

**Cayman Islands: Assessment of the Supervision and Regulation of the
Financial Sector—Volume I—Review of Financial Sector
Regulation and Supervision**

This review of financial sector regulation and supervision in the **Cayman Islands** in the context of the offshore financial center assessment program contains technical advice and recommendations given by the staff team of the International Monetary Fund in response to a request by the authorities of the **Cayman Islands** for technical assistance. It is based on the information available at the time it was completed in **March 2005**. The staff's detailed assessment of the observance of standards and codes can be found in Volume II. The views expressed in these documents are those of the staff team and do not necessarily reflect the views of the government of the **Cayman Islands** or the Executive Board of the IMF.

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**ASSESSMENT OF THE SUPERVISION AND REGULATION OF THE
FINANCIAL SECTOR**



**Volume I: Review of Financial Sector Regulation
and Supervision**

Cayman Islands

March 2005

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GLOSSARY

| | |
|--------|---|
| AML | Anti-money laundering |
| BCP | Basel Core Principles for Effective Banking Supervision |
| BSD | Banking Supervision Division of CIMA |
| BTCL | Bank and Trust Companies Law (2003 Revision) |
| BTCLAF | Banks and Trust Companies (License Application and Fees) Regulation (2003 Revision) |
| CFT | combating the financing of terrorism |
| CI | Cayman Islands |
| CIMA | Cayman Islands Monetary Authority |
| CPC | Criminal Procedure Code |
| CRPL | Confidential Relationship Preservation Law (1995 Revision) |
| EJOP | Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978 |
| EU | European Union |
| FATF | Financial Action Task Force |
| FIU | financial intelligence unit |
| FRA | Financial Reporting Authority |
| FSPs | financial service providers |
| FT | financing of terrorism |
| GAAP | generally accepted accounting principles |
| GN | Guidance Notes |
| IAIS | International Association of Insurance Supervisors |
| IAS | international accounting standards |
| ICSFT | International Convention on the Suppression for the Financing of Terrorism |
| IFRS | international financial reporting standards |
| IOSCO | International Organization of Securities Commissions |
| KYC | know your customer |
| OFC | offshore financial center |
| MAL | Monetary Authority Law (2003 Revision) |
| MDL | Misuse of Drugs Law (2000 Revision) |
| MDICL | Misuse of Drugs (International Cooperation) Law, 1997 |
| MFAAs | mutual funds administrators |
| MFD | Monetary and Financial Systems Department |
| MFL | Mutual Funds Law (2003 revision) |
| ML | money laundering |
| MLAT | mutual legal assistance treaty |
| MLAUSL | Mutual Legal Assistance (United States of America) Law (1999 Revision) |
| MLR | Proceeds of Criminal Conduct Money Laundering Regulations (2003 Revision) |
| MLRO | money laundering reporting officer |

| | |
|---------|--|
| NAV | net asset values |
| PCA | Proceeds of Crime Act |
| PCCL | The Proceeds of Criminal Conduct Law (2001 Revision) |
| RCIP | Royal Cayman Islands Police |
| SAR | suspicious activity report |
| SIBL | Securities Investment Business Law (2003 Revision) |
| SROs | self regulatory organizations |
| TL | Terrorism Law 2003 |
| TUNMOTO | The Terrorism (United Nations Measures) (Overseas Territories) Order 2001 |
| WCCIT | White Collar Crime Investigative Team |

PREFACE

The Offshore Financial Center Assessment Report for the Cayman Islands assesses supervision in the banking, insurance, and securities sectors on the basis of the Basel Committee's *Core Principles for Effective Banking Supervision*, the IAIS's *Insurance Core Principles*, and IOSCO's *Objectives and Principles of Securities Regulation*. An assessment of the anti-money laundering and combating the financing of terrorism (AML/CFT) regime based on the October 2002 AML/CFT Methodology was also carried out.

The assessments were carried out during a mission from September 29 to October 10, 2003 whose members included Ms. Mary G. Zephirin (Mission Chief), Messrs. Salim Darbar and Nigel Davies, and Ms. Nancy Rawlings (all MFD); Messrs. Stefan Niessner (Banking Supervision, Deutsche Bundesbank), Timothy Sullivan (Consultant, Banking Supervision), and Michael Deasy (Securities Supervisor, Central Bank of Ireland); Ms. Margaret Cotter (Consulting Counsel, LEG); and Ms. Nirmaleen Jayawardane (Mission Assistant, MFD). An independent assessment expert, not under the supervision of the IMF, Ms. Amalin Flanegin, Public Prosecutor, Aruba, Kingdom of the Netherlands, evaluated the law enforcement sections of the methodology.

The members of the mission met with His Excellency, the Governor, as well as other members of Cabinet, viz., the Acting Chief Secretary, the Financial Secretary, the Attorney General, the Minister of Tourism/Leader of Government Business, the Minister of Health Services/Deputy Leader of Government Business, and the Minister of Community Services. The Mission also met with Mr. Michael Austin, Chairman of the Board, Mrs. Cindy Scotland, Managing Director, and other senior managers and staff of the Cayman Islands Monetary Authority (CIMA), as well as with Ms. Valia Theodoraki, Chief Executive Officer, Cayman Islands Stock Exchange. In addition, the Mission met with a number of other public sector officials and with representatives of several industry associations, various financial institutions, and auditors.

The members of the mission wish to express their gratitude to the Cayman authorities and the staff of all the institutions which they visited and with whom they worked during their stay for their assistance. Special thanks are in order to Ms. Deborah Drummond, Assistant Financial Secretary, for her logistical support and general assistance to the mission, and to Ms. Letitia Solomon, Senior Assistant to the Financial Secretary, in planning the mission.

The mission thanks the institutions and private sector associations whose executives and members not only made themselves available for meetings, but provided meeting and discussion facilities.

Data in the tables of this volume were updated to include end 2003 data. Data cited in the text is largely that available at the time of the mission.

EXECUTIVE SUMMARY

The Cayman Islands is a major supplier of cross-border financial services, particularly in banking,¹ with US\$1 trillion in international banking assets of banks headquartered in over 55 different jurisdictions in 2002, the second largest jurisdiction in terms of the number of captive insurance companies,² and an important domicile for hedge funds. A range of legal, accounting, universal banking, and financial service provider firms supply the legal and accounting skills to offer the corporate and financial arrangements that support the center. The Cayman Islands Stock Exchange provides a listing service for, in the main, mutual funds and specialist debt securities, but does no trading.

The Cayman Islands financial industry and regulators have developed an intense awareness of the measures required to combat money laundering and the financing of terrorism, as a result of legal reforms and improved supervisory procedures since 2000. There is an effective regime to implement these procedures and good evidence of a developed compliance culture.

In the last two years, an extensive program of legislative, rule, and guideline development has introduced an increasingly effective system of regulation, both formalizing earlier practices and introducing enhanced procedures. The main institution implementing the system, the Cayman Islands Monetary Authority (CIMA), was provided with improved autonomy by the 2003 amendment, in consultation with industry, of the Monetary Authority Law. It was endowed with licensing powers, official members of cabinet were excluded from its Board of Directors, and international cooperation was reinforced as being among its four principal functions, together with monetary management, regulation, and advisory services to government. CIMA is the only regulator, apart from the Stock Exchange Authority.

The implementation of financial regulation and supervision complies broadly with standards in all the areas assessed. However, issues related to resources and potential breaches of operational autonomy affect the regulator and, hence, supervision in all sectors:

- **CIMA's operational autonomy would be strengthened by enhancements to the Monetary Authority Law (2003 Revision).** The possibility for the Governor in Cabinet to give general directions to CIMA potentially inhibits operational autonomy. The provisions that require the Governor in Cabinet's approval for the issue and amendment of rules and statements of principles or guidance should be removed.

¹ It is the fifth largest location of cross-border claims against international financial centers reported by banks reporting to the Bank for International Settlements, International Banking Statistics, 2002.

² See A. M. Best, Special Report, April 14, 2003.

Similarly, CIMA should be able to effect memoranda of understanding on its own authority. CIMA's enforcement powers would also be strengthened by the ability to impose meaningful administrative fines for breach of its regulations and rules.

- **CIMA's supervisory system is currently suffering from a serious staff shortage.** The authorities are strongly encouraged to give priority to reviewing staff recruitment and training, as well as arrangements, such as outsourcing, deepening data collection, and broadenings its automated analysis, to fill this deficit. Such efforts would help accelerate progress towards meeting the staff complement planned by end 2004.
- The mechanisms for **international cooperation** require strengthening by removing the requirement that CIMA consult with government authorities prior to answering non-routine requests for information from foreign regulators.
- **Banking supervision**, largely in compliance with the Basel Core Principles, would benefit from technical enhancements to prudential guidance and requirements.
- **The AML/CFT regime is robust and rather complex** and both framework and implementation should be reinforced by consolidating legal provisions, extending international conventions,³ and strengthening and clarifying requirements in the areas of preventive measures and proceeds tracing. Attention should also be given to providing the FIU with the ability to transmit information without approval. In addition, tightening requirements for customer due diligence with regulated overseas introducers; formalizing good practices regarding internal controls and audit; and verifying compliance with AML requirements on newly regulated market intermediaries would be valuable improvements.
- In **insurance**, good practices need to be regularized and formalized in regulations, rules and guidelines, appropriate to the Cayman industry. Increasing staff resources, or substitutes, should be prioritized.
- **Securities** regulation and supervision, with the exception of mutual funds supervision, are largely in accordance with the IOSCO principles. The regime for mutual funds needs strengthening in the aspects governing funds open to the public. Supervisory powers should be explicitly reflected in the Mutual Funds Law, rather than derived from general powers of the Monetary Authority Law. Acute staffing shortages need to be addressed.

³ The United Kingdom has ratified certain U.N. conventions and now must extend them to the Cayman Islands.

