Council of the
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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Code of Conduct Group (Business Taxation)
Subject:	The EU list of non-cooperative jurisdictions for tax purposes – Cayman Islands: final legislation and assessment under criterion 2.2 = Revised Rule on Segregation of Assets for Registered Private Funds

Rule

Segregation of Assets – Registered Private Funds

1. Statutory Authority

1.1. These Rules are issued pursuant to section 34 of the Monetary Authority Law (2020 Revision) ("MAL"), which provides that the Cayman Islands Monetary Authority (the "Authority") may, after private sector consultation, issue or amend rules or statements of principle or guidance concerning the conduct of licensees and their officers and employees, and any other persons to whom and to the extent that the regulatory laws may apply.

1.2. These Rules should be read in conjunction with the Authority's Rule on Contents of Marketing Materials of Registered Private Funds.

2. Objective

2.1. To set out the Authority's rules on the Segregation of Assets – Registered Private Funds pursuant (each subparagraph of paragraph 5 below referred to as a "Rule," and collectively, the "Rules"), to the MAL.

3. Scope

3.1. These Rules apply to all Private Funds registered under section 7 of the Private Funds Law, 2020 ("PFL") other than Alternative Investment Vehicles.

4. Definitions

4.1. ***Fund*** means any Private Fund registered under section 7 of the PFL that is not an Alternative Investment Vehicle.

4.2. ***Portfolio*** means all financial assets and liabilities of a Fund and any part thereof, including "investor funds" and "investments" as those terms are used in the definition of Private Fund in section 2 of the PFL.

4.3. ***Section 17 Person*** means a person appointed by a Fund under section 17 of the PFL to hold the Custodial Fund Assets of the Fund in custody.

4.4. All other capitalised terms used in the Rules shall have the meanings ascribed to them in the PFL.

5. Segregation of Assets

5.1. The Portfolio must be segregated and accounted for separately from any assets of the Manager or Operator(s) or any Section 17 Person.

5.2. A Fund must ensure that any Manager, Operator or Section 17 Person that holds or manages the Portfolio complies with Rule 5.1.

5.3. The overriding requirement of Rule 5.1 is that a Fund must ensure that no Manager, Operator or Section 17 Person uses the Portfolio to finance its own or any other operations.

5.4. For the purposes of Rule 5.3 the following shall not in itself, constitute the financing of the operations of a Manager, Operator or Section 17 Person:

5.4.1 remitting to the relevant Investors, redemption, withdrawal or distribution proceeds being paid on behalf of the Fund;

5.4.2 paying fees, charges and expenses that are payable by an Investor in connection with the purchase, conversion, holding, transfer, withdrawal or redemption of Investment Interests of the Fund;

5.4.3 acquiring or disposing of assets for investment purposes in accordance with the Fund's constitutive documents and Marketing Materials;

5.4.4 paying fees, charges, expenses and taxes that are properly payable by the Fund and as disclosed in and in accordance with the Fund's constitutive documents or Marketing Materials or as otherwise disclosed to Investors; or

5.4.5 transfer and reuse of assets as consented to by or on behalf of the Fund, provided that a description of the arrangements entered into with any Section 17 Person allowing for the possibility of transfer and reuse (and the maximum permitted level of transfer and reuse) is disclosed in the offering documents or otherwise disclosed to investors before they invest, and that any material changes thereto are also disclosed to investors.

5.5. The Operator(s) of a Fund must establish, implement, and maintain, (or oversee the establishment, implementation, and maintenance of) strategies, policies, controls, and procedures to ensure compliance with these Rules, consistent with the Fund's Marketing Materials and appropriate for the size, complexity, and nature of the Fund's activities and Investors.

6. Enforcement

6.1. Whenever there has been a breach of the Rules, the Authority's regulatory policies and procedures as contained in its Enforcement Manual will apply, in addition to any other powers provided in the PFL and the MAL.