



Cayman Islands Regulatory Update – Q1 2023

Financial sanctions

The financial sanctions regime applies to all Cayman persons, irrespective of where they are located or the services that they provide. There is no risk based approach when considering financial sanctions obligations. For those also subject to the Cayman AML Regulations, such as investment funds, managers or advisors, sanctions controls should be an element of those entities' AML policies and procedures and risk assessment processes.

General Licence

A significant recent update that took place in October 2022 has been the Cayman Islands Governor's initiation following on the UK's initiation, of the General Licence which allows Relevant Investment Fund or Fund Manager to inter alia, pay certain fees and disclosure basic costs.

We recommend reviewing policies and practices to ensure that there is a robust framework around regular sanctions screening and that your team understands its obligations where there is a hit. For specific advice please contact us directly.

Training on anti-money laundering, counter terrorist and proliferation financing, which is required to be undertaken annually, should cover the Cayman Islands financial sanctions regime.

If you wish to explore the operation of the general licence please engage with your legal counsel.

Economic substance

The Tax Information Authority ("TIA") has issued the latest version of the Economic Substance For Geographically Mobile Activities Guidance (version 3.2) (the "**Guidance**") in July 2022. The major update relates to situations where a Cayman entity claims tax residency outside of the Cayman Islands and is not classified as a Relevant Entity under the economic substance regime. The latest position from the TIA is that entities cannot claim foreign tax residency in a jurisdiction without a corporate income tax system. Further detail is available if required. There are specific criteria associated with the submission.

In an overall sense Cayman Islands entities should liaise with their corporate services provider to ensure the accuracy of its classification for economic substance purposes. In-scope Cayman Islands entities should consider the impact of the Guidance with regard to its economic substance classification.

Note: each in-scope entity is required to provide a notification to the TIA.

Entities conducting "relevant activities" are required to report to the TIA on their compliance with the substance requirements within 12 months of their financial year end for the previous year.

Cayman Islands Monetary Authority ("CIMA") inspections

CIMA has continued to carry out rolling inspections of CIMA Registered Persons. CIMA issued a circular to industry in mid-2022 regarding the key findings arising from inspections of Registered Persons (a category of supervised entity) and produced details of the areas of deficiency as summarized below:

1. AML policies and procedures;
2. Customer due diligence and monitoring;
3. Employee training and awareness;
4. Oversight of outsourced AML/CFT compliance functions;
5. Implementation of an independent and effective riskbased AML/CFT audit function;
6. Governance oversight of the AML/CFT function by the Board or its equivalent;
7. Internal reporting policies and procedures;
8. Assessment of risk and application of a risk-based approach; and
9. Record keeping policies and procedures.

All Registered Persons (whether advisors, managers, arrangers or brokers) should review and refresh their internal compliance arrangements to ensure that these are up to date and being implemented effectively. We would note that corporate governance requirements form part of these inspections processes.

Review and respond promptly to CIMA if you receive any regulatory requirements communications through circulars or registered office providers.

Beneficial ownership register

Failure to maintain complete beneficial ownership register will result in an entity not being in good standing.

Ensure that your registered office has been notified of complete beneficial ownership information or provided details of the relevant exemption which is being relied upon.

Private Funds and Mutual Funds

Filing of Fund Annual Return Form

Private funds and Mutual Funds are required to file a Fund Annual Return ("FAR") each year with CIMA. This must be filed within six months of a fund's financial year end.

De-Registration of Mutual Funds and Private Funds

CIMA has reused the approaches to simplify and standardise the de-registration process for regulated funds so they can terminate their registrations on a consistent basis. A fund shall notify CIMA when the fund intends to cease carrying on, or has ceased to carry on business as a fund under the applicable Act within 21 days from the date the fund ceases to carry on business.

Please review your fund arrangements to ensure compliance with the ongoing obligations prescribed under the Private Funds Act and Mutual Funds Act, including ongoing filing and compliance arrangements.

CRS (Tax information reporting)

The Department for International Tax Cooperation ("DITC") has issued refreshed enforcement guidelines for failure to meet the obligations on financial institutions as set out in the implementing measures for the CRS in the Cayman Islands.

Review each of your Cayman Islands entities to determine whether in-scope and if so that registration and any reporting has taken place and that relevant documents are in place.

Virtual Asset Service Provider Act

CIMA continues to work with applicants to process applications for VASP services.

If you wish to explore whether a license is required for the activity you undertake contact your legal counsel.

Key contacts

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