Table 1. Key Recommendations

| Issue | Recommendations |
|--|--|
| CI Monetary Authority—Powers and Resources | |
| Potential for infringement of operational autonomy. | CIMA should be able to issue or amend rules, guidance, etc. without the approval of the Governor in Cabinet as now required by the Monetary Authority Law (MAL) (2003 Revision). |
| Staff levels below required and planned numbers and skills. | The current staff deficit suffered by CIMA in all supervisory divisions, should be urgently addressed by recruitment and training, as well as outsourcing or secondment from other agencies, as necessary. |
| Disincentives for breaches of regulations and rules. | The fine (currently at a maximum of C\$1,000) for breaches of regulations and rules should be sufficiently enhanced to provide a credible deterrent, and improve CIMA’s enforcement ability. |
| Banking | |
| AML/CFT | |
| International conventions not extended. | The authorities should ensure the UN International Convention for the Suppression of the Financing of Terrorism (1999) is extended to the Islands and that the Palermo Convention is also extended following ratification by the U.K. |
| Money laundering regulation. | Stricter and more explicit requirements for preventive measures should be adopted in some areas, including internal audit and wire transfers (the last at least within the two-year phase in period), and the compliance officer function should be enhanced. |
| Terrorism financing. | Laws relating to terrorism financing should ensure that property belonging to those who finance terrorism can be effectively restrained. |
| Provision for reliance on overseas KYC. | Consideration should be given to limiting the broad exemption from identification requirements set forth in the MLR for international business and to strengthening the mechanism with respect to introduced business. |
| Insurance | |
| Lack of formality of policies and practices. | The practices and policies, while generally of good quality, are too informally laid out. Appropriate supervision and discipline-enhancing transparency require formalization. |
| Securities | |
| Consumer protection. | Detailed consumer protection requirements should be provided for mutual funds open to the public. |
| Mutual Funds Law. | The provisions of the Law should be brought into line with modern supervisory norms, including , for example, specific inspection powers as in section 16 of SIBL. |
| Oversight of the Cayman Islands Stock Exchange (CSX). | The authority for supervision of the CSX should be placed in CIMA, which would replace the current Authority. |
| Cross-Border Cooperation | |
| The international exchange of non-routine information by CIMA requires consultation with the Attorney General and Financial Secretary. | The authorities should consider removing the requirements that non-routine information be shared only following consultation with the Attorney General and the Financial Secretary. CIMA should have the authority to use its own judgment in sharing information with foreign supervisors. The need to consult has the potential for interference and delays. |

| Issue | Recommendations |
|--|---|
| Approval of the Governor in Cabinet required for entering into memoranda of understanding (MOUs). | CIMA should be provided with the power to enter into MOUs on its own initiative and authorization, without the need to obtain external approval. |
| The international exchange of non-routine information by the FIU requires the consent of the Attorney General. | The FIU should be able to share <i>SAR</i> information with other FIUs on the basis of the Egmont agreement without prior approval of the AG. <i>The FIU Director should be able to enter into agreements with overseas FIUs without prior consent of AML Steering Group.</i> |

Note: The authorities' responses to these recommendations are to be found in the ROSCs in Section IV.

I. INTRODUCTION

1. At the invitation of the Government of the Cayman Islands, a Module II offshore financial center (OFC) assessment of financial regulation and supervision in the Cayman Islands was carried out from September 29–October 10, 2003, within the framework of the OFC Assessment Program approved by the Executive Board of the Fund in July 2000. Assessments were undertaken of the regulation and supervision of the banking, insurance, and securities sectors, and of the arrangements in place for AML/CFT.
2. Volume I of the report briefly describes the financial system and regulatory and supervisory arrangements for the financial sector in the Cayman Islands, and provides Reports on Standards and Codes (ROSCs) based on the detailed assessments in Volume II. Volume II provides the detailed assessments carried out on the basis of the Basel Core Principles for Effective Banking Supervision, the IAIS's Insurance Core Principles, IOSCO's Objectives and Principles for Securities Regulation, and the AML/CFT methodology for assessing compliance with the Financial Action's Task Force 40+8 Recommendations.

II. FINANCIAL SYSTEM OVERVIEW

A. Background

3. The Cayman Islands consists of three islands, Grand Cayman, Cayman Brac, and Little Cayman, with a total land mass of about 100 square miles, and a population of 43,000 (2002 estimate), about 60 percent of whom are Caymanian.⁴ It is about 480 miles south of Miami, 180 miles northwest of Jamaica, and 150 miles south of Cuba. Estimated per capita income in 2002 was US\$35,000.⁵

Government and the legal system

4. The framework of the current system of government and legal system are established by Constitution Orders of 1972 and 1993. The Cayman Islands is an overseas territory of the United Kingdom, on one analysis, since the 1670 Treaty of Madrid and a parliamentary democracy since 1831. There is an executive branch (the Cabinet),⁶ a Legislative Assembly, and a judicial branch.
5. The Cabinet is presided over by the Governor, who is required to consult the Cabinet on matters of policy and in the exercise of his constitutional powers except where, in his

⁴ Source: Cayman Islands Compendium of Statistics, 2002

⁵ Purchasing power parity estimate. Source: <http://www.cia.gov>,

⁶ Formerly known as the Executive Council.

judgment, the matter relates to the areas of defense, external affairs, internal security, the police, and the public service—the areas in which he has reserve authority. The Cabinet has eight members. Three are appointed by the governor—the chief secretary, attorney general, and the financial secretary—and also have seats in the Legislative Assembly. Five Cabinet members (ministers) are voted into office by the 15 elected members of the Assembly. Each member of the Cabinet is allocated a portfolio by the governor. The portfolio of the Financial Secretary, Finance & Economics, includes financial institutions, the Monetary Authority, and statistics.

6. The judicial branch has three courts—the Summary Court, presided over by a magistrate or justices of the peace, the Grand Court, and the Court of Appeal. The Grand Court is a superior court of record and administers common law, the law of equity of England, and locally enacted and applied laws. The Court of Appeal consists of a president and not less than two judges of appeal. Further appeals to the Judicial Committee of the U.K. Privy Council are possible.

7. Judges are appointed by the U.K. Secretary of State for the Foreign and Commonwealth Office. The Governor, on the advice of the Secretary of State, appoints one of these judges as Chief Justice. The Governor appoints magistrates on the advice of the Chief Justice. All legislation requires the assent of the Governor and the U.K. Secretary of State, and the Governor has the ability to impose legislation, with the consent of the Secretary of State, if he judges it “in the interests of public order, public faith, and good government.”

Economic arrangements and activity

8. The Cayman Islands issues its own currency, the Cayman Islands dollar, which is fixed at US\$1.25. There are no direct taxes. The main areas of economic activity are tourism and financial/business services. There are no current estimates of their contribution to GDP. The fiscal surplus is estimated at 4.6 percent of GDP in 2003, and the Moody’s sovereign rating for CI is Aa3.⁷

9. In 1999, about 58 percent of the workforce was expatriates with work permits, the majority from the Caribbean, Central America, the United States, Canada, the United Kingdom, and Ireland. There are no current estimates of employment in the financial sector, but in 1998 the banking and insurance sectors together provided 11 percent of employment.

B. Financial Institutions and Markets

10. While the absence of direct taxation may have been the original motivation for locating in the Cayman Islands, **over time the Islands have built up a network of lawyers,**

⁷ Source: Moody’s Investors Service, Cayman Islands Analysis, August 2003.

accounting firms, and administrators providing specialized skills, which focus on alternative risk management, securitization, and capital market structures and transactions. There are some 12 large law firms, and all four major international accounting firms have local offices, as do several smaller second-tier accounting firms. A variety of domestic associations serve to organize, provide training for, and sometimes discipline, the professionals operating in the jurisdiction.

11. **The type of company registration and the category of license issued by CIMA determines the nature and scope of the business conducted by licensees in CI.** Exempted companies, the category under which many of the financial institutions register, cannot operate domestically except in support of external business (Section 193 of Companies Law, 2003 Revision). In both banking and insurance, an “A” license permits the licensee to carry on the full gamut of domestic and international business, while a “B” license restricts the business to international markets. Several pieces of sectoral legislation (banking, insurance, mutual funds) allow for a restricted license that permit the licensee only to do business with persons or companies listed in the license. Table 2 provides an overview of the financial sector.

Table 2. Cayman Islands: Financial Structure Summary

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|--------|--------|--------|---------|---------|
| (in millions of US dollars, unless otherwise noted) | | | | | |
| Banks and Trusts | | | | | |
| A License | | | | | |
| Numbers | 31 | 31 | 31 | 30 | 27 |
| Assets | | | | 150,105 | 127,718 |
| B License | | | | | |
| Numbers | 430 | 433 | 396 | 353 | 322 |
| Assets | | | | 817,391 | 911,846 |
| Insurance | | | | | |
| Numbers | | | | | |
| A License | 32 | 29 | 30 | 28 | 28 |
| B License | 498 | 517 | 543 | 600 | 644 |
| <i>Of which: Pure captives</i> | 303 | 303 | 317 | 356 | 387 |
| Gross Assets | | | | | |
| B License | 12,027 | 14,836 | 14,993 | 17,733 | 19,247 |
| <i>Of which: Pure captives</i> | 7,165 | 8,348 | 8,951 | 9,941 | 11,569 |
| Number of Insurance managers, brokers, and agents | | 119 | 120 | 118 | 113 |
| Mutual Funds | | | | | |
| Number | 2,271 | 3,014 | 3,648 | 4,285 | 4,808 |
| Number of Mutual Fund Administrators | 176 | 202 | 217 | 230 | 195 |
| Number of Company Service Providers | 44 | 51 | 66 | 82 | 77 |
| Stock Market | | | | | |
| Number of listings (excluding programs) | | 385 | 418 | 710 | 735 |
| Market capitalization | | 34,936 | 38,140 | 36,298 | 43,944 |

Source: CIMA

Banking

12. **Banks serve a large variety of, primarily institutional, functions, with over 90 percent of their business made up of interbank bookings.** At end 2002, 30 had an “A” license and 353 a “B” license (five of which had a restricted license), see Table 3. Among the “A” banks are one private, domestically-owned bank, Cayman National Bank, and four international banks serving the domestic market. These banks are universal banks offering both banking and investment services, including mutual funds. The majority of the predominant U.S. banks provide overnight accounts to pay clients more favorable interest rates through the offshore branch (sweep accounts). In addition to retail banking by “A” licensees, and structured finance products for the institutional market, some provide corporate banking services only for their own group, carry out corporate investments for their headquarters, provide private banking, administer mutual funds (Table 4).

Table 3. Cayman Islands: Banking Sector

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---------------------------------|------|------|------|---------|---------|
| Banks and Trusts | | | | | |
| A License | | | | | |
| Bank | | | | | |
| Number | 4 | 4 | 4 | 4 | 4 |
| Assets (millions of US dollars) | | | | 4,535 | 5,733 |
| Bank and trust | | | | | |
| Number | 27 | 27 | 27 | 26 | 23 |
| Assets (millions of US dollars) | | | | 145,570 | 121,985 |
| B License | | | | | |
| Bank | | | | | |
| Number | 262 | 267 | 243 | 213 | 192 |
| Assets (millions of US dollars) | | | | 503,255 | 558,364 |
| Bank and trust | | | | | |
| Number | 168 | 166 | 153 | 140 | 130 |
| Assets (millions of US dollars) | | | | 314,136 | 353,482 |

Source: CIMA.

