

Cayman Islands Regulatory Update – Q3 2023

Update on CIMA regulatory measures

After industry consultation and feedback process in 2022, the following updated regulatory measures of the Cayman Islands Monetary Authority ("CIMA") were gazetted on 14 April 2023:

1. Rule – Cybersecurity for Regulated Entities;
2. Statement of Guidance – Cybersecurity for Regulated Entities;
3. Statement of Guidance – Outsourcing Regulated Entities;
4. Statement of Guidance – Nature, Accessibility and Retention of Records.
5. Statement of Guidance – Corporate Governance for Mutual Funds and Private Funds;
6. Rule – Corporate Governance for Regulated Entities; and
7. Rule and Statement of Guidance – Internal Controls for Regulated Entities.

These regulatory measures are primarily updated and streamlined versions of existing regulatory measures. They include however certain new provisions and changes to scope of which all regulated entities, including mutual funds and private funds, should be aware.

These new regulatory measures came into effect on 14 April 2023 except the Rule on Corporate Governance for Regulated Entities and the combined Rule and Statement of Guidance on Internal Controls for Regulated Entities, which will come into effect on 14 October 2023.

For a summary of the key points and guidance on compliance in practice for mutual funds and private funds, please see our published advisory [Update on CIMA regulatory measures](#).

We expect that many of our clients will be able to favourably assess their compliance by reviewing their existing documents (or those of appointed service providers) and comparing them with the updated regulatory measures. We can assist in the assessment exercises as required. We also recommend more generally that those responsible for the governance of regulated entities (including investment funds) familiarise themselves with the applicable regulatory measures.

Legislative changes strengthening CIMA's enforcement powers

Following the Cayman Islands Ministry of Financial Services' consultation on the proposal to strengthen CIMA's powers to apply proportionate and dissuasive sanctions to all types of legal persons under its supervision, seven amendment Acts were gazetted on 26 May 2023, namely:

1. Monetary Authority (Amendment) Act, 2023;
2. Companies Management (Amendment) Act, 2023;
3. Directors Registration and Licensing (Amendment) Act, 2023;
4. Insurance (Amendment) Act, 2023;
5. Money Services (Amendment) Act, 2023;
6. Securities Investment Business (Amendment) Act, 2023; and
7. Virtual Asset (Service Providers) (Amendment) Act, 2023.

The new laws have now come into effect. Below we highlight some of the key amendments relating to CIMA's enforcement powers under the Monetary Authority Act (as amended) ("**MAA**").

Section 42A(1) of the MAA now specifies that CIMA may impose administrative fines on all types of legal persons within its supervision, including individuals, bodies corporate, partnerships, limited liability partnerships, exempted limited partnerships, and unincorporated associations, in the event such legal person breaches the MAA, a regulatory Act or the Anti-Money Laundering Regulations (2023 Revision).

In the event of a breach, if it is proved that the breach is committed with the consent or connivance of, or is attributable to any neglect on the part of, the individual(s) listed below, CIMA now has the power under section 42A(2) of the MAA to impose administrative fines on such individual(s):

- for body corporates – a director, manager, secretary or other similar officer, or a person who was purporting to act in any such capacity, however designated; or
- for partnerships or limited liability partnerships – a partner concerned in the management or control of the business; or
- for exempted limited partnerships – a partner who takes part in the conduct of the business; or
- for unincorporated associations other than a partnership, a limited liability partnership or an exempted limited partnership – a person concerned in the management or control of the business.

The levels of fine amounts specified in section 42B of the MAA have not changed. For individuals, the maximum single fines are CI\$5,000 for a minor breach, CI\$50,000 for a serious breach, and CI\$100,000 for a very serious breach. For all other legal persons, the maximum single fines are CI\$5,000 for a minor breach, CI\$100,000 for a serious breach, and CI\$1,000,000 for a very serious breach.

In addition, where an offence under the MAA is committed, if it is proved that the breach is committed with the consent or connivance of, or is attributable to any neglect on the part of, the individual(s) listed above, the new section 44A also provides for the liability of such individual(s) for the same offence.

Any questions

If you require specific advice and/or further assistance relating to the above matters, please do not hesitate to reach out to your usual Walkers contact person, or a member of our Regulatory & Risk Advisory team who are ready to help.

Key contacts

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