

## SUPERVISION PROFILE

### CAYMAN ISLANDS MONETARY AUTHORITY

#### 1. NAME OF SUPERVISORY AGENCY

Cayman Islands Monetary Authority (“CIMA” or the “Authority”)

#### 2. CATEGORIES OF FINANCIAL INSTITUTIONS FOR WHICH IT HAS REGULATORY OVERSIGHT (as at 31 December 2010)

<b>Banks/Trust Companies</b> <i>(Supervised by the Banking Supervision &amp; Fiduciary Services Divisions)</i>	<b>Number of Active Licensees</b>
Bank/Trust – Category A	17
Bank/Trust – Category B	228
Trust Company - Restricted	76
Trust Company - Unrestricted	51
Nominee Trust Licensee	67
Company Manager (Full)	80
Corporate Service Provider	9
Money Services Business	8
Credit Unions/Development Banks	3
Building Societies	1
Controlled Subsidiaries	2

<b>Insurance Entities</b> <i>(Supervised by the Insurance Division)</i>	<b>Number of Active Licensees</b>
Insurance (Class A)	30
Insurance (Class B)	680
Insurance (Class B Res.)	58
Insurance	33
Insurance	34
Insurance	108

<b>Investment Services</b> <i>(Supervised by the Investments &amp; Securities)</i>	<b>Number of Active Licensees</b>
MF Administrator (Exempted)	2
MF Administrator (Full)	94
MF Administrator (Restricted)	38
Mutual Funds	9,438

### **3. PRUDENTIAL INFORMATION/DATA REQUIRED OF LICENSED INSTITUTIONS AND REPORTING INTERVALS**

#### *Banking Supervision Division*

The Banking Supervision Division is responsible for the ongoing supervision and regulation of the activities of the Banks, Credit Unions, Building Societies, Development Banks, and Money Service Business providers through, receipt and analysis of regular audited and un-audited financial statements and on-site inspections. Capital adequacy, asset quality, earnings, corporate governance, liquidity etc. are all assessed on a quarterly basis. The Division is also responsible for registering the activities of controlled subsidiaries.

#### *Fiduciary Services Division*

The Fiduciary Services Division is responsible for the ongoing supervision and regulation of the activities of all trust companies not having a banking licence, company management, and corporate services business through, receipt and analysis of regular audited financial statements, annual meetings with the licensees' management, and periodic detailed reports or examinations by auditors on specific areas of internal controls and systems. Capital adequacy, asset quality, management capability and expertise, earnings and liquidity are all assessed on an ongoing basis. The Fiduciary Services Division is also responsible for the registration of private trust companies and controlled subsidiaries.

#### *Insurance Division*

The Insurance Division monitors licensed insurance entities to ensure that they are operating in a satisfactory manner and remain solvent. Monitoring is on-going and is both compliance and risk based - an assessment of whether the licensee complies with the relevant legislation, applicable instruments issued by the Authority and any conditions or enforcement directives issued to the entity. Regular reporting, on-site inspections and off-site supervision are all essential elements of monitoring.

#### *Investments and Securities Division*

The Investments and Securities Division's duties encompass the supervision and regulation of mutual funds, mutual fund administrators as well as persons licensed to conduct securities investment business, which includes market makers, broker-dealers, securities arrangers, securities advisors and securities managers. The division processes all applications for those entities specified above and makes recommendations to the Authority's Board of Directors on the issue (or non-issue) of a licence when necessary.

### **4. PRUDENTIAL INFORMATION/DATA PUBLISHED BY SUPERVISORY AUTHORITY AND PUBLICATION INTERVALS**

Based on the collection of quarterly prudential reports from licensees, the Authority is able to obtain aggregate financial information on its licensees, which are published on the Authority's website and updated on a quarterly basis. The Authority's annual report is available on its website and the financial statements of the majority of banks, on a consolidated basis, are publicly available.

