

# CIMA Administrative Fines for Regulatory Laws, Regulations and Rules

On 26 June 2020, the Cayman Islands Monetary Authority ("CIMA") enacted the Monetary Authority (Administrative Fines) (Amendment) Regulations, 2020. These regulations amend the Monetary Authority (Administrative Fines) Regulations (2019 Revision) and are referred to as the "Fines Regulations".

The Fines Regulations extend the application of the fines administered by CIMA from the anti-money laundering regime to all regulatory laws and regulations, and any rules issued by CIMA pursuant to those laws and regulations.

By way of reminder, the Monetary Authority Law gives CIMA the power to impose administrative fines under the Fines Regulations for breaches committed by persons (entities and individuals), under the following laws (and associated regulations and rules):

- (a) Anti-Money Laundering Regulations (2020 Revision)
- (b) Banks and Trust Companies Law (2020 Revision)
- (c) Companies Management Law (2018 Revision) (as amended)
- (d) Directors Registration and Licensing Law, 2014 (as amended)
- (e) Insurance Law, 2010 (as amended)
- (f) Money Services Law (2020 Revision)
- (g) Mutual Funds Law (2020 Revision)
- (h) Private Funds Law, 2020
- (i) Securities Investment Business Law (2020 Revision)

Breaches are categorised as being 'minor', 'serious' or 'very serious'. The Fines Regulations prescribe the process for provision of a breach notice to a relevant party. There will be a 30 day opportunity to reply to the breach notice and to rectify a 'minor' breach to CIMA's satisfaction. If CIMA is not satisfied that a minor breach has been rectified, it is required to impose a fine. For 'serious' or 'very serious' breaches, CIMA has the discretion whether to impose a fine, and in what amount, up to the cap for the relevant category.

There is a sliding scale of fines from CI\$5,000<sup>1</sup> for minor breaches to CI\$100,000 for individuals and CI\$1 million for entities for very serious breaches. Fines for ongoing minor breaches

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<sup>1</sup> CI\$1 is approximately US\$1.25

can be applied at intervals on a continuing basis, up to a CI\$20,000 cap.

CIMA will have six months from becoming aware of a minor breach, or having received information from which the fact of the breach can be reasonably inferred, to impose a fine. There is a two year time limit in respect of the imposition of fines for serious or very serious breaches.

Where a breach is a statutory offence, i.e. non-compliance under a Law, the imposition of a fine will not preclude prosecution for that offence (or be limited by the penalty for that offence), and likewise any prosecution will not preclude the imposition of administrative fines or penalties.

The Fines Regulations also provide for the procedures relating to the imposition of the fines and consequences, including:

- (a) the criteria that CIMA must adopt when issuing breach notices, considering or reconsidering matters, if there is cause, and imposing discretionary fines;
- (b) when a party may apply to the Management Committee of CIMA to review an original decision to issue a fine notice for a fixed fine; and
- (c) when a party may apply to the Grand Court for leave to appeal against the original decision upon receipt of a fine notice for a discretionary fine.

The update to the Fines Regulations reinforces the need for all licensees and registrants, subject to the AML regime and laws noted above, to know and

understand their obligations including (but not limited to):

- (a) licensing and registration criteria, including filing deadlines;
- (b) CIMA rules and notification obligations (e.g. updates or changes to business plans, directors and officers, legal or beneficial ownership, registered and principal offices, auditors, offering materials, and licensing or registration information); and
- (c) maintaining appropriate systems and controls.

Our Regulatory & Compliance team can assist by providing regulatory calendars, monthly or annual updates, reporting matrices and training.

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