

NEWSLETTER

Regulatory & Risk Advisory  
Review: Cayman Islands

MAY TO JULY 2023

CONYERS

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Welcome to the second instalment of our Cayman Islands Regulatory & Risk Advisory Review. As we cover in this issue, there have been a number of exciting recent developments, including news from the Financial Action Task Force pertaining to Cayman's removal from the "grey list", updates from the Cayman Islands Monetary Authority, and new sanctions and general licences. We have also included some recent articles from the wider Conyers team which provide further insight into industry trends and market news.

Should you have any queries or require further information about anything covered in this edition, please contact a member of the regulatory team or your usual Conyers contact.



## **1. FINANCIAL ACTION TASK FORCE (“FATF”) PROGRESS REPORT**

On 23 June 2023, the FATF announced that the Cayman Islands had fulfilled the remaining action item and is now eligible for removal from its list of jurisdictions subject to increased monitoring.

The delisting process involves an onsite FATF visit, tentatively scheduled for late August or early September 2023. An onsite visit report will be presented at the next FATF Plenary, scheduled for October 2023, at which the Cayman Islands will receive confirmation as to whether it will be delisted.

## **2. LEGISLATION IN EFFECT**

The following Acts were gazetted on 26 May 2023 to bring partnerships, limited liability partnerships and exempted limited partnerships, partners, unincorporated associations and persons concerned in the management or control of unincorporated associations into scope for various offences and enhance the Cayman Islands Monetary Authority’s (“CIMA”) power to prescribe sanctions under certain regulatory laws with immediate effect.

The Monetary Authority (Amendment) Act, 2023 also expands CIMA’s power to impose administrative fines and provides for the disclosure and sharing of information with overseas authorities:

- Companies Management (Amendment) Act, 2023
- Directors Registration and Licensing (Amendment) Act, 2023
- Insurance (Amendment) Act, 2023
- Monetary Authority (Amendment) Act, 2023
- Money Services (Amendment) Act, 2023
- Securities Investment Business (Amendment) Act, 2023
- Virtual Asset (Service Providers) (Amendment) Act, 2023

### **3. CIMA RULES, STATEMENTS OF GUIDANCE, REGULATORY POLICY AND REPORTS**

#### **3.1. Rule and Regulatory Policy on Domestic Systemically Important Deposit Taking Institutions (not in effect)**

CIMA issued this Rule and Regulatory Policy on 26 May 2023 which is applicable to all supervised entities designated by CIMA as Domestic Systemically Important Deposit Taking Institutions (“D-SIDTIs”), which will come into effect on 27 May 2024. The Rule and Regulatory Policy establishes a higher capital buffer to satisfy CIMA’s higher loss absorbency requirement (“HLA”). D-SIDTIs must notify CIMA immediately where its capital, including its buffer, is equal to or falls below the required level and must comply with any additional reporting requirements and limits on discretionary distributions.

#### **3.2 Rule and Statement of Guidance on Reinsurance Arrangements (not in effect)**

In May 2023, CIMA revised the Rule and Statement of Guidance on Reinsurance Arrangements to bring it up to date with legislative changes, international standards and evolving industry trends and to mitigate risks to the insurance sector associated with money laundering, terrorist financing and proliferation financing. The Rule and Statement of Guidance was published in the Gazette on 26 May 2023 and will come into effect on 27 May 2024.

#### **3.3. Regulatory Policy: Licencing for Class D Insurers**

CIMA gazetted its Regulatory Policy concerning Licencing for Class D Insurers on 7 June 2023 with immediate effect. The Regulatory Policy sets out the criteria under which CIMA may grant Class D insurers licences to carry on reinsurance business pursuant to section 4 of the Insurance Act and the application process involved, including circumstances in which an existing Class B insurer wishes to convert to a Class D insurer or an existing reinsurer intends to redomicile in the Cayman Islands.

#### **3.4. Thematic Cybersecurity Review Report 2023**

CIMA released its Thematic Cybersecurity Review Report in June 2023 (the “Review”), having previously issued a Rule and associated Statement of Guidance on Cybersecurity for Regulated Entities in May 2023 for adoption by regulated entities across all financial sectors in an effort to implement cyber risk regulation and supervision. The Review involved an analysis of 12 regulated entities from across the banking, insurance and securities sectors over a period from April to December 2022. Insights regarding good practices and areas for improvement are outlined in the Review in relation to (i) cybersecurity frameworks, (ii) risk management, (iii) IT systems controls and internet usage, (iv) employee recruitment, training and awareness, (v) outsourcing and intra-group arrangements, (vi) data protection, (vii) accountability and (viii) notification requirements.

