

mourant

mourant

Regulatory Update

Cayman – Q2 2024

[mourant.com](https://www.mourant.com)

Quick Fire Updates

1. EU AML delisting process completed

Following the removal of the Cayman Islands from the FATF grey list on 27 October 2023, the Cayman Islands was also removed from the European Union's list of high risk third countries for AML/CFT purposes with effect from 7 February 2024.

For further details, please see our [Update](#).

2. Beneficial ownership technical guidance for industry

On 15 March 2024, the Competent Authority for Beneficial Ownership issued technical guidance to industry stakeholders outlining how beneficial ownership filing of the new CSV files will be completed when the Beneficial Ownership Transparency Act, 2023 (the **Act**) comes into force. The CSV technical guidance will be available on the corporate administration portal (**CAP**) once the Act and regulations commence. As to timing, we are expecting the Act to be in force from May 2024, with enforcement of the new data fields to apply from 1 January 2025.

Regulations and general guidance on beneficial ownership obligations are expected to be issued for industry consultation imminently.

For more information on the beneficial ownership changes being introduced by the Act, please see our [Update](#).

3. Mourant Regulatory Conference

On 29 February 2024, Mourant held its annual Regulatory Conference at the Kimpton Seafire Resort, Grand Cayman. The conference included an opening message from Her Excellency the Governor, Jane Owen, a conversation with the Department for International Tax Cooperation (**DITC**), a session on cross-border regulatory issues, a strategy update from the Cayman Islands Monetary Authority (**CIMA**) and a presentation on the incoming changes to the Cayman Islands beneficial ownership regime.

See our summary of the Top 'take-aways' from the Regulatory Conference [here](#).

4. Companies Act amendments

The Companies (Amendment) Act, 2024 was gazetted on 11 March 2024 and, once in force, will amend the Companies Act to:

- vary the procedure for the reduction of share capital, in certain circumstances, to lower the costs for companies and make the process faster and more efficient;
- permit the repurchase or redemption of fractional shares;
- offer more flexibility for Cayman Islands structures by permitting a limited liability company or a foundation company to convert to an exempted company; and
- enable a foreign body corporate without a share capital to apply to be registered by way of continuation as a Cayman Islands exempted company.

The Amendment Act is expected to come into force in a phased approach. We will issue further updates as the various provisions come into effect.

For further details, please see our [Update](#).

5. CRS Date of Birth information: Industry reminder

On 22 March 2024, the DITC issued an [Industry Advisory](#) reminding industry that the date of birth (**DoB**) information for all individuals who are Reportable Persons (ie, both Account Holders and Controlling Persons) under the CRS is required to be reported, where the Financial Institution (**FI**) holds this information within its records.

The DITC expects an FI to hold DoB information in its records (irrespective of whether the account is a pre-existing account under the CRS) due to its AML obligations.

The Advisory notes that FIs must ensure that the correct DoB is provided for all individual Account Holders and Controlling Persons in CRS XML Returns for the 2023 Reporting Period (for which the deadline to report is 31 July 2024), and that a failure to include the DoB may result in compliance and enforcement action being taken against the FI.

The [Updates Bulletin](#) published by the DITC in March 2024 also notes this requirement and provides a useful [Explanatory Note](#)

6. Incoming changes to AMLRs

We are expecting changes to the Cayman Islands Anti-Money Laundering Regulations (2023 Revision) (the **AMLRs**) to be in front of Cabinet in the next few weeks. In summary, the main anticipated changes include:

- changes to include references to proliferation financing (in addition to money laundering and terrorist financing);
- reduction to the minimum one-off transaction value; this has been reduced from CI\$15,000 to CI\$10,000 (as this more closely aligns to the USD/EUR15,000 threshold required by the FATF);
- provisions relating to batch transfers of virtual assets and Designated Non-Financial Business and Professions (**DNFBPs**); and
- changes to regulation 8 (Assessment of risk).

7. Amendments to the Proceeds of Crime Act

The Proceeds of Crime Act (Amendment) Act, 2023 came partially into force on 31 January 2024, with the remaining provisions coming into force on 30 April 2024.

The amendments to the Proceeds of Crime Act (2024 Revision):

- reform the provisions relating to intelligence gathering and sharing, and investigations;
- provide protection against liability for persons appointed as supervisory authorities;
- ensure that the Proceeds of Crime Act conforms to international best practices; and
- modernise the conduct of prosecutions, which includes clarifying the evidential basis on which it may be shown that property is criminal property or is obtained through unlawful conduct.

Quick Fire Updates

8. Upcoming compliance deadlines

The DITC [Updates Bulletin](#) for March 2024 includes the following reminder of CRS and FATCA reporting deadlines, noting that the DITC Portal is open for 2023 CRS and FATCA XML uploads.

| Reporting obligation | Deadline |
|--|--------------------|
| Registration (Notification) | 30 April 2024 |
| 2023 CRS Reporting | 31 July 2024 |
| 2023 CRS Filing Declaration (Nil return) | 31 July 2024 |
| 2023 FATCA Reporting | 31 July 2024 |
| 2023 CRS Compliance Form | 16 September 2024* |

*Additional day added as the 15 September 2024 falls on a Sunday.

9. CIMA Climate Survey Circular

On 7 February 2024, CIMA launched a survey focussing on climate change and environmental-related risks. The survey was extended to all CIMA-regulated entities, including licensees and registrants, and the deadline for submission of the survey was 31 March 2024.

The objective behind the survey was to gather insight into the strategies, practices and challenges associated with climate change and environmental risk and their management by the financial services industry.

