

E-BOOK



Apex Compliance Solutions

Quarterly Update - Cayman Islands

Issue 2 - July 2022



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If you would like a copy of our previous update, please let us know.

1. Targeted Financial Sanctions

Targeted Financial Sanctions remains a topic of focus.

Regulated entities must ensure that their sanctions compliance programmes remain fit-for-purpose and contain mechanisms that allow them to quickly respond to the complex, far-reaching and swift changes to Targeted Financial Sanctions.

The legal obligations, include:

- Regularly monitoring sanction lists
- Reviewing clients against sanction lists
- Freezing accounts/funds/resources of designated persons or entities
- Refraining from dealing with funds/assets of designated persons or entities
- Reporting and disclosing designated persons or entities to the Financial Reporting Authority, as soon as practicable

On June 17, 2022, CIMA issued their [2021 Review of TCSPs sanctions compliance](#).

2. Virtual Assets

CIMA issued a General Notice on May 2, 2022 providing a [VASP FAQs Update](#)

Of particular note, the 'Travel Rule' came into force in the Cayman Islands on 1 July 2022. VASPs need to consider how they will comply with the requirements. See Part XA of the Anti-Money Laundering Regulations as inserted by Anti-Money Laundering (Amendment) (No. 2) Regulations, 2020

What is the Travel Rule?

The Financial Action Task Force ("FATF") requires both sending and receiving VASPs to obtain, exchange and store originator and beneficiary identification information, in addition to the cryptocurrency addresses and transaction ID, for each transaction.

Law enforcement and regulators require the latter since cryptocurrency addresses can be used by multiple beneficiary customers.

FATF Interpretative Note to Recommendation 16, paragraph 6, prescribes the following to be collected by the originating VASP, shared with the beneficiary VASP or FI and retained for sharing with appropriate authorities if required:

- a. Name of the originator
- b. Originator account number where such an account is used to process the transaction
- c. Originator's physical (geographical) address, or
national identity number, or customer identification number, or date and place of birth
- d. Name of the beneficiary
- e. Beneficiary account number where such an account is used to process the transaction

The intended purpose of the Travel Rule is to share information which will allow VASPs and other financial institutions to block terrorist financing, prevent ML of virtual assets, stop payments to sanctioned individuals, entities, and countries, as well as support reporting of suspicious activities

Globally, there are heightened risks associated with virtual assets that are being specifically used to circumvent Russian sanctions.

3. Third-Party Reliance Testing

On May 19, 2022, CIMA issued a [Supervisory Issues and Information Circular](#) to remind all regulated entities of their obligations in respect of the application of third-party reliance testing for a person acting as an agent/nominee (including nominee investors) ("Nominee") or eligible introducer ("EI") under Regulations 24 and 25 of the Anti-Money Laundering Regulations (2020 Revision). CIMA

has noted that In the absence of such reliance testing, neither the Authority nor the person carrying out relevant financial business can be satisfied that either the EI or the Nominee has conducted the requisite customer due diligence to obtain evidence of the identity of the principal or beneficial owner, and that the EI or the agent/nominee is, in fact, able to provide it upon request in accordance with Regulations 25(1) and 24(2), respectively.

In these circumstances, the person carrying out relevant financial business should determine whether it is still appropriate to continue to rely on Regulations 24 or 25.

The Authority reiterates that, as set out Regulations 24(3) and 25(3), the regulated entity relying on an EI or Nominee retains ultimate responsibility for compliance with the customer due diligence requirements under the AMLRs.

4. CIMA On-Site Inspections

CIMA has issued a report dated July 12, 2022 noting the key findings of their on-site inspections of persons registered under the Securities Investment Business Act ("SIBA").

Notable deficiencies were found relating to:

- (a) AML/CFT policies and procedures;
- (b) Customer due diligence ("CDD") and ongoing monitoring programmes;
- (c) Employee training and awareness programmes;
- (d) Oversight of outsourced AML/CFT compliance functions;
- (e) Implementation of an independent and effective risk-based AML/CFT audit function;
- (f) Governance oversight of the AML/CFT compliance function by the Board of Directors ("Board") or its equivalent;

- (g) Internal reporting policies and procedures;
- (h) Assessment of risk and application of a risk-based approach ("RBA"); and
- (i) Record keeping policies and procedures.

5. CIMA Supervisory Issues and Information Circular on Climate Change, Environmental, Social and Governance ("ESG") and Sustainability for Regulated Insurance Entities

CIMA has issued an update dated July 11, 2022 to all regulated insurance entities noting that there is a growing need for insurers to better understand the impact of related climate and ESG risks in their risk management and corporate governance frameworks.

6. DITC Enforcement Guidelines

On March 31, 2022 DITC advised that Enforcement Guidelines in respect of the Common Reporting Standard ("CRS") and Economic Substance ("ES") frameworks have been issued by the Tax Information Authority ("TIA").

Both Guidelines should be read in conjunction with the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (as revised) ("CRS Regulations") and the International Tax Co-operation (Economic Substance) Act (as revised) ("ES Act"), which are available on the DITC website.

In the event of query, please contact your CRS/FATCA service provider.

7. Trends

We would like to remind our clients to consider:

1. **Environmental crime indicators**, specifically in relation to the following sectors:
 - a. Commodities including country risk across the origin of commodities
 - b. Forestry, mining, waste related services, trade finance, gold and precious metals
2. Transaction and portfolio level exposure, particularly in light of the current exposure to Russia
3. Transaction flows to circumvent Russian sanctions, including through virtual assets

8. Useful dates and reminders

July 31 Deadline for CRS and FATCA reporting for all Financial Institutions. In the event of query, please contact your CRS/FATCA service provider.

September 1

Date by which strike off application must be submitted for an entity to be dissolved on 31 December 2022

September 15

CRS Compliance Form must be submitted for the 2021 reporting year. In the event of query, please contact your CRS/FATCA service provider.

November 1

Date by which a strike off application must be submitted for an entity to avoid 2023 fees

December 31

Documentation must be filed with CIMA by this date to have its status changed to “license under termination” or “license under liquidation” to qualify for a reduction or avoid the annual fees payable to CIMA in 2023.

How Apex can help

1. Assistance with developing and monitoring virtual assets Business Risk Assessments
2. Supply chain & vendor diligence solutions
3. Managed due diligence- investee/ portfolio level diligence solutions
4. Apex ESG AML Business Risk Assessments
5. Apex ‘Green KYC’ Policies and Procedures
6. Apex ESG Training Modules
7. AML/CFT Training

Staying ahead

If you think any of your colleagues would also find this information useful, they can subscribe to our updates [here](#).

Apex Group has also created an interactive hub that allows you to easily keep track of the regulatory and compliance updates that matter, both past and present. You can access our Global Regulations Tracker [here](#).

For further information about our compliance services, please [contact the team here](#).

Useful links

[The Anchor - May 2022 \(cima.ky\)](#)

[EU Confirms No Additional AML/CFT Measures for Cayman | OFFICIAL SITE: Ministry of Financial Services and Commerce, Cayman Islands Government \(mfs.ky\)](#)