## **5. PRINCIPAL PIECES OF LEGISLATION GOVERNING THE OPERATION OF BANKING/FINANCIAL LICENSEES (inclusive of Anti Money Laundering and Anti Terrorism statues where applicable)**

Principal Legislation - provides the legal framework for the various regulated entities licensed by the Authority

- Banks and Trust Companies Law (2009 Revision)
- Banks and Trust Companies (Licence Applications and Fees) Regulations (2007 Revision)
- Banks and Trust Companies (Licence Applications and Fees) Regulations, 2009
- Building Societies Law (2010 Revision)
- Companies Law (2010 Revision)
- Companies (Amendment) Law, 2010
- Cooperative Societies Law (2001 Revision)
- Companies Management Law (2003 Revision)
- Companies Management Regulations (2003 Revision)
- Cooperative Societies Law (2001 Revision)
- Cooperative Societies Regulations (1997 Revision)
- Development Bank Law (2004 Revision)
- Insurance Law (2008 Revision)
- Insurance Law, 2010 (will supersede the 2008 Revision in Summer 2011)
- Insurance (Forms) Regulations (2003 Revision)
- Insurance (Variation of Fees) Regulations, 2009
- Monetary Authority Law (2010 Revision)
- Monetary Authority (Amendment) Law, 2010
- Money Services Law (2010 Revision)
- Money Services Businesses Regulations, 2001
- Money Services Businesses (Amendment) Regulations, 2009
- Mutual Funds Law (2009 Revision)
- Mutual Funds Administrators Licence (Applications) Regulations 2001
- Mutual Funds (Annual Returns) Regulations, 2006
- Mutual Funds (Fees) Regulations, 2007
- Mutual Funds (Fees) (Amendment) Regulations, 2009
- Private Trust Companies Regulations, 2008
- Private Trust Companies (Amendment) Regulations, 2009
- Retail Mutual Funds (Japan) Regulations (2007 Revision)
- Securities Investment Business Law (2010 Revision)
- Securities Investment Business (Conduct of Business) Regulations 2003
- Securities Investment Business (Financial Requirements and Standards) Regulations, 2003
- Securities Investment Business (Licence Applications and Fees) Regulations, 2003
- Terrorism Law (2009 Revision)

Licensees are also subject to the provisions of an array of other local laws, including:

- Confidential Relationships (Preservation) Law
- Money Laundering Regulations (2010 Revision)
- Proceeds of Crime Law, 2008
- Proceeds of Crime (Disclosure) Order, 2010
- Public Management and Finance Law (2010 Revision)

## **6. MAJOR CHANGES TO BANKING/FINANCIAL STATUTES OVER THE PAST TEN YEARS**

Legislation for the granting of full operational independence of the Cayman Islands Monetary Authority was passed by the Governor in Council (Executive Council) and officially gazetted on March 10, 2003. This places complete operational decisions and responsibility for certain decisions, such as the approval of licences, in the hands of the Board of Directors of the Authority. Operational independence enables the Authority to execute directly the key functions of licensing, ongoing supervision, enforcement and regulatory cooperation. Essentially the key area of change resulting from the Monetary Authority Law (2004 Revision) is the power of the Monetary Authority to licence.

**The Banks and Trust Companies Law (BTCL)** was amended in 2006 to increase the protection of depositors, and beneficiaries of a trust; to increase the regulatory powers of the Cayman Islands Monetary Authority in relation to Banks and Trust Companies; to re-define the obligations of auditors; and for incidental and connected purposes. The BTCL was again amended in 2007 to make further provision in respect of restrictions imposed on Banks; to re-state certain duties imposed on Trust Companies; and to make provision for related matters. Further changes were made during 2008, when a new class of trust entity i.e. controlled subsidiary was created. This type of entity is not required to be licensed by CIMA but is instead required to be registered.

**Private Trust Companies Regulations, 2008** was issued during September 2008. These regulations create a new regime for trust companies that are defined as private trust companies. Private Trust Companies are locally incorporated companies that conduct no trust business other than connected trust business.

