

Apex Compliance Solutions

Quarterly Update – Cayman Islands

Issue 5, April 2023



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If you would like a copy of our previous updates, please let us know.

1. FATF Update

After the FATF February 2023 plenary meeting, the Cayman Islands has remained on the FATF list of jurisdictions under increased monitoring. The latest update from the FATF published on 24 February 2023 states:

“Since February 2021, when the Cayman Islands made a high-level political commitment to work with the FATF and CFATF to strengthen the effectiveness of its AML/CFT regime, the Cayman Islands has taken steps towards improving its AML/CFT regime, including by imposing adequate and effective sanctions in cases where relevant parties (including legal persons) do not file accurate, adequate and up-to-date beneficial ownership information in line with those requirements. The Cayman Islands should continue to work on implementing its action plan to address its strategic deficiencies, including by demonstrating that they are prosecuting all types of money laundering cases in line with the jurisdiction’s risk profile and that such prosecutions are resulting in the application of dissuasive, effective, and proportionate sanctions.

The FATF expresses concern that the Cayman Islands failed to complete its action plan, which fully expired in May 2022. The FATF strongly urges the Cayman Islands to swiftly demonstrate significant progress in completing its action plan by June 2023 or the FATF will consider next steps if there is insufficient progress.”

The above statement from the FATF should be tempered by the statement issued by the Cayman Islands Ministry of Finance (“MOF”) which notes that the only outstanding matter to be addressed is in respect of the successful

prosecution of money laundering offences. The MOF statement notes:

“First is that offences are investigated, followed by offenders being successfully prosecuted; and second, that the courts apply effective, proportionate and dissuasive sanctions to those convicted.

For FATF to consider this recommended action as addressed the Cayman Islands must demonstrate, among other things, that those convicted have been sentenced.”

<https://www.mfs.ky/news/media-release/fatf-notes-the-cayman-islands-continuous-progress/>

2. Private Fund SPC Fees - SP Fees to be Returned

On 22 March 2023, CIMA advised financial service providers that with immediate effect, it will not be collecting annual registration fees on behalf of Segregated Portfolios for private fund Segregated Portfolio Companies.

In addition, CIMA will be seeking to refund any such fees paid from 2020 to date, prior to this notice.

CIMA is currently in discussion with the Ministry of Financial Services and Commerce, and it is anticipated that the Private Funds Act and the associated Regulations will be amended, following a broader stakeholder consultation. A statutory based registration fee will be implemented thereafter.

<https://www.cima.ky/private-fund-sp-fees-to-be-returned>

3. CIMA – AML Enforcement and Information Sharing

On 27 March 2023, seven amendment Bills were proposed to strengthen CIMA's powers to apply proportionate and dissuasive sanctions to all types of legal persons within its supervision, were published in the Gazette.

The Bills are:

- Monetary Authority (Amendment) Bill, 2023;
- Companies Management (Amendment) Bill, 2023;
- Directors Registration and Licensing (Amendment) Bill, 2023;
- Insurance (Amendment) Bill, 2023;
- Money Services (Amendment) Bill, 2023;
- Securities Investment Business (Amendment) Bill, 2023; and the
- Virtual Asset (Service Providers) (Amendment) Bill, 2023

The Bills seek to extend CIMA's sanctions regime to these legal persons who fall under CIMA's supervision: partnerships, exempted liability partnerships ("ELPs"), limited liability partnerships ("LLPs"), partners of such partnerships, and unincorporated associations other than a partnership; and the persons concerned in the management or control of such associations.

In addition, amendments to the Monetary Authority Act allow CIMA to spontaneously share non-public information of criminal conduct uncovered during the carrying on of its duties with an overseas regulatory authority.

The Monetary Authority (Amendment) Bill, 2023 introduces clauses that propose:

- enhancing international cooperation with overseas regulatory authorities, which would allow CIMA to provide these authorities with information, either proactively or upon request, relating to criminal conduct it discovers during the performance of its regulatory functions for regulated entities;
- simplifying the exchange of information process with the local beneficial ownership competent authority; and
- extending the application of the disgorgement principle, to prevent persons who breach this law from gaining financially.

