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Regulatory Update

Caribbean – Q1 2024

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Quick Fire Updates

BVI UPDATES

1. BVI removed from the EU list of non-cooperative jurisdictions for tax purposes

Following a meeting of the European Union (EU) Economic and Financial Affairs Council (ECOFIN) on 17 October 2023, the BVI was removed from the EU's list of non-cooperative tax jurisdictions (Annex I).

The BVI's removal from Annex I reflects the amendment of the framework on exchange of information on request. The BVI will now be reassessed in accordance with the OECD framework and, pending this reassessment, has been included in the state of play document (Annex II). See our [Update](#) and the BVI Government [Press Release](#) for more information.

2. General Licence [No.05], 2023 – Payment of reasonable professional legal fees and expenses

On 13 October 2023, the Governor's Office of the Virgin Islands issued [General Licence \[No.05\], 2023](#) (Payment of reasonable professional legal fees and expenses) under regulation 64 of The Russia (Sanctions) (EU Exit) Regulations, 2019 (as extended to the BVI with modifications, the [Russia Regulations](#)) and regulation 32 of The Republic of Belarus (Sanctions) (EU Exit) Regulations, 2019 (as extended to the BVI with modifications, the [Belarus Regulations](#)).

This licence means that BVI legal practitioners who provide legal advice to a person designated under either the Russia Regulations or the Belarus Regulations will not require a specific licence from the Governor to receive payment, provided that the terms set out in the licence are met.

The term of the licence is six months (expiring on **24 April 2024**) and anyone relying upon the permissions granted by the licence must report in the prescribed form. See the [Publication Notice](#) issued by the Governor's Office for more detail.

3. Call for registration of BVI DNFBPs

On 9 November, the Financial Investigation Agency (the [Agency](#)) issued a [Public Notice](#) reminding designated non-financial businesses and professions ([DNFBPs](#)) to register with the Agency.

This requirement applies to DNFBPs conducting relevant business, including:

- legal practitioners, notaries public or accountants;
- real estate agents;
- dealers in precious metals or precious stones; and
- persons engaged in the business of buying and selling boats, vehicles, jewellery or other high value goods such as furniture, machinery and art.

Failure to register with the Agency may result in the imposition of penalties.

4. Reminder: 2024 licence fee payment deadlines

The 2024 annual licence fees for licences issued under BVI financial services legislation are due and payable by the deadlines indicated below:

Legislation	2024 annual fee due
Banks and Trust Companies Act	On or before 31 January 2024
Company Management Act	On or before 31 January 2024
Financing and Money Services Act	On or before 31 January 2024
Financial Services Commission Act (re: Corporate Compliance Officers)	On or before 31 January 2024
Insurance Act	On or before 28 February 2024
Insolvency Act	On or before 31 March 2024
Securities and Investment Business Act	On or before 31 March 2024

It should also be noted that most annual fees increased with effect from 1 April 2023 pursuant to the [Financial Services \(Fees\) \(Amendment\) Regulations, 2023](#). Fees must be paid in full on or before the applicable deadline to avoid late penalty filing fees. However, if a due date falls on a public holiday or a weekend, the BVI Financial Services Commission (FSC) will accept fees on the next business day without imposing any penalties.

See our [BVI Key Filing Dates 2024](#) update for more information regarding filing obligations in the BVI.

5. Joint declaration – Closer collaboration between the UK and the British Overseas Territories

The UK Government and elected leaders of the British Overseas Territories (OTs), including the BVI, issued a [Joint Declaration](#) in December 2023.

As part of the Joint Declaration, the UK and the OTs committed to:

- improve transparency and deepen bilateral partnerships;
- consult OTs on UK primary legislation that impacts them; and
- support OTs to take on more responsibilities where they wish to do so.

The Joint declaration was agreed during the UK and OTs annual Joint Ministerial Council meeting held in London in November 2023.

6. Press release – Public beneficial ownership registers

On 8 December 2023, the Ministry of Financial Services, Labour and Trade issued a [Press Release](#) confirming that the Government of the BVI will continue to:

- design and build systems to deliver on its commitment to implement publicly accessible registers of beneficial ownership (PARBOs) consistent with the EU's Fifth Anti-Money Laundering Directive, but subject to applicable human rights obligations; and

Quick Fire Updates

- engage with the UK and other partners on evolving regional, international and global standards and best practices in implementing PARBOs.

