

CAYMAN ISLANDS



Monetary Authority Law

**MONETARY AUTHORITY
(ADMINISTRATIVE FINES)
REGULATIONS, 2017**

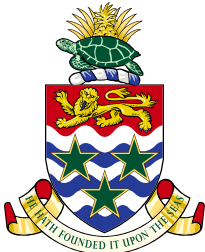
(SL 98 of 2017)

Supplement No. 2 published with Extraordinary Gazette No. 106 dated 15th December, 2017.

PUBLISHING DETAILS



CAYMAN ISLANDS



Monetary Authority Law

**MONETARY AUTHORITY (ADMINISTRATIVE
FINES) REGULATIONS, 2017**
(SL 98 of 2017)

Arrangement of Regulations

Regulation	Page
------------	------

PART 1 - PRELIMINARY

1. Citation and commencement	5
2. Definitions.....	5

PART 2 - PRESCRIBED MATTERS

Breaches and their categories	7
3. Breach of prescribed provisions to be proceeded with under Part VI of the Law	7
Discretionary fine criteria	7
4. When the criteria apply	7
5. General criteria in relation to both fine and amount	7
6. Additional criteria in relation to fine amount.....	8
7. Power to discount usual fine to reflect agreement	9
Forms	9
8. Prescribed forms	9

PART 3 - FINE PROCESS

General	9
9. Steps required	9
10. General provisions in relation to fine and breach notices	10
Breach notice and reply	10



11.	Requirements for breach notice	10
12.	Duty to consider reply	11
13.	Rectification of a breach subject to a fixed fine	11
	Imposing a fine	12
14.	Decision about fine	12
15.	Requirements for fine notice	12

PART 4 - REVIEWS AND APPEALS

	Internal review of fixed fines by the Authority	13
16.	Application to Management Committee for review	13
17.	No stay of original decision	13
18.	Management Committee decision on application for review	13
	Appeal against discretionary fines to Grand Court	14
19.	Application to the Grand Court for leave to appeal	14
20.	Application of Grand Court Rules and practice directions about judicial reviews	14
21.	Security for costs	14
22.	Stay of original decision only by application	14
23.	Hearing and outcome	15

PART 5 - PAYMENT AND ENFORCEMENT

24.	Fine is a debt to the Crown	15
25.	Interest on fines	16
26.	Payment of more than one fine	16
27.	Enforcement	16

PART 6 - MISCELLANEOUS

28.	Electronic notices by the Authority	16
29.	Evidentiary provisions	17
30.	Consultation requirements before issuing rules	17
31.	Transitional provision	17

SCHEDULE 1

PRESCRIBED PROVISIONS AND BREACH CATEGORIES

SCHEDULE 2

BREACH NOTICE FOR PROPOSED FIXED FINE

BREACH NOTICE FOR PROPOSED DISCRETIONARY FINE

FINE NOTICE FOR FIXED FINE

FINE NOTICE FOR FIXED FINE (CONTINUING)

FINE NOTICE FOR DISCRETIONARY FINE

APPLICATION TO REVIEW FIXED FINE

REVIEW DECISION FOR FIXED FINE

CERTIFICATE OF FINE AND INTEREST OWING



CAYMAN ISLANDS



Monetary Authority Law

**MONETARY AUTHORITY (ADMINISTRATIVE
FINES) REGULATIONS, 2017**

(SL 98 of 2017)

The Cabinet, in exercise of the powers conferred by sections 2, 42A, 42F(1)(a), 42H and 46 of the Monetary Authority Law (2016 Revision), makes the following Regulations —

PART 1 - PRELIMINARY**Citation and commencement**

1. (1) These Regulations may be cited as the Monetary Authority (Administrative Fines) Regulations, 2017.
- (2) These Regulations shall come into force immediately after the *Monetary Authority (Amendment) Law, 2016* [Law 27 of 2016] comes into force.

Definitions

2. In these Regulations —

“**appeal**” means an appeal for which leave is granted by the Grand Court under regulation 19 and any further appeals relating to the decision on such an appeal;

“**breach notice**” means a notice complying with regulation 11 of the Authority’s intention to impose a fine, issued by the Authority to a party that the Authority believes has breached a prescribed provision;

“**discretionary fine**” means —

(a) a proposed fine for which the Authority has fine discretions; or

(b) a fine that the Authority exercised fine discretions to impose;

“discount agreement” means an agreement in principle between the Authority and a party that has breached a prescribed provision about the amount of a proposed discretionary fine;

“fine discretions” means the Authority’s discretions under section 42B(5) of the Law about whether or not to impose a fine or its amount;

“fine notice” means a notice complying with regulation 15 issued by the Authority to a party that has breached a prescribed provision of the fine;

