

New Rules are Coming: Is Your Cayman Fund Compliant?

Take Steps Now to Ensure Compliance

The Cayman Islands Monetary Authority (CIMA) is expected to issue new rules and guidance for all Cayman funds, including regulated mutual funds and – for the first time – private funds regulated under the Private Funds Act.

Operators of funds must ensure the conduct of the fund and its service providers is in accordance with these regulatory measures.

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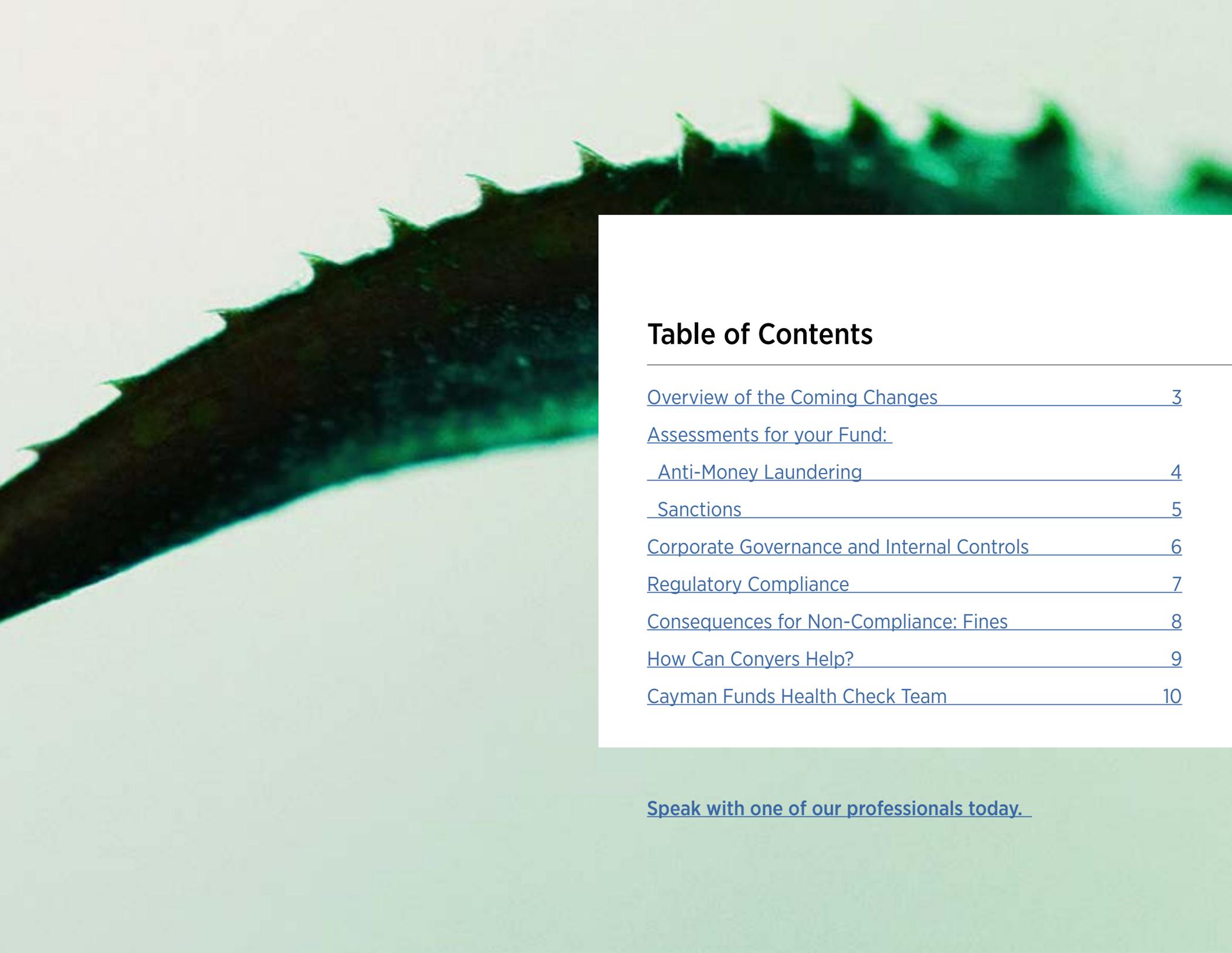


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Overview of the Coming Changes

Cayman Islands regulated funds are subject to the rules, guidance, policies and procedures issued by CIMA.

Following a period of private sector consultation with various Cayman Islands associations and industry stakeholders, CIMA is expected to issue new rules and guidance on both corporate governance and internal controls for all entities it supervises, including both regulated mutual funds and, for the first time, private funds regulated under the Private Funds Act.

To prepare for these rules and avoid enforcement action, it is critical that funds act to ensure their existing corporate governance and internal controls policies and procedures are appropriate, and take any steps needed to bring these into compliance.

Operators of Cayman Funds need to assess their

- ✓ Anti-Money Laundering Compliance
- ✓ Sanctions Compliance
- ✓ Regulatory Compliance

CIMA has also issued a supervisory circular to raise industry awareness on environmental, social and governance (ESG) and sustainable investing.



