



THE REGULATORY 15/15

Podcast

February 2024



Speakers

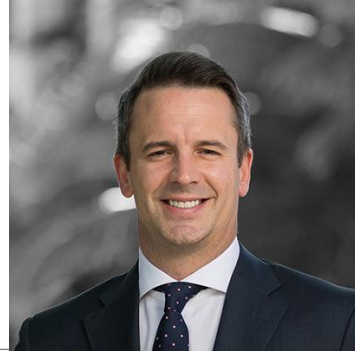


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Content

- EU AML delisting
- Proceeds of Crime (Amendment) Act commencement
- Anti-Money Laundering (Amendment) Regulations ("AML Amendment Regulations")
- Economic Substance ("ES") 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 January 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

EU AML Delisting

EU AML delisting

- 18 January 2024 - the European Commission published the Delegated Regulation (EU) 2024/163 confirming the Cayman Islands would be removed from its list of 'high-risk third countries' ("EU AML List")
- EU AML List refers to countries identified by the EU as having strategic deficiencies in their anti-money laundering/counter-terrorist financing ("AML / CFT") regimes
- The EU's decision to delist the Cayman Islands is consistent with the FATF's recent assessment of the Cayman Islands and the recent removal of the Cayman Islands from the UK's list of high-risk countries for AML / CFT purposes
- 7 February 2024 – the Ministry of Financial Services & Commerce released a confirmatory statement regarding Cayman's removal from the EU AML List on that date

EU AML delisting (Cont'd)

- Securitisations
 - Following delisting of the Cayman Islands from the EU AML List on 7 February 2024, Article 4 of the EU Securitisation Regulation will no longer prohibit the establishment of securitisation special purposes entities ("SSPEs") in the Cayman Islands
 - Simple matter of choice as to whether the Cayman Islands or Jersey (or any other jurisdiction not on the EU AML List) is used

Proceeds of Crime (Amendment) Act

Proceeds of Crime (Amendment) Act

- Came into force on 31 January 2024, with the exception of Sections 11, 12 and 13 which will come into force on 30 April 2024
- Broadly, these amendments are aimed at:
 - reforming the Proceeds of Crime Act (As Revised) ("POCA") in the areas of intelligence gathering and sharing, and investigations
 - providing protection for self-regulatory bodies against liability
 - ensuring POCA conforms to international best practices
 - modernising the conduct of prosecutions, including in relation to proving that property is criminal property or is obtained through unlawful conduct

Proceeds of Crime (Amendment) Act (Cont'd)

- Sections 11, 12 and 13 are amendments relating to sections 133 (concealing), 134 (arrangements) and 135 (acquisition, use and possession) respectively of POCA
- In each case, these amendments deal with making a disclosure to the Cayman Islands Financial Reporting Authority (the "FRA") and having the consent of the FRA to commit the act in question

AML (Amendment) Regulations

AML (Amendment) Regulations

- On 23 January 2024, the Cayman Islands Government pre-released to various industry associations the AML (Amendment) Regulations, 2024 (the "Regulations")
- The Regulations are expected to be addressed to Cabinet within the next week
- This is following the release of draft amendment Regulations and a period of consultation that occurred in March-April 2023
- **Noteworthy changes include:**
 - A new definition of "proliferation financing risk" as well as the concept of "proliferation financing" (references throughout now read "money laundering risk, terrorist financing risk and proliferation financing risk")
 - The ability to fine directors and officers under the administrative fines regime has been added

AML (Amendment) Regulations (Cont'd)

- Noteworthy changes (Cont'd):
 - Reframed risk assessment requirements under Regulation 8
 - Implement policies, controls and procedures... "*consistent with national requirements and guidance from competent authorities and self-regulatory bodies*"
 - Where higher proliferation financing risks are identified, take measures to mitigate the identified risks, including enhanced due diligence
 - Where lower proliferation financing risks are identified, ensure measures to manage risks are commensurate with level of risks and comply with targeted financial sanctions applicable to the Cayman Islands
 - Extended reporting obligations for designated non-financial business and profession ("DNFBP") in relation to any changes to AML risk assessments and information provided to the relevant Supervisory Authority on registration

