

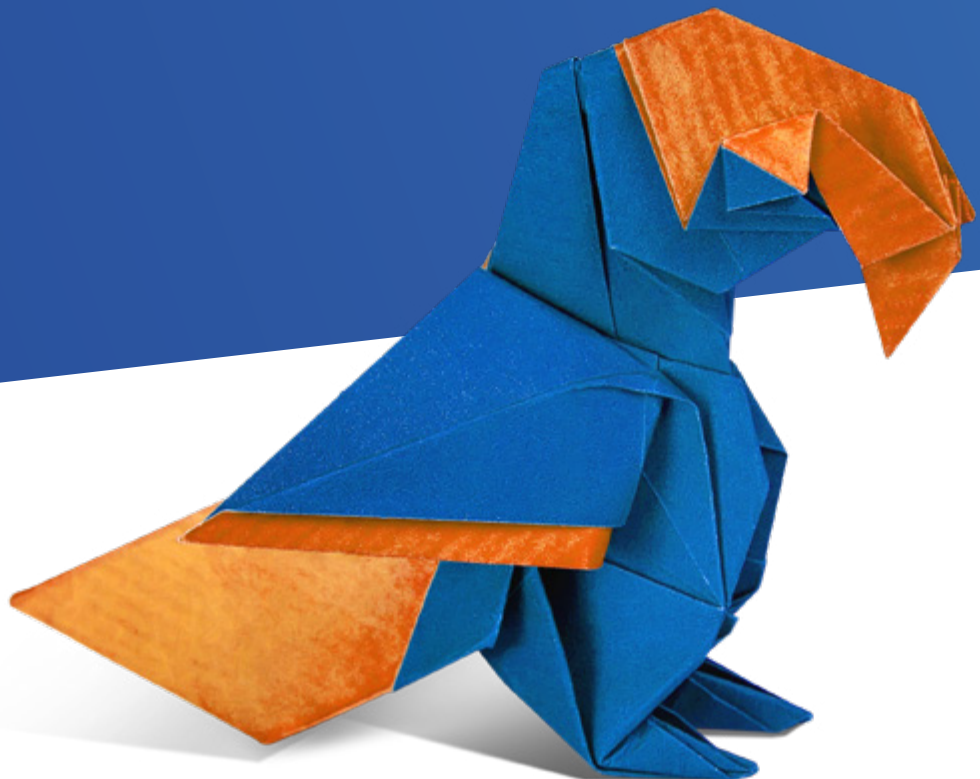
# Campbells

## Campbells Cayman Islands and BVI Regulatory Update – Q3 2023

12 October 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 get in touch with your usual Campbells contact or one of the contacts provided at the end of this Update.



# Cayman Islands

## 1. Update in respect of the Cayman Islands' inclusion on the Financial Action Task Force's ("FATF") list of countries subject to increased monitoring

A delegation from the Americas Joint Group, a sub-working group of the FATF's International Co-Operation Review Group, completed its onsite visit to the Cayman Islands on 1 September.

The Joint Group completed a comprehensive review of the final three recommended actions of the FATF's action plan for the Cayman Islands. Engaging in discussions with Cayman Islands Government officials, regulatory authorities, and private sector entities, the delegation gained valuable insights into the country's resolute AML/CFT framework, the rules that underpin it, and the practices deployed to operate it effectively.

It is noted the visit was a consequential step in the final stage of the process for Cayman Islands to be removed from the FATF's grey list.

The Joint Group will now prepare an on-site visit report, which will be presented at the upcoming FATF Plenary later in October, at which point the Cayman Islands will receive confirmation as to whether it will be removed from the FATF's grey list.

## 2. The Beneficial Ownership Transparency Bill, 2023

On 30 August 2023 the Beneficial Ownership Transparency Bill, 2023 was gazetted (the "**Bill**"). The Bill has been the subject of extensive consultation with industry stakeholders, members of the public, government partners, and international entities, particularly to ensure that the existing beneficial ownership regime in the Cayman Islands is aligned with current international standards. Further information is available in our client briefing available [here](#).