“fixed fine” means a fine referred to in section 42B(1) of the Law;

“fixed fine (continuing)” means a fine referred to in section 42B(2) of the Law;

“give”, in relation to a notice or information, includes to deliver, provide, send or transmit the notice or information;

“interest” means interest accrued or accruing on a fine under regulation 25;

“notice” means written information given, or to be given, electronically or by another mode of communication;

“original decision” means the Authority’s decision —

(a) in relation to a fixed fine or fixed fine (continuing), to impose the fine; or

(b) in relation to a discretionary fine, to impose the fine, about its amount, or both;

“party”, in relation to a provision of these Regulations about a breach, fine or proposed fine, means the person on whom the fine has been imposed or is being proposed or considered to be imposed;

“rectification notice” means a notice to the Authority by a party that has breached a prescribed provision that the breach was rectified within thirty days after the party received the breach notice;

“reply” means a notice to the Authority by a party who has received a breach notice, making representations opposing the Authority’s proposed action to impose a fine;

“reply period” means a period stated in a breach notice within which the party who received the notice may give a reply to the Authority;

“stayed”, in relation to a fine, means that the fine may not be imposed because of the operation of an order under regulation 22(2); and

“winding up notice” means a demand under section 93(a) of the *Companies Law (2016 Revision)* as it applies under a law of the Islands or a similar demand under the legislation of another jurisdiction.



PART 2 - PRESCRIBED MATTERS

Breaches and their categories

Breach of prescribed provisions to be proceeded with under Part VI of the Law

3. (1) The breach of a prescribed provision set out in column 2 of Schedule 1 of the Regulations set out in column 1 of that Schedule may be proceeded with under Part VIA of the Law.
- (2) In relation to proceedings under Part VIA of the Law, each breach of a prescribed provision is classified in column 3 of Schedule 1 as minor, serious or very serious.

Discretionary fine criteria

When the criteria apply

4. Regulations 5 and 6 prescribe, in relation to section 42F(1)(a) of the Law, criteria for exercising fine discretions when —
- (a) issuing breach notices;
 - (b) considering or reconsidering matters under regulations 12(2) or 23(2)(b); and
 - (c) imposing discretionary fines.

General criteria in relation to both fine and amount

5. The criteria referred to in regulation 4 are —
- (a) the nature and seriousness of the breach;
 - (b) the degree of the party's inadvertence, intent or negligence in committing the breach;
 - (c) if the breach is a continuing one, its duration;
 - (d) the measures or precautions the party took to prevent the breach;
 - (e) the measures or precautions that a reasonable person in the party's position, acting prudently and exercising due diligence, would have taken to prevent the breach;
 - (f) whether or not the breach was due to —
 - (i) reasonable reliance on information given to the party; or
 - (ii) a cause beyond the party's control, including, for example, someone else's act or default or an accident;
 - (g) the degree of difficulty in detecting the breach;
 - (h) evidence of intent by the party to conceal the breach or mislead the Authority;

- (i) the party's conduct after becoming aware of the breach, including, for example —
 - (i) whether and how quickly the party brought the breach to the Authority's attention; and
 - (ii) the party's efforts to remedy the breach or prevent its reoccurrence;
 - (j) any financial or other damage or loss or other harm done or caused by the breach, including, for example, to —
 - (i) the party's creditors, customers, investors, policyholders or shareholders;
 - (ii) financial markets; or
 - (iii) the performance of the Authority's functions;
 - (k) whether, before or after the breach, there was a change to the party's business or affairs that affects or may affect the consequences of the breach for the party, including, for example, the party's ability to pay a fine;
 - (l) if the Authority has imposed a fine on the party in similar circumstances to the breach, the amount of that fine; and
 - (m) the party's history of compliance, in the five years before the breach, with the Anti-Money Laundering Regulations, 2017 and similar laws in other jurisdictions.
- (2) In considering the party's history of compliance, regard need only be had to the party's compliance with, and breaches of, those laws of which the Authority is aware or is made aware by the party.
- (3) Paragraph (2) applies even if no punishment was imposed or no other action relating to the breach was taken under those laws.

Additional criteria in relation to fine amount

6. In deciding the amount of a fine, the criteria also include —

- (a) the following in relation to the party —
 - (i) any circumstances of mitigation that may exist;
 - (ii) resources and ability to pay; and
 - (iii) financial hardship;
- (b) potential adverse financial consequences on third parties of imposing a fine in the amount proposed; and
- (c) a circumstance that aggravates, or may tend to aggravate, the breach or its effects.