Note: 1/ For “A” License Banks and Trusts, represents assets of 21 institutions in 2003.

Table 4. Cayman Islands: Geographical Distribution of Banks in 2002 and 2003

| | 2002 | 2002 | 2003 | 2003 |
|---------------------------------------|----------------|----------------|----------------|----------------|
| Banks and Trusts | | | | |
| | A License | B License | A License | B License |
| Banks | | | | |
| Numbers | 4 | 213 | 4 | 192 |
| Africa | - | - | - | - |
| Asia | - | 35 | - | 28 |
| Caribbean | 3 | 2 | 3 | 2 |
| Canada | 1 | 3 | 1 | 2 |
| Cayman Islands | - | - | - | - |
| Central and South America | - | 53 | - | 48 |
| Europe | - | 59 | - | 53 |
| Middle East | - | 12 | - | 8 |
| UK, dependencies & territories | - | 6 | - | 6 |
| USA | - | 43 | - | 45 |
| Assets (in millions of US dollars) 1/ | 4,535 | 503,255 | 5,733 | 558,364 |
| Africa | - | - | - | - |
| Asia | - | 36,781 | - | 27,743 |
| Caribbean | 3,690 | 204 | 4,455 | 128 |
| Canada | 845 | 19,745 | 1,278 | 13,404 |
| Cayman Islands | - | - | - | - |
| Central and South America | - | 32,470 | - | 38,528 |
| Europe | - | 276,487 | - | 326,940 |
| Middle East | - | 3,071 | - | 2,708 |
| UK, dependencies & territories | - | 1,745 | - | 1,386 |
| USA | - | 132,752 | - | 147,457 |
| Bank and trust | | | | |
| Numbers | 26 | 140 | 23 | 130 |
| Africa | - | 1 | - | 1 |
| Asia | - | 6 | - | 6 |
| Caribbean | 3 | 6 | 2 | 5 |
| Canada | 2 | 4 | 2 | 3 |
| Cayman Islands | 3 | 2 | 3 | 2 |
| Central and South America | 1 | 28 | - | 25 |
| Europe | 8 | 43 | 7 | 41 |
| Middle East | - | 5 | - | 5 |
| UK, dependencies & territories | 6 | 4 | 6 | 4 |
| USA | 3 | 41 | 3 | 38 |
| Assets (in millions of US dollars) 2/ | 145,570 | 314,136 | 127,718 | 353,482 |
| Africa | - | 105 | - | 231 |
| Asia | - | 1,422 | - | 1,954 |
| Caribbean | 1,439 | 406 | 6,548 | 267 |
| Canada | 1,460 | 7,146 | 2,842 | 3,663 |
| Cayman Islands | 842 | 121 | 1,061 | 130 |
| Central and South America | 86 | 26,525 | 5 | 28,561 |
| Europe | 7,992 | 216,569 | 9,063 | 244,132 |
| Middle East | - | 87 | - | 69 |
| UK, dependencies & territories | 11,024 | 41 | 830 | 8,260 |
| USA | 122,727 | 61,714 | 107,369 | 66,215 |

Source: CIMA.

Notes: 1/ For "B" License banks, represents assets of 192 and 167 institutions in 2002 and 2003, respectively.

2/ For "B" License bank and trust, represents assets of 126 and 114 institutions in 2002 and 2003, respectively.

Insurance

13. There are 28 “A” license insurance companies conducting domestic business and 613 “B” license or captives, 370 of which are single parent captives, with 15 writing life at September 2003. (Table 5 provides data on the industry to end 2003). The captives are administered by 28 licensed insurance managers. CI have developed a specialty in health care captives for non-profit agencies in the USA. The captive is usually set up to cover the large deductible on medical malpractice insurance. The insured, thus, lowers the cost of insuring this first layer of loss under “conventional” insurance that may be equivalent to the expected loss itself. This business represents 25 percent of total premiums (one-third in terms of company numbers), while workers’ compensation insurance and products liability represent about 25 and 17 percent, respectively. Almost all of the workers’ compensation is in fact reinsurance—U.S. law requires that the insurance be provided by domestically admitted insurers. Captives, therefore, use approved U.S. insurers as fronting carriers, paying them a fee for assuming the risk, which is retroceded to the captive.

Table 5. Cayman Islands: Insurance Sector

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|--------|--------|--------|--------|--------|
| Numbers | | | | | |
| A License | 32 | 29 | 30 | 28 | 28 |
| B License | 498 | 517 | 543 | 600 | 644 |
| Pure captives | 303 | 303 | 317 | 356 | 387 |
| Association | 89 | 90 | 90 | 79 | 72 |
| Group | 31 | 34 | 34 | 42 | 50 |
| Rent a captive | 12 | 9 | 8 | 7 | 7 |
| Segregated portfolio company | 16 | 27 | 38 | 60 | 77 |
| Alternative financing | 23 | 21 | 24 | 21 | 18 |
| Open market | 24 | 33 | 32 | 35 | 33 |
| Gross Assets (in millions of US dollars) 1/ | | | | | |
| B License | 12,027 | 14,836 | 14,993 | 17,733 | 19,245 |
| Pure captives | 7,165 | 8,348 | 8,951 | 9,941 | 11,569 |
| Association | 1,186 | 1,269 | 1,289 | 1,226 | 1,284 |
| Group | 746 | 1,231 | 1,073 | 1,308 | 1,349 |
| Rent a captive | 121 | 127 | 123 | 100 | 76 |
| SPC | 96 | 173 | 281 | 370 | 657 |
| Alternative financing | 1,800 | 2,126 | 2,105 | 1,707 | 1,245 |
| Open market | 914 | 1,563 | 1,171 | 3,081 | 3,065 |
| Number of insurance managers | | 26 | 27 | 27 | 23 |
| Number of insurance brokers | | 22 | 23 | 22 | 26 |
| Number of insurance agents | | 71 | 70 | 69 | 64 |

Source: CIMA.

1/ "A" License insurance companies are branches that do not publish separate local balance sheets.

Securities

14. **In broad terms, the securities area in CI covers the stock exchange, investment intermediaries, and most importantly, the mutual funds business.** There are over 4,000 mutual funds domiciled in the Cayman Islands and about 200 fund administrators, 108 of whom are restricted (dealing only with specified funds) administrators without a physical presence at end September 2003 (Table 6 shows data to end 2003). Administrators can provide director, trustee and general partner services, transfer fund shares and calculate NAVs, as well as ensuring satisfaction of regulatory rules. Some provide a full back office service with research services and the preparation of accounts. They can also provide

investment management services (making investment decisions) but the vast majority of this activity is carried out overseas.

Table 6. Cayman Islands: Securities Market

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|----------|--------|--------|--------|--------|
| | End-year | | | | |
| Stock Market | | | | | |
| Number of Listed Issues | | 404 | 441 | 736 | 754 |
| Mutual Funds | | 291 | 305 | 587 | 613 |
| Specialist Debt Programme | | 17 | 21 | 24 | 18 |
| Specialist Debt | | 62 | 70 | 72 | 72 |
| Derivative warrants Programmes | | 2 | 2 | 2 | 1 |
| Derivative warrants | | 29 | 39 | 47 | 45 |
| Domestic equity | | 1 | 1 | 1 | 1 |
| International equity | | 2 | 3 | 3 | 4 |
| Market Capitalization (in millions of US dollars) | | 34,936 | 38,140 | 36,298 | 43,944 |
| Mutual Funds | | 28,542 | 32,051 | 30,232 | 36,863 |
| Specialist Debt | | 3,262 | 2,874 | 2,803 | 2,833 |
| Derivative warrants | | 1,611 | 1,797 | 1,659 | 1,496 |
| Domestic equity | | 54 | 188 | 139 | 122 |
| International equity | | 1,466 | 1,230 | 1,465 | 2,630 |
| Mutual Funds (classified by license type) | | | | | |
| Number | 2,271 | 3,014 | 3,648 | 4,285 | 4,808 |
| Administered | 617 | 701 | 659 | 641 | 592 |
| Licensed | 44 | 50 | 52 | 51 | 48 |
| Registered | 1,610 | 2,263 | 2,937 | 3,593 | 4,168 |
| Mutual Fund Administrators | | | | | |
| Number by License Type | 176 | 202 | 217 | 230 | 195 |
| Exempted | 21 | 19 | 16 | 13 | 10 |
| Restricted | 82 | 106 | 118 | 132 | 103 |
| Full | 73 | 77 | 83 | 85 | 82 |

Sources: CIMA and CSX.

15. **About ninety percent of the funds are hedge or hedge-type funds** (defined as funds which short sell).⁸ In general, such funds have a minimum investor subscription of

⁸ There is no universally agreed definition of a hedge fund. Since they are not generally regulated, they have been able to use high leverage, sell short, and charge high performance
(continued)

US\$50,000 and are targeted at sophisticated investors. Eighty percent of fund sponsors are from United States, others include the United Kingdom, Hong Kong SAR, and Japan. CI are attractive for hedge fund location both because there is no income tax, and because there is a large number of lawyers specialized in engineering structures consistent with the offering documents, as well as specialist hedge fund auditors.

16. **There are also a few asset management firms catering mainly to high net worth individuals and institutional clients** based in the Caribbean, Latin America, and the Far East. They also provide investment services for the captive insurance market. All have Qualified Intermediary⁹ status in the United States.

C. Regulatory Framework, Oversight, and Market Integrity Arrangements General¹⁰

17. **The CIMA is the regulatory authority for all financial institutions and services, including company managers and money services, such as remittance agencies and bureaux de change,** with the exception of the CSX, which is regulated by the Stock Exchange Authority. Following the recommendations of the 2000 KPMG *Review of Financial Regulation in the Caribbean Overseas Territories and Bermuda* that independent regulatory authorities should be established, the Monetary Authority Law was amended in 2003. The amendment required that no CIMA director be a member of Cabinet (there was a previous prohibition concerning members of the Legislative Assembly), and provided CIMA with direct powers to issue and revoke financial services licenses. Up to 10 directors are appointed by the Governor for a renewable period of three years. The Managing Director is also appointed by the Governor who, after consultation with the Board, may terminate the appointment on the recommendation of the board. Four of the directors are overseas directors. Two board members are the managing directors of licensees but do not sit in meetings which would affect the business of the licensee.

18. At the time of the mission CIMA had a staff of 87 with plans to reach a staff complement of 125 by the end of 2004. A 2003 salary survey indicated that salaries are comparable with the industry, except for a few posts. CIMA's management judges that

based fees. The CI financial community tends to define them as funds with the ability to sell short and which use prime brokers.

