

NEWSLETTER

Regulatory & Risk Advisory Review: Cayman Islands

JANUARY TO MARCH 2024

CONYERS

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Welcome to the first instalment of 2024 of our Cayman Islands Regulatory & Risk Advisory Review.

As we cover in this issue, there have been a number of updates in the first quarter of the year. Perhaps most notably is the removal of the Cayman Islands from the EU Anti-Money Laundering List, following on from Cayman's removal from the FATF Grey List and the UK AML List in Q4 2023.

There have also been a number of legislative, FATF and CIMA updates, along with new General Licences and Sanctions pertaining to the ongoing conflict perpetrated by Russia in Ukraine. As always, we have included recent articles and alerts from our wider Conyers team which provide further insight into industry trends and market news.

If you have any questions, please reach out to a member of the Regulatory & Risk Advisory team or your usual Conyers contact.



1. INCREASES TO COMPANY ANNUAL FEES

The Ministry of Financial Services & Commerce announced increases to company annual fees which took effect 1 January 2024. The increases are as below (in KYD):

(a) Exempted Companies:

- (i) 0 to 42,000 share capital from \$700 to \$825
- (ii) 43,001 to 820,000 share capital from \$1,000 to \$1,125
- (iii) 820,001 to 1,640,000 share capital from \$1,984 to \$2,109
- (iv) share capital above 1,640,000 from \$2,568 to \$2693

(b) Non-Resident Companies:

- (i) 0 to 42,000 share capital from \$675 to \$800
- (ii) Share capital above 42,000 from \$915 to \$1,040

(c) Foreign Companies:

annual fees increase from \$1,350 to \$1,550

(d) Limited Liability Companies:

annual fees increase from \$800 to \$1,000

(e) SPC Cells:

fees increase from \$300 to \$400 up to a maximum of \$6,000 or 15 cells

2. CAYMAN ISLANDS REMOVED FROM EU ANTI-MONEY LAUNDERING LIST

The Cayman Islands has been removed from the EU anti-money laundering (AML) list, effective 7 February. This action follows the decision of the Financial Action Task Force (FATF) monitoring group on 27 October 2023 and subsequent removal from the UK's list of high-risk third countries for AML purposes on 5 December 2023. On 18 January 2024, the EU published a revised list of high-risk countries for AML purposes in its official journal, on which the Cayman Islands did not appear. The EU Regulation recognises that the Cayman Islands has remedied strategic deficiencies in its AML framework and does not pose a significant threat to the EU financial system.

3. FINANCIAL ACTION TASK FORCE UPDATES

3.1. Guidance on Beneficial Ownership and Transparency of Legal Arrangements

Following the February 2023 revisions to the FATF Recommendation 25 on beneficial ownership and transparency of legal arrangements, the FATF updated its risk-based guidance for this Recommendation. The guidance complements the existing guidance on Recommendation 24 on legal persons and aims to help stakeholders from the public and private sectors to implement the new requirements more effectively.

The guidance aims to assist countries and the private sector to better understand how transparency requirements apply to legal arrangements. It sets out practical guidance on how to understand and assess the money laundering and terrorist financing risks associated with trusts and similar legal arrangements. It explains the FATF's requirements to obtain adequate, accurate and up-to-date beneficial ownership information for express trusts and similar legal arrangements, and highlights mechanisms to verify this information. The guidance highlights the importance of international co-operation, given that such arrangements may potentially be abused to facilitate cross-border money laundering or terrorist financing.

The FATF will assess countries' implementation of these requirements during its upcoming round of mutual evaluations.

3.2. FATF Statement on the Russian Federation

Two years after the Russian Federation's unprovoked war against Ukraine, the FATF recalls its statement of 24 February 2023 and notes with concern the potential risks to the international financial system, including growing financial connectivity of Russia with countries subject to FATF countermeasures, risks of proliferation financing, and malicious cyber activities and ransomware attacks. Due to the gravity of these risks, many FATF members are taking proactive measures to protect themselves and the global financial system.