7. Press release – Status of CFATF evaluation

On 8 December 2023, the Ministry of Financial Services, Labour and Trade issued a [Press Release](#) confirming the status of the BVI's mutual evaluation assessment by the Caribbean Financial Action task Force (CFATF), the regional body of the Financial Action Task Force (FATF).

The mutual evaluation took place in March 2023 and will measure the BVI's compliance with the FATF's recommendations and the effectiveness of its anti-money laundering and terrorist financing framework. Publication of the mutual evaluation report is anticipated in January 2024.

8. BVIFars payment portal going live in January 2024

The BVI's International Tax Authority (ITA) issued a [Notice](#) on 6 December 2023 announcing that the BVIFars payment portal will become live in January 2024.

Each entity enrolled in BVIFars must pay an annual fee of US\$185. The deadline for payment of the annual fee is **1 June 2024** and 1 June of each year thereafter to ensure continued use of the portal.

Entities with valid pending de-registrations in the portal prior to 1 January 2024 will be exempt from payment of the annual fee.

See our [BVI Key Filing Dates 2024](#) update for more information regarding filing obligations in the BVI.

9. Reminder – Accurate and up-to-date CRS information

The Ministry of Finance issued a [Press Release](#) on 15 November 2023 requesting BVIFars users with reporting obligations under the Common Reporting Standard to ensure that they file accurate and up-to-date information. In particular, BVI financial institutions are being asked to ensure that their profile reflects the reporting entity type and entity classification.

For more information regarding the BVI and the Common Reporting Standard, see our [Update](#).

10. ITA administrative penalties

The [International Tax Authority \(Administrative Penalties\) Regulations 2023](#) (the [ITA Regulations](#)) were gazetted on 1 December 2023 and came immediately into force, revoking the [International Tax Authority \(Administrative Penalties\) Regulations, 2022](#).

The ITA Regulations also now empower the ITA to impose continuing penalties of US\$50 for each day a contravention continues and set out the details to be included in a penalty notice for an administrative penalty or a continuing penalty.

11. Virgin Islands Shipping and Maritime Authority Act

The Virgin Islands Shipping and Maritime Authority Act 2023 came partially into force on 15 December 2023 to begin the establishment of the Virgin Islands Shipping and Maritime Authority.

12. FSC Newsletter: December 2023

The recently published [BVI FSC Newsletter: December 2023](#) included the following headlines:

- BVI FSC hosts stakeholder meetings in Hong Kong 9-13 October 2023
- BVI FSC to host regional conferences in 2024
- Intellectual property: A Buy BVI Trade Show recap
- BVI FSC contributes to Regional World Investor Week Showcase
- Successful Meet the Regulator Forum leaves attendees eager for more
- New Official Receiver appointed
- 2024 Annual fees - Due dates for all regulated entities

13. ITA Notice – Local company filings

The ITA issued a [Notice](#) on 31 October 2023 informing the public that local companies may make an application directly to the ITA for a certificate confirming exclusion from reporting obligations under the BVI's Mutual Legal Assistance legislation (including reporting for economic substance purposes).

Local company is defined as meaning any company or limited partnership who can demonstrate to the ITA that they have no tax liabilities arising outside of the BVI.

14. Red Alert – Exporting high risk goods

In December 2023, the National Economic Crime Centre issued a [Red Alert](#) with the aim of promoting awareness of common techniques suspected to be in use to evade sanctions on the export of high risk goods, which Russia is using on the battlefield in Ukraine.

15. Trade Mark Fundamentals brochure

On 8 November 2023, the FSC issued a [Trade Mark Fundamentals](#) brochure to enable businesses to become more aware of trade mark protections available through BVI financial services legislation.

16. Mourant Guides and Updates

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

- [Registration of Overseas Entities holding UK Property](#)
- [BVI Key Filing Dates 2024](#)
- [The British Virgin Islands and the Common Reporting Standard](#)
- [BVI removed from the EU list of non-cooperative jurisdictions for tax purposes](#)
- [What you need to know about the regulation of investment business in the BVI](#)
- [Guide to the continuing obligations of a BVI investment business licensee](#)
- [Continuation by a BVI company to a foreign jurisdiction](#)

CAYMAN UPDATES

17. Cayman Islands removed from the FATF grey list and UK AML list

On 27 October 2023, the Cayman Islands was removed from the Financial Action Task Force's (FATF) list of jurisdictions under increased monitoring in the area of anti-money laundering and countering the financing of terrorism and proliferation financing (AML/CFT/CPF), commonly referred to as the FATF 'grey list'.