⁹ Following the complex documentation requirements of U.S. tax reporting procedures introduced in January, 2001, the U.S. allowed non-U.S. financial institutions to enter into an agreement with the Internal Revenue Service (IRS) to act as a liaison between their clients (whether both U.S. taxpayers and non-U.S. entities with U.S. source income) and the IRS.

¹⁰ All laws, regulations, rules, and guidelines governing the regulation and supervision of the financial sector are listed, by sector, in the Appendix.

recruitment and staff retention will depend on training, promotion prospects, and outreach by the authority.

Prudential supervision

19. **CIMA has five regulatory divisions—banking, insurance, investments, securities, and fiduciary services.** These are supported by a Legal Division, a Compliance Division, that deals with institutions where problems have been encountered, as well as a Policy and Research Division which is responsible for drafting rules and statements of guidance. The Banking Supervision Division supervises banks, banks with trust licenses, and non-bank financial institutions. Both domestic and captive insurers are supervised by the Insurance Division of CIMA, together with managers and intermediaries. In the securities area, mutual funds (including fund administrators) and market intermediaries (e.g., asset managers, stockbrokers, financial advisors) are supervised by the Investments Division of CIMA.

20. The Stock Exchange Authority (SXA), comprising the Financial Secretary, the Managing Director of CIMA, the Attorney General, or his designate, the Deputy Financial Secretary, as well as two other members appointed by the Governor, has the statutory power to oblige the CSX to establish and change any of its rules, and approves all major policies and rules of the Exchange. However, the Governor in cabinet may regulate the tenure of the SXA's members, as well as the basic procedures of its meetings and determinations.

Anti-money laundering and combating the financing of terrorism

21. AML/CFT is regulated through the Misuse of Drugs Law, the Proceeds of Criminal Conduct Law, the Terrorism (UN Measures) (Overseas Territories) Order, and the Terrorism Law 2003, as well as related regulations, and joint CIMA-industry guidance notes. A wide range of financial service providers, as well as real estate and certain legal services, are subject to criminal sanction for legal breach. CIMA is responsible for monitoring compliance with the AML regulations. This is carried out through CIMA's supervisory divisions, in conjunction with their prudential supervision. Only in the case of newly-regulated market intermediaries, are there some temporary gaps in the coverage of AML supervision. Cayman Island's FIU is a member of the Egmont group and the AML regime is coordinated by a Steering Committee of senior public servants.¹¹

Companies and trust service providers

22. Company service providers are governed by the Companies Management Law (2003 Revision) and its accompanying regulations, and supervised by the Fiduciary Services Division of CIMA. A large range of service providers fall under the ambit of the law—law firms, asset managers, those providing registered office, company secretary, and alternate

¹¹ The name of the Cayman Island's financial intelligence unit is the Financial Reporting Unit; however, for the purposes of this report, the acronym, FIU, is used.

director facilities, administering offices, and trust service providers (Table 7). Allowance is also made for additional corporate services to be included. A corporate service license is required for those providing basic services such as company formation, and the filing of statutory returns. Service providers controlling assets, acting as secretary, authorized custodian, or other more substantive functions require a companies management license. Trust companies are, however, licensed under the Banks and Trust Companies Law (2003 Revision), while insurance and fund managers are licensed under the insurance and securities investment business laws.

Table 7. Cayman Islands: Company and Trust Service Providers

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|--|------|------|------|------|------|
| Number of company service providers (by type of license) | 44 | 51 | 66 | 82 | 77 |
| Company Service Providers | 0 | 0 | 0 | 1 | 5 |
| Company managers (full) | 44 | 51 | 66 | 81 | 72 |
| Number of trust companies (by type of license) | | 225 | 233 | 242 | 228 |
| Trust (full) | | 54 | 55 | 58 | 49 |
| Trust (restricted) | | 62 | 63 | 67 | 73 |
| Nominee trust | 110 | 109 | 115 | 117 | 106 |

Source: CIMA

23. The engineering of structured finance is frequently done by service providers in this sector (as well as by banks). The law requires segregation of the licensee's funds from those of the managed company, annual audits which are supplied to CIMA, including an audit of compliance with the PCCL, PCCL regulations and any codes of conduct. Licensees are also required to carry liability insurance. The laws require licensees under the Companies Management Law to be supervised for AML/CFT purposes.

III. STRENGTHS AND VULNERABILITIES IN THE FINANCIAL REGULATORY AND SUPERVISORY ARRANGEMENTS

24. This section gives a brief summary of the findings of the assessments as regards the banking, insurance, and securities sectors, and the AML/CFT regime. It also draws together sectoral conclusions on the regulator and cross-border cooperation and information sharing.

25. **CIMA's supervision complies well with the standards considered. Its main vulnerability is a serious lack of staff in all supervisory divisions.** This is affecting current implementation of supervisory policy in some areas, although the use of staff from its non-

supervisory divisions, secondment from other agencies, and the ability to use external auditors are mitigating factors.

26. **CIMA has operational independence; however, there is some risk that this could be infringed by the powers given to the government (the Governor in Cabinet).** For example, the approval of the Governor in Cabinet is required for the issuance or amendment of rules and guidance, and for the signing of memoranda of understanding with overseas regulatory authorities. In addition, the enforcement powers provided to CIMA by the C\$1,000 ceiling on fines for breach of rules are insufficient.

A. Banking

27. **The supervisory system benefits from a well-developed banking infrastructure with an internationally experienced and qualified workforce, as well as experienced lawyers, accountants, and auditors.** The laws, rules, and statements of guidance governing prudential supervision are up-to-date and generally meet international standards. The licensing process for new entrants is sound and comprehensive. Off-site monitoring and on-site inspection are well developed and integrated; the analytical framework uses statistical and prudential information and is a component of the on-site supervision planning.

28. The supervisory framework would be enhanced by the establishment of procedures for consolidated supervision on the holding company level of locally incorporated banks. In addition, since branches of foreign banks that are licensed to serve local clientele are not required to have assigned (or donated/allocated) capital, no prudential limits can be fixed for the activities of these branches. CIMA therefore relies to a large extent on the consolidated supervision of the home supervisor.

B. AML/CFT

29. **A sound legal basis and robust legal framework for combating ML and TF has resulted from major regulatory revisions and improvements in the past four years.** However, the resulting complex system would benefit from strengthening of the framework with additional specific requirements and consolidation of various provisions to address the potential for inconsistencies and remove unnecessary complexity. Issues that should be addressed include ensuring that property belonging to those who finance terrorism can be effectively restrained, enhancing the ability of authorities to identify and trace criminal proceeds and terrorist financing, and adopting stricter and more explicit requirements for preventive measures in areas such as internal audit and wire transfers.

30. **An intense awareness of AML/CFT is supported by a sound supervisory program.** Cayman Islands has been a leader in developing anti-money laundering programs

throughout the Caribbean region.¹² Many in the Cayman financial sector provide leadership within the region to the Caribbean Financial Action Task Force. The system will be further strengthened as the Securities Investment Business Law is implemented for market intermediaries, and by issuing guidance to all FSPs regarding internal controls and mandatory audits; tightening certain provisions of the guidance notes; and ensuring that adequate mechanisms are in place to safeguard against potential risks associated with eligible introducers; and to ensure ready access to identification records of clients introduced from abroad.

C. Securities

31. **Regulation in accordance with the IOSCO principles is well implemented except in the mutual fund area. The main vulnerability is the acute lack of staff.** High priority should be given to achieving the near-doubling of staff planned by end 2004 and to filling the posts of head and deputy head that were vacant at time of assessment.

32. **While the Securities Investment Business Law reflects sound regulatory practice, the Mutual Funds Law requires revision to incorporate modern supervisory norms.** In particular, the current law is inadequate in the area of consumer protection criteria for funds which are open to the general public. The stock exchange, which provides a listing facility only (i.e., there is no trading) appears well run. It is recommended that supervisory responsibility for it be transferred from the Stock Exchange Authority to CIMA.

D. Insurance

33. **The measures and policies in place for insurance supervision are sound but their implementation is jeopardized by the current lack of staff,** which has hindered on-site supervision in the past year. In addition, supervision would be greatly strengthened by formally setting out the policies and procedures in use so as to give them enhanced legal force, a risk-based focus, and reduce the potential for inappropriately differential treatment of licensees.

E. Cross-Border Cooperation and Information-Sharing

34. **The Monetary Authority Law sets assistance to overseas regulatory authorities as a major function of CIMA, but contains clauses that could infringe the effectiveness of such cooperation.** CIMA is in negotiations with the regulatory authorities in jurisdictions where Cayman institutions have subsidiaries or branches to arrange MoUs that will formalize functioning working relationships with these authorities. However, the Monetary Authority Law requires that CIMA obtain the approval of the Governor in Cabinet for such MoUs. In

¹² Cayman Islands has served as president of the Caribbean Financial Action Task Force, and has provided assistance to neighboring jurisdictions. It has also closed several financial institutions on the basis of concerns about money laundering.

addition, the Authority has to consult with the Financial Secretary and Attorney General (AG) before meeting non-routine regulatory requests. While the AG has never raised an objection to disclosure, the need for consultation provides potential for interference.

IV. SUMMARIES OF OBSERVANCE OF FINANCIAL SYSTEM STANDARDS AND CODES

A. Basel Core Principles

General

35. With the agreement of the Cayman Islands Monetary Authority (CIMA), the mission assessed compliance with the Basel Core Principles for Effective Banking Supervision (BCP) using the Core Principles Methodology. The assessment was undertaken in the context of the Offshore Financial Center (OFC) Assessment Program. The domestic and offshore sectors were not subject to individual assessments, since they are both covered by the same legislation and supervised by the Banking Supervision Division (BSD) of CIMA. The assessment took place from September 29 to October 10, 2003, and was undertaken by Mr. Timothy Sullivan, formerly with the Office of the Comptroller of the Currency, and Mr. Stefan Niessner of the Deutsche Bundesbank.

36. The assessment was based on a review of the applicable laws, regulations, prudential guidelines, and discussions with staff of CIMA (primarily the head of the BSD and her deputies and BSD's legal counsel). The assessors also met with representatives of individual financial institutions, lawyers, and accountants. Where relevant, a review was also undertaken of CIMA's on- and off-site supervision manuals, statistical and other reporting forms, anonymous prudential reports of individual banks prepared by CIMA, and Rules and Statements of Guidance under preparation. Before the mission, the Cayman Islands had prepared a formal self-assessment.

Institutional and macroprudential setting, market structure—overview

37. CIMA is responsible for the licensing and supervision of the domestic banking sector as well as offshore banks. CIMA's BSD employs well-trained and experienced staff, although staffing levels are currently below projected need. It carries out its responsibilities through a combination of routine off-site surveillance, based on a quarterly reporting system, and an on-site inspections program. CIMA can address compliance with laws as well as safety and soundness concerns. Arrangements for sharing information with foreign supervisors are in place.

