



## Procedure Publication of Enforcement Actions Taken By The Authority

### 1. Statement of Objectives

To set out and establish the procedure and criteria to be considered by the Authority in exercising its discretion to publish any enforcement action it may take.

### 2. Introduction

- 2.1 Pursuant to the regulatory laws, the Authority is expressly required to publish specific enforcement actions, such as the revocation, suspension or cancellation of a licence, or the compulsory winding up of companies initiated by the Authority. This procedure does not apply to those prescribed circumstances.
- 2.2 In other circumstances, the Authority is permitted to publish its enforcement actions, for example, pursuant to s. 17(2)(iv) of the Securities Investment Business Law (2004 Revision) ("SIBL").
- 2.3 Section 50(2)(b) of the Monetary Authority Law (2004 Revision) (the "MAL") permits the Authority to disclose the affairs of the Authority or of a licensee for the purpose of assisting the Authority to exercise any of its functions conferred on it by



any law or regulation, including section 6(3) of the MAL. In performing its regulatory and co-operative functions, ss. 6(3)(a) and (b) of the MAL require the Authority to promote and enhance market confidence, consumer protection, and the reputation of the Cayman Islands as a financial centre and to reduce the possibility that financial businesses may be used for the purpose of money laundering or other crimes.

- 2.4 Publication of enforcement actions may assist the Authority in the carrying out of its functions to the extent that publication may serve to advise the public, who are potential consumers or other stakeholders, that a licensee, registrant or entity that ought to be licensed or registered with the Authority, is not carrying on business in a fit and proper manner or in compliance with the law, or that its directors or managers are not fit and proper persons. Publication may also assist if it serves to protect the reputation of the Cayman Islands as a financial centre.
- 2.5 This document establishes the procedures and criteria the Authority will use in exercising its discretion to publish any enforcement actions, pursuant to any of the regulatory laws.

### **3. Scope of Application**

This procedure applies to the exercise of the Authority's discretion to publish any enforcement action taken pursuant to any of the



regulatory laws with respect to any person conducting a business regulated by the Authority.

#### **4. Criteria to Determine Publication**

4.1 In exercising its discretion, the Authority will consider the following criteria to determine if it should publish any enforcement action that has been taken:

4.1.1 the extent to which publication may assist the Authority in the carrying out its functions;

4.1.2 the extent to which publication may assist in protecting consumers or other stakeholders;

4.1.3 the extent to which publication may serve to protect the reputation of the Cayman Islands as a financial centre;

4.1.4 the extent to which publication may contribute to the promotion and maintenance of a sound financial system;

4.1.5 the extent to which publication could cause unfair or undue damage to the subject entity's business and stakeholders;

4.1.6 the extent to which the entity has cooperated with the Authority;

4.1.7 the severity of the apparent breach of any law or regulation by the entity;



- 4.1.8 the compliance record of the entity with the Authority;
- 4.1.9 the severity of the enforcement action that has been taken by the Authority;
- 4.1.10 the extent to which the information has been published elsewhere or is otherwise publicly available; and
- 4.1.11 the Authority's approach in any similar cases.

## **5. What May Be Published**

- 5.1 If the Authority exercises its discretion to publish an enforcement action, the Authority will normally state the following facts:
  - 5.1.1 the name(s) of the entity to which the enforcement action applies;
  - 5.1.2 any relevant dates;
  - 5.1.3 a description of what enforcement action has been taken;
  - 5.1.4 a contact name and contact particulars to which stakeholders may be referred for additional information; and
  - 5.1.5 any other information that may be relevant to permit the Authority to carry out its functions.



## **6. When Publication may Occur**

- 6.1 If the Authority exercises its discretion to publish an enforcement action, the Authority will generally do so once a final decision has been made.
- 6.2 There may be circumstances in which the Authority may publish an intended enforcement action, usually when the Authority has no other means to contact the entity. An example of this circumstance is the Authority's procedure on "Mutual Funds and Mutual Fund Administrators Where Contact is Lost."

## **7. Place of Publication**

- 7.1 If the Authority exercises its discretion to publish an enforcement action, the Authority will normally publish the necessary particulars on the Authority's website, and in the Cayman Islands' Gazette.
- 7.2 The Authority will assess where stakeholders will likely be located, and will determine the most efficient means to communicate publicly with such stakeholders. As such, the Authority may also publish the necessary particulars of an enforcement action in local or other newspapers or publications, local radio or television, and / or by notifying other financial services regulators.



## **8. Approval Process to Publish an Enforcement Action**

- 8.1 The publication of any enforcement action pursuant to this procedure requires the approval of both the Management Committee and Executive Committee of the Authority.
  
- 8.2 As set out in the Authority's Regulatory Handbook, the Compliance Division will prepare a submission for the Management Committee and Executive Committee to approve. The submission will incorporate an analysis of the criteria set out section 4 above, and state where, when, and the text of what the Compliance Division recommends be published.
  
- 8.3 The Compliance Division will maintain a database of enforcement actions taken by the Authority that are published pursuant to this procedure.