Power to discount usual fine to reflect agreement

7. (1) The Authority may, but need not, negotiate with a party to attempt to reach a discount agreement with the party, whether or not the Authority has given a breach notice.
- (2) Subject to paragraph (3), the Authority may discount the usual fine to reflect the fact of the discount agreement and the stage in the fine process under Part 3 at which the agreement was reached.
- (3) The Authority shall not discount any component of the usual fine that represents the application of the disgorgement principle under section 42F of the Law.
- (4) In this regulation, “usual fine” means the amount of the fine the Authority decided, or would otherwise have decided —
- (a) before taking into account the discount agreement; and
 - (b) after considering —
 - (i) all factors and criteria and the order of importance under section 42F of the Law; and
 - (ii) the criteria prescribed in regulations 5 and 6.

Forms**Prescribed forms**

8. Schedule 2 prescribes forms for use, subject to regulation 10, under these Regulations.

PART 3 - FINE PROCESS***General*****Steps required**

9. (1) The Authority may only impose a fixed fine or discretionary fine by taking the following steps —
- (a) giving the party a breach notice;
 - (b) if regulation 12 or 13 applies, complying with that regulation; and
 - (c) giving the party a fine notice.
- (2) However, the following exceptions apply in relation to discretionary fines —
- (a) if the party entered into a discount agreement for the breach and the fine is no more than the amount agreed under the agreement, a fine notice may be given without first giving a breach notice; and

- (b) if, under regulation 23(2), a fine is varied on appeal, the steps do not apply to the fine as varied.
- (3) The Authority may only impose a fixed fine (continuing) —
 - (a) by giving the party a fine notice; and
 - (b) if the relevant fixed fine is not stayed.
- (4) A decision relating to the imposition of a fixed fine, a fixed fine (continuing) or a discretionary fine need only be made on the balance of probabilities.

General provisions in relation to fine and breach notices

10. The following apply in relation to a breach notice or fine notice —

- (a) it is not mandatory to use the prescribed form under Schedule 2;
- (b) the notice may be in another form that substantially complies with the relevant requirements under this Part;
- (c) the notice is deemed to comply with those requirements if —
 - (i) its form appears to follow the prescribed form; and
 - (ii) it has been completed, or substantially completed, in the way required by the prescribed form; and
- (d) if the notice contains an inaccuracy, it is only invalid because of the inaccuracy if the party establishes that the inaccuracy was material and it misled the party.

Breach notice and reply

Requirements for breach notice

11. (1) A breach notice shall be dated and state all of the following —

- (a) the party's name;
- (b) that the Authority proposes to impose a fine on the party for a specified breach that it believes the party committed;
- (c) the prescribed provision for which the fine is proposed to be imposed;
- (d) the nature of the specified breach;
- (e) a summary of the facts and circumstances that the Authority believes constituted the specified breach;
- (f) either —
 - (i) in relation to a fixed fine, that the fine is fixed at five thousand dollars; or
 - (ii) in relation to a discretionary fine, the fine the Authority proposes for the specified breach;
- (g) that the party may give the Authority a reply within the reply period; and



- (h) that, for a fixed fine, the party may give the Authority a rectification notice.
- (2) The reply period is required to end at least thirty days after the giving of the breach notice.

Duty to consider reply

- 12.** (1) This regulation applies only if —
- (a) a breach notice has been given for a fixed fine, fixed fine (continuing) or discretionary fine;
 - (b) the reply period has ended; and
 - (c) a reply has been given.
- (2) The Authority has a duty to —
- (a) reconsider whether it still holds the belief stated in the breach notice, in the light of all matters raised in the reply concerning that belief; and
 - (b) if the notice was for a discretionary fine, consider the matters raised in the reply to the extent they are relevant to exercising fine discretions.

Rectification of a breach subject to a fixed fine

- 13.** (1) This regulation applies only if —
- (a) a breach notice has been given for a fixed fine;
 - (b) the party subject to the breach notice rectified the breach specified in the notice within thirty days of receiving the notice;
 - (c) the reply period has ended; and
 - (d) a rectification notice has been given.
- (2) The Authority has a duty to consider, in light of the matters raised in the rectification notice, whether the specified breach was rectified within thirty days of the issue of the breach notice to its satisfaction.
- (3) If the Authority is satisfied that the breach was rectified as described in paragraph (2) and, in the case of the breach of a filing requirement that the party has requested a filing extension and paid any applicable filing extension fees, the Authority shall —
- (a) refrain from issuing a fine notice or imposing a fine on the party for the breach; and
 - (b) give the party notice of its decision in accordance with regulation 14(6).

