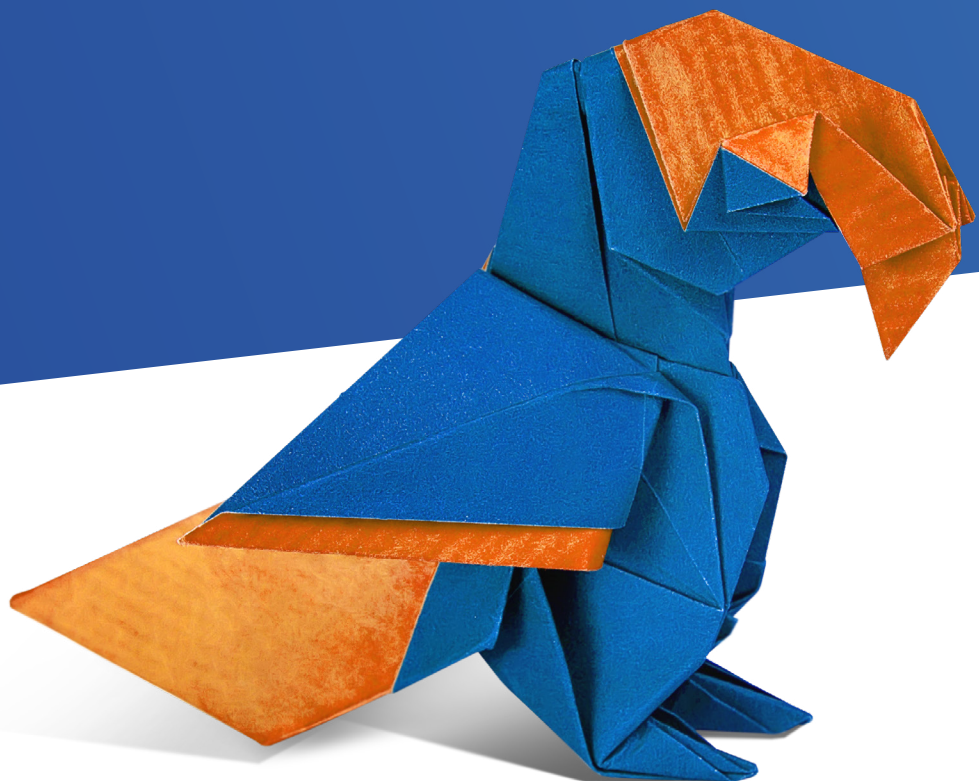


## Campbells Cayman Islands and BVI Regulatory Update – Q1 2024

12 April 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 removal from EU and UK AML Lists

Following the Cayman Islands' removal from the Financial Action Task Force's Grey List in October 2023, on 18 January 2024 the European Union updated its own list of high risk third countries and, as anticipated, the Cayman Islands was removed from this list with effect from early February. In addition, the Cayman Islands has been removed from the UK list of high-risk countries for AML and CFT purposes with effect from 5 December 2023.

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

## 2. Companies (Amendment) Act, 2024

On 11 March 2024, the Companies (Amendment) Act, 2024 was gazetted (the "**Amendment Act**"). The Amendment Act is not yet in force and further updates will be issued as and when the Amendment Act (or parts of the Amendment Act) are brought into force.

Notable changes will include allowing solvent companies to reduce their share capital without court approval (provided that this is permitted by a company's articles of association), the conversion of LLCs and foundation companies to exempted companies, the re-registration of an exempted company as an ordinary resident company and the continuation of bodies corporate without share capital into the Cayman Islands.

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

## 3. Proceeds of Crime (Amendment) Act, 2023 (Commencement) Order, 2024 (the "Order")

Parts of the Proceeds of Crime (Amendment) Act, 2023 (the "**Proceeds of Crime Amendment Act**") were brought into force on 31 January 2023 pursuant to the Order with the remaining sections to be brought into force at the end of April. The Proceeds of Crime Amendment Act introduces specific AML defences, which are dependent upon obtaining consent for certain actions. The Proceeds of Crime Amendment Act will also address the handling of Suspicious Activity Reports and their interplay with various defences against money laundering offences.

## 4. Russia (Sanctions) (Overseas Territories) (Amendment) Order, 2024 (the "2024 Order")

On 13 March 2024, two new UK-Russia sanctions licensing grounds were extended to the UK Overseas Territories, including the BVI and the Cayman Islands pursuant to the 2024 Order which became effective 14 March 2024. The first ground allows competent authorities in the Cayman Islands and the BVI to issue licenses authorising "relevant transfers" for the purpose of divesting from investments held by UKOT persons in Russia. The second ground permits licenses which allows a UKOT person to acquire interests from designated persons provided that any consideration payable is placed into a frozen account.

## 5. Virtual Asset Service Provider Act Consultation

On 28 February 2024, the Cayman Islands Ministry of Financial Services and Commerce issued a consultation process for proposed amendments to the Virtual Asset Service Providers Act (the "**VASP Act**"), utilising the online tool GitHub. The proposed changes are aimed at the introduction of the Cayman Islands Monetary Authority ("**CIMA**") licensing regime for virtual asset trading platform operators and custodians. A simpler fee structure is also planned. The definition outlining who is considered the operator of a virtual asset trading platform is being revised to clarify who is in scope of the legislation. A definition of convertible virtual assets is also being added.