## 3. Cayman Islands Monetary Authority ("CIMA") Updates

### a. Updated AML Guidance Notes

On 30 August 2023, updated CIMA Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing, and Proliferation Financing in the Cayman Islands were published in the Cayman Islands Gazette (the "**Updated AML Guidance Notes**").

The Updated AML Guidance Notes replace the previous version issued by CIMA in June 2020 and are now consolidated to take account of the changes made as a result of the Guidance Notes (Amendment) (No. 1) – Virtual Asset Service Providers published in February 2021 (the "**February 2021 Amendment**") and the Guidance Notes (Amendment) (No. 2) – Securitisation published in May 2021.

## e-KYC and Remote Customer Due Diligence / Ongoing Monitoring

In addition, the Updated AML Guidance Notes include changes to enable the use of e-KYC and Remote Customer Due Diligence / Ongoing Monitoring. The amendments provide for remote onboarding of clients and the use of e-KYC and digital ID technologies on an ongoing basis, provided that the guidance in the Updated AML Guidance Notes is considered. The changes are intended to reflect FATF Guidance.

## CDD for legal persons and arrangements

This now includes the use of video-conferencing to on-board customers who are corporate legal persons or legal arrangements which may be used to identify customers' natural persons (including beneficial owners and directors).

Regulated entities may use publicly available sources when verifying customers that are corporate legal persons. FSPs who are unable to verify official constitutive or formation documents during video-conferencing or via other electronic methods due to unavailability of public sources must seek alternative measures to verify the documentation.

## Risk Based Approach

In accordance with the Updated AML Guidance Notes, it is necessary for financial service providers (“FSPs”) to take a risk-based approach to remote on-boarding and ongoing monitoring of business relationships. In particular, FSPs should be mindful of the following when undertaking remote on-boarding and ongoing monitoring of business relationships:

- **Customer risk assessment** – a FSP should be comfortable, based on the customer risk assessment, that e-KYC procedures and/or digital ID systems are appropriate in the circumstances.
- **Higher risk** - Where an FSP has assessed a customer, product, service or jurisdiction as higher risk for money laundering and terrorist financing, it should conduct additional verification measures to ensure the accuracy of e-KYC procedures and consider using face-to-face interactions and original certified documents for on-boarding and ongoing monitoring purposes rather than remote methods.
- **Technology solutions risk assessment** - FSPs should consider the basic components of technology solutions (including e-KYC and digital ID systems) and take an informed risk-based approach to relying on such technology solutions for the purposes of remote on-boarding and ongoing monitoring of business relationships.
- **Policies and procedures** - FSPs should have robust documented policies and procedures in place to ensure a consistent and adequate approach to relying on technology solutions for CDD purposes.

## b. Rule and Statement of Guidance - Nature, Accessibility, and Retention of Records for Licensees Conducting the Business of Company Management

On 30 August 2023, the Rule and Statement of Guidance - Nature, Accessibility, and Retention of Records for Licensees Conducting the Business of Company Management were published in the Cayman Islands Gazette (the “**Company Management Guidance Notes**”).

The Company Management Guidance Notes are applicable to all licensees under the Companies Management Act (as revised) (the “**CMA**”), the Banks and Trust Companies Act (as revised), the Mutual Funds Act (as revised) and the Insurance Act (as revised) conducting the business of “company management” pursuant to Section 3(1)(a)-(l) of the CMA and establish minimum requirements and provide guidance on the maintenance of records in a manner that promotes accessibility, retention, and appropriate security.

Accordingly, licensees conducting the business of company management must assess whether record keeping practices at the group-wide level meet the objective of the Company Management Guidance Notes.

For all new license applicants, the Company Management Guidance Notes are in immediate effect. For existing licensees, the Company Management Guidance Notes will come into effect on 1 April 2024.

## c. Consultation - Guidance Notes (Amendment) - Sector Specific Guidance - Virtual Asset Service Providers

On 5 September 2023, consultation documents were published by CIMA relating to proposed amendments to Part IX – Section 1, Sector Specific Guidance for Virtual Asset Service Providers of the Updated AML Guidance Notes.

Part XA of the Anti-Money Laundering Regulations (2023 Revision) (“**AMLRs**”) – Identification and record-keeping requirements relating to transfers of virtual assets (“**Part XA**”) came into effect on 1 July 2022 which applies FATF Recommendation 16 – Wire Transfers based on the cross-border nature of Virtual Assets activities and VASP operations (i.e. the “Travel Rule”).

