



# First Biennial Report

## The Cayman Islands

November, 2012

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# THE CAYMAN ISLANDS – FIRST BIENNIAL REPORT

## I. Introduction

1. This report is the first biennial report by the Cayman Islands to the Caribbean Financial Action Task Force (CFATF) Plenary since it was removed from regular follow-up in November 2010. The third mutual evaluation report (MER) of the Cayman Islands was adopted on November 23, 2007. It was noted in the last follow-up report that the Cayman Islands had implemented measures resulting in a level of compliance equivalent to LC in Rec. 5, the only Recommendation among the sixteen key and core Recommendation that was rated PC in the third mutual evaluation report (MER) of the Cayman Islands. Additionally, only Recs. 30, SR. VIII and SR. IX still had outstanding recommended actions which resulted in a PC level of compliance. The following report by the Cayman Islands present actions which have been undertaken to address outstanding issues under Recs. 30, SR. VIII and SR. IX. Additionally, information on measures implemented in relation to other Recommendations is also provided.

## II. Report by the Cayman Islands of implemented measures

### Recommendation 30 – rating PC

#### Recommendations

*Cayman Islands Monetary Authority (CIMA) should review present staff complement with a view to improving supervisory coverage.*

#### Actions Taken

2. CIMA's manpower plan is reviewed annually based on the risk profile of the institutions, additional responsibilities (eg Basel II etc), and also takes into consideration IT resources. Staffing at CIMA increased from 116 in June 2007 to 153 in June 2012. There has been a significant increase in the number of professional staff, particularly in the regulatory divisions. CIMA has approximately 70 examiners across regulatory division who participate in inspections from time to time.

3. CIMA developed an IT strategic plan in 2010. The Authority recognized the need to increase operational efficiencies by automating its business processes to the greatest extent possible, thereby freeing up supervisory resources.

4. CIMA has successfully implemented the automation of licensing and registration of mutual funds via a CIMA portal, *CIMACConnect*. This electronic filing mechanism now eliminates the need for manual filing by applicants and further allowing more efficiency of the CIMA's manpower.

5. CIMA has placed high priority to enhancing its internal effectiveness over the past three years (2010 to 2012). With automation and the streamlining of business processes, special emphasis will be placed on the effective utilization of supervisory staff. CIMA's Supervisory Harmony Task Force has recommended and tested an enhanced risk based supervision framework to better align the Authority's supervisory processes and practices. The revised methodology

encompasses a framework for the identification, measurement, mitigation and monitoring of risks of the Authority's statutory objectives.

#### Recommendations

*The financial and human resources of the Customs service be increased to enable the Customs service to carry out its duties and functions in an effective manner.*

#### Actions Taken

6. Following the recruitment of the twelve (12) additional officers in 10/11, the Customs department recruited a further nine (9) additional officers in 2012. The additional recruitment filled the positions of Image Operators for the new scanning equipment recently acquired. These scanners will allow Customs to be more effective in border security. The 11/12 budget decreased by 1% however, the 12/13 budget is projected to increase by 1%.

### **Special Recommendation VIII – rating PC**

#### Recommendations

*The authorities should undertake an outreach programme to the non-profit organizations (NPOs) sector with a view to protecting the sector from terrorist financing abuse.*

*A supervisory programme for NPOs should be developed to identify non-compliance and violations.*

*Systems and procedures should be established to allow information on NPOs to be publicly available.*

*Points of contacts or procedures to respond to international inquiries regarding terrorism related activity of NPOs should be put in place.*

#### Actions Taken

7. In accordance with the intention to bring charities under a statutory charities commission by way of a new charities law the Charities Bill, 2010 has been published and had a first reading, and is now undergoing further review.