### **3.5. Supervisory Information Circular: Stress Testing for Insurers**

CIMA issued a supervisory information circular concerning stress testing for insurers (the “Circular”) on 28 June 2023 that applies to all insurers licenced by CIMA to carry out (re)insurance business. Supplementing CIMA’s Rule on Risk Management for Insurers which requires insurers to conduct stress tests and scenario analyses, the Circular provides guidance to insurers in developing and implementing stress testing programs and processes. The Circular also outlines example stress testing scenarios for Class A, B(iii) and D insurers.

### **3.6. General Industry Notice: Update to Financial Sanctions Regime**

CIMA issued a general industry notice on 9 May 2023 advising financial service providers of an update to the current sanctions regime in force in the Cayman Islands. A list of sanctions orders is published on Financial Reporting Authority’s [website](#).

## **4. SANCTIONS & GENERAL LICENCES**

4.1. The Russia (Sanctions) (EU Exit) (Amendment) (No. 3) Regulations 2023 (SI 2023/713) came into force on 30 June 2023. Amongst other measures, regulation 54D (“Regulation”) has been introduced and prescribes a prohibition on the provision of legal advisory services regarding certain UK prohibited activities. Legal advisory services include the application or interpretation of law, acting on behalf of a client, or providing advice on or in connection with a commercial transaction, negotiations or any other dealings with a third party and the preparation, execution or verification of a legal document. Exclusions and exceptions, such as compliance and regulatory obligations, have been carved out. A new exception has also been added to Regulation 60DA concerning auditing services and the provision of expert evidence in connection with legal proceedings.

4.2. The Russia (Sanctions) (Overseas Territories) (Amendment) (No. 2) Order 2023 SI 2023 No. 846 was made on 14 July and came into effect on 20 July (with the exception of its Article 4 which will come into effect on 30 September 2023) (the “Order”). The Order extends the Russia (Sanctions) (EU Exit) Regulations 2019 (SI 2019/855) (the “Sanctions Regulations”) to all British overseas territories. The Sanctions Regulations have recently been amended to modify offences in relation to: (i) the export of goods to non-government controlled Ukrainian territory; (ii) the import of relevant processed iron or steel products and revenue generating goods from Russia; and (iii) prohibitions against the provision of professional and business services. (see 4.1 above). The Order applies to the Cayman Islands as a British overseas territory.

## **5. DEPARTMENT FOR INTERNATIONAL TAX COOPERATION (“DITC”) UPDATE**

The DITC’s [Update Bulletin](#), released in June 2023, reported that a request to deactivate a “Financial Institution” (“FI”) from the DITC Portal may now be made by its principal point of contact where an entity ceases to exist or is no longer a Cayman Reporting FI. The entity must have fulfilled all of its reporting obligations before submitting the request for deactivation. Documentary evidence is required to support an application for deactivation and these requirements are set out in the Update Bulletin. The recently updated [DITC Portal User Guide](#) outlines how to complete the deactivation form.

## **6. IMPORTANT DATES**

### **31 July 2023**

Each FI with a Common Reporting Standard (“CRS”) or Foreign Account Tax Compliance Act (“FATCA”) reporting obligation is required to submit a 2022 CRS or FATCA filing declaration to the Tax Information Authority by 31 July 2023. The CRS requires the date of birth and TIN to be reported for all relevant persons. The DITC has also issued an [Explanatory Note](#) outlining exclusions to these requirements. Additional guidance has been released by the Cayman Islands Compliance Association in an Industry Update: Automatic Exchange of Information for the assessment of self certification forms.

### **15 September 2023**

CRS Compliance forms filing deadline.

## 7. CONYERS INSIGHTS

The following articles may be of general interest and can be found at the links below on the Conyers website:

[Cayman Islands Restructuring: Cross Class Cram Downs and Competing Valuations \(May 2023\)](#)

[Cayman Islands Issues General Licence for Payment of Legal Fees \(May 2023\)](#)

[Key Points: Schemes of Arrangement in the Cayman Islands \(June 2023\)](#)

[Five Reasons Reinsurance is Ramping Up in Cayman \(July 2023\)](#)

[Capital Contributions - Banana Peel, Beware! \(July 2023\)](#)

[Debunking Common Cayman Cliches: Episode 1 - CIMA \(July 2023\)](#)





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Please contact Róisín Liddy-Murphy, or one of your usual Conyers contacts should you wish to know more about any of the topics covered in the newsletter.

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