The Bill proposes to require a minimum of two directors for a VASP.

The consultation closed on 3 April 2024.

## 6. CIMA Consultation – Recruitment and Selection Standards for Trust and Company Service Providers

CIMA issued a consultation on 22 February 2024 concerning a revised rule and statement of guidance regarding recruitment and selection standards for Trust and Corporate Service Providers (“**TCSPs**”) and company managers.

Key changes to the existing rule and statement of guidance include the requirement for an annual review of recruitment policies and procedures and job descriptions and a three year review in respect of a regulated person’s continuing professional development policies (“**CPD**”). Additionally, the Governing Body of the TCSP or company manager will be required to conduct self-assessments of its performance collectively and of individual members to ensure continued competence in carrying out recruitment, supervision, and training standards. CPD training should be conducted at least quarterly or sooner if required in response to a specific matter.

The consultation closed on 25 March 2024.

## British Virgin Islands (BVI)

### 1. Mutual Evaluation Report

In February 2024, the Financial Action Task Force (“**FATF**”) published its mutual evaluation report on the BVI’s anti-money laundering (“**AML**”) controls. The Caribbean Financial Action Task Force (“**CFATF**”) conducted the mutual evaluation of the BVI to assess its compliance with the FATF Recommendations and the effectiveness of AML/counter-terrorist financing systems in March and April 2023.

It found the BVI only partially compliant on Recommendations 24 (transparency and beneficial ownership of legal entities), 26 (regulation of financial institutions) and 28 (regulation of non-financial businesses and professions). It was also assessed as non-compliant on FATF Recommendation 8 concerning non-profit organisations.

The FATF report contains a list of 20 ‘priority actions’ for the BVI to take before the next follow-up assessment.

Among these is the need to improve the authorities’ understanding of risks, particularly with respect to BVI legal persons and legal arrangements, through a comprehensive analysis of their potential for misuse, especially abroad.

The BVI Financial Services Commission should continue to raise awareness of virtual asset service providers (**VASPs**) operating in or from the BVI about their AML risks and obligations, FATF says, as well as ensuring that VASPs implement preventive measures. The BVI FSC has already begun implementation of the VASP regulatory framework.

A further priority action is to ensure that competent authorities can obtain adequate, accurate and current beneficial ownership information in a timely manner. This could be by putting in place a beneficial ownership register of persons with significant control with a designated public authority responsible for receiving, holding and verifying information, with appropriate sanctioning powers if the information is not adequate or up to date.

The BVI has already begun a revision of its *National Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) Policy* and implementation of the National Action Plan has started, said the government. It is establishing a specific Sanctions Unit within the Attorney General’s Chambers to ensure greater efficiency in dealing with all sanctions related matters.

The full CFTAF report can be accessed [here](#) and the Virgin Islands National Action Plan can be accessed [here](#).

### 2. BVI removed from French tax blacklist

On 7 March 2024, the BVI was removed from France’s blacklist of non-cooperative tax jurisdictions.

The BVI Government’s Press Release can be accessed [here](#).

### 3. 2024 Annual fee regarding FACTA, CRS and CbCR

From January 2024, entities subjected to reporting obligations pursuant to the United States Foreign Account Tax Compliance Act (“**FATCA**”), the Common Reporting Standard (“**CRS**”) issued by the Organisation for Economic Co-operation and Development (“**OECD**”) and the OECD’s Country by Country Reporting regime (“**CbCr**”) will be required to pay an annual fee of US\$185. The deadline for payment of the annual fee is 1 June 2024, with subsequent payments due annually by 1 June through the BVIFARS portal.

### 4. Whistleblowers Act brought into force

The Whistleblower Act, 2021 came into force in the BVI on 26 January 2024. This legislation introduces crucial protections and obligations concerning whistleblowers and entities receiving concerns. Under the Whistleblower Act, any person can report impropriety by another person or institution, including employers or fellow employees, related to various activities such as crimes, breaches of law, or environmental degradation. To be protected, whistleblowers must act in good faith, believe the disclosed information to be substantially true, and report it to specific individuals or institutions outlined in the Whistleblower Act. The legislation also outlines procedures for reporting, confidentiality requirements, and penalties for concealing evidence. Importantly, the Whistleblower Act provides protection against victimisation for whistleblowers and establishes a Whistleblower Reward Fund to incentivise disclosures leading to convictions or money recovery. BVI businesses, particularly employers, have been urged to familiarise themselves with the Act, review or implement internal whistleblowing policies, and ensure adequate procedures are in place to address concerns and prevent victimisation.

### 5. Updates to CRS Participating Jurisdictions and CRS Reporting Jurisdiction Lists

On 5 February 2024, the BVI International Tax Authority published its updated Common Reporting Standard lists of Participating Jurisdictions and Reportable Jurisdictions for 2023. Both lists were gazetted on 8 February 2024.

New additions to the CRS list of Participating Jurisdictions include Bulgaria, Costa Rica, and Saint Kitts and Nevis.

New additions to the CRS list of Reportable Jurisdictions include Bulgaria, and Saint Kitts and Nevis.

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