See our [Update](#) and the [Media Release](#) issued by the Ministry of Financial Services and Commerce for more details.

Following the FATF delisting, the UK Government officially removed the Cayman Islands from its list of high-risk third countries for AML/CFT/CPF purposes as of 5 December 2023. See the [HM Treasury Advisory Notice](#) for more detail.

18. EU AML delisting process commenced

Following the removal of the Cayman Islands from the FATF grey list, the EU Commission published a draft [Delegated Regulation \(EU\)](#) on 12 December 2023, which would amend Delegated Regulation (EU)2016/1675 regarding the removal of the Cayman Islands from its list of high-risk third countries with strategic AML/CFT deficiencies, commonly referred to as the 'EU AML list'.

See the related [Media Release](#) issued by the Ministry of Financial Services and Commerce on 15 December 2023 for more detail.

19. Joint declaration – Closer collaboration between the UK and the British Overseas Territories

The UK Government and elected leaders of the British Overseas Territories (OTs), including the Cayman Islands, issued a [Joint Declaration](#) in December 2023.

As part of the Joint Declaration, the UK and the OTs committed to:

- improve transparency and deepen bilateral partnerships;
- consult OTs on UK primary legislation that impacts them; and
- support OTs to take on more responsibilities where they wish to do so.

The Joint declaration was agreed during the UK and OT annual Joint Ministerial Council meeting held in London in November 2023.

20. Cayman proactively advances its beneficial ownership framework

On 15 December 2023, the Ministry of Financial Services and Commerce issued a [Media Release](#) reaffirming the commitment made to the UK in 2019 regarding the introduction of publicly accessible registers of beneficial ownership information.

This Release notes that the Cayman Islands are working towards providing access to those members of the public who meet the 'legitimate interest test' required by the judgment of the Grand Chamber of the European Court of Justice (EUCJ) dated 22

November 2022 (WM (C-37/20 and Sovim SA (C-601-20) v. Luxembourg Business Registers), which held that a scheme for a public register of beneficial ownership offended the right to private life under the EU Charter of Fundamental Rights. It is anticipated that the enhanced beneficial ownership framework will be introduced no later than Q4 2024.

21. Beneficial Ownership Transparency Act gazetted

The Beneficial Ownership Transparency Act was gazetted on 15 December 2023, along with nine related amendment bills. The new package of legislation is expected to come into force in a phased approach over the course of 2024.

For further details, see our recent [Update](#) and the previous [Quarterly Regulatory Update](#).

22. Registry fee increases

With effect from **1 January 2024**, various General Registry fees for Cayman Islands entities will increase. Some of the key fee increases are set out in the tables below:

Company fees	New fee
Annual fee payable by an exempted company (with authorised share capital not exceeding US\$50,000)	US\$1,006
Registration of a foreign company	US\$1,829
Annual fee payable by a registered foreign company	US\$1,890
Fees payable by a segregated portfolio company in respect of each segregated portfolio	US\$488 up to a max of US\$7,317
Limited liability company fees	New fee
Registration fee	US\$1,098
Annual fee	US\$1,220
Exempted limited partnership fees	New fee
Registration of a foreign limited partnership	US\$1,829

From 1 Jan 2025, the annual fee for a registered foreign limited partnership will also increase to US\$1,890.

23. VASP 2024 annual renewal fees

CIMA issued an [Industry Notice](#) on 17 November 2023 advising all registered virtual asset service providers (VASPs) that their 2024 annual renewal fee would be the same amount as the fee paid at the time of registration.

The deadline for payment of annual renewal fees with CIMA is **15 January 2023**.

24. Supervisory Information Circular – Non-Face-to-Face CDD measures

On 9 November 2023, CIMA issued a [Supervisory Information Circular](#) relating to Non-Face-to-Face Customer Due Diligence Measures. This Circular relates to the changes effected to the Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing and Proliferation Financing in the

Quick Fire Updates

Cayman Islands in August 2023 to incorporate e-KYC and remote CDD/ongoing monitoring provisions.

See our [Q4 2023 Update](#) for more detail regarding the changes made to the Guidance Notes.

25. Regulated investment funds – changes to available investment strategy selections

Effective 15 November 2023, certain changes were made to the 'Investment Strategy' selections available within the REEFS portal of the Cayman Islands Monetary Authority (CIMA).

