

# Changes to AML practices for Cayman Islands funds

14 March 2018, by [Robert Searle](#) of Campbells

The Cayman Islands is a popular domicile to establish investment funds, in part, due to its compliance with international compliance standards. For some years, a material compliance requirement has been to identify investors into Cayman funds through various agreed protocols. Recent changes to the Cayman regulatory regime through new CIMA guidance notes and anti-money laundering (**AML**) regulations have two noteworthy effects on AML practice, examined below.

Unregistered funds such as closed-ended funds (which generally include most private equity, venture capital and real estate funds due to the illiquid underlying assets) have been exempt under Cayman law from the obligation to obtain “know your client” (**KYC**) documentation on investors. This is in contrast to registered funds (most hedge funds) which have been historically subject to the Cayman regulatory regime on KYC. Note unregistered funds will be subject to KYC requirements from 31 May 2018 (emphasis added), same as registered funds, meaning compliance with Cayman KYC requirements. Unregistered funds will therefore be required to adopt regulation-compliant AML policies and procedures, or delegate the same to a suitable service provider, by that deadline. In addition, the accepted view is that for existing unregulated funds, KYC remediation must be completed in respect of existing investors in unregulated funds prior to 31 May 2018. It is anticipated that CIMA may undertake inspections and impose fines later this year.

Whilst funds generally delegate the KYC arrangements to the fund administrator, not all administrators are regulated and are subject to general AML legislation in those jurisdictions. It is recommended the administration agreement confirms that the administrator will provide services in accordance with the AML Cayman requirements or the standards are equivalent to the Cayman AML regime.

As part of the Cayman KYC regime, a noteworthy historic exemption to obtaining full documentary identification on investors was for subscription monies being submitted through an investor’s bank account located in an approved country. The rationale for such exemption was the bank hosting the bank account had undertaken KYC on the investor when the bank account was opened and maintained, so the fund obtaining such again was duplicative. However, changes to the CIMA guidance notes mean that exemption does not apply to Cayman funds and redemption payments from funds to the investor can only proceed after documentary identification of investors by the fund has been undertaken. Scheduled redemptions should be reviewed that documentary KYC is held.