The FATF calls upon all jurisdictions to continue to remain vigilant due to the above-mentioned risks. As they have done since the Russian Federation commenced its war of aggression, FATF members will continue to monitor the situation and the risks posed to the global financial system. As a suspended member of the FATF, the Russian Federation still remains accountable for its obligation to implement the FATF Standards.

4. LEGISLATION UPDATE

4.1. Legislative Consolidations

New revisions were released during the first quarter of 2024 for the following Acts and Regulations:

- Anti-Corruption Act (2024 Revision)
- Companies Management Act (2024 Revision)
- Financial Regulations (2024 Revision)
- International Tax Co-operation (Economic Substance) Act (2024 Revision)
- International Tax Co-operation (Economic Substance) (Prescribed Dates) Regulations (2024 Revision)
- Money Services Act (2024 Revision)
- Partnership Act (2024 Revision)
- Proceeds of Crime Act (2024 Revision)*
- Virtual Asset (Service Providers) Act (2024 Revision)

*NOTE: the Proceeds of Crime Act (2024 Revision) does not include the Proceeds of Crime (Amendment) Act amendments (see next section) which did not come into force until after the 2024 Revision.

4.2. Proceeds of Crime (Amendment) Act

The Proceeds of Crime (Amendment) Act (the “POCAA”) came into force 31 January 2024 with the exception of sections 11, 12 and 13. Sections 11, 12 and 13 alter the offences concerning the concealment of, arrangements in relation to and the acquisition, use and possession of property and will come into force on 30 April 2024.

The POCAA aims to reform intelligence gathering and investigations, bring the jurisdiction into alignment with international best practice, clarify the evidential basis of criminal property and protect self-regulatory bodies from liability in executing their duties.

Of particular note, the proposed amendments to the POCAA also amend the statutory defence against money laundering where a suspicious activity report (SAR) is filed or intended to be filed. Under the POCAA, sections 11, 12 and 13 retain such a defence provided that disclosure is made to the Financial Reporting Authority (FRA) and where consent of the FRA has been provided to proceed with the action giving rise to the SAR. The POCAA provides for regulations to be made to establish a framework under which persons who file suspicious activity reports may seek or obtain a defence to specified offences under the new consent regime.

4.3. Beneficial Ownership Transparency Act, 2023

The Beneficial Ownership Transparency Act 2023 and associated legislation to facilitate adoption of the beneficial ownership framework for various entities was gazetted on 15 December 2023 but is not yet in force. The Act is expected to commence in Q2 2024, with full compliance required by January 2025. Accompanying regulations and guidelines will be issued in due course.

4.4. Monetary Authority (Amendment) Act 2023

The Cayman Islands Monetary Authority's (CIMA) administrative fine regime has extended to apply to exempted limited partnerships, limited liability partnerships, unincorporated associations and persons concerned in their management or control of unincorporated associations. The Monetary Authority (Amendment) Act 2023 further strengthens CIMA's information exchange powers to facilitate the sharing of confidential information with CIMA. On 26, May 2023, the below Acts were Gazetted.

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

4.5. Companies (Amendment) Bill 2024

This Companies (Amendment) Act, 2024 was gazetted 11 March 2024 but is not yet in force. The Act provides for, amongst other things, adjustment of the procedure for the reduction of share capital to allow for a special resolution supported by a solvency statement, issue, repurchase or redemption of fractional shares, variation of the section 60 procedure for the passing of a special resolution (if authorised by the articles, allowing for a two-thirds majority in writing) and conversion of a limited liability company or foundation company to an exempted company.

