



# THE ANCHOR



## COVID-19 AML/CFT ADVISORY

The COVID-19 pandemic has had an immediate impact on regulated entities, with nearly all having to adapt to new ways of working.

Employees are logging on from home with increased reliance on virtual technology. Operational resilience is being tested with the rapid adoption

of remote IT systems under volatile market conditions.

To support its regulated entities, the Cayman Islands Monetary Authority (the "Authority") has published an [advisory](#) on AML/CFT compliance during COVID-19.

## NATIONAL RISK ASSESSMENTS

The Cayman Islands Government has recently produced the [Terrorist Financing National Risk Assessment](#) and the [Excluded Persons under the Securities Investment Business Law National Risk Assessment](#)

The Cayman Islands Government also undertook an assessment to better understand the ML/TF risk facing the Cayman Islands as an International Financial Centre (IFC). A copy of the assessment report can be found [here](#).

Regulated entities should carefully read these documents to understand the ML/TF risks faced by the jurisdiction and ensure that identified risks are factored into their own institutional ML/TF risk assessments.

## WHAT'S INSIDE

- COVID-19 AML/CFT Advisory
- National Risk Assessments
- Targeted Financial Sanctions Update
- AML/CFT Legislation Update

# THE AUTHORITY'S COMBINED SECTORAL RISK RATINGS

The Authority has further published an updated [Combined Sectoral Risk Rating](#). Below is a summary of the risk scores:

	Banking Category A	Banking Category B	MSB	Trust Service Providers	Corporate Service Providers	Insurance	Mutual Fund Administrators	Securities Licensees	STBL (EPs)
<b>Structural</b>									H
<b>Nature, size, complexity</b>	L	MH	MH	MH	MH	L	MH	MH	
<b>Transactions, products and services</b>	ML	MH	H	H	MH	ML	MH	H	MH
<b>Delivery channels</b>	ML	ML	ML	MH	ML	MH	MH	MH	MH
<b>Customer types</b>	ML	H	MH	MH	ML	ML	ML	MH	MH
<b>Geographic risks</b>				ML	ML	L	ML	MH	ML
<b>Overall Risk</b>	ML	MH	MH	MH	MH	ML	MH	MH	MH

Regulated entities may note the pockets of high risk within some sectors and ensure that these are reflected in their assessment of ML/TF risks. This will help regulated entities to drive an effective risk-based approach to managing and mitigating ML/TF risk.

## TARGETED FINANCIAL SANCTIONS

In February 2020, the Authority commenced its automated email dissemination of Targeted Financial Sanctions ("TFS") notices to licensees. This was to further promote awareness and compliance with TFS obligations.

### What are Sanctions?

Sanctions are prohibitions and restrictions that help maintain or restore peace and security. Increasingly, countries are using sanctions instead of military force as an instrument of foreign policy. Sanctions are placed on individuals, entities, vessels, goods and services, organisations and countries. The most frequently applied sanctions are arms embargoes, travel bans, trade (import/export embargoes) and financial sanctions.

### What are Financial Sanctions?

Financial sanctions (i) limit the provision of certain financial services and (ii) restrict access to financial markets, funds and economic resources.

Financial sanctions are typically imposed to:

- Coerce those under sanctions into changing their behavior by increasing the costs on them;
- Constrain a target by denying them access to key resources needed to continue their offending behavior, including the financing of terrorism and proliferation;
- Signal disapproval, stigmatise and potentially isolate a regime or individual; or
- Protect the value of assets that have been misappropriated from a country until such assets can be repatriated.

### Types of Financial Sanctions

The most common types of financial sanctions are:

- Targeted asset freezes;
- Restrictions on access to financial markets and services; and
- Directions to cease all business.

### List of Sanctions applicable in the Cayman Islands

A list of orders in force in the Cayman Islands can be found on the Financial Reporting Authority's website: [Sanction Orders](#). It should be noted that the Authority does not guarantee that this list is accurate, complete and up to date. It is the responsibility of every regulated entity to keep itself updated and to comply with the sanctions in force in the Cayman Islands. Official sanction orders applicable in the Cayman Islands are published in the Cayman Islands Gazette.

Of note, the implementation of sanction orders is not a risk-based experience, they must be enforced once they have been imposed.

## TARGETED FINANCIAL SANCTIONS (CONTINUED)

### Responsibility of Regulated Entities

FSPs should ensure that they have adequate resources, policies and procedures to comply with TFS obligations. The following include key legal obligations that are applicable to relevant financial businesses. In addition to the applicable legislation, regulated entities should take note of the Sanctions related guidance provided in the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing.

Pursuant to the Anti-Money Laundering Regulations, as amended (the "AMLRs"), persons carrying out relevant financial business are expected to:

- Have procedures to ensure compliance with targeted financial sanctions obligations applicable in the Cayman Islands.;
- Have systems for the ongoing monitoring of business relationships (including having adequate screening procedures) for the purposes of preventing, countering and reporting money laundering, terrorist financing and proliferation financing and such procedures allowing for the identification of assets subject to targeted financial sanctions applicable in the Cayman Islands; and
- Provide employees with training on applicable TFS obligations and on how to comply with the established TFS compliance procedures.

Pursuant to the Terrorism Law (2018 Revision) ("the TL") and the Proliferation Financing (Prohibition) Law (2017 Revision) ("the PFPL"), Persons conducting relevant financial business have certain reporting obligations to the Financial Reporting Authority ("the FRA"), as well as certain freezing obligations, if they discover a relationship that contravenes an Order or a direction under the TL or PFPL. These obligations include:

- Immediately freeze the funds, or economic resources of the designated person;
- Must not enter into financial transactions or provide financial assistance or services in relation to: (i) designated person or any third party; or (ii) proliferation and nuclear or other sanctioned activities; unless there is an exemption in the legislation that it can rely on or it has a licence from the Governor;
- Report them to the FRA using the Compliance Reporting Form

Entities should refer to the relevant laws to take appropriate action in relation to applicable additions, removals and amendments to the Sanctions List.

## TARGETED FINANCIAL SANCTIONS (CONTINUED)

### Breaches and penalties

Breaches of financial sanctions are a serious criminal offence and incur significant penalty:

- Offences under the Overseas Territories Orders in Council (OOICs) carry a maximum of seven years imprisonment on conviction on indictment, or to a fine, or to both.
- Offences under Schedule 4A of the TL carry a maximum of seven years imprisonment on conviction on indictment or a fine or to both.
- Under the PFPL, failure to comply with freezing or reporting obligations could result in a civil penalty from the FRA up to CI\$40,000. A person who fails to comply with a freezing obligation is also liable (a) on summary conviction to a fine of CI\$50,000; or (b) on conviction on indictment, to a fine of CI\$70,000, or imprisonment for a term of three years, or to both. A person who fails to comply with a reporting obligation is liable on summary conviction to a fine of CI\$10,000.

## GUIDANCE NOTES AMENDMENTS

Following industry consultation, in February 2020, the Authority published amendments to the Guidance Notes on the Prevention and Detection of Money Laundering and Terrorist Financing ("GNs") in relation to:

- Ongoing Monitoring
- Virtual Asset Service Providers
- Assessing and applying a risk-based approach
- Targeted Financial Sanctions

These amended GNs can be found on the Authority's [website](#).

## AML/CFT LEGISLATION UPDATE

The AMLRs were amended in February 2020, including removal of reliance on the List of Equivalent Jurisdictions from the AML/CFT framework of the Cayman Islands. This amendment is subject to a 6-month transition period. The amended legislation now includes inherent risk considerations that must be made for a country level risk assessment.