38. There are three different kinds of banks conducting banking business in the Cayman Islands. Category "A"-Banks may carry on banking business within and outside the Cayman Islands (30 licensees at the end of 2002). Category "B"-Banks may carry on banking business with the restriction that the bank is not allowed to take deposits from any person resident in the Cayman Islands other than from another bank or invest in any asset which represents a claim on any person resident in the Cayman Islands except, for example, for transactions with another bank or the purchase of securities issued by the government

(353 licensees). CIMA may impose the restriction to the “B”-license that the holder of the license shall not receive or solicit funds by way of trade or business from persons other than those listed in any undertaking accompanying the application for the license, in particular for their own group only (Restricted “B” Bank, 5 licensees). Besides banking services, the international active banks offer advisory brokerage, investment management, trusts, SPV products, custodial services, and corporate services. To a large extent, the banking services are offered to facilitate these other services. The BSD also supervises two small credit unions, a building society, and a small development bank.

39. Assets of locally incorporated banks increased from C\$641 million in 1998 to C\$1.11 billion in 2002. The total international assets and liabilities held by banks in the Cayman Islands were US\$1.04 trillion of which 70 percent originate from the Americas. Banks usually maintain capital that is well above the minimum capital adequacy ratio of 12 percent for the local retail banks and the subsidiaries of banks that are licensed in a country or territory outside the Cayman Islands and 15 percent for privately owned banks (i.e., banks that are not subsidiaries or branches of other banks). Data on the aggregate return on assets and return on equity were not available.

General preconditions for effective banking supervision

40. Preconditions for effective banking supervision in the Cayman Islands are generally in place. Currently, there are no macroeconomic vulnerabilities and risks that could have implications for the effectiveness of prudential safeguards or the stability of the financial system. The public infrastructure provides for an environment that fosters the honoring and enforcement of financial contracts. There is a comprehensive set of laws, which governs the financial sector. These laws are supported by a body of professional lawyers and judges. The court system is efficient. Although the Cayman Islands has not established its own accounting standards, there is a professional body of accountants and auditors, which use US-GAAP or IAS (IFRS) for their audits. CIMA’s supervision of other financial sectors and markets is generally efficient. There has been no evidence of government efforts to influence lending operations. Finally, there is no deposit insurance in the Cayman Islands and CIMA cannot act as lender of last resort, since CIMA’s liabilities have to be covered for not less than 90 percent by foreign assets and since the CI dollar is pegged to the U.S. dollar.

Main findings

41. ***Objectives, Autonomy, Powers, and Resources (CP 1)***—Besides its monetary functions, the principal function of CIMA is to regulate and supervise banking business carried on in or from within the Cayman Islands in accordance with the Monetary Authority Law (MAL) and the Banks and Trust Companies Law (BTCL). In performing its functions, CIMA is required to promote and maintain a sound financial system in the Cayman Islands. In this respect, CIMA is responsible for the authorization of banking establishments and their ongoing supervision. CIMA has the necessary powers to address compliance with laws, as well as, safety and soundness concerns. CIMA is entitled to have access to books, records, and documents of any licensee and to request any information from any relevant person.

CIMA is also entitled to share supervisory information with other relevant supervisory authorities.

42. CIMA acts independently in its day-to-day supervision. The Governor, however, may, after consultation with the Board of Directors, give to CIMA general directions. He also approves CIMA's budget. Furthermore, the members of the Board of Directors including the Managing Director of CIMA are appointed by the Governor. Although CIMA is staffed with qualified and experienced personnel who are granted regular training opportunities to enhance the supervisory functions of CIMA, the BSD with over 300 banks under its jurisdiction and with only 26 positions the banking supervisory function seems to be understaffed. A 2003 salary survey indicated that salaries are comparable with the industry, except for a few posts. CIMA, its Directors, and its employees are provided with legal protection while discharging their duties in good faith.

43. ***Licensing and Structure (CPs 2–5)***—The permissible activities of entities that are licensed and subject to supervision as banks are clearly defined. Only licensed banks may receive deposits from the public and use the word “bank” or any derivatives in the description or the title under which they are carrying on the banking business. The Banks and Trust Companies (License Application and Fees) Regulation (BTCLAF), issued by the Governor under the BTCL, establishes the information an applicant has to provide and the criteria for licensing banks. The licensing process consists of an assessment of the banking organization's ownership structure, the fitness and propriety of the directors and senior management, its operating plan and internal controls, and its projected financial condition. Generally, CIMA grants licenses only to branches and subsidiaries of banks that are licensed in a country or territory outside the Cayman Islands. In this respect, CIMA assesses whether the home supervisor in accordance with internationally recognized standards conducts consolidated supervision.

44. Without CIMA's prior approval, no shares in a bank may be issued and no issued shares may be transferred. A locally incorporated bank may not open, outside the Cayman Islands, a subsidiary, a branch, an agency, or a representative office without the prior approval of CIMA. The acquisition of a stake in any another entity is regarded as a change to the business plan of the bank and needs the prior approval of CIMA.

45. ***Prudential Regulations and Requirements (CPs 6–15)***—Banks operate within a well-defined prudential regulatory framework, generally in accordance with Basel standards. The two-tiered required minimum risk capital standards are significantly above those required by the Basel Capital Accord. CIMA is putting in place rules and detailed guidance to set out its standards for the management of virtually all of the primary risks within which the banks in this market operate. CIMA is also putting in place rules and detailed guidance to set out its standards for the management of internal control systems and internal audit programs and separate guidance for the implementation and operation of the corporate governance activities of the banks. Comprehensive guidance on anti-money laundering, which sets out the detailed requirements for implementing the requirements of the anti-money laundering laws and regulations, has been issued to the banks. The standards in all

these guidelines are already used in practice based on CIMA's previously articulated policies and its complementary off-site surveillance and on-site inspection processes.

46. ***Methods of Ongoing Supervision (CPs 16–20)***—The Banking Supervision Division of CIMA operates a comprehensive and effective risk-based supervision program, consisting of continuous off-site surveillance, periodic on-site inspection, and ongoing communications with the jurisdiction's licensees and, where applicable, their home country supervisory authority. Detailed supervisory policies and procedures have been developed and implemented for both the off-site and on-site processes. A comprehensive regulatory reporting program has been put in place. CIMA conducts annual inspections of retail banks and banks where it is the home country supervisory authority; inspections of other licensees with a physical presence in the jurisdiction are conducted every two years.

47. ***Information Requirements (CP 21)***—CIMA, in general, and the accounting profession require the use of international accounting, auditing, and reporting practices and standards. Exceptions are known and understood by CIMA. Audited financial statements are provided to CIMA annually, and reviewed by CIMA-approved auditors. Relations and cooperation between CIMA and the audit industry are effective.

48. ***Formal Powers of Supervisors (CP 22)***—Whenever CIMA is of the opinion that a bank has contravened the BTCL it may require any action to be taken by the bank as it considers necessary. CIMA has issued guidelines on the ladder of compliance to clarify the procedures that it will follow in case of non-compliance by a bank. CIMA has only limited powers to hold managers and directors personally liable, since Rules issued by CIMA under the MAL may only provide for the imposition of penalties on banks and/or on the management for breach of such rules up to C\$1,000.

49. ***Cross-Border Banking (CPs 23–25)***—CIMA requires banks to prepare all relevant supervisory reports on a globally consolidated basis. Without the prior approval of CIMA, no bank shall open, outside the Cayman Islands, a subsidiary, branch, agency, or representative office. In the process of approval, CIMA assesses whether management is maintaining proper oversight of the bank's foreign offices, and whether the local management of any overseas offices has the necessary expertise to manage those operations in a safe and sound manner.

50. CIMA provides assistance and discloses requested information in the case of a routine regulatory request to the overseas authorities. In the case of a non-routine regulatory request, CIMA has to notify the Attorney-General as well as the Financial Secretary before disclosing the requested information. The MAL allows CIMA to enter into MoUs for the purpose of assisting consolidated supervision by the foreign supervisor.

51. Subsidiaries of foreign banks are subject to the same prudential and regulatory reporting requirements as domestic banks. Although branches of foreign banks are subject to the same licensing and regulatory reporting requirements as locally incorporated banks, they are not subject to all of the same prudential requirements. Based on its risk assessment, CIMA schedules routine on-site inspections of the local offices of subsidiaries and branches

of foreign banks at least every second or third year. Inspections of all other banks are prioritized based on CIMA’s risk assessment of the banks. CIMA also facilitates visits of foreign regulators to the Cayman Islands and routinely conducts joint inspections.

Recommended Action

52. Although the most recent amendment of the MAL granted CIMA a large degree of independence, the Governor retains the authority to approve the issuance of regulations, rules, and statements of principal and guidance and the signing of MoUs with other supervisory authorities by CIMA. The Cayman Islands Legislative Assembly may wish to reconsider the involvement of the Governor in these matters. CIMA should use its existing authority to impose monetary penalties for violating prudential requirements issued in the Rules. The MAL should be amended to increase the currently permitted, minimal monetary penalties to significant amounts. CIMA may also wish to consider requiring assigned capital for those branches of foreign banks that are licensed to provide services to customers in the local banking market (i.e., “A” licensed branches that provide retail banking services). This would provide comparable protection to the interests of these customers as is provided by the capital of the locally incorporated banks that are licensed to deal with the same clientele.

Table 8. Recommended Action Plan to Improve Compliance with the Basel Core Principles

| Reference Principle | Recommended Action |
|---|---|
| CP 1(2) Independence | CIMA should be able to issue rules and statements of guidance without the approval of the Governor. |
| CP 3 Licensing Criteria | CIMA should require that applicants maintain initial capital funds in cash in the jurisdiction. |
| CP 5 Investment Criteria | Criteria for judging proposals for investment and acquisition should be included in law or regulation. |
| CP 7 Credit Policies | CIMA should develop and implement a Statement of Guidance on Investment Risk Management. |
| CP 8 Loan Evaluation and Loan-Loss Provisioning | CIMA should require that loan loss provisioning reporting include off-balance sheet items. CIMA should provide for the implementation of an asset classifications system in each licensee. |
| CP 10 Connected Lending | CIMA should require that transactions with connected or related parties exceeding specified limits have board approval and loans to connected and related parties be monitored by an independent credit administration process. |
| CP 11 Country Risk | CIMA should complete the issuance of its Statement of Guidance on Country/Transfer Risk. |
| CP 18 Off-Site Supervision | CIMA should include information on asset classifications in its regular required reporting |
| CP 22 Remedial Measures | CIMA should use its existing authority to impose monetary penalties and the MAL should be amended to increase the permitted monetary penalties to significant amounts. |

| Reference Principle | Recommended Action |
|--|---|
| CP 24 Host Country Supervision | The MAL should be amended to permit MOUs for consolidated supervision by CIMA and permit CIMA to provide unsolicited supervisory information to host country supervisors. |
| CP 25 Supervision of Foreign Banks' Establishments | The MAL should be amended to permit CIMA to provide unsolicited supervisory information to home country supervisors. |

Authorities' response

CIMA notes that the IMF mission has assessed banking supervision as “compliant” or “largely compliant” with all 30 recommendations included in the 25 Core Principles. The mission’s recommendations are under review or implementation, as set out below, unless otherwise indicated.

