



THE REGULATORY 15/15

Podcast

September 2023

Speakers

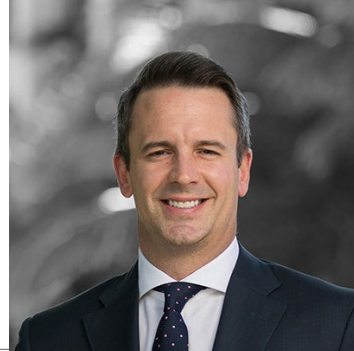


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Content

- Beneficial Ownership Transparency Bill, 2023 ("BOT Bill")
- Revised Guidance Notes on the Prevention and Detection of Money Laundering, Terrorist Financing, and Proliferation Financing in the Cayman Islands (August 2023) ("Revised AML Guidance Notes")
- Internal Controls / Corporate Governance
- UK Sanctions Update

Introduction

Introduction to the 15/15

- A 15-minute summary of the latest developments in the regulatory laws of the Cayman Islands released on the 15th day of every month
- A copy of the previous 15/15 released on 15 August can be accessed on our website: [Maples 15/15](#)
- Comments and suggestions to format of the 15/15 are always welcome – please email speakers directly

Beneficial Ownership Transparency Bill, 2023

BOT Bill

- BOT Bill was published on 30 August 2023; expected to be presented to Parliament in Q4
- BOT Bill consolidates into a single Act the beneficial ownership rules within the Companies Act, Limited Liability Companies Act and Limited Liability Partnership Act
- Extensive consultation in recent years with industry stakeholders, members of the public, government partners and international entities
- New provisions will be introduced in phased approach
- BOT Bill contains a clause enabling Cabinet to make regulations to provide public access to specified beneficial ownership information
- Before public access can move forward, Parliament must approve future regulations

BOT Bill (Cont'd)

- Other key changes to note:
 - **New entity types in scope**
 - limited partnerships, exempted limited partnerships and foundation companies
 - **Removal of exemptions / alternate routes to compliance**
 - exempt if a listed company or its subsidiary or licensed under a regulatory law but not if a subsidiary of the latter
 - mutual funds and private funds will now need to comply with alternate route of compliance
 - contact details of a licensed funds administrator or other person; provide BOR details within 24 hours of ROC request
 - anticipated some funds will elect to opt-in instead

BOT Bill (Cont'd)

- **Additional required particulars**
 - Individuals – Nationality and Nature in which the individual owns or exercises control
 - Reportable Legal Entity ("RLE") – Nature of RLE's ownership or its exercise of control of the legal person
- **Definition of beneficial owner**
 - *"beneficial owner except where that individual operates solely in the capacity of a professional advisor or professional manager"*
- **Requirements on Corporate Service Providers**
 - review the required particulars provided by the legal person
 - take reasonable measures to verify identity using information obtained from "reliable sources"

Revised AML Guidance Notes

Revised AML Guidance Notes

- Published on 30 August 2023
- Consolidated with Guidance Notes (Amendment) (No. 1) – Virtual Asset Service Providers (February 2021) and Guidance Notes (Amendment) (No. 2) – Securitisation (May 2021)
- Incorporate changes to facilitate the use of e-KYC and Remote Customer Due Diligence ("CDD") / Ongoing Monitoring.
- Amendments support FATF-issued guidance on digital identification and provide for remote onboarding of clients and the use of e-KYC and digital ID technologies on an ongoing basis, where appropriate based on the risk assessment of clients

Revised AML Guidance Notes (Cont'd)

- Two small but potentially important changes of general application:
 - For verification of corporate legal entities, the Revised GNs now include the following: "...*When verifying customers that are corporate legal persons, regulated entities may use publicly available sources, including company registries.*"
 - More broadly, and with the relevant new wording in emphasis: "*CDD documents, **including government issued identification, received in electronic form are acceptable provided that the [financial service provider] takes a [risk-based approach] and has suitable documented policies and procedures in place to ensure the authenticity of the electronic document(s)***"

Revised AML Guidance Notes (Cont'd)

- Cayman Islands regulated entities should have robust documented policies and procedures in place to ensure a consistent and adequate approach to relying on new digital ID system / technology solutions for CDD purposes
- Regulated entities will need to carry out a formal risk assessment of e-KYC / digital ID technologies
- There is a distinction between e-KYC / digital ID technologies on the one hand, and video conferencing for purposes of KYC as a sub-set of this
- Video conferencing is not considered face-to-face; additional checks are required
- Verification of natural persons can be through "selfie" documents, photographs or videos
- Constitutional documents will need be verified e.g. against public sources
- There is also a requirement that accessible records be maintained

Corporate Governance / Internal Controls

Corporate Governance / Internal Controls

- Reminder to CIMA regulated entities of the coming deadline on **14 October 2023** to comply with CIMA's new Rule and Statement of Guidance – Internal Controls for Regulated Entities and new Rule – Corporate Governance for Regulated Entities
- Regulated mutual funds and private funds must also comply with the updated Statement of Guidance – Corporate Governance for Mutual Funds and Private Funds
- All regulated entities should be actively reviewing these measures now to ensure that they are compliant with all applicable requirements before the coming deadline
- Maples Regulatory Team would be pleased to assist with advice in this regard