4. Silicon Valley Bank

On 31 March 2023, CIMA issued a notice on the failure of Silicon Valley Bank ("SVB") and the appointment of the Federal Deposit Insurance Corporation ("FDIC") as the Receiver. CIMA will continue to engage with the FDIC and other stakeholders regarding the receivership process and impact on SVB's Cayman Islands branch.

CIMA understands that the FDIC will soon issue notices to SVB Cayman Islands branch customers regarding the next steps of the process. CIMA will continue to engage with the FDIC and all relevant stakeholders to monitor the progress of the receivership process and take appropriate actions where necessary.

<https://www.cima.ky/statement-on-silicon-valley-bank>

5. Financial Stability Report

On 9 March 2023, CIMA launched its first-ever annual Financial Stability Report, which provides an assessment of the financial system of the Cayman Islands, including salient trends and vulnerabilities over the reporting period.

Using qualitative and quantitative data analysis, this first edition examines the interconnectedness of the financial sectors as well as the exposures of households and the domestic banking system relative to the real estate market in 2020. The report further highlights the regulatory and supervisory measures implemented by CIMA during the year, along with related climate change activities. The overall analysis demonstrated that, despite the economic and operational challenges faced in 2020, all supervised sectors remained resilient, with various stress tests revealing generally strong financial positions.

As part of CIMA's mandate to ensure stability within the domestic financial system, and following months of preparation, the report also provides a macroprudential review, which not only examines sectoral performances but also assesses future endogenous and exogenous risks, which in turn, can hamper economic growth.

Commenting on this milestone, CIMA Managing Director Mrs. Cindy Scotland, OBE says, "The annual publication of the Financial Stability Report, together with the present work of CIMA, is a testament of our commitment to reinforce the integrity of the financial services industry, maintain development of an appropriate macroprudential framework for sustainable financial stability while upholding the robust and credible reputation of the Cayman Islands."

<https://www.cima.ky/cima-launches-first-financial-stability-report>

6. Russia General Licence

On 14 April 2023 the Governor of the Cayman Islands issued General Licence GL/2023/0002 ("General Licence"), which allows payments to be made for legal professional fees and expenses associated with the provision of legal services. Any activity conducted under General Licence must be reported to Governor within 7 days, with the details and supporting evidence requested in Part A or Part B. The General Licence does not authorise any act which the Person carrying out the act knows, or has reasonable grounds for suspecting, will result in funds or economic resources being dealt with or made available in breach of the Modified Russia Regulations or Modified Belarus Regulations.

A Person includes a body of persons corporate or unincorporate but does not include a Designated Person. A relevant institution means a Person domiciled in the Cayman Islands which would satisfy the threshold conditions for permission under Part 4A of the Financial Services and Markets Act 2000 (permission to carry on regulated activity) if it had its registered office (or if it does not have one, its head office) in the United Kingdom; a Person that is licensed under the Bank and Trust Companies Act (2021 Revision) to carry on banking business; a Person that is licensed to carry on a money services business under the Money Services Act (2020 Revision); or a Person registered under the Cooperative Societies Act (2020 Revision) to engage in credit union business.

A Designated Person or Person must keep accurate, complete and readable records, on paper or electronically, of any activity

purporting to have been permitted under this licence for a minimum of 6 years.

