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Industry Information

Update on the Cayman Islands and the FATF's List of Jurisdictions Under Increased Monitoring

March 2021

The second Plenary of the Financial Action Task Force ("FATF") under the German Presidency took place on 22, 24 and 25 February 2021. As part of the Plenary outcomes published on 25 February, the FATF recognised that the Cayman Islands has satisfied 60 of 63 actions to strengthen its anti-money laundering, countering terrorist financing and countering proliferation financing measures that were prescribed in the Mutual Evaluation Report published by the Caribbean FATF in March 2019. The Cayman Islands has been included on the FATF's list of "jurisdictions under increased monitoring" ("Monitoring List") pending completion of the final three actions. The inclusion of the Cayman Islands on the Monitoring List has no direct consequences for investors or clients using Cayman Islands structures.

By way of background, the Mutual Evaluation Report published by the Caribbean FATF in March 2019 assessed the effectiveness of the Cayman Islands' anti-money laundering, countering terrorist financing and countering proliferation financing measures and compliance with the FATF's 40 Recommendations. As a result of the Cayman Islands' progress in strengthening its framework, the Cayman Islands is now rated in the Caribbean FATF's follow-up report published on 22 February 2021 as compliant or largely compliant with 39 of the FATF's 40 Recommendations.

Setting out rationale for including the Cayman Islands on the Monitoring List, given the positive compliance ratings mentioned above, the FATF President Marcus Pleyer stated [at the Plenary on 25 February] that the Cayman Islands' listing arises from it being a major financial centre. This echoes the Caribbean FATF's 2019 finding that, "As a major international financial centre, the Cayman Islands is confronted with inherent ML/TF risks, threats and associated vulnerabilities emanating from domestic and foreign criminal activities", and that as the FATF expects countries with higher risks to have commensurate measures, the Cayman Islands is added to the FATF's Monitoring List.

No penalties or sanctions result from being on the Monitoring List. The FATF does not call for the application of enhanced due diligence measures to be applied to jurisdictions under increased monitoring but members may take into account the information presented below in their risk analysis. For the avoidance of doubt, the Cayman Islands is not on the FATF's list of "non-cooperative jurisdictions" or "high risk jurisdictions subject to a call for action", also known as the FATF blacklist. The FATF Monitoring List is also not concerned with tax transparency or international cooperation. The Financial Crimes Enforcement Network ("FinCEN") issues circulars reminding US financial institutions to consider the risks associated with the jurisdictions listed in the circular, which in practice are aligned with the FATF Monitoring List, so it is anticipated that FinCEN will issue a circular including the Cayman Islands. The EU Commission maintains a list of "high-risk third countries", which typically includes the countries on the FATF Monitoring List but may include others.



In terms of next steps, the FATF has given the Cayman Islands an action plan, which is brief and to be completed over the next 15 months as follows:

“The Cayman Islands will work to implement its action plan, including by:

- >> applying sanctions that are effective, proportionate and dissuasive, and taking administrative penalties and enforcement actions against obliged entities to ensure that breaches are remediated effectively and in a timely manner;
- >> imposing adequate and effective sanctions in cases where relevant parties (including legal persons) do not file accurate, adequate and up to date beneficial ownership information; and
- >> demonstrating that they are prosecuting all types of money laundering in line with the jurisdiction’s risk profile and that such prosecutions are resulting in the application of dissuasive, effective, and proportionate sanctions.”

The Cayman Islands’ action plan and compliance frameworks supporting the above three action items already exist and are familiar to industry and clients. The three recommended actions address the continuing effectiveness of the Cayman Islands’ legal framework, in terms of compliance and enforcement in detecting and deterring financial crime, rather than alternatives to the existing framework. You can read the original Cayman Islands Government [press release here](#). We will advise further in the event of any updates.

Contacts

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