10. Changes to Russia sanctions regime

From 14 March 2024 onwards, Cayman Islands entities will be able to apply for a licence under a new Part 1ZA of Schedule 5 to the Russia (Sanctions) (EU Exit) Regulations, 2019 (as amended and extended to the Cayman Islands with modifications).

This new Part 1ZA provides two new licensing grounds or 'derogations' permitting the divestment of assets, namely:

- to facilitate a 'relevant transfer', meaning a transfer of funds or economic resources which are owned, held or controlled by the Cayman Islands entity but located in Russia, where those assets are transferred to a 'person concerned' (ie, the Government of Russia or a designated person) in order to facilitate the divestment of those assets; and
- to allow action to be taken by a Cayman Islands entity in order to enable another person to undertake a relevant transfer.

In certain circumstances, these new derogation grounds may also be used by a Cayman Islands entity to take the action required to acquire an interest in that entity from a person concerned.

11. Merchant Shipping Act, 2024

The Merchant Shipping Act, 2024 came into force on 11 March 2024, replacing the previous Merchant Shipping Act (2021 Revision), to bring the jurisdiction in line with international maritime standards and satisfy recommendations from the International Maritime Organization. It also provides clarification

and simplification on administrative processes undertaken by the Maritime Authority of the Cayman Islands.

12. AML Guidance Notes updated

On 16 February 2024, updated [Guidance notes on the prevention and detection of money laundering and terrorist financing in the Cayman Islands](#) were issued. The amendments to the previous version relate to the Sector Specific Guidance for Virtual Asset Service Providers in Part IX.

13. Cayman's history of cooperation

On 26 March 2024, the Ministry of Financial Services and Commerce published a [Cooperation Timeline](#) showing the Cayman Islands' long history of international cooperation, including significant enhancements to the Cayman Islands financial services industry.

14. Rule and Statement of Guidance: Nature, Accessibility and Retention of Records for Company Management Licensees

The [Rule and Statement of Guidance](#) on Nature, Accessibility and Retention of Records for Licensees Conducting the Business of Company Management (the **Measure**), which was issued by CIMA in August 2023, came into force in relation to pre-existing licensees on 1 April 2024. The Measure came into effect immediately upon publication in August 2023 in respect of new licensees.

The Measure now applies to all licensees under the following laws which conduct the business of company management:

- Banks and Trustee Companies Act
- Companies Management Act
- Mutual Funds Act
- Insurance Act.

15. Rule and Regulatory Policy on Domestic Systemically Important Deposit Taking Institutions

CIMA introduced a [Rule](#) on Domestic Systemically Important Deposit Taking Institutions (**D-SIDTIs**) in May 2023. This Rule, together with a new [Regulatory Policy](#) on D-SIDTIs will take effect on 27 May 2024.

The Rule imposes a higher loss absorbency requirement (a surcharge over the minimum regulatory capital requirement) on those deposit taking institutions designated by CIMA as D-SIDTIs pursuant to the Regulatory Policy.

D-SIDTIs may also be made subject to restrictions on discretionary distributions communicated by CIMA pursuant to the Regulatory Policy, as well as additional reporting obligations.

Quick Fire Updates

16. Rule and Statement of Guidance: Reinsurance Arrangements

CIMA's [Rule and Statement of Guidance](#) on Reinsurance Arrangements, which was published in May 2023, will become effective on 27 May 2024.

This Rule and Statement of Guidance applies to all insurers and registered portfolio insurance companies, supervised by CIMA under the Insurance Act, which use outward reinsurance.

17. CIMA Supervisory Circular - AML/CFT Remediation

A [Supervisory Circular](#) on AML/CFT remediation was published by CIMA on 29 December 2023.

The Circular clarifies how the CIMA monitors AML/CFT remediation by financial service providers (**FSPs**) and sets out the key elements of a successful remediation plan. FSPs are advised to use the Circular to strengthen their respective compliance programmes and ensure that any remediation plans they deploy are effective and adequate to meet their regulatory requirements.

18. 2024 Revision laws

In February of this year, consolidated 2024 revisions of various Cayman acts were gazetted, including the following revised financial services legislation:

- Companies Management Act (2024 Revision)
- International Tax Co-operation (Economic Substance) Act (2024 Revision)
- Money Services Act (2024 Revision)
- Partnership Act (2024 Revision)
- Proceeds of Crime Act (2024 Revision)
- Virtual Assets (Service Providers) Act (2024 Revision).

19. Mourant Guides and Updates

Mourant has uploaded the following Updates and Guides to our website over the last quarter:

- [Key fund trends and takeaways from the 22nd Annual International Conference on Private Investment Funds](#)
- [Further enhancements to Cayman Islands companies law introduced](#)
- [Top 'take-aways' from the 2024 Mourant Regulatory Conference](#)
- [Cayman Islands Fund Finance Report 2023](#)
- [Investment funds in the Cayman Islands](#)
- [Mutual funds in the Cayman Islands](#)
- [Cayman Islands: Foundation Companies](#)
- [Cayman Islands: Trusts](#)
- [Registration of aircraft in the Cayman Islands](#)
- [Soaring ahead: Exploring the latest trends and developments in aircraft finance](#)

Contacts



Hector Robinson KC
Partner
Mourant Ozannes (Cayman) LLP
+1 345 814 9114
hector.robinson@mourant.com



James Broad
Partner
Mourant Ozannes (Hong Kong) LLP
+852 3995 5722
james.broad@mourant.com



Sara Galletly
Partner
Mourant Ozannes (Cayman) LLP
+1 345 814 9233
sara.galletly@mourant.com