### **Special Recommendation IX – rating PC**

#### Recommendations

*It is the assessment team's recommendation that Cayman Islands Customs authorities should consider the implementation of new investigative techniques and methods similar to those outlined in the Best Practices Paper for SR IX, e.g. canine units specifically trained to detect currency.*

*Customs officials should also consider working more closely with the FRA and other law enforcement authorities to develop typologies, analyze trends and share information amongst themselves to more effectively combat cross border ML and FT issues*

#### Actions Taken

8. Customs has recently purchased and installed a mobile container x-ray scanner and three (3) additional cargo scanners, which are now placed and operating at each cargo facility. In addition to detecting firearms and illegal narcotics, the scanners have the capability of detecting currency. The procurement of these scanners will enhance Customs investigative techniques at border crossings.

#### Other Recommendations

### **Recommendation 24 – rating LC**

#### Recommendations

*It is recommended that the authorities in the Cayman Islands implement a monitoring program to ensure that real estate agents, brokers, and lawyers when dealing with real estate transactions comply with AML/CFT measures*

9. Section 4 (9) of the Proceeds of Crime Law, 2008 (POCL, 2008) provides that by regulations the Financial Reporting Authority (FRA) may be assigned the responsibility of monitoring relevant financial business not otherwise monitored by CIMA. Cabinet approved the assignment on 18 May 2010 as the first step and the FRA has been working with the CIG through the Attorney General's Chambers to put in place the additional resources including personnel to facilitate implementation of the program

### **Recommendation 26 – rating LC**

#### Recommendations

*The FRA should also focus on the development of analytical products/reports in collaboration with its partners (e.g. law enforcement and CIMA) to identify new ML/FT trends and/or typologies. They should also continue to provide feedback to both financial and non-financial reporting entities concerning the submission of SARs and, they should actively seek out opportunities to participate in training seminars and media programs to educate both professionals and the public on AML/CFT matters.*

#### Actions Taken

10. Trend Analysis continues to be featured in the Annual Report since 2006/07. FRA also continues to make efforts to obtain results from disclosures to the police in order that proper feedback can be given to both financial and non-financial reporting entities.

### Recommendations

*An enhanced outreach program should also be considered by the FRA in order to educate businesses and the general public on various typologies, trends and other matters related to AML/CFT.*

### Actions Taken

11. The FRA has had numerous outreach programs with the business communities and other reporting entities which are geared towards education on various typologies and trends related to AML/CFT matters.

### Recommendations

*Cayman Islands authorities should continue to monitor SAR reporting closely to ensure that the level of vigilance of the reporting entities is not waning and that complacency is not setting in.*

### Actions Taken

12. In 2010/11, the number of SAR filings decreased by 0.01% but in 2011/12 SAR filings increased by 15%. Overall there has been an 85% increase in the number of SARs reported from 2006/07 to 2011/12.

## **Recommendation 35 and Special Recommendation I – rating LC**

### Recommendations

*Due extension of conventions are required*

### Actions Taken

13. The UK's ratification of the UN Convention against Transnational Organized Crime (the "Palermo Convention") was extended to the Cayman Islands on May 17, 2012.

14. To date, the Cayman Islands' request for extension of the UK's ratification of the International Convention for the Suppression of Financing of Terrorism has not been done by the UK; however, it is noted that a similar request by the British Virgin Islands was granted and the Convention extended to them in 2012. Although its request remains outstanding, the provisions of the Convention continue to be implemented in various provisions of the Proceeds of Crime Law and Terrorism Law.

## Annex 1. Cayman Islands Implementation Statistics

**Table 1: Number of on-site inspections (including AML/CFT component) conducted by CIMA, by division for financial years 2009 to 2012.**

<b>Financial Year Ending June</b>	<b>Banking</b>	<b>Fiduciary</b>	<b>Investments</b>	<b>Insurance</b>	<b>Total</b>
<b>2009-2010</b>	58	16	23	14	111
<b>2010-2011</b>	42	17	23	23	105
<b>2011-2012</b>	38	15	13	41	107
<b>Total</b>	138	48	59	78	323

No sanctions for specific AML/CFT breaches have been applied for the financial years 2009 to 2012.

