

LEGAL INSIGHTS

Registered Persons: Key Findings from On-site Inspections by CIMA.

The Cayman Islands Monetary Authority (“CIMA”) in December 2020 published its preliminary findings from on-site inspections (“**Inspections**”) conducted of Registered Persons (“**RPs**”) as defined pursuant to schedule 4 and section 5(4) of the Securities Investment Business Act (“**SIBA**”). RPs cover Cayman Investment Advisors, Investment Managers, Securities Brokers, Deal Arrangers, and Market Makers. CIMA identified key areas of weakness across anti-money laundering (“**AML**”), countering the financing of terrorism (“**CFT**”), countering proliferation financing (“**CPF**”) and targeted financial sanctions (“**Sanctions**”) (together, “**AML/CFT**”) compliance.

CIMA reminded all RPs of their regulatory obligations to adhere to Cayman legislation, regulatory rules and/or statements of guidance, and to ensure that their own policies, procedures, systems, and controls are of the appropriate standard.

Summary of overall findings across all RPs

CIMA's review of the RPs' adequacy and effective implementation of their AML/CFT programmes including policies and outsourced AML/CFT functions revealed the following weaknesses:

- i. **AML/CFT policies and procedures:** 79% of the RPs inspected indicated weaknesses in the development and maintenance of policies and procedures appropriate for the nature, size, and complexity of their business.
- ii. **CDD and ongoing monitoring documentation:** 50% of the RPs inspected indicated weaknesses in their CDD and ongoing monitoring programmes to evidence that the customer documents, data, or information collected are kept current and relevant.
- iii. **Outsourced AML/CFT compliance functions:** 33% of the RPs inspected indicated weaknesses in their outsourcing policies, procedures, and risk assessments.
- iv. **Employee training and awareness programme:** 33% of the RPs inspected indicated weaknesses in their training and awareness programmes to evidence that their employees are aware of their regulatory obligations.
- v. **Assessing risk and application of a RBA:** 25% of the RPs inspected indicated weaknesses in assessing risk and applying a RBA relative to their identified AML/CFT risks.
- vi. **Oversight of compliance function:** 25% of the RPs inspected indicated weaknesses in the oversight of the compliance function by their Board or equivalent.
- vii. **Internal reporting:** 21% of the RPs inspected indicated weaknesses in either designating an independent Money Laundering Reporting Officer (“**MLRO**”) without vested interests in the underlying business activity or reporting suspicious activity.
- viii. **Independent AML/CFT Audit Function:** 17% of the RPs inspected indicated weaknesses in establishing an effective independent risk-based audit function to perform periodic AML/CFT audits.
- ix. **Record keeping policies and procedures:** 13% of the RPs inspected indicated weaknesses in their records management system to evidence that all relevant records are appropriately maintained and readily accessible to the Authority.

Whilst the laws and regulations governing RPs have not changed in any substantive sense in 2021, we have seen a more activist approach by CIMA to contact RPs and request documents (e.g. AML policies and procedures and corporate governance policies and procedures). Service providers such as banks also appear more alert to requesting and obtaining confirmation that RPs are in compliance with Cayman Islands laws and regulations.

For specific legal advice and guidance on ensuring that your Cayman Investment Manager and/or Investment Advisor complies with Cayman Islands AML and other regulatory requirements, please contact any of:

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