Imposing a fine

Decision about fine

- 14.** (1) This regulation applies at the end of the reply period in relation to a breach notice if —
- (a) no reply has been given;
 - (b) a reply has been given and the Authority has complied with regulation 12; or
 - (c) a rectification notice has been given and the Authority has complied with regulation 13.
- (2) If the breach notice was for a fixed fine or fixed fine (continuing) and the Authority still holds the belief stated in the notice and is not satisfied that the breach was rectified within thirty days of the issue of the notice, the Authority is required to impose the fine.
- (3) If the notice was for a discretionary fine, the fine discretions may be exercised.
- (4) The amount of a discretionary fine shall not be more than the amount stated in the notice.
- (5) If the Authority imposes a fine, it may decide that the fine is payable immediately on the giving of a fine notice or within a particular period after that time.
- (6) If the Authority decides not to impose any fine, it is required to give the party notice of the decision within fifteen days after the end of the reply period.

Requirements for fine notice

- 15.** (1) A fine notice is required to be dated and state all of the following —
- (a) the party's name;
 - (b) that the Authority has imposed a specified fine on the party;
 - (c) the amount of the fine; and
 - (d) when the fine is required to be paid.
- (2) If the specified fine is a fixed fine, the fine notice shall state —
- (a) the prescribed provision for which the fine is imposed;
 - (b) a description of the breach;
 - (c) if a reply was given during the reply period, the reasons why the Authority still holds the belief stated in the breach notice;
 - (d) if a rectification notice was given within the reply period, the reasons why the Authority is not satisfied that the breach was rectified within thirty days of the issue of the breach notice; and



- (e) that the party may, within thirty days after receiving the fine notice, apply to the Management Committee to review the decision to impose the fine.
- (3) If the specified fine is a fixed fine (continuing), the fine notice shall state —
 - (a) the date of the fine notice given for the relevant fixed fine; and
 - (b) that the party may, within thirty days after receiving the fine notice, apply to the Management Committee to review the decision to impose the fine.
- (4) If the specified fine is a discretionary fine, the fine notice shall state —
 - (a) the prescribed provision for which the fine is imposed;
 - (b) a description of the breach;
 - (c) the reasons for the way in which fine discretions were exercised; and
 - (d) that the party may, within thirty days after receiving the fine notice apply to the Grand Court for leave to appeal against the decision to impose the fine, its amount or both.

PART 4 - REVIEWS AND APPEALS

Internal review of fixed fines by the Authority

Application to Management Committee for review

- 16.** (1) A party that has received a fine notice for a fixed fine or fixed fine (continuing) may apply to the Authority for its Management Committee to review the original decision.
- (2) An application under this regulation shall be made in the prescribed form, within thirty days after receiving the notice.

No stay of original decision

- 17.** A review does not stay the operation of the original decision.

Management Committee decision on application for review

- 18.** (1) The Management Committee shall, within twenty days after receiving an application for review, reconsider the original decision and decide whether to affirm it or set it aside.
- (2) The Management Committee shall, within ten days after making a decision on the application, give the party notice of its decision.
- (3) If the decision is to affirm the original decision, the notice of the decision on the application for review shall also state —
 - (a) the reasons for the decision; and

- (b) that the party may apply to the Grand Court for judicial review of the decision.
- (4) If the decision is to set aside the original decision, it is deemed never to have been made.
- (5) The Supervisory Head of the division of the Authority that made the original decision may make written representations to the Management Committee concerning an application for review of the original decision, but shall not otherwise participate in any discussion, decision, debate or vote of the Management Committee concerning the review.

Appeal against discretionary fines to Grand Court

Application to the Grand Court for leave to appeal

- 19.** (1) A party that receives a fine notice for a discretionary fine may apply to the Grand Court for leave to appeal against the original decision within thirty days after receiving the notice.
- (2) The Grand Court may only grant leave to appeal under this regulation if —
- (a) the party has grounds for seeking judicial review of the decision; or
 - (b) the decision was made with a lack of proportionality or was not rational.
- (3) Notwithstanding paragraph (1), a party may not apply for leave to appeal against the original decision if the party entered into a discount agreement for the breach and the fine is no more than the amount agreed to.

Application of Grand Court Rules and practice directions about judicial reviews

- 20.** (1) The Grand Court Rules 1995 and the Court's practice directions about judicial reviews apply to an appeal, with necessary changes, as if the appeal were an application for judicial review.
- (2) Notwithstanding paragraph (1), the Court's rules about alternative dispute resolution do not apply to the appeal.

Security for costs

- 21.** The Authority may apply to the Grand Court —
- (a) for an order that the appellant provide sufficient security for costs; and
 - (b) for a stay of the appeal proceedings until such security is provided.

Stay of original decision only by application

- 22.** (1) An appeal does not stay the operation of the original decision.