**Table 2: Breakdown of Suspicious Activity Reports submitted to the Financial Reporting Authority for 2011-2012**

<b>Type of Financial Institution/DNFBP</b>	<b>Received</b>	<b>No Further Action</b>	<b>Disseminated</b>	<b>In Progress</b>
<b>Banks</b>	146	67	51	28
<b>Trust Company</b>	50	33	9	8
<b>Company Manager/Corporate Service Provider</b>	38	16	15	7
<b>Mutual Fund Administrator</b>	27	11	8	8
<b>Attorneys</b>	16	7	7	2
<b>Money Transmitters</b>	15	4	10	1
<b>Securities Broker/Dealer</b>	11	6	-	5
<b>Insurance Manager</b>	5	2	2	1
<b>Realtors</b>	4	2		2
<b>Auditors</b>	4	1	3	-
<b>Investment Advisor and Manager</b>	2	-	1	1
<b>CIMA</b>	2	-	2	-
<b>Others</b>	5	2	1	2
<b>TOTAL</b>	325	151	109	65

**Table 3: Breakdown of Suspicious Activity Reports submitted to the Financial Reporting Authority for 2010-2011**

Type of Financial Institution/DNFBP	Received	No Further Action	Disseminated	In Progress
<b>Banks</b>	96	52	42	2
<b>Trust Company</b>	39	26	13	-
<b>Company Manager/Corporate Service Provider</b>	44	28	14	2
<b>Mutual Fund Administrator</b>	30	17	13	-
<b>Attorneys</b>	24	14	10	-
<b>Money Transmitters</b>	10	1	8	1
<b>Securities Broker/Dealer</b>	9	6	1	2
<b>Insurance Manager</b>	10	8	2	-
<b>Realtors</b>	2	-	2	-
<b>Auditors</b>	4	3	1	-
<b>Investment Advisor and Manager</b>	6	5	1	-
<b>CIMA</b>	-	-	-	-
<b>Others</b>	13	7	6	-
<b>TOTAL</b>	287	167	113	7

**Table 4: Breakdown of Suspicious Activity Reports submitted to the Financial Reporting Authority for 2009-2010**

Type of Financial Institution/DNFBP	Received	No Further Action	Disseminated	In Progress
<b>Banks</b>	132	98	34	-
<b>Trust Company</b>	46	37	9	-
<b>Company Manager/Corporate Service Provider</b>	39	25	14	-
<b>Mutual Fund Administrator</b>	23	12	11	-
<b>Attorneys</b>	10	6	4	-
<b>Money Transmitters</b>	24	15	9	-
<b>Securities Broker/Dealer</b>	2	2	-	-
<b>Insurance Manager</b>	8	-	8	-
<b>Realtors</b>	-	-	-	-
<b>Auditors</b>	3	3	-	-



<b>Investment Advisor and Manager</b>	-	-	-	-
<b>CIMA</b>	2	1	1	-
<b>Others</b>	7	3	4	-
<b>TOTAL</b>	296	202	94	-

**Table 5: Disclosures to and requests for information from foreign FIUs from 2009 to 2011**

	<b>2011-2012</b>	<b>2010-2011</b>	<b>2009-2010</b>
<b>Onward Disclosure</b>			
Received	4	-	-
No Further Action	3	-	-
Disseminated	1	-	-
In Progress	-	-	-
<b>Request for Information</b>			
Received	77	66	62
No Further Action	-	-	-
Disseminated	57	66	62
In Progress	20	-	-

**Table 6: Requests for information made to complete analysis of Suspicious Activity Reports for 2011-2012**

<b>Type of Financial Institution/DNFBP</b>	<b>Received</b>	<b>Local</b>	<b>Overseas</b>
<b>Banks</b>	146	24	11
<b>Trust Company</b>	50	13	11
<b>Company Manager/Corporate Service Provider</b>	38	10	3
<b>Mutual Fund Administrator</b>	27	1	4
<b>Attorneys</b>	16	2	1
<b>Money Transmitters</b>	15	-	-
<b>Securities Broker/Dealer</b>	11	1	5
<b>Insurance Manager</b>	5	-	-
<b>Realtors</b>	4	-	-
<b>Auditors</b>	4	2	-
<b>Investment Advisor and Manager</b>	2	-	-
<b>CIMA</b>	2	-	-
<b>Others</b>	5	2	4
<b>TOTAL</b>	325	55	39

