



# Campbells Cayman Islands and BVI Regulatory Update – Q2 2023

10 July 2023

This Update provides an overview of the main legal developments in the Cayman Islands and the British Virgin Islands (“**BVI**”) over the last quarter.

For further information please contact your usual Campbells contact or one of the contacts provided at the end of this Update.



# Cayman Islands

## 1. Cayman Islands Monetary Authority (“CIMA”) Updates

### A. Updated Rules and Regulatory Measures – Regulated Funds and Entities

On 14 April 2023 CIMA issued updated regulatory measures for mutual funds and private funds which are registered with CIMA (“**Regulated Funds**”) including:

- a Statement of Guidance relating to Corporate Governance - Mutual Funds and Private Funds (“**SoG**”);
- a Rule - Corporate Governance for Regulated Entities (“**Governance Rules**”) that apply to entities regulated by CIMA, including Regulated Funds; and
- Rule and Statement of Guidance relating to Internal Controls for Regulated Entities (“**Internal Controls Rules**”).
- The changes between the SoG and the prior Statement of Guidance on Corporate Governance for Regulated Mutual Funds has been considered in further detail in our client advisory available [here](#).

The Governance Rules and the Internal Controls Rules have been significantly revised from their previous iterations. The Governance Rules and the Internal Controls Rules will become effective on 14 October 2023 (the “**Effective Date**”) and therefore the current period, until the Effective Date, can be regarded as a “transition” period in order to allow Regulated Funds to be in compliance with the Governance Rules and the Internal Controls Rules.

For completeness, non-substantive updates were also made to the following CIMA regulatory measures:

- Statement of Guidance – Outsourcing – Regulated Entities;
- Statement of Guidance – Nature, Accessibility and Retention of Records;
- Rule – Cybersecurity for Regulated Entities;
- Statement of Guidance – Cybersecurity for Regulated Entities.

The Rule and Statements of Guidance relating to Cybersecurity and Outsourcing are not applicable to Regulated Funds. Campbells can advise and assist on these matters, including preparing and drafting any relevant policies and documentation.

### B. Regulatory Policy Approved Stock Exchanges

On 14 April 2023, CIMA published a Regulatory Policy on Approved Stock Exchanges. The Policy sets out an established criterion to determine which exchanges should receive “approved” status by CIMA for the purposes of: (i) the Mutual Funds Act; (ii) the Private Funds Act; (iii) the Banks and Trust Companies Act; (iv) the Securities Investment Business Act; (v) the Insurance Act; (vi) the Companies Management Act; and (vii) the Virtual Asset (Service Providers) Act.

Section 4 of the Policy provides the criteria for approval and section 5, approval of other stock exchanges.

### C. Updated Regulatory Policy and Statement of Guidance – Insurance

On 26 May 2023, CIMA published the following Regulatory Policy and Rules and Statement of Guidance relating to the insurance sector as follows:

- Regulatory Policy for Licensing of Class D Insurers; and
- Rules and Statement of Guidance for Reinsurance Arrangements (effective 27 May 2024).

By way of background, CIMA previously flagged several challenges with some insurers and reinsurers which required certain measures to be updated to rules to ensure enforceability. Subsequently, CIMA issued a proposed Rules and Statement of Guidance – Reinsurance Arrangements for consultation in 2021 and 2022. The Rules and Statement of Guidance address the main issues raised during the consultation process by the private sector associations.

## D. Supervisory Information Circular – Stress Testing for Insurers

On 28 June 2023, CIMA published a supervisory information circular concerning stress testing for insurers.

CIMA's The Rule on Risk Management for Insurers (the "**Rule on Risk Management**") requires insurers to conduct stress tests and scenario analysis.

