

UPDATE

Top tips for responding to a CIMA onsite inspection

In this update, we consider how to best to approach responding to an onsite inspection by the Cayman Islands Monetary Authority (**CIMA**). Based on our Regulatory Team's substantial experience of such inspections, we provide ten easily manageable and highly effective 'top tips' to help ensure that a licensee is adequately prepared for an onsite inspection.

Introduction

CIMA has the power to, and regularly conducts, supervisory onsite inspections of licensees' and regulated entities' (together, **licensees**) business operations, both in the Cayman Islands and abroad. The objective of conducting onsite inspections is to enable the CIMA to '*understand the licensee's business activities and operating environment, to detect problems of compliance with the relevant acts and/or regulations, and to gather information on matters identified as requiring policy considerations*'.¹ Accordingly, onsite inspections are a key mechanism by which CIMA can identify non-compliance by a licensee with applicable laws and regulations.

Onsite inspections may be full scope, involving a review of all areas of the licensee's operations, or they may be targeted to specific areas, such as the adequacy of a licensee's anti-money laundering (**AML**) and counter the financing of terrorism (**CFT**) systems, policies and procedures.

In a complex and frequently changing regulatory environment, adhering to the evolving requirements can be challenging. However, the commercial and reputational risks of failing to do so can be very serious, including the risk of financial penalty and damage to reputation.

Following an onsite inspection, if CIMA determines that a licensee's systems, policies and procedures fail to adhere to the required standard, CIMA may:

- compel a licensee to undertake remedial measures within a specified timeframe;
- suspend or revoke a licence; and/or
- impose an administrative fine.²

CIMA will also publicise any formal disciplinary action taken. It is important, therefore, to be adequately prepared for an onsite inspection.

Top tips to ensure adequate preparation for an onsite inspection

Don't wait for an inspection notice

1. **Review and test systems, policies and procedures.** To adequately prepare for future inspections, it will ordinarily be helpful to schedule and undertake a 'deep dive' review of applicable systems, policies and procedures.

¹ See <https://www.cima.ky/about-division>.

² For more detail, see the Mourant [Cayman Islands Administrative Fines Regime Guide](#).

Ongoing monitoring, review and assessment is an important component of Cayman's AML/CFT regulatory requirements, so a licensee may consider engaging an independent service provider to conduct an independent review, dependent upon the size and nature of the business. Ongoing review and assessment assists in ensuring that the licensee's systems, policies and procedures are targeted, remain current and address any changes to applicable laws and regulations, as well as to personnel and other internal matters. Ensure that the systems, policies and procedures have been properly implemented across the business and efficiently address any identified deficiencies in implementation.

2. **Take remedial action.** If deficiencies are identified, whether as part of a scheduled review or otherwise, ensure that they are brought to the attention of senior management and that any remedial action is authorised and implemented.

Cooperate and define parameters of inspection

3. **Clarify the parameters of the inspection.** Upon receiving notification that an onsite inspection will take place, it may be helpful to clarify with CIMA:
 - the manner in which the inspection will occur, including whether it will be a desktop inspection through an electronic review of policies and procedures or conducted physically on-site, or a hybrid of both; and
 - whether CIMA intends on interviewing any personnel and, if so, whom.
4. **Cooperate.** Care should be taken to be as open and cooperative with CIMA as possible during the inspection. A history of cooperation and compliance during inspections may be a mitigating factor if CIMA identifies any non-compliance with applicable laws and regulations and therefore has to decide what type of action to pursue, whether to require remedial measures to be undertaken and/or to levy penalties, including administrative fines.

Communications

5. **Brief senior management and employees.** Once the parameters of the onsite inspection are clear, brief senior management and employees in relation to how CIMA will conduct the inspection. In advance of the onsite inspection, it may be helpful to discuss any potential concerns on the part of management and employees, as these concerns may identify underlying issues that need to be addressed with CIMA.
6. **External communications.** In discussion with senior management, appoint a single person as an 'external point-person' through whom correspondence and dialogue with CIMA will be carried out. Ensure that CIMA is aware of who this person is and how to contact them. Ensure that employees know who this person is and understand that all correspondence with CIMA will be conducted by the external point-person. Appointing an external point-person and clearly defining their role will enable the licensee to:
 - control and contain the correspondence with CIMA;
 - avoid crossed-wires and inconsistent or incorrect communications; and
 - ensure that any legally privileged material is appropriately managed.
7. **Internal communications.** In discussion with senior management, appoint an 'internal point-person' with whom employees and management can speak with about any concerns or questions they have in relation to the onsite inspection. This is often the same person as the external point person but does not have to be. The internal point person and external point person should work closely and collaboratively to ensure that internal and external communications in relation to the inspection are aligned and streamlined.

Organisation of documentation

8. **Document preservation protocol.** Issue a document protocol to all employees and officers which mandates that:
 - there shall be no document destruction or concealment by any employee;
 - copies of any documents requested by CIMA are provided through the external point person only, to ensure consistency and to accurately verify that all material requested by CIMA has been provided; and
 - any legally privileged material is appropriately managed.

9. **Document exchange protocol.** Agree a protocol for the exchange of documents with CIMA. For example, transfer via electronic secure file transfer and the naming protocol of documents sent to CIMA. This will help to efficiently organise and track the material produced to CIMA. If and when necessary, clarify with CIMA the extent of any request for documents, for example, whether production of a copy of a policy includes only the current version of the policy or earlier versions as well.
10. **Develop and document a communications tracker.** Create a communications tracker to record details of:
 - all conversations with CIMA; and
 - all documents and other information provided to CIMA, together with the date and method of production.

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