance.

Background

Statistics show that the Cayman Islands remains the leading jurisdiction for establishing offshore hedge funds globally with 45% market share since 2010. This is further shown graphically below by a market share of 52% of assets under management.

The Cayman Islands remains the dominant jurisdiction for the domicile of funds. Other jurisdictions shown offer different incentives; principally Delaware for US based hedge funds and Luxembourg for UCITS.



A financial service provider already complies with regulations: FATCA, AIFMD and MiFID II. This provides transparency and fairness to the market. To combat terrorism and reduce anti-money laundering (AML), Cayman Islands monetary Authority (CIMA) revised their regulation in October 2017. The bottom line is that all Cayman Funds must now appoint natural persons to perform three AML functions by the 30th September 2018.

Anti-Money Laundering Regulation (AMLR)

The new revision states that the mutual fund needs a more dynamic AML set up. This is broken down to three AML officers: Anti Money Laundering Compliance Officer (AMLCO), Money Laundering Reporting Officer (MLRO), and Deputy Money Laundering Reporting Officer (DMLRO).

Officer Type	Description
AMLCO	A fund's AMLCO oversees the AML compliance function. The officer must ensure the fund's AML systems, AML policies and procedures are effective and compliant This extends to fund investment activities. CIMA have stated that there should be clear reporting lines from fund delegates to the AMLCO and that regular reports should be provided by all relevant parties
MLRO	A fund's MLRO is the point of contact for all suspicious activity reports and in turn reports these activities to the right authorities
DMLRO	A fund's DMLRO (deputy) covers the MLRO's role on the occasions that the MLRO is absent from his/her duties

To be an AML officer, CIMA gives the following prerequisites:

The **natural person** must be **suited** for the role, must be **independent**, and must have **access to all relevant material**.

The independence term refers to whether the AML officer is autonomous in carrying out his/her function rather than being independent from any of the fund components.

The suitability term can range from the director of the fund, compliance officer, fund administrator, or individuals provided by another service provider.

The key point to this revision is that the natural person cannot assume all three roles. This means, for example, they could be the AMLCO and MLRO but cannot be the DMLRO. The MLRO and DMLRO must be two different people.

Who is applicable to this?

Since June 1st 2018 all funds who are launching must be compliant with this new rule at launch. Funds established prior to June 1st, both regulated and unregulated, must designate AML officers by September 30th, 2018.

CIMA further states that this applies to persons carrying out relevant financial business (RFB), both regulated and unregulated. Therefore, investment entities under FATCA and CRS filings will be subject to this regulation.

Finally, unless you have the documentation to show you are placed in Licence Under Litigation (LUL) or Licence Under Termination (LUT), meaning you are shutting down the fund, you will also have to be compliant to this regulation.

What are the consequences of non-compliance?

CIMA have concluded that the previous fine of CI\$ 15,000 was too “light touch” in tackling the growing issue of money laundering and financial terrorism. Therefore, if CIMA deems you have broken this regulation you will be fined CI\$ 500,000, or unlimited fine and imprisonment for two years on conviction of crime. This works out at US\$ 600,000.

How to be compliant with this new regulation

First check with your Administrator as it is likely that they know about this and are already compliant for the 30th September deadline. If they have not proceeded with the process, then it is important to find out the cost of appointing the new AML Officers to the fund.

Disclaimer: Financial entities will still be responsible for their AML responsibilities therefore it is important to choose robust and effective AML delegates. CIMA does not place a limit on the number of AML officers a single individual can take on provided that individual has the necessary resources to perform the function.

[Brooklands Fund Management Limited](#) is a boutique fund management company offering the full scope of operational solutions to hedge fund managers. Brooklands provides a unique hedge fund platform including outsourcing of all support functions: regulatory, compliance, operations, finance and legal support.

Sources:

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