**Table 7: Requests for information made to complete analysis of Suspicious Activity Reports for 2010-2011**

Type of Financial Institution/DNFBP	Received	Local	Overseas
<b>Banks</b>	96	16	21
<b>Trust Company</b>	39	10	4
<b>Company Manager/Corporate Service Provider</b>	44	10	5
<b>Mutual Fund Administrator</b>	30	6	5
<b>Attorneys</b>	24	2	-
<b>Money Transmitters</b>	10	1	2
<b>Securities Broker/Dealer</b>	9	2	12
<b>Insurance Manager</b>	10	-	1
<b>Realtors</b>	2	-	-
<b>Auditors</b>	4	-	-
<b>Investment Advisor and Manager</b>	6	-	-
<b>CIMA</b>	-	-	-
<b>Others</b>	13	3	3
<b>TOTAL</b>	287	50	53

**Table 8: Requests for information made to complete analysis of Suspicious Activity Reports for 2009-2010**

Type of Financial Institution/DNFBP	Received	Local	Overseas
<b>Banks</b>	132	26	16
<b>Trust Company</b>	46	12	7
<b>Company Manager/Corporate Service Provider</b>	39	9	5
<b>Mutual Fund Administrator</b>	23	1	4
<b>Attorneys</b>	10	6	2
<b>Money Transmitters</b>	24	5	10
<b>Securities Broker/Dealer</b>	2	2	2
<b>Insurance Manager</b>	8	2	-
<b>Realtors</b>	-	-	-
<b>Auditors</b>	3	1	1
<b>Investment Advisor and Manager</b>	-	-	-
<b>CIMA</b>	2	2	2

<b>Others</b>	7	-	-
<b>TOTAL</b>	296	66	49

There have been no requests for extradition over the past two years. There were 253 MLAT requests as at the end of October 2012: for 2011 currency and bearer negotiable declaration totalled CI\$2,995,652 and as at the end of October 2012 the total amount declared was CI\$159,213. There was a seizure of US\$5,000 by the Courts as a result of non-disclosure (an investigation is ongoing in conjunction with the US Postal Service, Customs and the Financial Crime Unit).

**Table 9: ML Enforcement Actions for period 2010 to end of October 2012**

	<b>2010</b>	<b>2011</b>	<b>As at end of October 2012</b>
ML Investigations	2	11	7
ML Prosecutions	6	6	5
Convictions	2	-	-
Restraints	\$150,000 & \$210,000	US\$2,000,000 & \$36,150,000	\$2,300,000
Confiscations	\$4,400,000 & \$1,421 & \$10,000	\$8,000 & \$150,000	
MLAT Requests	-	11	3

**Table 10: Breakdown of Mutual Legal Assistance Requests relating to ML for 2010**

<b>Predicate Offences</b>	<b>Outcome</b>	<b>Time Period for Response</b>
Conspiracy to cheat the Public Revenue	Granted	91 days
None	Awaiting more detailed information	
None	Refused information not in Cayman	
Unjust Enrichment	Refused	
Drug Trafficking	Awaiting more detailed information	

Corruption	On going	
None	Seeking information on predicate offence	
Fraud	Granted	65 days

**Table 11: Breakdown of Mutual Legal Assistance Requests relating to ML for 2011**

<b>Predicate Offences</b>	<b>Outcome</b>	<b>Time Period for Response</b>
Official Corruption	Refused – No connection to Cayman Islands	
Official Corruption	Refused – No connection to Cayman Islands	
Abuse of corporate assets	Pending	
Theft	Pending	
Drug Trafficking	Granted	139 days
Bribery	Granted	61 days
Foreign Corrupt Practices	Refused	13 days
Fraud	Granted	94 days