



## FUNDS, PRIVATE EQUITY AND INVESTMENT VEHICLES AML Compliance Officer, MLRO and DMLRO

*This article has been updated below to show the revised deadline of 30 September 2018 to comply with the AML Regulations. The original article stated the old deadline of 31 May 2018.*

### Overview

Late last year the Cayman Islands Monetary Authority (**CIMA**) issued updated Guidance Notes under the Anti-Money Laundering Regulations, 2017 (**AML Regulations**) which have just come into force.

Marbury has been awaiting clarification on some parts of the updated Guidance Notes after feedback was provided from the industry. On 29 March 2018 CIMA confirmed that all Cayman domiciled entities carrying out *relevant financial business* will be required to appoint a named AML Compliance Officer (**AMLCO**), a Money Laundering Reporting Officer (**MLRO**) and a Deputy MLRO (**DMLRO**).

Relevant types of investment structures that must comply with the AML Regulations include:

- Regulated Investment Funds registered with CIMA
- Closed-ended and open-ended but currently unregulated Investment Funds, including private equity funds, funds or investment vehicles undertaking private debt, real estate/property and infrastructure funds and 'Funds of One' (or single investor structures)
- Other entities carrying out relevant financial business potentially including entities such as trading subsidiaries, SPVs and general partners (where appropriate).

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Entities previously out of scope of the AML Regulations must comply with the new requirement by 30 September 2018 (the **grace period**). CIMA registered Investment Funds however and other entities that were previously subject to the AML Regulations are intended to be compliant already and are not afforded the grace period. Submissions have been made by the industry to CIMA to let all investment structures take advantage of the grace period, but for now operators need to get organised to not be caught-out, and do so quickly. Other than already regulated structures, private equity and other closed-ended structures are most affected.

The regulatory update envisages additional oversight on the AML side, and this is done by requiring more eyes on the process.

While the same person can act as AMLCO and either MLRO or DMLRO, (as long as that person satisfies the relevant criteria below, including relevant skills and expertise as well as independence), the DMLRO must be “of similar status and experience to the MLRO”.

Critically the MLRO and the DMLRO must be two different individuals.

A basic checklist of requirements and qualifications is as follows.

**AMLCO** – an AMLCO must:

Role and Responsibilities	Relevant Skills, Experience and Resources
<ul style="list-style-type: none"> <li>• develop and maintain systems and controls</li> <li>• ensure regular audits of the AML / Combatting Financing of Terrorism (CFT) program</li> <li>• maintain various logs including logs with respect to declined business, PEPs, and requests from competent authorities</li> <li>• advise the board of directors of any AML / CFT compliance issues that need to be brought to its attention</li> <li>• report periodically to the board of directors on the investment vehicle’s systems and controls</li> <li>• respond promptly to requests for information by relevant competent authorities</li> </ul>	<ul style="list-style-type: none"> <li>• have relevant skills and sufficient experience</li> <li>• be of sufficient seniority and authority so that the board of directors of the investment structure reacts to, and acts upon, any recommendations made</li> <li>• have sufficient resources to execute the role</li> <li>• have unfettered access to information necessary to appropriately perform the AML / CFT compliance function</li> </ul>

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**MLRO & DMLRO** – the MLRO & DMLRO must:

Role and Responsibilities	Relevant Skills, Experience and Resources
<ul style="list-style-type: none"><li>• be the point of contact for all suspicious activity reports</li><li>• report suspicious activity to the appropriate competent authorities</li></ul>	<ul style="list-style-type: none"><li>• in a position to act autonomously</li><li>• be independent (have no vested interest in the underlying activity or investment)</li><li>• have access to all relevant material in order to make an assessment as to whether the activity is suspicious</li></ul>

### Marbury Fund Services

No matter how much fund management experience you have, when you're running your own investment management venture you want to focus on portfolio management, performance and investors. Marbury's experienced professionals can help with the initial fund and team set-up, and provide ongoing administrative support.

We collaborate with Investment Managers to grow their businesses and guide them through the ever-increasing complexities associated with regulatory change and the associated operational requirements.

For more information please liaise with your usual Marbury contact.