

Alert

Cayman Islands Administrative Fines Regime

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The Monetary Authority (Administrative Fines) (Amendment) Regulations, 2020 (the “Amendment Regulations”) came into force on 26 June 2020. The Amendment Regulations serve to amend Schedule 1 of the Monetary Authority (Administrative Fines) Regulations (2019 Revision) (the “Fines Regulations”) and extend the scope of the fines which may be levied by the Cayman Islands Monetary Authority (CIMA) for breaches of a range of Cayman regulatory laws; such breaches are categorised as minor, serious or very serious.

Pursuant to the Monetary Authority Law (2020 Revision), CIMA may impose administrative fines under the Fines Regulations pertaining to breaches committed under the following laws and regulations:

- Anti-Money Laundering Regulations (2020 Revision);
- Banks and Trust Companies Law (2020 Revision);
- Companies Management Law (2018 Revision) (as amended);
- Directors Registration and Licensing Law, 2014 (as amended);
- Insurance Law, 2010 (as amended);
- Money Services Law (2020 Revision);
- Mutual Funds Law (2020 Revision);
- Private Funds Law, 2020; and
- Securities Investment Business Law (2020 Revision).

It is therefore important that all persons regulated under these laws understand and comply with all filing deadlines, ongoing notification obligations and maintain appropriate systems and controls in accordance with applicable regulatory laws and CIMA guidance issued from time to time.

CIMA has the ability to issue administrative fines as follows:

Category of breach	Cayman Dollars	US Dollars
Minor	CI\$5,000	US\$6,100
Serious (individual)	CI\$50,000	US\$61,000
Serious (corporate)	CI\$100,000	US\$122,000
Very Serious (individual)	CI\$100,000	US\$122,000
Very Serious (corporate)	CI\$1,000,000	US\$1,220,000

It should be noted that where a breach committed by a corporate entity is shown to have been committed with the consent, connivance, knowledge or neglect of an individual, that individual may also be subject to an administrative fine as well as the corporate entity.

Criteria for imposition of fines

For minor breaches, unless CIMA can be satisfied that the breach has been rectified, fines are non-discretionary. For breaches that are either serious or very serious, fines are discretionary (the maximum amounts are set out in the table above). Discretionary fines will be dealt with by CIMA as enforcement actions which may result in the imposition of an administrative fine and/ or other enforcement action available under the relevant regulatory law. In determining whether to impose a discretionary fine and the amount of such fine, CIMA will aim to remove any financial benefit or avoidance of loss derived directly from the breach and will impose a financial penalty reflecting the nature and seriousness of the breach. There is a list of subjective and objective discretionary fine criteria set out in the Fines Regulations. CIMA will also consider any mitigating or aggravating circumstances, the person's resources and ability to pay and any adverse impact upon third parties due to the imposition of an administrative fine. Details can also be found in [CIMA's Enforcement Manual – The Procedure for Administering Administrative Fines](#).

Fine process

CIMA has a time period of six months from when it becomes aware of a minor breach, or two years from when it becomes aware of a serious or very serious breach to impose a fine. For such purposes, CIMA is deemed to have become aware of a breach when it first received information from which the breach can be reasonably inferred.

Prior to imposing a fine, CIMA will issue a breach notice outlining the nature of the breach, the amount of the proposed fine and the period within which the person is required to respond, which must be not less than 30 days after the date of the breach notice. If the breach notice is in relation to a fixed fine for a minor breach, the person may provide CIMA with a rectification notice confirming that the breach was rectified within 30 days after receipt of the breach notice.

At the end of the reply period, CIMA will consider the details of any reply or rectification notice provided and determine the amount of the discretionary fine or whether to impose the fixed fine as applicable. If CIMA decides to impose a fine it will issue a fine notice in accordance with the Fines Regulations. CIMA must also provide notice of a decision not to impose a fine within 15 days of the end of the relevant reply period.

Further reviews/ appeals

A person may apply to CIMA for an internal review of a decision to impose a fine notice relating to a fixed fine within 30 days of receipt of the notice. CIMA's Management Committee is then required to consider the application within 20 days of receipt and provide a notice of its decision within 10 days after making a decision on the application.

A person may apply to the Grand Court of the Cayman Islands for leave to appeal against a decision by CIMA to impose a discretionary fine within 30 days after receiving the fine notice. The Grand Court may grant leave to appeal if the person has grounds for seeking judicial review of the decision or the decision was made with a lack of proportionality or was not rational. After hearing the appeal, the Grand Court may (i) affirm, set aside or vary the original decision; or (ii) set aside the original decision and remit the matter back to CIMA for its reconsideration, subject to such directions as the Grand Court sees fit.

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