The February 2021 Amendment, which provides sector specific guidance to VASPS in complying with the AMLRs need to be updated to reflect the commencement and full implementation of Part XA.

The proposed amendments to Part IX – Section 1 on the Sector Specific Guidance for Virtual Asset Service Providers of the Updated AML Guidance Notes seek to include guidance which aligns with Part XA within the AMLRs which commenced on 1 July 2022.

The consultation closed for comment on 5 October 2023.

## 4. Companies (Amendment of Schedule 4) Order, 2023

The Companies (Amendment of Schedule 4) Order, 2023 came into effect on 19 July 2023 (the “**Order**”). The Order amends the Companies Act (2023 Revision) (the “**Act**”) in respect to the list of approved stock exchanges referenced in the Act, the Limited Liability Companies Act (2023 Revision) and the Limited Liability Partnerships Act (2023 Revision). Specifically, the amendment incorporates a subsidiary of the Toronto Stock Exchange (the TSX Venture Exchange) and removes the Moscow Stock Exchange.

## 5. Russia (Sanctions) (Overseas Territories) (Amendment) (No.2) Order, 2023

The Russia (Sanctions) (Overseas Territories) (Amendment) (No.2) Order, 2023 entered into force on 20 July and Regulation 4 on 30 September 2023.

The Order makes amendments to the Russia (Sanctions) (Overseas Territories) Order 2020 to give effect in the relevant British overseas territories (including the Cayman Islands and the British Virgin Islands) to the changes made to the Russia sanctions regime by the amending regulations:

- to modify offences in relation to export of goods to non-government controlled Ukrainian territory;
- to modify relevant offences in relation to import of relevant processed iron or steel products and revenue generating goods from Russia;
- to modify certain provision in relation to prohibitions on the provision of professional and business services.

## 6. CUSIP-ISIN Fees

Effective 1 October 2023, the Cayman Islands Stock Exchange has made the following fee increases to the CUSIP-ISIN fees charged by the Cayman Islands Stock Exchange:

Request Type (Cayman or BVI incorporated entities)	Current Fee	New Fee
New CUSIP-ISIN	USD200/KYD164	USD300/KYD246
Temporary Counter CUSIP-ISIN	USD100/KYD82	USD300/KYD246
Change of Name / Name Amendments	USD200/KYD164	USD300/KYD246
CUSIP-ISIN Amendments	No Charge	USD200/KYD164

## British Virgin Islands (BVI)

### 1. BVI issues general sanctions license for Registered Agents

On 13 September 2023, the BVI Governor issued the Virgin Islands General License No. 04, 2023, relating to the maintenance of economic resources, under the Russia (Sanctions) (EU Exit) Regulations 2019. This General License provides specific permissions to Registered Agents and Corporate Services Providers in the Virgin Islands.

The General License (valid for a 12 month period) allows Registered Agents and Corporate Services Providers to receive payments from Designated Persons for various purposes, including fees and expenses, Registrar fees, Director fees, Shareholder fees, and government/statutory body fees related to BVI business companies and foreign companies registered under the BVI Business Companies Act (as revised).

Payments must refer to services either already provided or currently being provided to a company or foreign company and there are specified limits for certain fees: USD\$50,000 for Registered Agent or Corporate Services Provider fees, USD\$20,000 for Director fees and USD\$20,000 for Shareholder fees per calendar year for each company or foreign company.

### 2. BVI FSC introduced the External Relations Unit

The BVI Financial Services Commission launched its External Relations Unit as part of its 2022-2024 strategic objectives. This new unit integrates three main functions: communications, media monitoring, and financial education. It aims to enhance information sharing, improve engagement with stakeholders, and promote greater transparency in the financial services industry.

## Key Contacts



**Simon Thomas**

Partner

[stomas@campbellslegal.com](mailto:stomas@campbellslegal.com)

Unfold more



**Guy Williamson**

Partner

[gwilliamson@campbellslegal.com](mailto:gwilliamson@campbellslegal.com)

Unfold more