UK Sanctions

UK Sanctions Update

- **Shvidler Case**

- 18 August 2023 – English High Court dismissed attempt by Eugene Shvidler (long-time associate of Roman Abramovich) to lift his designation as a Designated Person
- Shvidler argued designation was disproportionate, discriminatory and breached human rights
- Claimed no relationship with Putin or the regime; could not influence Russian government policy
- Judge dismissed the claim – UK Secretary of State did have statutory grounds to designate Shvidler: continued business and personal relationship with Abramovich; previous independent directorship of Evraz Plc (Russian petrochemical company)

UK Sanctions Update (Cont'd)

- Claim of discrimination found to be "hopeless"
- Judgment demonstrates:
 - very difficult to challenge designations: legislation gives UK Secretary of State very broad designation grounds, and English courts will give large degree of deference in decision-making
 - the grounds for continuing to designate Abramovich himself continue to be strong

This presentation was presented on, and is only accurate to 13 September 2023. The information within this presentation is provided for general guidance only, is not intended to be comprehensive and does not constitute legal advice or give rise to an attorney / client relationship.

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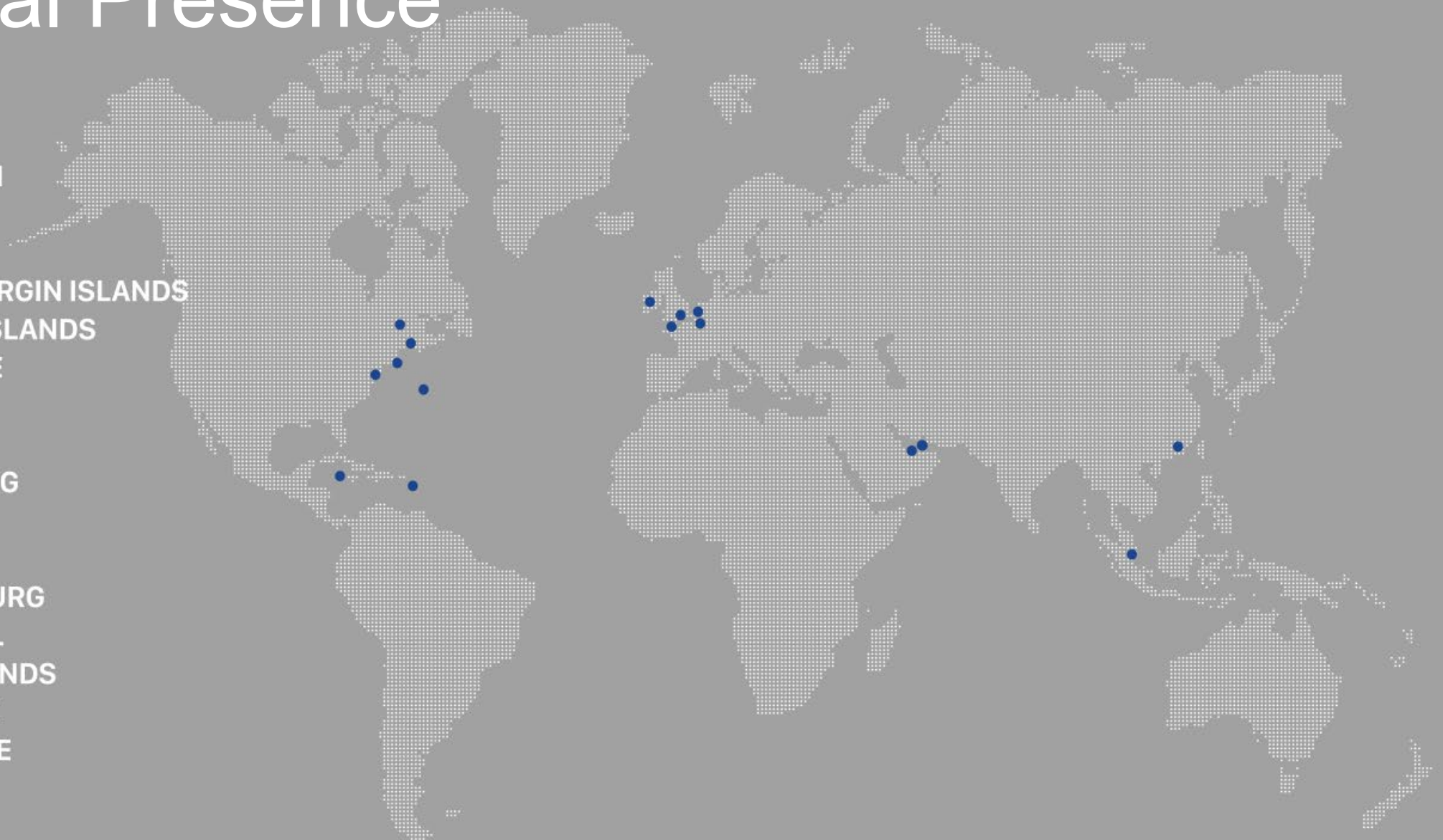
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