



THE REGULATORY 15/15

Podcast

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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: [The Regulatory 15/15: January 2023](#)
- Comments and suggestions to format of the 15/15 are always welcome – please email speakers directly

FATF Plenary

FATF Plenary

- The Cayman Islands was placed on a monitoring list in February 2021 pending satisfaction of all FATF recommendations
- The FATF concluded its latest plenary held in Paris from 20-24 February 2023
- Following the plenary, the Minister of Financial Services and Commerce, the Hon. André Ebanks noted:

"The Cayman Islands is pleased the FATF has duly noted our continuous progress toward completing the final recommended action regarding investigations and prosecutions of money laundering cases. Our aim is to demonstrate significant progress in time for the FATF June [2023] plenary, and therefore void the need for FATF to consider next steps for insufficient progress."

FATF Plenary (Cont'd)

- The Cayman Islands is compliant with 40 out of 40 FATF recommendations on Technical Compliance and 62 out of 63 Effectiveness recommended actions ("RAs")
- Final RA relates to the investigation and prosecution of all types of money laundering cases in line with the Cayman Islands' risk profile
- Awaiting sentencing following recent successful AML prosecutions
- In accordance with FATF procedures, the Cayman Islands will provide an update during the FATF Joint Group's review meeting this April, prior to the next FATF Plenary in June 2023

CIMA Letters – Nature of Business

CIMA Letters – Nature of Business

- CIMA audit of entities registered with the Cayman Islands General Registry that classified their nature of business as either 'Investment Fund – Regulated Private Fund' or 'Investment Fund – Regulated Mutual Fund' against CIMA's records of entities registered under the Private Funds Act (As Revised) or the Mutual Funds Act (As Revised), as applicable
- In February 2023, CIMA issued letters requesting details regarding the affected entities' activities since their establishment and any registration exemptions they may be relying upon
- We anticipate that in most cases, the issue will have arisen as a result of an error in selecting the appropriate 'nature of business' classification on the entity's annual return

DITC Breach Letters – ES and CRS

DITC Breach Letters – ES

Economic Substance ("ES")

- In March 2022, the Tax Information Authority ("TIA") released guidelines explaining the requirements for persons that may be subject to compliance and enforcement actions under the International Tax Co-operation (Economic Substance) Act (As Revised) (guidelines most recently updated in March 2023)
- The Department for International Tax Cooperation ("DITC") continues to issue penalties, so it is imperative that ES classifications and filings are correct and submitted on a timely basis

DITC Breach Letters – CRS

Common Reporting Standard ("CRS")

- In March 2022, the TIA also released guidelines setting out the process for taking enforcement action under the administrative penalties regime of the CRS Regulations (guidelines most recently updated in March 2023)
- The DITC continues to issue penalties, including to registered investment funds that failed to register as Financial Institutions with the DITC
- Fines are not insubstantial and largely valued at around US\$45,000

OECD – Mandatory Disclosure Rules

OECD – Mandatory Disclosure Rules

- The purpose is to provide tax administrations with information on CRS Avoidance Arrangements and Opaque Offshore Structures, including the users of those Arrangements and Structures and those involved with their supply
- The rules require an Intermediary (as defined below) or user of a CRS Avoidance Arrangement or Opaque Offshore Structure to disclose certain information to its tax administration
- "Intermediary" means: (a) any person responsible for the design or marketing of a CRS Avoidance Arrangement or Opaque Offshore Structure ("Promoter"); and (b) any person that provides relevant services in respect of a CRS Avoidance Arrangement or Opaque Offshore Structure in circumstances where the person providing such services could reasonably be expected to know that the arrangement or structure is a CRS Avoidance Arrangement or an Opaque Offshore Structure

Sanctions Licence

Sanctions Licence

- Sanctions Orders are extended by Statutory Instrument to the British Overseas Territories, including the Cayman Islands, to give effect to sanctions regimes implemented by the United Kingdom Government ("Sanctions Orders")
- Sanctions Orders generally restrain persons from dealing in funds or economic resources owned or controlled by, or making funds or economic resources available to, persons or entities listed under the Order ("Designated Persons")
- In December 2022, the UK amended its principal orders for overseas territories in relation to sanctions against Russia and Belarus respectively, and subsequently added Haiti sanctions
- The Russia and Belarus amendments came into force on 15 December 2022