5. CAYMAN ISLANDS MONETARY AUTHORITY RULES, STATEMENTS OF GUIDANCE AND GENERAL INDUSTRY NOTICES

5.1. Revised CIMA Regulatory Policy - Consolidated Supervision

CIMA has issued a revised version of the Regulatory Policy on Consolidated Supervision which outlines CIMA's approach to supervision of regulated entities that are part of a financial group or financial conglomerate. The objective of the Procedure is to ensure that relevant regulated entities are subject to effective consolidated supervision and that CIMA has mechanisms in place to identify, assess and mitigate the risks posed to a regulated entity and its branches by other members of its group. CIMA's approach to consolidated supervision includes both qualitative and quantitative assessments. Qualitative consolidated supervision may include, for example, assessment of the suitability and appropriateness of the risk management, internal controls and corporate governance practices. When conducting quantitative consolidated supervision, CIMA may set capital and other prudential requirements at both the solo and consolidated levels, against which the regulated entity and its group will be monitored.

6. GENERAL LICENCES

6.1. General Licence 2023/0003

The Governor issued GL/2023/0003 in relation to the Russian sanctions currently in effect. The GL relates to legal services and provides an ability for payment of attorney's fees and/or expenses which are owed by a designated person, subject to the conditions of the GL. The GL expires on 15 May 2024.

7. SANCTIONS

The FRA issued new Financial Sanctions Guidance under the Sanctions and Anti-Money Laundering Act 2018 outlining obligations under financial sanctions including the FRA's approach to licensing and compliance issues.

A new licensing ground under the Russia related sanctions has come into effect.

The Russia (Sanctions) (Overseas Territories) (Amendment) Order 2024 came into effect on 14 March 2024 and extends the new licensing grounds established in the UK's Russia sanctions regulations in December 2023 with necessary modifications to enable Cayman Islands entities to seek a specific licence on the grounds of 'divestment'. This includes the divestment of an interest a designated person or the Government of Russia holds in the entity. There are various conditions, including that the sole consideration for the acquisition is a transfer of funds and such funds are credited to a frozen account held by a qualifying institution.

This is a positive development, and Cayman Islands entities that have frozen assets or interests pursuant to the Russian sanctions regulations may wish to explore the option of seeking a specific licence from the Governor (via the FRA) on the basis of this new ground. We are available to assist with advice on applicability and with licence applications, which our team has practical experience with.

8. CONYERS WEBSITE ARTICLES & ALERTS

The following articles and alerts may be of general interest and can be found at the links below on the Conyers website:

[Handling a Cayman Islands Regulatory Administrative Fine](#)

[Cayman Islands: Virtual Asset Services Provider Legislation](#)

[Amendments to the Cayman Islands Companies Act: Share Capital Reduction](#)

[Update to the Adler High Court Decision: The UK's Court of Appeal Overturns the High Court's Approval of the Adler Restructuring Plan](#)

[Guide to Establishing Private Equity, Venture Capital and Real Estate Funds in the Cayman Islands](#)

[Guide to Establishing Hedge Funds in the Cayman Islands](#)

[Cayman Islands Removal from the EU Anti-Money Laundering List](#)

[Cayman Islands Litigation: Reflecting on the Year 2023](#)

[Top 5 Cayman Islands Publications of 2023](#)

[Converting a PIC to a Standalone Licensed Entity](#)

[Challenges of Taking Security over the Shares of a Licensed Insurer](#)

[Cayman Islands Litigation: The Rise of Alternative Dispute Resolution](#)

[The Rise and Rise of Cayman Foundation Companies](#)

[An Overview of Cayman Islands Private Trust Companies](#)



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HOW CONYERS CAN HELP

Count on our Regulatory & Risk Advisory team to provide calm, authoritative guidance on all your Cayman Islands regulatory and risk management requirements. We can help you with everything from proactive guidance, insight into regulatory developments and dealing with regulatory bodies to advising on investigations and providing robust representation where litigation arises.

Please contact a member of the team should you wish to connect or to know more about any of the topics covered in this newsletter. To subscribe to our regulatory newsletter and updates, please [click here](#).

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