

Campbells Caribbean Regulatory Update – Q3 2024

14 October 2024

This Update provides an overview of the main legal developments in the Cayman Islands and the British Virgin Islands (“**BVI**”) over the last quarter.

For further information please contact your usual Campbells contact or one of the contacts provided at the end of this Update.



Cayman Islands

1. Beneficial Ownership Transparency Act, 2023

On 31 July 2024, the Beneficial Ownership Transparency Act, 2023 (the “**BOTA**”) and the Beneficial Ownership Transparency Regulations, 2024 were brought into force. Associated Guidance on Complying with Beneficial Ownership Obligations in the Cayman Islands was also published by the Cayman Registry (the Competent Authority for beneficial ownership in the Cayman Islands). The Ministry of Financial Services in the Cayman Islands (the “**Ministry**”) advised that enforcement relating to the new requirements in the framework will be suspended until early next year.

Further detail in respect of the BOTA is set out in our August [client advisory](#).

In terms of public accessibility, the BOTA provides that beneficial ownership information shall only be made publicly available when regulations have been proposed by Cabinet and affirmed by a resolution of Parliament. It is anticipated that there will be limited access for persons with legitimate interests in due course, subject to appropriate protections.

2. Perpetuities (Amendment) Act, 2024

On 22 August 2024, the Perpetuities (Amendment) Act, 2024 came into effect (the “**Amendment**”). The Amendment is a welcome enhancement to the Cayman Islands trust and estate planning sector as it abolishes the mandatory perpetuity period of 150 years for Cayman law ordinary trusts (except for trusts holding land or interests in land situated in the Cayman Islands). The effect of this is that such trusts can now last indefinitely. Previously, ordinary trusts that were established in the Cayman Islands were required to vest within a 150 year perpetuity period.

In respect of existing ordinary trusts, it is possible for the trustees of the trust (amongst others) to apply to the Grand Court of the Cayman Islands to disapply the rule against perpetuities, the effect of which will be that such trusts can last indefinitely.

3. Consultation on Proposed Regulatory Fee Adjustments

On 23 August 2024, the Ministry released a consultation paper outlining proposed adjustments to certain financial services fees which will become effective in 2025. The Hon. Premier, in her 2024-2025 Budget Policy Statement, referred to enhanced revenue streams to achieve broader economic and budgetary objectives. Accordingly, the Ministry has comprehensively reviewed financial services fees.

Importantly, the review identified certain fees that have not been increased in over 5, 10, 15 years or, in a number of instances, longer. The Ministry has therefore identified certain areas where new fees are warranted given the resources required for regulatory oversight of those activities.

The consultation proposals focus on changes to fees across a number of regulations including mutual funds and private funds, securities investment business, banks and trust companies and insurance.

The consultation closed on 3 September 2024.

British Virgin Islands (BVI)

1. Financial Services Legislative Updates

On 26 September 2024, the following Acts were gazetted but are yet to be brought into force:

- (a) The Business Companies (Amendment) Act, 2024 (the “**BCA Amendment**”)
- (b) The Banks and Trust Companies (Amendment) Act, 2024 (“**BTCA Amendment**”)
- (c) The Insurance (Amendment) Act, 2024 (the “**Insurance Act Amendment**”)
- (d) The Proliferation Financing (Prohibition) (Amendment) Act, 2024 (the “**Proliferation Financing Act Amendment**”)

Set out below are a summary of the key changes brought about by the amendments:

BCA Amendment

Further details of the BCA Amendment are available in our client advisory [here](#).

BTCA Amendment

The definition of “trust business” has been broadened to include equivalent functions for another form of legal arrangement.

An applicant for a banking license must now provide a written undertaking to the Financial Services Commission (the “**FSC**”) to provide a copy of its policy of deposit insurance within six months of receiving its banking license (which change ensures that all banks are part of the BVI’s deposit insurance framework).

Insurance Act Amendment

Foreign insurers will now be required to obtain written approval from the FSC before making any changes to their controlling interest.

The FSC will only approve new owners who meet the required “fit and proper” criteria.

Any changes in non-controlling interests must be reported to the FSC within 14 days.

Proliferation Finance Act Amendment

Dealing with any designated persons or entities is now considered a strict liability offence.

The previous reporting threshold of US\$10,000 has been removed. Accordingly, all transactions involving designated individuals or entities must be reported to the Financial Investigation Agency (“**FIA**”).

The FIA is also now empowered to issue guidelines to help individuals and businesses comply with reporting and asset-freezing obligations, which amendments address key recommendations from the 2024 Mutual Evaluation Report.

2. Amendments to the Anti-Money Laundering Regulations and the Anti-Money Laundering and Terrorist Financing Code of Practice

In September 2024, the Anti-Money Laundering (Amendment) Regulations, 2024 (the “**AMLR Amendment**”) and the Anti-Money Laundering and Terrorist Financing (Amendment) Code of Practice (the “**Code of Practice Amendment**”) were gazetted. The amendments are not yet in force.

Key changes include the requirement for every relevant entity to appoint a Money Laundering Reporting Officer (“**MLRO**”) with at least three years' experience and a diploma, subject to approval from the FSC or the FIA (as applicable). The MLRO must have access to all necessary internal information and notify the regulatory body within 14 days if they leave, with a new MLRO appointed within 21 days.

The Code of Practice Amendment mandates detailed internal control measures, including compliance management, ongoing employee training, and regular independent audits. Small entities with three or fewer employees can have a senior officer or director serve as the MLRO if they meet the qualifications.

The amendments also provide clear guidelines on assessing MLRO qualifications and replacing MLROs, along with minor updates for clarity and consistency in the Regulations and the Code of Practice.

3. Securities and Investment Business (Amendment of Schedule 1) Order, 2024 (the “SIBA Order”)

On 5 September 2024, the SIBA Order was gazetted but is not yet in force. The key change includes the addition of a new financial instrument to Schedule 1 of the SIBA. The amendment now includes “Contracts to exchange one currency for another”, which now recognizes foreign exchange trading under the SIBA (save for where the trading is already caught by the existing regime such as contracts for differences, options or futures).

4. Beneficial Ownership Secure Search System (Amendment) Act, 2024 (the “BOSSS Amendment”)

The Beneficial Ownership Secure Search System Act (the “**BOSSS Act**”) has been amended by way of the BOSSS Amendment gazetted on 24 July 2024.

Amendments have been made to Section 10 of the BOSSS Act (specific to economic substance) and will only apply to economic substance periods which begin on or after 1 January 2025.

The amendments apply to pure equity holding entities carrying on “holding business” under the Economic Substance (Companies and Limited Partnerships) Act (as revised) who are only required to report expenditure details and additional details concerning their qualified employees and premises if the activities are active rather than passive in nature.

Key Contacts



Richard Spencer

Partner

rspencer@campbellslegal.com

Unfold more



Simon Thomas

Partner

stthomas@campbellslegal.com

Unfold more



Robert C. Searle

Partner, Hong Kong

rsearle@campbellslegal.com

Unfold more



Guy Williamson

Partner

gwilliamson@campbellslegal.com

Unfold more