CP 1, 3, 5, 22, 24, 25

Implementation of the IMF recommendations would require legislative changes to either the BTCL or the MAL. Legislative proposals on CP’s 3 and 5 have already been submitted to the government, and a proposal from CIMA on CP 22 is under development. Regarding CP’s 24 and 25, while there are no specific provisions in the MAL permitting CIMA to provide unsolicited information to home/host country supervisors, the MAL does not restrict such disclosures where the information is already public or where disclosure would assist CIMA in carrying out its supervisory duties under the Law. However, legislative change to expressly permit the provision of unsolicited supervisory information to home/host country supervisors will be put forward by CIMA for consideration by the government.

Regarding CP 1(2), CIMA believes that the current process allows for transparency and accountability and does not interfere with its operational independence.

CP 7, 8, 10, 11, 18

Implementation of the IMF recommendations would require CIMA to issue new or amended Rules or Statements of Guidance. The necessary Statements of Guidance or Rules to respond to the recommendations, *on Investment Securities and Derivative Risk Management; Loan Loss Provisioning; Asset Classification; Credit Risk Management; Country and Transfer Risk Management*, have either been issued to the industry for consultation or are under development.

B. FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism

Information and methodology used for the assessment

53. This assessment is based on a review of CI AML/CFT legislation and regulations, as well as guidance notes issued by CIMA and industry. The assessment team held discussions with the governor, senior officials from a number of CI government departments and agencies, and representatives of industry. The assessment is based for the most part on the information available at the time it was completed on October 9, 2003.

Main findings

54. Efforts to achieve compliance with international standards have been a top priority in the last few years, and there is an intense awareness of AML/CFT in the business community. Following a June 2000 listing by FATF of CI as a non-cooperative country and territory (NCCT), CI authorities devoted substantial attention to improvements in the AML/CFT legal framework and oversight of financial sector compliance. In June 2001, FATF removed CI from the NCCT list. In 2001, the Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (TUNMOTO), a U.K. statutory instrument was extended to all U.K. overseas territories, including CI. In 2000, the MLR were adopted. In 2003, the Terrorism Law (TL) was enacted. With these and other measures, CI now has mandatory suspicious activity reporting, enhanced CFT coverage, immobilization of bearer shares, regulatory coverage for money service providers, improved gateways for information sharing, clear designations of responsibilities for monitoring AML compliance, and other significant enhancements to its AML/CFT framework. In addition, CI is one of only two jurisdictions reported to have conducted retrospective due diligence on relationships predating September 2000.

Criminal justice measures and international cooperation

Criminalization of ML and FT

55. ML is criminalized in CI in a manner broadly consistent with the Vienna and Palermo Conventions. ML offenses extend to proceeds derived from all serious (indictable) offenses, self-laundering is covered and corporate bodies are also liable for ML. However, as ML is criminalized by several statutes and drug and non-drug ML regimes run parallel, issues of consistency arise and should be addressed. The evidentiary burden to establish that assets are proceeds of another's offense is substantial. FT is criminalized based on the 1999 UN ICSFT but, an Order in Council extending the application of ICSFT to CI is not yet in place. Adequate and dissuasive sanctions are available for both ML and FT offenses.

Confiscation of proceeds of crime or property used to finance terrorism

56. **Legal Provisions and Protections**—CI's laws permit confiscation of the value of the benefits derived from offenses. For drug trafficking and drug trafficking ML, confiscation is

mandatory and conviction-based. For non-drug related offenses, it is not mandatory although, as a matter of practice, it is always considered. Modifications to the PCCL to provide specifically for the confiscation of laundered property and that ensure that confiscation is mandatory are needed. Courts are able to forfeit drug or terrorist cash independently from criminal proceedings, and civil forfeiture is under consideration. Measures to facilitate the identification and tracing of property are needed for both domestic matters and in support of foreign requests. *CI's authority to confiscate proceeds and property used to finance terrorism has been used and training is provided to CI authorities on a regular basis.*

The FIU and processes for receiving, analyzing, and disseminating intelligence

57. **Functions and Authority**—CI's FIU meets Egmont standards. It analyzes SARs, has access to a wide range of databases, and shares information regularly with foreign counterparts (although for SARs only with Attorney General authorization). Recent PCCL amendments provide the FIU with explicit and enhanced powers including the ability to require supplemental SAR information and to apply for orders freezing bank accounts. With recent changes in arrangements for reporting suspicious activity, guidance on reporting should be provided, and the FIU or CIMA should have authority to mandate reporting form and methods. In addition to existing criminal sanctions, meaningful administrative fines for AML/CFT failures should be made available. Attorney General consent currently required before disclosure of SARs to foreign FIUs should be reevaluated and consideration given to permitting disclosures by the FIU. The PCCL should be modified to permit disclosures to foreign authorities in ML matters relating to drug trafficking.

58. The FIU does not keep statistics on the number of prosecutions and convictions, but is addressing this. Another issue to be addressed is the publication of a yearly report by the FIU, which until now has only been done as a small section of the annual Royal Cayman Islands Police report.

59. *The Director of the FIU should have full authority to sign working agreements with foreign counterparts without prior consent of the AML Steering Group. The FIU provides feedback to reporting entities and should continue to provide information based on its own experience with SARs to reporting entities and law enforcement agencies.*

Law enforcement and prosecution authorities, powers, and duties

60. The FIU and Attorney General's Chambers are responsible for ML/FT investigations and prosecutions. There are adequate powers to compel the production of records. More robust information-gathering methods (as account monitoring orders) are limited to terrorism related investigations. CI law enforcement authorities may conduct cooperative investigations and coordinate seizure and forfeiture actions with other jurisdictions. *The FIU and the Police are at the moment adequately staffed to conduct ML/FT investigations. In the new framework the FIU will include civilians who will serve as analysts. They will need to be recruited, as soon as possible, and trained. Although close communication and cooperation*

seems to exist between law enforcement agencies, more feedback from the FIU about trend and typologies discovered in SARs is necessary.

International cooperation

61. **Laws and Procedures**—Statutes, a U.K.-U.S. treaty that applies to the CI, and informal arrangements permit extensive cooperation in AML/CFT matters. Recent revisions to MDICL enhance mutual legal assistance possibilities by making the law available in non-drug trafficking matters and permitting assistance at the investigatory stage. Enforcement of foreign confiscation orders is available under the PCCL. However, powers to freeze assets of terrorists, terrorist organizations, and those who finance terrorism appear limited by restrictive provisions in the PCCL. Extradition is available with Commonwealth countries, overseas territories, the United States, and a number of European countries. CI is able to extradite its own nationals. While CI may extradite for FT to many countries, with an extension of the ICSFT to CI, it would be able to extradite to any country a party to the ICSFT. Law enforcement assistance from CI can be obtained through the police Interpol channels or informal arrangements. *MLAT requests are processed by the Attorney General's Chambers in six weeks. From 1986 to 2003, 219 requests from the U.S. to CI were processed. The Attorney General's Chambers has sufficient and trained staff to deal with the number of requests and has sufficient funds. Besides extradition of persons, CI is, based on the Immigration Law, able to deport any person under certain circumstances.*

Preventive measures for financial institutions

Prudentially regulated sectors

62. **Supervision/enforcement**—CIMA licenses and exercises prudential supervision over banks, insurance, mutual funds, securities investment business, corporate and trust service providers, and money services businesses including money remitters and currency exchange operations. As part of its general functions, it performs “fit-and-proper” checking with regard to key officers, verifies that the institutions comply with the laws applicable to them, and grants and revokes licenses. CIMA has the authority to adopt administrative rules to develop the AML regime, in which case administrative fines would be available. The law also provides CIMA with specific powers to monitor compliance with AML/CFT regulations.

63. CIMA, in conjunction with various professional associations, recently issued revised GN¹³ under the MLR updating an April 2001 version. The GN cover all relevant financial activities, as well as, company management, building societies, money transmission services, real estate services, custodian services and advice, and service relating to capital structure undertakings. The notes reflect international standards and best practices regarding customer identification, record keeping, transaction monitoring, suspicious activity detection and

¹³ While the Guidance Notes are not legally binding, courts are to take them into account in determining compliance with the regulations.

reporting, training, compliance, and high-risk clients/activities. However, enhancement in certain areas, such as insurance and securities and the functions of the compliance officer, is desirable.

64. CIMA places great emphasis on strong due diligence in licensing and KYC for all prudentially regulated sectors. On-site examinations are being conducted in all sectors; however, increased resources would allow greater coverage of licensed entities. AML compliance is emphasized in the examinations and follow-up is conducted on recommendations. As provided in the laws and regulations, CIMA has access to all information.

65. The GN allow FSPs to rely on eligible introducers in certain instances, with the FSP ultimately responsible for identifying the ultimate controller of the financial activities, and ensuring that adequate and accessible identification records are available. To this end, it is desirable that FSPs ensure that the third party has effective customer due diligence measures and is well regulated and supervised. Requiring eligible introducers to provide the names and addresses of the controllers of the financial activities and attest to the customer due diligence conducted, together with speedy accessibility of identification documents, would provide additional comfort.

66. Although the importance of internal audit and compliance is stressed in the GN, FSPs are not specifically required to establish an internal testing function. As on-site inspection programs include a review of the internal audit function, the requirement is indirectly addressed. Also, CIMA has issued guidance to banks on internal controls and internal audits, and should consider issuing similar guidance to all sectors, noting the need for audits relating to AML.

Banking sector-specific areas of assessment

67. CIMA's Banking and Trust Supervision Department has implemented the AML requirements for the banking sector. Although CI has few branches and subsidiaries located abroad, no AML/CFT requirements exist about applying home jurisdiction minimum standards to subsidiaries. In addition, there is limited guidance and supervision for foreign branches.