- (2) However, the Grand Court may, on the appellant's application, order that the fine imposed by the original decision be stayed to secure the effectiveness of the appeal.
- (3) The stay ordered by the Grand Court —
 - (a) may be given on conditions that the Court considers appropriate;
 - (b) operates for the period fixed by the Court; and
 - (c) may be amended or revoked by the Court.
- (4) The period of a stay shall not extend past when the Grand Court decides the appeal.

Hearing and outcome

- 23.** (1) An appeal may only be decided on the evidence on which the Authority exercised the relevant fine discretions.
- (2) After hearing an appeal, the Grand Court may —
 - (a) affirm, set aside or vary the original decision; or
 - (b) set aside the original decision and remit the matter to the Authority for it to reconsider subject to such directions as the Court considers fit.
 - (3) The following apply if the Grand Court's decision is to affirm the original decision or to vary it in a way that a fine is still imposed —
 - (a) the Court's decision is (other than in relation to regulations 9, 16 and 19) deemed to have always been the original decision;
 - (b) the Court may, at the Authority's request, give judgment against the party for all or any part of the fine that continues to be owing, and for interest; and
 - (c) the Authority's request may be made during the appeal, when the Court's decision is handed down or at any later time on the tendering of a certificate under regulation 29(3)(d) about the amount owing.
 - (4) If the Grand Court's decision is to set aside and not to remit the matter to the Authority for reconsideration —
 - (a) both the fine and interest are deemed to have never been owing; and
 - (b) any fixed fine (continuing) imposed for the breach is deemed to have also been set aside and to have never been owing.

PART 5 - PAYMENT AND ENFORCEMENT

Fine is a debt to the Crown

- 24.** (1) A fine becomes a debt owing to the Crown on the day the fine was required to be paid under the relevant fine notice.

- (2) Paragraph (1) is subject to any setting aside or variation of the fine on a review applied for under regulation 16 or an appeal.

Interest on fines

- 25.** (1) Interest of five percent a year accrues while all or any part of a fine continues to be owing, starting on the day immediately after the fine becomes a debt to the Crown and ending on the day the fine is paid in full, both days inclusive.
- (2) The interest accrues daily and as compound interest.
- (3) The interest is also a debt owing to the Crown.
- (4) The accruing of interest applies even while the fine is stayed.
- (5) Payments relating to the fine are to be applied to the interest first.
- (6) This regulation is subject to any setting aside or variation of the fine in a review applied for under regulation 16 or an appeal.

Payment of more than one fine

- 26.** If more than one fine has been imposed on a party, payments for the fines are to be applied in the order in which the fines and interest became owing.

Enforcement

- 27.** (1) The Crown may recover in a civil proceeding, as a debt, the unpaid amount of a fine or interest, or both.
- (2) However, paragraph (1) does not apply while the fine is stayed.
- (3) A proceeding to recover a debt under this regulation does not prevent —
- (a) interest continuing to accrue on the total owing; or
- (b) if the party is a body corporate, the Crown enforcing the fine by serving a winding up notice for the debt.

PART 6 - MISCELLANEOUS

Electronic notices by the Authority

- 28.** (1) The Authority may give a party a notice for any purpose of these Regulations by sending it to an email address that the party last gave the Authority notice of, as follows —
- (a) the party's email address;
- (b) if the party is a body corporate (either in its own right or as a trustee of a trust), the email address of —
- (i) any of its directors or members; or
- (ii) its registered office provider; or



- (c) if the party is a partnership, the email address of —
 - (i) any of its partners; or
 - (ii) its registered office provider (if it has a registered office).
- (2) In this regulation —
 - “partners” does not include a limited partner of a limited partnership; and
 - “registered office provider” means the person who provides or maintains the party’s registered office as required under a Law.

Evidentiary provisions

- 29.** (1) This regulation applies to a proceeding under Part VIA of the Law, including a review applied for under regulation 16, an appeal, a proceeding referred to in regulation 26 and a proceeding resulting from the giving of a winding up notice for a fine or interest.
- (2) A signature purporting to be the signature of the managing director or anyone else acting on the Authority’s behalf is evidence of the signature it purports to be.
- (3) A certificate signed, or purporting to be signed, by the managing director or the managing director’s delegate stating a matter as follows is evidence of that matter —
- (a) that a stated document is a copy of a notice given under these Regulations;
 - (b) that an email address stated in the copy was, when the notice was given to its stated recipient, the recipient’s email address under regulation 28;
 - (c) that on a stated day the recipient was given the notice in a stated way;
 - (d) that a fine or interest of a stated amount, or both, are owing to the Crown by a stated person; or
 - (e) that stated terms are the terms of a discount agreement.
- (4) For section 17 of the *Electronic Transactions Law (2003 Revision)*, a certificate under paragraph (3)(b) is evidence that the notice was electronically given to its recipient at the time of giving stated in the notice.

