

Cayman Islands and BVI Regulatory Update – Q4 2023

15 January 2024

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. Cayman Islands removed from FATF “grey list”

On 27 October, the Financial Action Task Force (“**FATF**”) announced at its plenary in Paris that the Cayman Islands would be removed from its anti-money laundering “grey list” as the FATF has determined that the Cayman Islands AML regime now meets the international standard.

The FATF’s recent decision is very welcome news and confirms the Cayman Islands’ reputation as a well-regulated jurisdiction in all AML matters.

Further information is available in our October [client advisory](#).

2. EU AML Delisting Process Commenced and the Cayman Islands removed from the UK High Risk List

On 15 December, the Ministry of Financial Services and Commerce issued a [media release](#) whereby it was noted that the EU Commission had published a delegated regulation regarding the removal of the Cayman Islands from its AML list. The regulation is not yet in force and it is expected, as per previous EU protocol, that there will be further movement on this matter in due course.

Additionally, as of 5 December, the UK Government has officially removed the Cayman Islands from its list of high-risk third countries for AML/CFT/CPF purposes, following the removal of the Cayman Islands from the Financial Action Task Force AML list in October 2023.

3. Beneficial Ownership Transparency Act, 2023

On 15 December, the Beneficial Ownership Transparency Act, 2023 (“**BOTA**”) was gazetted. The BOTA will be brought into force through implementing regulations during the course of 2024. Further information on the BOTA is available in our [October advisory](#). Importantly, in response to a previous European Court of Justice judgment, the Cayman Islands is progressing to provide access to the public who meet a “legitimate interest test”. A similar approach is also being taken in the BVI per a recent [press release](#) and the Crown Dependencies.

4. Cayman Islands Monetary Authority (“CIMA”) Updates

a. Observations and Changes for REEFS Investment Strategy Selections

On 8 November, CIMA published an [Industry Notice](#) advising that certain changes will be made, effective 15 November 2023, to the Investment Strategy selections available in the REEFS portal for fund applications and FAR filings. Further detail on the amendments are available in the Industry Notice.

In particular, CIMA recognizes that more robust approaches for identifying, measuring, monitoring, and managing material ESG-related risks are paramount. CIMA has requested that funds where ESG is their core focus should have that selected as the Primary Investment Strategy. For funds that have ESG considerations as non-core, but with material substance, ESG should be selected as the Secondary Investment Strategy.

Fund Annual Returns (“**FAR**”) for funds pertaining to the financial years ending 31 December 2023 or thereafter must use the revised Investment Strategy list in FAR submissions.

b. Regulatory Policy on Consolidated Supervision

On 17 November, CIMA published a Regulatory Policy on Consolidated Supervision.

The Policy is applicable to all regulated entities that are part of a group and will be applied in a proportionate manner to the risks posed to a regulated entity by other members of the group to which the regulated entity belongs.

CIMA views consolidated supervision as an integral part of its risk based approach to supervision and is committed to considering carefully, in relation to each regulated entity, whether there is a need to conduct consolidated supervision in addition to supervision of the individual regulated entity. In this regard, CIMA may decide whether consolidated supervision is required at the licensing stage or at any stage during which the entity remains regulated.

The Policy also sets out the position and requirements where CIMA is acting as host supervisor or host regulator.

The Regulated Policy on Consolidated Supervision is available [here](#).

c. Memorandum regarding repeal of various Rules and Statements of Guidance

On 13 October, CIMA issued a memorandum noting, in light of the April publication of: (i) the Rule and Statement of Guidance – Internal Controls for Regulated Entities; (ii) the Rule – Corporate Governance for Regulated Entities; and (iii) the Statement of Guidance – Corporate Governance for Mutual Funds and Private Funds, the following rules and statements of guidance would be repealed from 14 October 2023:

- Rule Corporate Governance for Insurers (April 2016);
- Statement of Guidance – Corporate Governance (February 2016);
- Rule on Internal Controls – General for all Licensees (May 2007);
- Statement of Guidance – Internal Controls for Trust Companies, Company Managers and Corporate Service Providers (May 2007);
- Statement of Guidance – Internal Controls in Banks;
- Statement of Guidance – Internal Controls – Insurance (August 2007); and
- Statement of Guidance – Internal Controls – Securities Investment Business.