General Licence is in effect from 14 April 2023 and expires on 14 October 2023 and may be varied, or revoked or suspended by the Governor at any time.

http://fra.gov.ky/app/webroot/files/GENERAL%20LICENCE%20LEGAL%20SERVICES%20-%20PUBLICATION%20NOTICE%2014_4_2023%20new.pdf

Part A Form - Governor Pre-Designation Legal Fees General Licence Reporting –
<http://fra.gov.ky/app/webroot/files/Governor%20Pre-Designation%20Legal%20Fees%20GL20230002%20Report%20Part%20A%20Form%201.pdf>

Part B Form - Governor Post-Designation Legal Fees General Licence Reporting –
<http://fra.gov.ky/app/webroot/files/Governor%20Post-Designation%20Legal%20Fees%20GL20230002%20Report%20Part%20B%20Form.pdf>

7. CRS Jurisdictions Lists, and Reporting Deadlines

On 5 April 2023, The Department for International Tax Cooperation (“DITC”) published the lists of CRS Participating Jurisdictions and CRS Reportable Jurisdictions in the Cayman Islands Gazette on Friday, 31 March 2023 and the reportable deadlines for 2023.

The CRS and FATCA reporting deadlines in 2023, for the 2022 calendar year:

- CRS and FATCA Notification (registration): up to Monday, 1 May 2023 (as the statutory deadline of 30 April 2023 falls on a Sunday).
- CRS and FATCA reporting (including any reportable accounts and/or CRS Filing Declarations): 31 July 2023.
- CRS Compliance Form: 15 September 2023.

Jurisdiction Changes

New Participating Jurisdictions: Albania, Ecuador, Georgia, Jamaica, Kazakhstan, Kenya, Liberia, Maldives, Moldova, Montenegro, Morocco, New Caledonia, Nigeria, Oman, Peru, Thailand, Uganda and Ukraine.

Removed as Participating Jurisdiction: Trinidad and Tobago

<https://www.ditc.ky/press/industry-advisory/crs-jurisdictions-lists-and-reporting-deadlines/>

8. CIMA Statement of Guidance and RULE Updates

On 19 April 2023, CIMA published some updated Statements of Guidance in respect of:

- Outsourcing¹
- Nature, Accessibility and Retention of Records
- Cybersecurity¹
- Corporate Governance for Mutual Funds and Private Funds

¹regulated mutual funds and private funds are exempt

<https://www.cima.ky/investment-funds-regulatory-measures>

9. The Anchor

CIMA has published the April 2023 version of The Anchor which provides articles on:

- Spotlight on Beneficial Ownership
- Human Trafficking and Modern Slavery
- Ransomware: Further Red Flag Indicators

https://www.cima.ky/upimages/publicationdoc/TheAnchor-April2_1680729339.pdf

10. Trends

We would like to remind our clients to consider:

1. **Environmental crime** indicators, specifically in relation to the following sectors:
 - a. Commodities including country risk across the origin of commodities
 - b. Forestry, mining, waste related services, trade finance, gold and precious metals
2. Transaction and portfolio level exposure, particularly in light of the current exposure to **Russia**
3. Transaction flows to circumvent Russian sanctions, including through **virtual assets**

11. Useful Dates and Reminders

May 1 All new financial institutions are required to submit a one-time notification FATCA and CRS registration.

June 30 Audited Financials and Fund Annual Return due to CIMA for Registered Funds with a 31 December financial year end.

July 31 FIs must file their CRS and FATCA reports for the 2022 reporting year with the DITC.

September 1 Date by which strike off application must be submitted for an Entity to be dissolved by 31 December.

December 1 Date by which an Entity must be put into voluntary liquidation to avoid 2024 annual fees.

How Apex Can Help

1. Assistance with developing and monitoring virtual assets Business Risk Assessments
2. Supply chain & vendor diligence solutions
3. Managed due diligence- investee/ portfolio level diligence solutions
4. Apex ESG AML Business Risk Assessments
5. Apex 'Green KYC' Policies and Procedures
6. Apex ESG Training Modules
7. AML/CFT Training

Staying Ahead

If you think any of your colleagues would also find this information useful, they can subscribe to our updates [here](#).

Apex Group has also created an interactive hub that allows you to easily keep track of the regulatory and compliance updates that matter, both past and present. You can access our Global Regulations Tracker [here](#).

For further information about our compliance services, please [contact the team here](#).



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