Consultation requirements before issuing rules

- 30.** Before issuing rules under section 42G of the Law, the Authority shall carry out private sector consultation and consult the Minister charged with responsibility for Financial Services about the proposed rules.

Transitional provision

- 31.** The Authority may not impose a fixed fine, fixed fine (continuing) or discretionary fine, or take any steps to do so under Part 3 —

- (a) until the expiry of a period of ninety days after the coming into force of these Regulations; and
- (b) in respect of a breach of a prescribed provision that began and ended before the coming into force of these Regulations.



SCHEDULE 1

(Regulation 3)

PRESCRIBED PROVISIONS AND BREACH CATEGORIES

Item	Column 1 Title of Regulation	Column 2 Prescribed provision	Column 3 Category of breach
1.	The Anti-Money Laundering Regulations, 2017	Regulation 5(a), (c) , (d) or (e)	Serious
		5(b)	Very serious
		10	Very serious
		36	Serious
		37	Serious
		39	Serious
		40(1) to (5)	Serious
		40(6)	Very serious
		42	Serious
		43	Serious
		44	Serious
		47(3) to (5)	Serious
		48	Very serious
		50 and 51	Very serious
		52 and 53	Serious
		57	Same as for the body corporate

SCHEDULE 2**PRESCRIBED FORMS****(Regulations 8 and 10)****PART 1 - BREACH AND FINE NOTICES****FORM 1****BREACH NOTICE FOR PROPOSED FIXED FINE**

The Monetary Authority Law (2016 Revision), ss 42A and 42B

The Monetary Authority (Administrative Fines) Regulations, 2017

To: [*Here insert the party's name and address*] ("you").

At [*delete whichever of the following is not applicable*]:

[*Here insert the party's physical address. OR*

Here insert the party's email for notices from the Authority to the party under regulation 28.]

TAKE NOTICE that the Cayman Islands Monetary Authority proposes to impose a fixed fine of five thousand dollars on you.

Particulars are as follows:

- The relevant prescribed provision is:
[*Here insert the prescribed provision from column 2 in Schedule 1 that the Authority believes has been breached and the full citation of the primary law.*]
- The facts and circumstances the Authority believes constituted the breach are:
[*Here insert the facts and circumstances contended to constitute the breach and any relevant surrounding circumstances.*]
- The amount of five thousand dollars is fixed under s 42B(1) of the Law.

AND TAKE FURTHER NOTICE that, within [*Here insert "30 days" OR "any longer period the Authority decides*] after the giving of this notice to you, you

may give the Authority a rectification notice or a notice making representations about whether it should impose the fine.

Dated _____, 20____

Signed on behalf of the Cayman Islands Monetary Authority



FORM 2**BREACH NOTICE FOR PROPOSED DISCRETIONARY FINE**

The Monetary Authority Law (2016 Revision), ss 42A and 42B

The Monetary Authority (Administrative Fines) Regulations, 2017

To: [*Here insert the party's name and address*] ("you").

At [*delete whichever of the following is not applicable*]:

[*Here insert the party's physical address. OR*

Here insert any email address under regulation 28 for notices from the Authority to the party.]

TAKE NOTICE that the Cayman Islands Monetary Authority proposes to impose a discretionary fine of [*Here insert the amount of the proposed fine.*] on you.

Particulars are as follows:

- The relevant prescribed provision is:
[*Here insert the prescribed provision from column 2 in Schedule 1 that the Authority believes has been breached and the full citation of the primary law.*]
- The facts and circumstances the Authority believes constituted the breach are:
[*Here insert the facts and circumstances contended to constitute the breach and any relevant surrounding circumstances.*]

AND TAKE FURTHER NOTICE that within [*Here insert "30 days" OR "any longer period the Authority decides*] after the giving of this notice to you, you may give the Authority a notice making representations about whether it should impose the fine, the proposed amount of the fine, or both.

Dated _____, 20____

Signed on behalf of the Cayman Islands Monetary Authority

FORM 3**FINE NOTICE FOR FIXED FINE**

The Monetary Authority Law (2016 Revision), ss 42A and 42B

The Monetary Authority (Administrative Fines) Regulations, 2017

To: [*Here insert the party's name and address*] ("you").

At [*delete whichever of the following is not applicable*]:

[*Here insert the party's physical address. OR*

Here insert any email address under regulation 28 for notices from the Authority to the party.]