5. Fee Amendments

On 1 December, the Ministry of Financial Services and Commerce issued a notice announcing a number of fee changes relating to companies, limited liability companies, exempted limited partnerships and limited liability partnerships which took effect on 1 January 2024. The changes include the company annual fee increases previously announced on 1 November, following Government's investment to improve the Companies Registrar's service delivery over the last decade. A copy of the General Registry Fee Schedule effective 1 January 2024 is available [here](#).

On 29 November, the Ministry also announced that CIMA license fees will not be adjusted in 2024 but that CIMA is considering CIMA fee increases for 2025.

6. 2024 Regulatory Calendar

Please click [here](#) to access Campbells 2024 Cayman Islands Key Annual Dates Calendar (which provides key regulatory filing dates for clients).

British Virgin Islands (BVI)

1. BVI removed from EU “Blacklist”

On 17 October 2023, it was announced that the BVI had been removed from the EU list of non-cooperative tax jurisdictions (otherwise known as Annex I or the EU Blacklist).

The BVI was removed from the list due to its amendments to the framework for the exchange of information on request. The BVI will be reassessed in accordance with the OECD standard. Pending this reassessment, the BVI has been included in Annex II (which comprises jurisdictions dedicated to implementing the necessary reforms).

The removal from the EU list recognizes the legislative changes made by the BVI in 2022, including the BVI Business Companies Amendment Act 2022 and BVI Business Amendment Regulations 2022, which came into force on 1 January 2023. These changes were to meet the requirements of the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes as part of its Peer Review Process.

2. International Tax Authority (Administrative Penalties) Regulations 2023

On 1 December 2023, the International Tax Authority (Administrative Penalties) Regulations 2023 (the “**Regulations**”) were gazetted and have come into force. These regulations empower the BVI International Tax Authority (the “**ITA**”), to impose penalties on individuals or legal entities found in violation of the mutual legal assistance legislation set out in the International Tax Authority Act, Revised Edition 2020 (the “**ITA Act**”).

The “mutual legal assistance legislation” set out in the ITA Act includes:

- the Beneficial Ownership Secure Search System Act, Revised Edition 2020;
- the Economic Substance (Companies and Limited Partnerships) Act, Revised Edition 2020; and
- the Mutual Legal Assistance (Tax Matters) Act, 2003 (which regulates FATCA, the Common Reporting Standard and Country-by-Country Reporting (“**CbCR**”), among others).

The Regulations apply to all BVI companies and limited partnerships and they should now ensure they establish and maintain adequate systems and controls to ensure compliance with mutual legal assistance legislation.

The Regulations include a schedule which sets out the various administrative penalties based on specific contraventions, such as late filings, providing false information, failure to comply with a notice to produce information, compliance contravention, late payment of fees and committing any other contravention not specified in the schedule.

The Regulations revoke the International Tax Authority (Administrative Penalties) Regulations, 2022.

3. 2024 Annual Fees – Due Dates for all Regulated Entities

In accordance with a [newsletter](#) issued by the BVI Financial Services Commission (the “FSC”), the FSC is reminding all regulated entities that 2024 annual licensing fees are due and payable as follows:

Legislation	2024 Annual Fee Due
Banks and Trust Companies Act	On or before 31 January 2024
Company Management Act	On or before 31 January 2024
Financing and Money Services Act	On or before 31 January 2024
Financial Services Commission Act (re: Corporate Compliance Officers)	On or before 31 January 2024
Insurance Act	On or before 28 February 2024
Insolvency Act	On or before 31 March 2024
Securities and Investment Business Act	On or before 31 March 2024

The FSC is also reminding regulated entities that most annual fees have increased effective 1 April 2023 and that regulated entities should refer to the [Financial Services \(Fees\) \(Amendment\) Regulations, 2023](#), to ensure that the correct fees are submitted.

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