



# THE REGULATORY 15/15

Podcast

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# Content

- Introduction
- CIMA AML Surveys
- DITC FI Registration Audit
- AEOI Reminders
- New round of SIBA Registered Person ("RP") Inspections
- Amendment laws and CIMA fines regime
- Upcoming FAR deadline

# 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 May can be accessed on our website: [The Regulatory 15/15: May 2023](#)
- Comments and suggestions to format of the 15/15 are always welcome – please email speakers directly

# CIMA AML Surveys

# CIMA AML Surveys

- CIMA has issued its annual AML surveys (securities, trust, company manager, corporate service providers, mutual funds administrators)
- Based on CIMA's updated reporting schedule, the timetable for such surveys should now be consistent
- AML surveys assist CIMA in the collection of AML / CFT / CPF and sanctions data from regulated financial service providers ("FSPs")
- Surveys are distributed to the designated AMLCO, MLRO, registered office and "principal contacts" of FSPs based on CIMA's records
- Surveys can only be completed online by a relevant recipient accessing the link contained in CIMA's email
- Majority of the questions are business-specific / factual and need to be completed by or with the input of the FSP's AMLCO
  - CIMA has published guidance for completing each AML survey <https://www.cima.ky/regulatory-forms-guidance-notes>

# CIMA AML Surveys (cont'd)

- If you have not yet received the survey, contact CIMA at [AMLSurvey@cima.ky](mailto:AMLSurvey@cima.ky)

Relevant Sector	Survey Issue Date	Survey Due Date
Securities: Full, Restricted and Registered Persons	1 June 2023	31 July 2023
Virtual Asset Service Providers (completed)	1 March 2023	30 April 2023
Insurance RFB Self Declaration: Class A, Class B, Class C, Agents and Brokers	1 August 2023	30 September 2023
Fiduciary: Trust, Company Manager, Corporate Service Providers	1 June 2023	31 July 2023
Banking: Class A, Class B, Building Societies, Credit Union, Development Bank and Money Services Businesses	1 May 2023	30 June 2023
Investments: Mutual Fund Administrators	1 June 2023	31 July 2023



# DITC FI Registration Audit

# DITC FI Registration Audit

- DITC, on behalf of the Tax Information Authority ("TIA"), has recently sent emails to Cayman Islands entities that have registered with the IRS as Cayman Islands Financial Institutions ("FIs") (and obtained a GIIN) but have not registered with the TIA
- All such entities should **either** de-register their GIIN **or** register with the DITC
- Registration deadlines differ under FATCA vs CRS
  - FATCA: 30 April of first year of reporting
  - CRS: 30 April after first becoming an FI
- NB: obtaining a GIIN indicates an entity has commenced business

# DITC FI Registration Audit (cont'd)

- Entities that maintain a GIIN but do not register with DITC may be subject to enforcement
- For any such entities that register now:
  - TIA may request when entities commenced carrying on business (missed reporting?)
  - Entities that are required to be registered with the DITC must have in place written AEOI policies and procedures
- It is imperative that entities confirm they have been correctly classified as FIs or otherwise

# AEOL Reminders

# AEOI Reminders

- **Due Diligence / Onboarding** of Financial Accounts:
  - Self-certification form from Account Holder and Controlling Person of a Passive NFE, where applicable, on account opening
    - Compare to other account opening documentation for consistency
    - Determine account holder classification and reporting status within 90 days of the account being opened
    - If not obtained within 90 days, account should be closed
  - Pre-existing account holders (FATCA) – requirement to request missing US TINs, at least annually, for reportable Account Holders with US indicia

# AEOI Reminders (cont'd)

- **Reporting:**
  - CRS – file an annual return for each jurisdiction in which they have reportable accounts and a mandatory CRS nil declaration for all other jurisdictions. Due **31 July**
  - US FATCA – file an annual return in respect of US Specified Persons. Nil returns is voluntary. Due **31 July**
  - A CRS Compliance form is also required to be submitted annually relating to non-reportable accounts – due **15 September**

# AEOI Reminders (cont'd)

- **Reporting:**
- Information required to be reported
  - TIA explanatory notes indicate that FIs must report TIN or equivalent for all reportable Account Holders and Controlling Persons unless not issued or required to be collected based on OECD guidance
  - DOB must also be reported as required to be collected upon account opening for new accounts and is generally required as part of KYC under the AML regulations
  - The IRS has published specific FATCA reporting codes for missing TINs for pre-existing reportable account holders with US indicia for use in specific circumstances to explain why a US TIN is not being reported

# New Round of SIBA RP Inspections



# SIBA RP Inspections

- CIMA has recently commenced a new round of SIBA RP inspections
- Those subject to inspection are expected to receive:
  - a notification letter
  - a questionnaire (same as last year)
  - a documents checklist (to be completed and submitted with the requested documents)
- The deadline for responses is two weeks
- Documents are to be submitted via CIMA's secure file transfer protocol site, same as last year

# SIBA RP Inspections (cont'd)

- CIMA registrants and licensees are required to comply with a number of Rules and SOGs
- Increased emphasis on cybersecurity compliance during CIMA's inspections
  - Ensure cybersecurity policies and procedures are aligned with the requirements in the Rule and SOG on "Cybersecurity for Regulated Entities"
- SIBA RPs are also subject to closer scrutiny by CIMA in terms of their corporate governance, operations and internal controls (new Rules and SOG)
- Requirement for AML / business risk assessments

# Amendment Laws and CIMA Fines Regime

# CIMA Enhanced Fines Regime

- The following amendment Acts were passed in late April and gazetted on 26 May 2023 (now in force):
  - Monetary Authority (Amendment) Act, 2023
  - Companies Management (Amendment) Act, 2023
  - Directors Registration and Licensing (Amendment) Act, 2023
  - Insurance (Amendment) Act, 2023
  - Money Services (Amendment) Act, 2023
  - Securities Investment Business (Amendment) Act, 2023
  - Virtual Asset (Service Providers) (Amendment) Act, 2023

# CIMA Enhanced Fines Regime (cont'd)

- These amendments:
  - enhance CIMA's power to levy administrative fines by extending the regime to cover partnerships, ELPs, LLPs, partners, unincorporated associations and their management and control persons
  - allow CIMA to spontaneously share with other overseas regulatory authorities non-public information on criminal conduct uncovered during the course of carrying out its duties

**Upcoming FAR Deadline**

# Upcoming FAR Deadline

- Mutual funds regulated under the Mutual Funds Act (As Revised) and private funds regulated under the Private Funds Act (As Revised)
- Financial year end on 31 December each year
- Fund Annual Return ("FAR") and audited financial statements must be filed with CIMA by no later than **30 June 2023**
- Filings are submitted on REEFS
- Copies of the FAR Forms and Completion Guides are available at <https://www.cima.ky/investment-funds-reporting-requirements-and-schedule-e-reporting>

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