Insurance-sector specific areas of assessment

68. CIMA's Insurance Supervisory Department has conducted onsite inspections for all domestic life insurers. Additional resources would permit increased supervisory oversight of the captive insurance industry. Property and casualty insurance business is not covered by the AML requirements; however, this area has been deemed low risk in Cayman and given the limited resources of the Department, this appears reasonable. Consideration should be given to enhancing the GN to alert institutions to certain suspicious activities in the industry and the importance of internal controls.

Securities-sector specific areas of assessment

69. The Investment Supervisory Department has effectively implemented the AML requirements for investment firms, including mutual fund administrators. The Cayman Stock Exchange (CSX) is responsible for regulating the membership rules of member brokers and has also ensured compliance with AML requirements. The regulatory oversight in this area is currently being transferred to CIMA, as a result of SIBL. CIMA is currently conducting the licensing process for market intermediaries who are members and non-members of CSX. During this due diligence process, on-site inspections may be necessary. Since the non-members may not have been subjected to any regulation in the past, it is prudent to verify compliance with AML requirements on these entities during this process.

Other service providers

70. Cayman is host to considerable offshore activities offered by trust and company service providers which are considered to be “eligible introducers” under the MLR. Accordingly, they have been included in the assessment. Ensuring compliance with the money laundering requirements is effected through CIMA’s supervisory process. CIMA’s Fiduciary Supervisory Division is responsible for supervising trust companies and company management service providers and applies the same high standards during the licensing and KYC process as is applied in other industry sectors. An on-site inspection program has been implemented which reflects the Offshore Group of Banking Supervisors’ *Trust and Company Service Providers Statement of Best Practice*. Company managers are required to submit audited financial statements to CIMA; however, financial reporting by the companies is not required. In addition, company manager directors are required to submit a certificate of compliance with the AML requirements on an annual basis. While the potential for risk may exist in the activities conducted in some company-types, the authorities have taken steps to mitigate the potential risk factors. CIMA should continue to be vigilant in this area and incorporate any new international guidance into its supervisory processes.

Preventive measures (Legal and Institutional Framework)

71. The MLR require that Cayman Islands FSPs have procedures regarding customer identification, suspicious transaction reporting, employee training, and record keeping. Laws protect those who make reports and tipping-off is penalized. Modifications suggested to CI’s AML/CFT framework to address weaknesses include harmonizing the standard for reporting in drug trafficking, FT, and other matters; making administrative fines available as a sanction for supervisors; and amending the MLR to require that FSPs verify identity of customers and maintain records, not merely that procedures be in place regarding these matters. In addition, more specific guidance on the need for renewals of identity and direction regarding the maintenance of records on transactions considered but not reported as suspicious are needed.

72. The MLR should require internal audits which would supplement current guidance. Reporting officer duties should be expanded to include monitoring of compliance deficiencies and such officials should be at management rather than staff level. Regulations

that permit extensive reliance on due diligence performed by regulated entities elsewhere with no obligation to obtain supporting evidence should be reevaluated. The MLR should require the maintenance of business correspondence and other post account opening non-transaction records, and provisions permitting reobtaining of evidence of identity in some circumstances should be changed. A tipping-off offense for drug trafficking ML should be adopted and the current tipping-off offense should apply from the moment suspicion arises.

73. Responsibility for FT and interface between MLR and FT need to be clarified. A legal requirement regarding the minimum information to accompany wire transfers should be in place at least within the two-year period set forth in the FATF standard.

74. Approval requirements before the FIU may disclose SAR information to other FIUs and consultation requirements before CIMA may make disclosures should be revisited. AML controls should be made applicable to foreign subsidiaries of domestic institutions.

Table 9. Recommended Action Plan to Improve Compliance with the FATF Recommendations

| Reference FATF Recommendation | Recommended Action |
|---|--|
| 40 Recommendations for AML | |
| Provisional measures and confiscation (FATF 7) | <p>Ensure that under the PCCL, courts must always consider whether proceeds exist, and confiscate proceeds.</p> <p>Amend the PCCL to provide specifically for the confiscation of laundered property.</p> <p><i>Keep specific records of the SARs used in police investigations and prosecutions.</i></p> |
| General role of financial system in combating ML (FATF 8–9) | |
| Customer identification and record-keeping rules (FATF 10–13) | <p>Make it mandatory that financial businesses verify the identity of their customers, rather than “maintain procedures to identify.”</p> <p>Address in a more specific manner the need for renewal of identity, if doubts appear.</p> <p>Amend the record-keeping obligation that record keeping procedures be in place with an obligation to keep identification and transaction records.</p> <p>Provide for retention for at least 5 years after the end of the business relationship of business correspondence and post account opening non-transaction records.</p> <p>Provide, as a minimum, a requirement that there be ready access to a copy of identity documents.</p> |
| Increased diligence of financial institutions (FATF 14–19) | <p>Make certain there is clear direction to FSPs to maintain files on all transactions brought to the attention of relevant officers and on other transactions that have been examined as complex.</p> <p>Amend the tipping-off offence to make sure that it applies from the moment a person has the suspicion, not only when there is an investigation or proposed investigation, and provide a tipping off offense for drug trafficking ML.</p> <p>Amend the MLR to include explicit reference to an internal audit function to test the system to ensure a firm’s compliance with AML/CFT regulations.</p> <p>Ensure there is an adequate compliance officer function, broader than reporting, and that the function is at the management level.</p> |
| Measures to cope with countries with insufficient AML measures (FATF 20–21) | <p>Require that foreign subsidiaries observe, at a minimum, home jurisdiction requirements and, for foreign branches, make obligations clear through guidance and supervision.</p> |

| Reference FATF Recommendation | Recommended Action |
|--|--|
| Administrative Cooperation—Exchange of information relating to suspicious transactions (FATF 32) | <p>Permit the FIU Director to make disclosures of SARs to foreign FIUs without Attorney General consent.</p> <p>Ensure the PCCL as amended permits disclosures to overseas authorities in drug trafficking ML matters.</p> |
| Other forms of cooperation—Focus of improved mutual assistance on money laundering issues (FATF 36–40) | <p>Amend the PCCL to provide for a range of powers enabling tracing of proceeds including account monitoring orders, as is currently under consideration.</p> <p>Ensure that tracing and monitoring orders are available in support of foreign requests.</p> |
| 8 Special recommendations on terrorist financing | |
| III. Freezing and confiscating terrorist assets | Review FT laws to ensure there a full ability to restrain the property of terrorist organizations and persons who finance terrorism. |
| | |
| V. International Cooperation | Enact provisions that permit identification and tracing of proceeds at foreign request and adequate freeze powers. |

Authorities' response

The Attorney General's Chambers and CIMA note that the IMF mission has assessed AML/CFT implementation against the FATF 40 + 8 as "compliant" or "largely compliant" for all Recommendations rated, except FATF 17 and 20. The mission's consolidated recommendations comprised in Table 4.5, Detailed Assessment, and Table 9 above in the majority of cases are under review or implementation; however, the following specific comments are offered in response to the Table 9 recommended action plan, with emphasis on FATF 17 and 20 and mission recommendations on which the authorities have some reservations.

FATF 17

The Attorney General's Chambers registers some reservations about the mission's recommendation that the tipping off provisions should apply from the (pre-SAR, per the IMF analysis) stage of *suspicion* rather than when an *investigation* is contemplated or in train. The fact is that *tipping-off* is a criminal offence. One of the central tenets of the criminal law is certainty. It would therefore, it is submitted, be difficult to successfully prosecute someone for tipping off triggered by the existence of a mere suspicion because of the inherent difficulties in identifying exactly at what stage the offence would have been committed. A suspicion might not necessarily trigger an investigation. It can and often remains a mere suspicion. The view is that it is therefore more appropriate to apply the offence in circumstances where an investigation is contemplated or in train.

FATF 20

As the mission noted in its report in connection with FATF 20, there are very few branches or subsidiaries of locally incorporated banks located abroad. Regarding entities for which CIMA is the host supervisor, the Authority receives confirmation from foreign branches that their AML procedures are of an equivalent standard to those in the Cayman Islands.

Other Table 9 comments

The following comments are offered on the FATF Recommendations referenced below, in respect of which the Cayman Islands received mission assessments of "compliant" or "largely compliant."

With regard to FATF 7, it is submitted that because the PCCL provides for confiscation of the *value* of the laundered property, that not only is this wider in scope than the recommended amendment, it removes any incentive for concealment of the property.

With regard to the recommendations made on customer identification and record-keeping rules (FATF 10–13), the authorities agree with the analysis in Volume II of the report which states that "[i]n practice, the record keeping requirements together with the various access provisions for law enforcement authorities ensure that both customer and transaction records are available to domestic authorities for AML/CFT investigations and prosecution."

Thus, the implementation evidence appears to support the authorities' position that the MLRs effectively mandate the intended record-keeping.

It is further noted that each respective regulatory law has a provision whereby CIMA is entitled at all reasonable times to have access, *inter alia*, to such books, records, and documents as may be necessary for supervisory purposes.

With regard to FATF 32, it is submitted that the mission recommendation is not fully consistent with the mission findings as recorded in Volume II that "...*in current practice onward disclosures occur in a timely manner...*," so that the requirement to obtain the Attorney General's consent does not actually impede disclosures of SARs to foreign FIUs. As regards the "potential" for the requirement to be a barrier, the legislation and practice will be kept under review. However, it is noted *en passant* that the consent requirement is not dissimilar to that which obtains under the U.S. Bank Secrecy Act (the BSA) and the U.S. Treasury's regulations implementing the BSA, where certain information cannot be further released, disseminated, disclosed, or transmitted without prior approval of the Secretary of the Treasury or his authorized delegate.

With regard to SR III, terrorist property is defined in s.18 TL as proceeds from the commission of acts of terrorism. The freezing of property under schedule 2, paragraph 5 relates to persons charged with offences under ss 18-22. The offences relate to use of or intended use of property. Theoretically, therefore, if a person is simply in possession of terrorist property which is not intended to be used for terrorism, it is arguable whether such property cannot be subject to restraint. Chambers undertakes to revisit this provision to tighten up the language to cover all eventualities.

Post-mission developments

The Attorney General's Chambers wishes to note two post-mission developments. Firstly, FRA vacancies noted by the mission have been filled, and the FRA is now, therefore, fully staffed. Secondly, the Cayman Islands Government, via the Attorney General, requested of the U.K. in August 2004 that the ICSFT be extended to Cayman Islands.

Table 4.5 in Detailed Assessment: Other IMF recommendations not directly related to compliance with the FATF 40 + 8

CIMA proposes to address many of the mission recommendations, inasmuch as they relate to possible changes to the GN, in the Policy, Strategy & Relations sub-committee work programme for 2005.