HOW CAN CONYERS HELP?

Conyers Financial Institutions Group provides directors AML training, along with AML officers resident in the Cayman Islands.

Anti-Money Laundering Compliance

Compliance with the Cayman Anti-Money Laundering (AML) regime affects all funds, from launch (requiring appointments of AML officers and customer on-boarding) through continuing monitoring during the operation of the fund (undertaking customer due diligence, sanctions screening and AML risk assessments).

Weak spots in the monitoring and supervision of AML compliance by funds can include:

-  governance standards adopted and applied by directors and senior management
-  lack of clear definition and implementation of AML personnel roles

Operators of funds must:

-  review AML procedural manuals annually (at minimum)
-  provide AML and countering the financing of terrorism training annually (at minimum)
-  assess the suitability of AML officer appointees
-  appoint professional directors to enhance governance, supervision and monitoring of AML
-  conduct AML risk assessments and audits
-  undertake annual AML compliance training (directors and senior management)



HOW CAN CONYERS HELP?

We undertake sanctions screening for ongoing assessments of fund investors.

Sanctions

Cayman funds are restricted in their engagement with any entities, individuals, organisations and/or investments subject to applicable sanctions regimes.

Any subscriber for interests in the fund must confirm, on a continuing basis, that it is not a Sanctions Subject – that is, named on any applicable list of sanctioned entities or individuals, or operationally based or domiciled in a country or territory upon which applicable sanctions are imposed.

Operators of funds must: undertake assessments during ongoing monitoring and/or through periodic review to determine whether any investor is a Sanctions Subject and, if so, take appropriate action.



HOW CAN CONYERS HELP?

To safeguard the corporate governance and internal controls of the operations of your fund, Conyers provides the following services:

- advising on the requirements of the regulatory measures available to current and anticipated corporate governance and internal controls rules and guidance
- preparing frameworks, policies and protocols
- undertaking a review and audit of corporate governance and internal controls
- advising on senior management responsibility and directors' fiduciary duties
- training of directors

Corporate Governance and Internal Controls

The coming changes will significantly expand the matters covered as part of a fund's corporate governance framework, including the structure and governance of the governing body, its collective duties and duties of individual directors, the appointment and delegation of functions, and remuneration policies and practices and duties to senior management.

The new rule and guidance on internal controls is expected to cover five core components:

- ✓ control environment: the roles of the Fund's governing body and senior management
- ✓ risk identification and assessment

- ✓ control activities and segregation of duties: establish and verify control policies and procedures

- ✓ information and communication

- ✓ monitoring activities and correcting deficiencies: internal audits to monitor effectiveness of internal controls



HOW CAN CONYERS HELP?

We provide a a tailored regulatory-event action plan to keep you on track with the satisfaction of all applicable regulatory measures.

Regulatory Compliance

Cayman Islands regulated funds are subject to CIMA's rules, guidance, policies and procedures setting the parameters for compliance across a wide range of governance and operational matters. These may be prescriptive or may determine the minimum standards to be followed.

These regulatory measures are a key plank in fund compliance. All must be reviewed by the operators of funds on an on-going basis.

You are responsible for delegated functions or activities, including investment management. This includes being satisfied that the conduct of the fund and its service providers is in accordance with the applicable regulatory measures.

Key areas covered by this obligation include:

- ✓ Calculation of Asset Values
- ✓ Segregation of Assets
- ✓ Content requirements for Offering Document/Marketing Materials

Consequences for Non-Compliance: Fines

Contravention of regulatory acts, rules and regulations can result in penalties ranging from minor to very serious, reflected in fines of US\$6,000 up to US\$1.22 million.

ICIMA has already taken enforcement action resulting in fines being imposed on other categories of regulated entities. We expect that regulated funds may imminently be subject to similar regulatory inspection and enforcement.

In considering whether to levy a fine, CIMA takes into account, amongst other things, a fund's willingness and

ability to cooperate with and assist with investigations and implementation of requirements. This includes any remedial actions the fund has already taken, or intends to take, in rectifying the situation and any action that has been taken to ensure that such a contravention does not arise in the future.

It is essential, in order to avoid a contravention and possible fines, that funds ensure the regulatory laws of the Cayman Islands, the regulatory measures and the requirements of the AML regulations are appropriately implemented, maintained and reviewed.

How Can Conyers Help?

We will assess your compliance with the regulatory measures, AML regulations, and CIMA's approach to ESG and sustainable investing, and provide critical guidance to reduce your fund's exposure to regulatory, AML, terrorist financing, proliferation financing and sanctions-related compliance risks.

We provide practical solutions and controls for your fund to meet its obligations, including:

- qualified Cayman-resident individuals to act as directors and AML officers
- self-administered AML training for senior management to fulfil annual obligations
- an annual filing and fee payment obligation timeline
- a tailored regulatory-event action plan
- sanctions screening for on-going assessments of Fund investors
- corporate governance and internal controls guidance



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