TAKE NOTICE that the Cayman Islands Monetary Authority has imposed a fixed fine of five thousand dollars on you. You are required to pay the fine [*Here insert "immediately" or, if the Authority has decided to give time to pay, the period within which the fine is required to be paid.*]

Particulars are as follows:

- The relevant prescribed provision is:

[*Here insert the prescribed provision from column 2 in Schedule 1 that the Authority believes has been breached and the full citation of the primary law.*]

- The reasons for the decision to impose the fine are [*delete whichever of the following is not applicable*]:

[*Here insert:*

- (a) If no reply to the relevant breach notice was given during the reply period: "the reply period has ended, the Authority still holds the belief stated in the relevant breach notice and that, consequentially, s 42B of the Law and regulation 14(2) of the Regulations requires the fine to be imposed".

OR

- (b) if such a reply was given, the Authority's findings on each matter raised in the reply that is relevant to the issue of whether a fine should be imposed.]

AND TAKE FURTHER NOTICE of the following under the Law and Regulations:

- Under s 42B(1), the amount of the fine is fixed at five thousand dollars.
- Under regulation 13 you may, within 30 days after receiving this notice, issue a rectification notice to the Authority if you have rectified the breach specified in this notice within that period.
- Under Part 4 of the Regulations you may, within 30 days after receiving this notice, apply to the Authority's Management Committee to review the



decision to impose the fine. However, you cannot apply for a review of the amount of the fine.

- Form 6 under Schedule 2 to the Regulations is to be used for any such application.
- Compound interest accrues on the fine at daily rests until all of the fine and the interest have been paid.
- The Authority may enforce the fine and interest as a debt.
- Under s 42B, the Authority may also impose further fines on you of up to twenty thousand dollars in total if the fine is not paid and the breach does not stop or is not remedied.

Dated _____, 20____

Signed on behalf of the Cayman Islands Monetary Authority

FORM 4**FINE NOTICE FOR FIXED FINE (CONTINUING)**

The Monetary Authority Law (2016 Revision), ss 42A and 42B
The Monetary Authority (Administrative Fines) Regulations, 2017

To: *[Here insert the party's name and address]* ("you").

At *[delete whichever of the following is not applicable]*:

[Here insert the party's physical address. OR

Here insert any email address under regulation 28 for notices from the Authority to the party.]

TAKE NOTICE that the Cayman Islands Monetary Authority has imposed a fixed fine (continuing) of five thousand dollars ("this fine") on you. You are required to pay this fine *[Here insert "immediately" or, if the Authority has decided to give time to pay, the period within which this fine is required to be paid.]*

Particulars are as follows:

- This fine relates to a fine notice for a fixed fine (primary) given to you that was dated *[Here insert date of the relevant fixed fine and, if more than 2 were given on that day, otherwise identify that fine.]*.
- The reason for imposing this fine is that the ground under s 42B(2) of the Law for imposing this fine exists, namely that:
 - (a) the breach for which the fixed fine was imposed has not stopped and has not been remedied; and
 - (b) the fine imposed by the fixed fine (and any previous fixed fines (continuing) imposed for the fixed fine) have not been paid.

AND TAKE FURTHER NOTICE of the following under the Law and Regulations:

- Under s 42B(2), the amount of this fine is fixed at five thousand dollars.
- Under Part 4 of the Regulations you may, within 30 days after receiving this notice, apply to the Authority's Management Committee to review the decision to impose the fine. However, you cannot apply for a review of the amount of this fine.
- Form 6 under Schedule 2 to the Regulations is to be used for any such application.
- Compound interest accrues on this fine at daily rests until all of this fine and the interest have been paid.
- The Authority may enforce this fine and the interest against you as a debt.

Dated _____, 20____



Signed on behalf of the Cayman Islands Monetary Authority

FORM 5**FINE NOTICE FOR DISCRETIONARY FINE**

The Monetary Authority Law (2016 Revision), ss 42A and 42B

The Monetary Authority (Administrative Fines) Regulations, 2017

To: [*Here insert the party's name and address*] ("you").

At [*delete whichever of the following is not applicable*]:

[*Here insert the party's physical address. OR*

Here insert any email address under regulation 28 for notices from the Authority to the party.]

TAKE NOTICE that the Cayman Islands Monetary Authority has imposed a discretionary fine of [*Here insert the amount of the discretionary fine.*] on you.

You are required to pay the fine [*Here insert "immediately" or, if the Authority has decided to give time to pay, the period within which the fine is required to be paid.*]

Particulars are as follows:

- The relevant prescribed provision is:
[*Here insert the prescribed provision from column 2 in Schedule 1 that the Authority believes has been breached and the full citation of the primary law.*]
- The reasons for the decision to impose the fine are: [*Here insert the reasons.*]

Also, if a reply was given to the relevant breach notice (if any) during the reply period, also insert the Authority's findings on each matter raised in the reply that addressed the issue of whether a fine should be imposed.]

