

Fund Management in Cayman Islands

(part 1)



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FUND MANAGEMENT REGULATION

Regulatory framework and authorities

How is fund management regulated in the Cayman Islands? Which authorities have primary responsibility for regulating funds, fund managers and those marketing funds?

The main regulatory body in the Cayman Islands that regulates open-ended investment funds, closed-ended investment funds, fund managers and parties marketing investment funds is the Cayman Islands Monetary Authority (CIMA). The main statutes from which CIMA derives its supervisory powers and duties in respect of investment funds are the Mutual Funds Act and the Private Funds Act, and in respect of fund managers, is the Securities Investment Business Act (the SIB Act).

Fund administration

Is fund administration regulated in your jurisdiction?

A Cayman Islands-domiciled entity that carries on business as a mutual fund administrator is required to have a valid licence for doing so and is required to be regulated by CIMA. There is more than one type of mutual fund administrator licence and CIMA will assess, among other things, whether the applicant has sufficient expertise to administer regulated investment funds (both

open-ended and closed-ended) and whether the business as a mutual fund administrator will be administered by persons who are fit and proper to be directors or, as the case may be, managers or officers in their respective positions.

Mutual fund administration is defined in the Mutual Funds Act as the management or administration of a mutual fund to provide the principal office of the mutual fund in the Cayman Islands or the provision of an operator to the mutual fund. An overseas fund administrator that is not established in the Cayman Islands is not regulated by CIMA and may be the administrator of a Cayman Islands investment fund if the administrator is authorised or otherwise permitted to carry out administration activities to investment funds in any non-high risk jurisdiction.

Authorisation

What is the authorisation or licensing process for funds? What are the key requirements that apply to managers and operators of investment funds in the Cayman Islands?

The vast majority of open-ended funds will qualify as mutual funds under the Mutual Funds Act (as amended), which requires mutual funds to be licensed or regulated as such. Closed-ended funds (i.e., funds that issue investment interests that are not redeemable or repurchasable at the option of the investor of record), which fall within the



scope of the Private Funds Act, are required to register with, and consequently become regulated by, CIMA.

The authorisation process for an open-ended fund will depend on the regulatory category it chooses to register under (e.g., a licensed fund under section 4(1)(a) of the Mutual Funds Act, an administered fund under section 4(1)(b) of the Mutual Funds Act, a registered fund under section 4(3) of the Mutual Funds Act, or a limited investor fund under section 4(4) of the Mutual Funds Act). For closed-ended funds, the authorisation process requires the private fund to:

- i. submit an application for registration to CIMA within 21 days after its acceptance of capital commitments from investors for the purposes of investments;
- ii. file prescribed details in respect of the private fund with CIMA;
- iii. pay a prescribed annual registration fee to CIMA in respect of the private fund;
- iv. comply with any conditions of its registration imposed by CIMA; and
- v. comply with the provisions of the Private Funds Act.

A Cayman Islands-domiciled fund manager will have to either apply to

CIMA for a licence to undertake business as such under the Securities Investment Business Act (as revised) or apply to CIMA to be registered under a less regulatory onerous regime as a Registered Person. An overseas fund manager can provide services to a Cayman Islands investment fund and there is no requirement for the overseas fund manager to be licensed by or registered with CIMA unless that fund manager establishes itself in the Cayman Islands. Operators of mutual funds, such as directors, are subject to registration or licensing requirements under the Director Registration and Licensing Act and are required to register with CIMA and pay annual renewal fees to maintain their registration in good standing.

Territorial scope of regulation

What is the territorial scope of fund regulation? Can an overseas manager perform management activities or provide services to clients in the Cayman Islands without authorisation?

The laws in the Cayman Islands (e.g., Mutual Funds Act, Private Funds Act and the Securities Investment Business Act) are not extraterritorial in scope and effect. An overseas fund manager can provide services to a Cayman Islands investment fund and there is no legal requirement for the overseas fund manager to be licensed by or registered with CIMA unless that fund manager



establishes operations in the Cayman Islands.

Acquisitions

Is the acquisition of a controlling or non-controlling stake in a fund manager in the Cayman Islands subject to prior authorisation by the regulator?

There is no requirement for an overseas fund manager to be licensed by or be registered with CIMA unless that fund manager establishes itself in the Cayman Islands. Accordingly, there would be no need for any prior notification to, or authorisation by, CIMA of a change in controlling or non-controlling stake in a fund manager established overseas. A fund manager regulated in the Cayman Islands (i.e., whether as a CIMA licensee or a registered person)

under the SIB Act is prohibited from issuing, voluntarily transferring or disposing of any shares or partnership interests (as applicable) without the prior approval of CIMA, but CIMA may grant an exemption from this prior approval requirement where the fund manager's securities are publicly traded on a recognised securities exchange.

Restrictions on compensation and profit sharing

Are there any regulatory restrictions on the structuring of the fund manager's compensation and profit-sharing arrangements?

There are no regulatory restrictions on the structuring of the fund manager's compensation and profit-sharing arrangements.



This publication is not intended to be a substitute for specific legal advice or a legal opinion.
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