Section 5.3.2 of the Rule on Risk Management states: "As appropriate, an insurer must conduct quantitative and qualitative analyses namely stress tests and scenario analysis having regard to the size and complexity of the insurer, and the nature of its risk exposures." The Supervisory Circular is applicable to all categories of insurers that are licensed by CIMA to conduct (re)insurance business and provides guidelines to follow in developing and implementing its stress testing activities. These guidelines do not restrict an insurer from conducting additional stress testing other than that recommended by the guidelines if an insurer deems it appropriate. Appendix A of the Supervisory Circular details the effect of shocks in stress testing scenarios. Appendix B and Appendix C of the Supervisory Circular detail examples of the type of scenarios that CIMA expects class A insurers, and class B(iii) and D insurers carrying on reinsurance business to consider respectively.

## E. Regulatory Policy and Rule for Domestic Systemically Important Deposit Taking Institutions

On 26 May 2023, CIMA published:

- Regulatory Policy for Domestic Systemically Important Deposit-Taking Institutions; and
- Rule for Domestic Systemically Important Deposit Taking Institutions.

Both the Regulatory Policy and Rule are effective 27 May 2024 and further information in respect of the Regulatory Policy and Rule are set out in Section 7A of our Q4 2022 Regulatory Update available [here](#).

## 2. Amendment Acts

On 26 May 2023, the following Acts were gazetted to provide for the liability of partnerships, exempted limited partnerships and limited liability partnerships, partners, unincorporated associations and persons concerned in the management or control of unincorporated associations for offences including:

- (a) The Virtual Asset (Service Providers) (Amendment) Act, 2023
- (b) Securities Investment Business (Amendment) Act, 2023
- (c) Money Services (Amendment) Act, 2023
- (d) Insurance (Amendment) Act, 2023
- (e) Directors Registration and Licensing (Amendment) Act, 2023
- (f) Companies Management (Amendment) Act, 2023
- (g) Monetary Authority (Amendment) Act, 2023

## 3. Proceeds of Crime (Amendment) Bill, 2023

On 3 March 2023, the Proceeds of Crime (Amendment) Bill 2023 was gazetted. The purpose of the bill is to amend the Proceeds of Crime Act (2020 Revision) (the "Act") as follows:

- reform the Act in the areas of intelligence gathering and sharing, and investigations;
- provide protection for self-regulatory bodies against liability;
- ensure that the Act conforms to international best practices;
- modernise the conduct of prosecutions, which includes clarifying the evidential basis on which it may be shown that property is criminal property or is obtained through unlawful conduct; and
- provide for incidental and connected purposes.

## 4.Update to Cayman Financial Sanctions Regime

On 9 May 2023 CIMA published a general industry notice notifying financial service providers that an update has been made to the current sanctions regime in force in the Cayman Islands. A list of sanctions orders can be found on the Financial Reporting Authority's [website](#).

## British Virgin Islands (BVI)

### 1.CRS Updates

On 27 April 2023, the ITA published an updated Common Reporting Standards list of Participating Jurisdictions for 2023 available [here](#).

### 2.Virgin Islands General Licence No.3, 2023

On 13 April 2023, the Virgin Islands General Licence No.03, 2023 (payment of reasonable professional legal fees and expenses) came into effect. In acknowledging the importance of a person's ability to receive legal advice and representation, the BVI Governor has long held a position of not prohibiting the provision of legal advice to a designated person under an asset freeze. By contrast, payment for legal services, including payment for legal services provided on credit, has required a licence from the Governor.

Considering the extraordinary number of new designations under the Russia and Belarus regimes, and the correlating increase in the number of those seeking a licence from the Governor for the payment of legal fees, the Governor has issued a general licence to permit the payment of legal fees owed by individuals and entities designated under either of these regimes.

### 3.BVI FSC Updates - Virgin Islands Money Laundering Risk Assessment 2022

On 9 June 2023, the BVI Financial Services Commission and BVI Financial Investigation Agency announced the publication of the Virgin Islands Money Laundering Risk Assessment 2022. Both agencies intend to present the Risk Assessment report's findings to relevant stakeholders through ongoing outreach efforts in July 2023, ensuring each sector is aware of its specific risks. The Risk Assessment report is available [here](#).



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