ES Update

ES Update

- On 8 February 2024, the International Tax Co-operation (Economic Substance) Act (2024 Revision) (the "ES Act") and International Tax Co-operation (Economic Substance) (Prescribed Dates) Regulations (2024 Revision) were published in the Cayman Islands Gazette
- The revisions are consolidations of prior amendments
 - Partnership amendments - partnerships, exempted limited partnerships and foreign limited partnerships now "relevant entities"
 - "Ultimate beneficial owner" definition is now for each type of relevant entity, not just companies under the Companies Act (As Revised)
- Reporting deadlines are unchanged

This presentation was presented on, and is only accurate to, 13 February 2024. 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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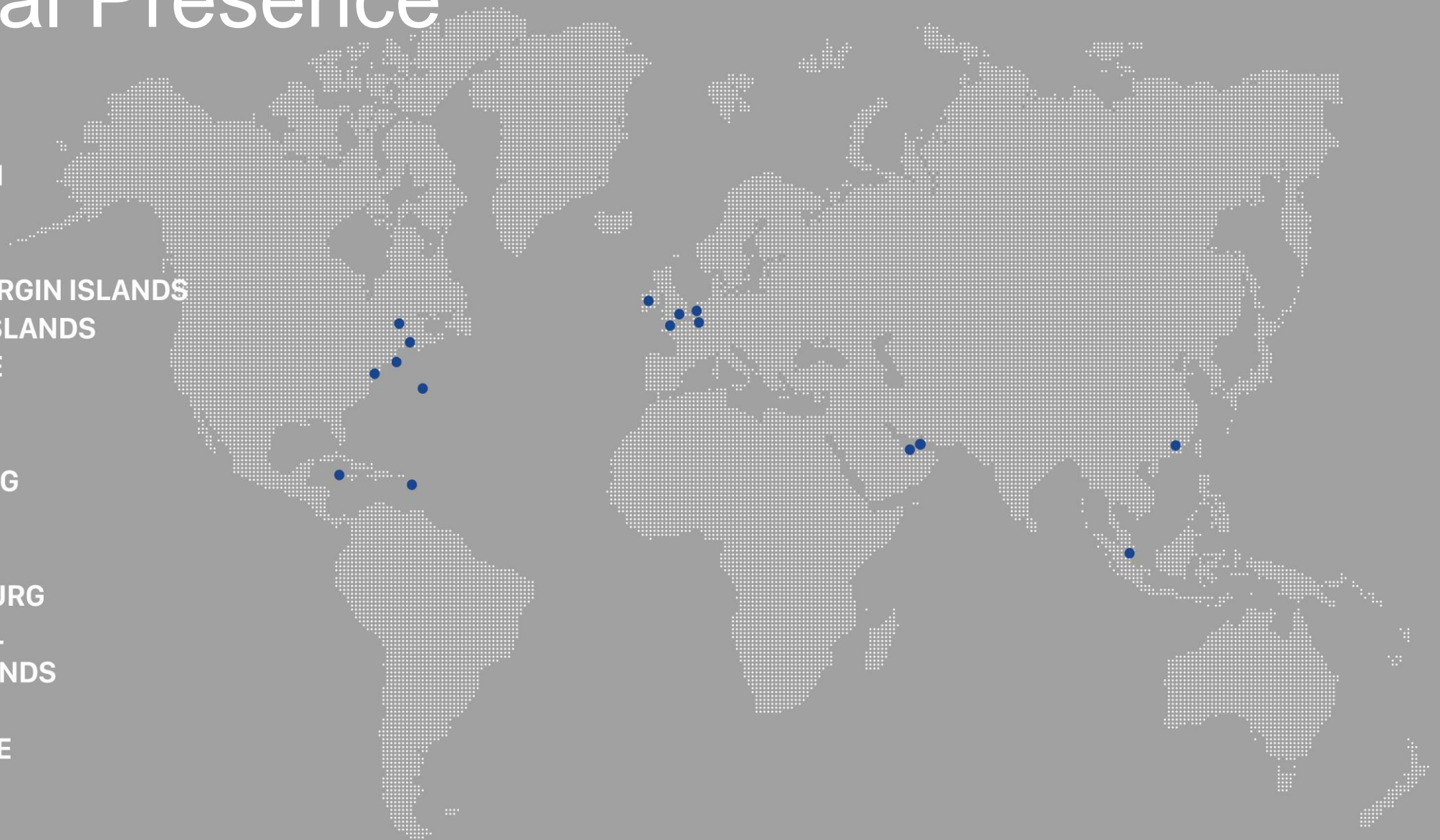
Published by Maples and Calder (Cayman) LLP.

February 2024

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