**The Monetary Authority Law** was amended in 2007 to revise the Monetary Authority's powers to disclosures; and to make provision for incidental and connected matters. The Monetary Authority Law was again amended in 2009 to make provision for the Governor in Cabinet to vary the paid-up capital of the Authority, and that where such variation reduces paid-up capital, any excess capital shall be transferred to general revenue of the Islands; to create new administrative fees; and to make provision for incidental and connected matters.

The independence of CIMA was further enhanced when, in March 2010, the Legislative Assembly enacted the Monetary Authority (Amendment) Law, 2010. This extended CIMA's ability to issue Rules, Statements of Guidance and Statements of Principles not only to licensees but to all regulated entities without the approval of the Cabinet of the Cayman Islands. Prior to this, the power to issue these measures was subject to Cabinet approval and limited only to licensees. The amendments also allow CIMA to enter into memoranda of understanding with overseas regulatory authorities for the purpose of consolidated supervision without the need for Cabinet approval, as previously obtained, following consultation with the Financial Secretary. In addition, the amendments allow for CIMA to apply for a warrant to obtain documents in pursuance of providing assistance to an overseas regulatory authority to address those limited circumstances in which CIMA's existing powers of direction under section 34 of the Monetary Authority Law may not be sufficient or appropriate. Additionally, Section 52 of the MAL, as amended, gives authority for a licensee/regulated entity to provide information to the Authority or, in the case of a foreign branch or subsidiary, to an overseas regulatory authority that regulates its parent company, for the purpose of consolidated supervision. The provision of the information will not be considered a breach of any restriction upon the disclosure of information by or under any Law and will not give rise to

any criminal or civil liability.

The **Money Services Law** was amended in 2009 to make provision for a fee in relation to every subsidiary, branch, agency or representative office of a money services business; to provide for a transaction fee; and for incidental and connected purposes.

The **Building Societies Law** was amended in 2009 to introduce a regulatory fee for societies registered under that law; and for incidental and connected purposes.

The **Securities Investment Business Law** was amended in 2009 to increase the annual fee in respect of certain categories of securities investment business; and for incidental and connected purposes.

## **7. AREAS IDENTIFIED FOR FURTHER LEGISLATIVE CHANGE AND DETAILS/STATUS OF ANY NOW IN PROCESS**

### *The Insurance Law*

The revisions to the Insurance Law are broad and include stricter reporting requirements for Class A insurers, a restructuring of Class B companies into three categories depending on the amount of related party business, a new licence class for Re-insurance Companies as well as for Special Purpose Vehicles, a new definition for an Insurance Broker, harmonization of enforcement provisions with other CIMA regulatory laws and other minor administrative adjustments.

With the passage of the Insurance Law, it is critical that a robust, and internationally competitive set of Insurance Regulations are finalized and enacted. One of the main focuses of the IMF was in the area of risk-based regulation and specifically, in the area of capital and solvency requirements. In addition, the desire to attract new forms of business e.g. reinsurance, etc. to the insurance division highlighted weaknesses in insurance regulations that needed to be addressed. Amendments are now pending with regard to:

- Application and statutory return reporting formats
  - Capital, Solvency and Admissible Asset Requirements
  - Miscellaneous requirements including:
    - Consumer protection regulations arising from the post-Hurricane Ivan report
    - New insurance definitions and
    - Constituency of business plans, market conduct regulations and other possible inclusions
- Proposed Bank Holding Company legislation
  
  - Proposed Rule on Regulatory Reporting Standards

## **8. FORMAL DIRECTIVES, POLICIES, GUIDELINES/GUIDANCE NOTES ISSUED BY SUPERVISORY AUTHORITY TO LICENSEES**

The Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands (the "GN"), which were initially issued in June 2001, and revised in September 2003 were

further revised in March 2007, May 2007, December 2008, and March 2010.

In December 2008 revisions were made to include provisions to cover countering the financing of terrorism, which prompted the renaming of the GN to the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands. Other amendments included ongoing sector specific guidance for Insurance, the Banking Section, issues pertaining to the Eligible Introducers Form, customer due diligence, maintenance of files for complex and unusual transactions, etc.