- The reasons for the amount of the fine are:
[*Here insert the reasons. Also, if a reply addressed the issue of the amount, also insert the Authority's findings on each relevant matter raised in the reply.*]

AND TAKE FURTHER NOTICE of the following under the Law and Regulations:

- Under Part 4 of the Regulations you may within 30 days after receiving this notice, apply to the Grand Court for leave to appeal against the decision to impose the fine or its amount, or both.

[*Omit this paragraph if the party entered into a discount agreement for the breach and the fine is no more than the amount agreed under the agreement.*]

- Compound interest accrues on the fine at daily rests until all of the fine and the interest have been paid.
- The Authority may enforce the fine and interest as a debt.



Dated _____, 20____

Signed on behalf of the Cayman Islands Monetary Authority

PART 2 - REVIEWS AND APPEALS
FORM 6

APPLICATION TO REVIEW FIXED FINE

The Monetary Authority (Administrative Fines) Regulations, 2017

To: the Cayman Islands Monetary Authority

At [*delete whichever of the following is not applicable*]:

[Here insert the Authority's physical address. OR

If the Authority has accepted the sending of applications to review fixed fines at a particular email address, here insert that address.]

TAKE NOTICE that, under regulation 16, the following party applies to the Authority's Management Committee for that committee to review the decision to impose the fixed fine imposed by the fine notice received by the party on [*Here insert date the notice was received and, if more than 2 were given on that day, otherwise identify the fine.*].

Party's full name: [*Here insert the party's full name*]

The party's physical address is: [*Here insert the party's physical address*]

The party's email address for notices from the Authority to the party is [*Here insert the party's email address*]

Particulars about the application are as follows:

- The relevant prescribed provision set out in the fine notice is: [*Here insert the prescribed provision as per the fine notice.*]
- The grounds on which the party relies on for the review are: [*Here insert fully the grounds relied on.*]
- The facts and circumstances that the party relies on for the grounds are:

[Here insert the facts and circumstances relied on, including those contended to be different from those set out in the relevant breach notice and any relevant surrounding circumstances.]

Dated _____, 20____

Signed on behalf of the Party
Position with the party (If the party is not an individual)



FORM 7**REVIEW DECISION FOR FIXED FINE**

The Monetary Authority (Administrative Fines) Regulations, 2017

To:

Party's full name: *[Here insert the party's full name]*

To: *[Here insert the party's name and address]* ("you").

At *[delete whichever of the following is not applicable]*:

[Here insert the party's physical address. OR

Here insert any email address under regulation 28 for notices from the Authority to the party.]

Date of relevant fixed fine: *[Here insert the date of relevant fixed fine and, if more than 2 were given on that day, otherwise identify that fine.]*.

TAKE NOTICE that the Authority's Management Committee has reconsidered the decision to impose the fine and decided to *[affirm the decision OR set the decision aside. (delete whichever is not applicable)]*.

[Omit the following 2 paragraphs if the review decision is to set aside.]

The Committee's findings on each ground on which the review was sought and its reasons for each finding are:

[Here insert the findings on each ground and the reasons for each finding.]

Dated _____, 20____

Signed on behalf of the Management Committee of the Cayman Islands Monetary Authority

PART 3 - ENFORCEMENT
FORM 8

CERTIFICATE OF FINE AND INTEREST OWING

The Monetary Authority Law (2016 Revision)

The Monetary Authority (Administrative Fines) Regulations, 2017

I certify as follows under regulation 30(3)(d):

1. I am the managing director/acting managing director [delete whichever is not applicable] under s 13 of the Law of the Cayman Islands Monetary Authority, having been duly appointed under s 13 of the Law.
2. The following fine and interest on it are owing to the Crown under the Law and Regulations:

Debtor:	[Here insert party's name as per the fine notice]
Amount of fine:	[Here insert amount of fine]
Due date:	[Here insert the day the fine was required to be paid under the relevant fine notice]
Interest to date:	[Here insert the amount of interest, worked out under regulation25].
Total of fine and interest:	[Here insert the total amount of the fine and interest].

3. Annexed and marked with the letter "A" is a true copy of the fine notice that imposed the fine, given to the debtor.
4. The fine has not been stayed.

Dated _____, 20____

Signature

Full name

Managing Director/Managing Director's delegate [delete whichever is not applicable]
under s 13 of the Law of the Cayman Islands Monetary Authority



Made in Cabinet the 15th day of December, 2017.

Davina Wilson
Acting Clerk of the Cabinet.