Sanctions Licence

- The General Licence issued in October 2022 by the Governor of the Cayman Islands under Reg. 64 of the Russia (Sanctions) (EU Exit) Regulations 2019 is set to expire on **4 April 2023**
- Subject to certain ongoing reporting and record-retention requirements, the General Licence allows an investment fund owned or controlled (in)directly by a Russia-related Designated Person to redeem, withdraw or otherwise deal with shares / interests, etc. held by its non-sanctioned investors, and to pay fees and expenses for maintaining the remaining frozen funds and economic resources, including the fees of service providers and legal advisers

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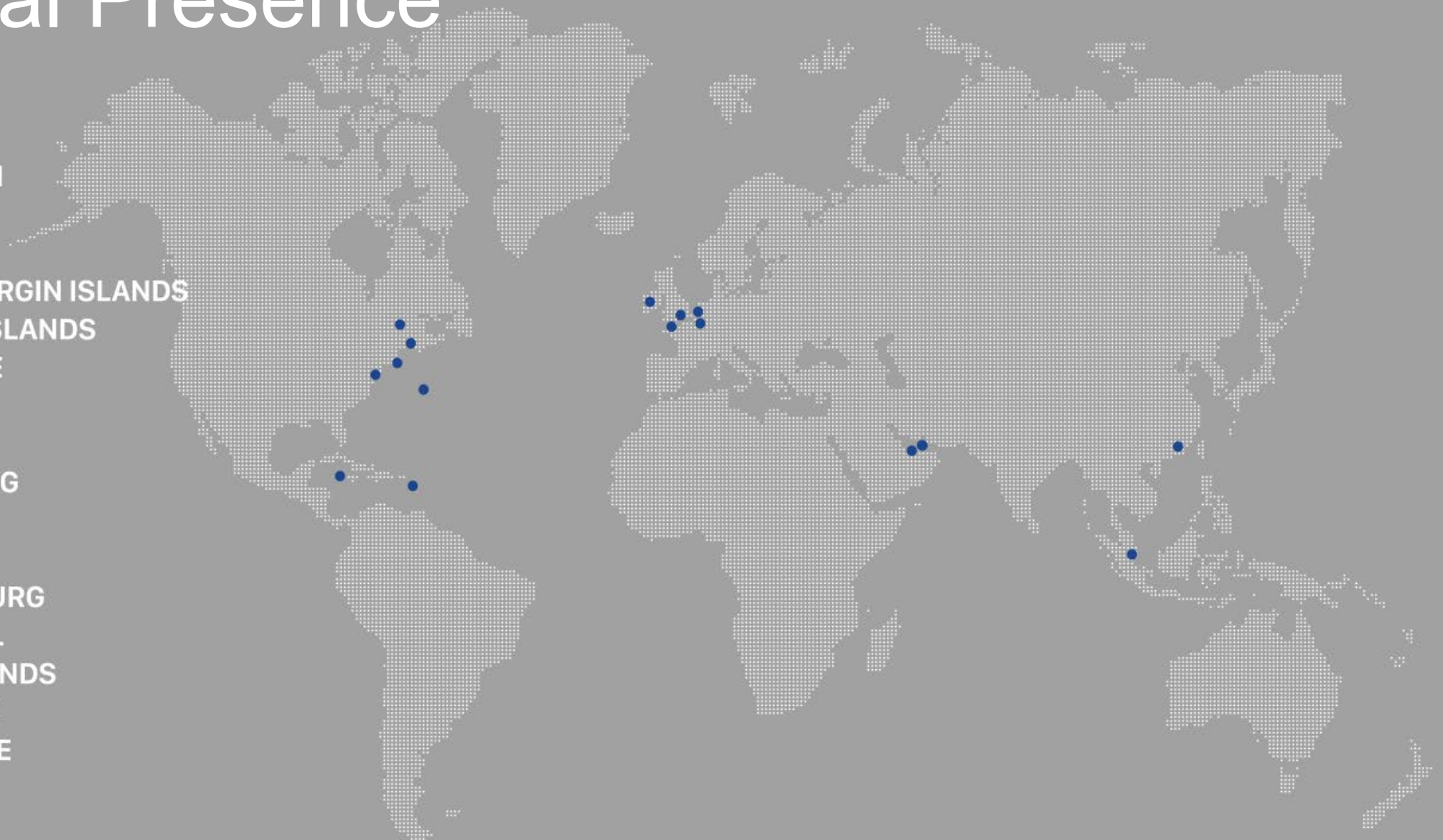
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