Further amendments were made in March 2010 due to changes in the Money Laundering Regulations (the “MLR”), these amendments are as follows:

- Amendment to sector specific guidance for Mutual Funds and Fund Administrators (section 8). Replacement of the sub-section “Procedures for reporting of suspicious activity” with a new sub-section titled “Compliance Officer, Money Laundering Reporting Officer and Internal Audit Procedures”. The amendment outlines ways by which mutual funds and fund administrators may comply with the requirements of regulation 5(1)(e) of the Money Laundering Regulations (2009 Revision); and
- Additions and amendments to section 3 and section 8 of the Guidance Notes to incorporate Private Trust Companies into the Guidance Notes. These amendments provide guidance that is in line with the addition of registered offices of private trust companies to the second schedule of the Money Laundering Regulations (2009 Revision).

The following Rules and Statements of Guidance were issued to industry during the 4th quarter of 2006:

- Rule on Country and Transfer Risk Management for Banks;
- Rule on Credit Risk Management for Banks;
- Rule on Interest Rate Risk Management for Banks;
- Rule on Investment, Securities, and Derivatives Risk Management for Banks;
- Rule on Liquidity Risk Management for Banks;
- Rule on Loan Loss Provision for Banks;
- Rules on Large Exposure and Credit Risk Concentration for Banks;
- Statement of Guidance on Large Exposures and Credit Risk Concentration for Banks; and
- Statement of Guidance on Credit Risk Asset Classification.

During the 2nd quarter of 2006 the following Statements of Guidance were issued to industry:

- Investment Securities and Derivatives Risk Management for Banks

During the 1st and 2nd quarters of 2007 the following Rule and Statements of Guidance were issued to industry:

- Rule on Internal Controls
- Statement of Guidance on Minimum Criteria for Maintaining Physical Presence for Banks Subject to Section 6(6) of the BTCL
- Statement of Guidance on Cancellation of Licence - Company Managers & Corporate Services Providers
- Statement of Guidance on Business Continuity Management
- Statement of Guidance on Internal Controls - Insurance (Revised)
- Statement of Guidance on Internal Controls for Trust Companies, Company Managers, and Corporate Service Providers

During 2008 the following Rules and Statements of Guidance were issued to industry:

- Rule on Operational Risk Management - Banks
- Statement of Guidance on Operational Risk Management - Banks
- Statement of Guidance on Internal Audit for Unrestricted Trust Companies
- Statement of Guidance on Professional Indemnity Insurance for Trust Companies
- Statement of Guidance on Re-insurance Arrangements - Insurance Companies
- The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands was updated in December 2008.

During 2009 the following Rules and Statements of Guidance were issued to industry:

- Rule on Risk Management for Insurers
- Rule on Market Conduct for Class A Insurers
- Regulatory Policy on Consolidated Supervision
- Regulatory Policy Licensing Banks
- Regulatory Policy Major Acquisition or Investments by Banks
- Rule on Risk Management for Insurers
- Statement of Guidance Market Conduct – Class A Insurers, Agents and Brokers
- Regulatory Policy on Exemption from Audit Requirement for a Regulated Mutual Fund
- The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands was updated in December 2008.

During 2010 the following Rules and Policies were issued to industry:

- Regulatory Policy on Approved Stock Exchanges
- Rules, Conditions and Guidelines on Minimum Capital Requirements (Pillar I) – Basel II
- The Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing in the Cayman Islands was updated in March 2010

## **9. STATUS OF JURISDICTION VIS A VIS BASEL CORE PRINCIPLES OF BANKING SUPERVISION**

Based on a self-assessment of the Revised Basel Core Principles, the Authority is compliant with the majority of the Core Principles and largely compliant with the remaining Core Principles.

## **10. JURISDICTION STATUS VIS A VIS FINANCIAL SECTOR ASSESSMENT PROGRAMME (FSAP)**

The Cayman Islands received an Assessment of the Supervision and Regulation of the Financial Sector by the IMF. The on-site assessment was carried out during a two-week mission from 2 to 13 March 2009. The IMF Cayman Islands assessment report is published on the Authority's website.

December 2010