The aim behind the changes is to improve reporting accuracy and enhance CIMA's monitoring capability. The changes made include the following:

Removed from the Investment Strategy list

- Private Equity
- Other

Added to the Investment Strategy list

- Absolute Return
- Capital Structure Arbitrage
- Convexity
- Derivatives Trading
- Energy/Power
- Equity Hedged
- Equity Long Only
- Fund of Private Equity Funds
- Growth Equity/Growth Capital
- Infrastructure
- Leveraged Buyout (LBO)
- Long-Only Absolute Return
- Private Credit
- Quantitative
- Secondaries

The revised Investment Strategy list applies to both mutual funds and private funds and is applicable to fund registration applications made on or subsequent to 15 November 2023 and annual fund annual return (FAR) filings relating to financial years ending 31 December 2023 and thereafter.

26. General Licence 2023/0003 – Legal Services issued

On 15 November 2023, the Governor of the Cayman Islands issued [General Licence 2023/0003](#) under regulation 64 of the Russia (Sanctions) (EU Exit) Regulations, 2019 (as extended to the Cayman Islands with modifications, the **Russia Regulations**) and regulation 32 of the Republic of Belarus (Sanctions) (EU Exit) Regulations, 2019 (as extended to the Cayman Islands with modifications, the **Belarus Regulations**).

This licence means that Cayman Islands legal practitioners who provide legal advice to a person designated under either the Russia Regulations or the Belarus Regulations will not require a specific licence from the Governor to receive payment, provided that the terms set out in the licence are met.

The term of the licence is six months (expiring on **15 May 2024**) and anyone relying upon the permissions granted by the licence must report in the prescribed form.

27. General Licence 2022/0001 – Relevant Investment Fund or Fund Manager

On 6 October 2023, the Cayman Islands Financial Reporting Authority issued a [Publication Notice](#) providing that General Licence GL/2022/0001 was further amended to extend to **6 October 2024**.

General Licence GL/2022/0001 allows a 'Relevant Investment Fund' or 'Fund Manager' to redeem, withdraw or otherwise deal with an Investment Interest and make payments for basic needs, routine holding and maintenance and legal fees from frozen accounts.

28. FRA fraud alerts

The Cayman Islands Financial Reporting Authority (FRA) has recently issued the following fraud alerts:

- [Pig butchering fraud](#) (5 October 2023)
- [Business email compromise](#) (10 October 2023)

29. UK National Crime Agency Red Alerts

On 8 November 2023, the FRA issued a [Public Notice](#) relating to a [Red Alert](#) issued by the UK's National Crime Agency (NCA) warning that Russia is using gold as a means to undermine the impact of the UK sanctions regime.

The NCA's [Press Release](#) reports that gold exported from Russia since 21 July 2022 is increasingly being shipped to countries that do not apply sanctions on Russian gold. Once melted down and recast or refined, the origin of gold cannot be determined by examination, as any hallmarks are lost. Imports of mined gold can also be easily disguised. By masking the origin, new Russian gold can then be sold on to another country who may be unaware of the true origin, circumventing UK sanctions.

On 6 December 2023, the NCA issued a [Red Alert](#) in relation to exporting high risk goods. The Alert provides information to businesses on common techniques suspected to be in use to evade sanctions on the export of high-risk goods, which Russia is using on the battlefield in Ukraine. The primary audience for this alert is the financial sector.

30. Cayman Islands to implement CARF

On 10 November 2023, the Department for International Tax Cooperation (DITC) issued an [Industry Advisory](#) noting that the Cayman Islands is one of 48 jurisdictions endorsing a collective engagement to implement the Crypto-Asset Reporting Framework (CARF). CARF is a new OECD global standard for the automatic exchange of information on crypto assets.

It is anticipated that the first exchanges of information under CARF will be made in 2027, though amendments will be made to the Common Reporting Standard (CRS) prior to this timeframe to

Quick Fire Updates

ensure CARF's consistency with CRS and to facilitate CARF's orderly implementation.

31. Mourant Guides and Updates

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

- [Cayman Islands Key Filing Dates 2024](#)
- [Migration to the Cayman Islands and the SEC private fund adviser rules](#)
- [Transfer by way of continuation into the Cayman Islands](#)
- [Continuation Funds: How Jersey, Guernsey & the Cayman Islands offer fast and cost-effective solutions](#)
- [Cayman Islands removed from the FATF grey list](#)
- [Changes to the Cayman Islands beneficial ownership regime – what you need to know](#)

Quick Fire Updates



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