The following specific comments/clarifications are offered on a few of the mission recommendations:

Regarding the recommendation under *V—Suspicious transaction reporting* that a mechanism to ensure appropriate arrangements have been established for reporting suspicious

transactions by mutual funds and mutual fund administrators and an appropriate mechanism to test compliance with these arrangements be considered, it is confirmed that the MLR cover mutual funds and fund administrators and that there is an established on-site programme in place whereby compliance with the necessary procedures can be tested.

Regarding the recommendation under *VI—Internal controls, compliance and audit* that to further strengthen the GN and MLR, CIMA issue guidelines on internal audits and internal controls to each financial sector, and include a reference to the AML/CFT issues in each, it is confirmed that Statements of Guidance have been issued on internal controls for banks, insurance companies and securities investment business and also on internal audit for banks.

On administrative fines (*VIII—Enforcement powers and sanctions*), CIMA is currently developing implementation proposals. It is confirmed that an efficient internal protocol is already in place covering the consultation on non-routine assistance to overseas supervisors (*IX—Cooperation between supervisors and other competent authorities*).

C. IOSCO Objectives and Principles of Securities Regulation

General

75. The assessment of observance of the IOSCO Objectives and Principles of Securities Regulations (IOSCO Principles) in the Cayman Islands was undertaken as part of the offshore financial center assessment program. Its objective was to assess compliance by the regulatory authorities in the Islands with the Principles.

76. In broad terms, the securities sector in the Islands covers the Stock Exchange, mutual funds, and investment intermediary business. With the exception of the Stock Exchange, which is supervised by the Stock Exchange Authority, all securities business is supervised by the Cayman Islands Monetary Authority (CIMA).

77. The Monetary Authority Law (2003 Revision) sets out the broad supervisory powers of CIMA, and the Stock Exchange Law (2001 Revision) grants power to the Stock Exchange Authority to supervise the Exchange. In the securities area, the Monetary Authority Law is supplemented by two other laws—the Mutual Funds Law (2003 Revision) and the Securities Investment Business Law (2003 Revision). Both these Laws are, in turn, supplemented by regulations (i.e., secondary legislation) and statements of guidance/guidance notes issued by CIMA.

78. The assessment was based on a review of the relevant legislation and the statements of guidance/guidance notes. It was also based on relevant information and a completed draft of the IOSCO assessment template submitted by CIMA. This information was supplemented by the Review published in 2000 on behalf of the U.K. Government on Financial Regulation in the Caribbean Overseas Territories and Bermuda and of other private sector reports available on the website. Detailed discussions were held with relevant representatives from

CIMA and the Stock Exchange, as well as, with relevant representatives from the private sector.

79. Cooperation was freely given by all concerned.

80. The assessment was based on the Fund's Guidance Notes for Assessing Implementation of IOSCO's Objectives and Principles of Securities Regulation.

Information and methodology used for assessment

81. The Stock Exchange has a listing function only (i.e., it does not engage in trading). Currently there are about 700 listings on the Exchange, the vast majority being mutual funds. Even though it does not trade, it has 6 member brokers, 5 of which are affiliated to banks. These are execution brokers only and have obtained their broker status to facilitate their ability to deal on overseas exchanges and also as a means of lending support to the exchange in its earlier years (it was established in 1997).

82. Under the Mutual Funds Law, CIMA has 4,693 funds at end September 2003; 4,037 are registered and 50 licensed. A third category, administered funds (606), are those for which a licensed mutual fund administrator on the Islands provides its Principal Office. The main distinguishing feature of the registered funds is that they have a minimum investing threshold of US\$50,000 and they are targeted at sophisticated investors only. In theory, licensed funds are open to the public but in practice they are also targeted at sophisticated investors. It would appear that less than ten funds could be described as truly available to the public. The overwhelming majority of funds are in fact hedge or hedge-type funds. The Law provides for an exempt class of fund—these are funds with less than 15 investors where the majority of these are capable of appointing or removing the manager. Also, close-ended funds (those where investors are “locked in” for a given period of time) fall outside the scope of the Law.

83. The Mutual Funds Law also provides for the licensing of mutual fund administrators (MFAs) by CIMA. MFAs are permitted to carry out fund investment activity as well as normal fund administration functions, although in practice the fund investment activity is almost invariably carried out overseas. Many of the major international fund administration companies are represented on the Islands. MFAs are subject to a normal regulatory regime (i.e., licensing, inspections, revocations, etc.). Three types of MFAs are permitted under the Law—full administrators which can provide administrative services to an unlimited number of funds; restricted administrators which can provide services to a limited number of funds (usually a family of funds); and exempted administrators which act for just one fund. At end September 2003, there were 84 full administrators, 108 restricted administrators, and 10 exempted.

84. Like many offshore financial centers, a very significant part of the work associated with mutual funds (e.g., investment, administration, custody) is delegated overseas.

85. The Securities Investment Business Law was brought into effect in July 2003. It provides for the licensing and supervision of investment business firms, which until then were not supervised. It covers brokers, asset managers, investment advisors, etc. It also covers broker members of the Stock Exchange who until July were supervised by the Exchange. It is unclear how many intermediaries will fall to be regulated under the Law—existing intermediaries have until January 2004 to apply for a license. In addition to the six brokers (most of whom are affiliated to banks), it appears that less than ten other entities will be included. These are largely assets managers (again, basically associated with banks). Their customer base seems to be exclusively institutions (e.g., financial institutions, trust companies, mutual funds, etc.) and high net worth individuals. A market does not exist in the Islands for retail intermediary business.

86. Intermediaries dealing exclusively with sophisticated persons (e.g., regulated entities and knowledgeable investors investing at least US\$100,000 in the case of each transaction) and/or high net worth individuals (e.g., an individual with a net worth of at least US\$1 million) can seek an exemption from the provisions of the Law.

General preconditions for effective securities regulation

87. In broad terms, the supervisory regime reflects those of developed countries. It is influenced by EU legislation and rules, given the Islands' connection with the United Kingdom. A sound legal, taxation and accounting system appears to be in place in the Islands.

Principle-by-principle assessment

88. The observance of the IOSCO Principles was assessed in accordance with the criteria set out in the Guidance Note, taking into account the particular circumstances of the Cayman Islands Markets.

89. **Regulator (Principles 1–5)**—The regulatory responsibilities of the Monetary Authority are clearly set down in various pieces of legislation and it applies them in a clear, consistent manner. While in broad terms CIMA operates independently, there are a number of provisions in the Laws and Regulations, generally involving the power of the Governor, which could compromise this independence. It is recommended that these be deleted. The securities division suffers from a very serious deficit in staff numbers. While recruitment is underway, it will take some time for a cohesive and effective division to emerge.

90. **Self-regulatory organizations (Principles 6–7)**—The Stock Exchange has the sole right to operate one or more exchanges in the Cayman Islands. Currently there is only one exchange—the Stock Exchange—and it confines its activities to listing only, i.e., no trading is transacted. It is responsible for ensuring compliance by its broker members with its membership rules. It is supervised by the Stock Exchange Authority, which is a statutory body independent of CIMA. There are strong arguments for CIMA to become its regulator.

91. **Inspections, investigations, and enforcement (Principles 8–10)**—CIMA has sufficiently broad powers to carry out inspections, investigations, and enforcement. However, power to carry out inspections of mutual fund administrators should be explicit in the Mutual Funds Law rather than relying on a general provision in the Monetary Authority Law. CIMA should also consider receiving additional information (e.g., half-yearly management accounts) from all licensees as an additional means of early detection of difficulties.

92. **Information sharing and cooperation (Principles 11–13)**—There is provision for the sharing of information with overseas regulators. However, these provisions contain clauses that introduce an element of subjectivity into deciding on whether information should be passed on to the overseas regulator. Also, for non-routine requests from overseas regulators, the advice of the Financial Secretary and the Attorney General must be sought. Memoranda of understanding are permitted but only with the permission of the Governor in Cabinet and currently they are restricted to requests to assist the overseas regulator to supervise on a consolidated basis.

93. **Issuers (Principles 14–16)**—The listing rules of the Stock Exchange provide for full, accurate, and timely disclosure of financial results and other information that is material to investors' decisions. It also provides that all holders of securities in a company are treated in a fair and equitable manner. Accounting and auditing standards are in line with best international practice.

94. **Collective Investment Schemes (Principles 17–20)**—The supervisory regime for collective investment schemes is designed to accommodate funds that are targeted at sophisticated/institutional investors and indeed the overwhelming majority of funds, many of them hedge funds, are targeted at that market. There are three categories of regulated mutual, “registered,” “licensed,” and “administered.” Registered funds carry a minimum subscription of US\$50,000. Licensed funds have no minimum subscription and, in theory at least, are open to the general public. An administered fund has no minimum subscription and its principal office is provided by a licensed mutual fund administrator within the islands. For funds open to the public, the current regime is inadequate. There is an absence of standard consumer protection requirements (e.g., segregation of client assets). In practice, many of these requirements will be included in fund offer documents. Nonetheless, it is recommended that CIMA introduce formal consumer protection requirements in respect of funds that are open to the general public. Also, it is recommended that CIMA revise upwards the threshold of US\$50,000 (which was fixed in 1993) for registered funds to reflect international norms in this area. In general, the Mutual Fund Law is in need of overhaul, particularly when compared to the Securities Investment Business Law. It will be noted that throughout this report, several recommendations suggest the inclusion in the Mutual Fund Law of provisions similar to those in the Securities Investment Business Law.

95. **Market Intermediaries (Principles 21–24)**—The Securities Investment Business Law, which came into effect in July 2003, brought market intermediaries within the supervisory framework for the first time. It is a solid piece of legislation and should provide a sound basis for the effective supervision of intermediaries provided it has adequate and well

trained staff to operate it. One provision of the Law is undesirable—Section 19 provides that if an auditor, either in the course of carrying out an audit or in carrying out a special audit on the licensee’s anti-money laundering systems and procedures, becomes aware of serious shortcomings, he must immediately give written notice to CIMA and the licensee of his knowledge or belief giving reasons therefore. The fact that the licensee is receiving knowledge at the same time as CIMA could compromise the ability of CIMA to take corrective action and in the case of an anti-money laundering audit could amount to tipping off. Accordingly, the Law should be amended to provide for the receipt of such reports by CIMA only.

96. **Principles for the Secondary Market (Principles 25–30)**—As the Stock Exchange does not engage in trading this section is not applicable.

Key recommendations in the area of securities supervision

- Substantially increase resources and prioritize training.
- Introduce a more prescriptive regime from a consumer protection perspective for mutual funds open to the public.
- Revise Mutual Funds Law generally to bring it more in line with modern supervisory concepts.
- Revise upwards the threshold figure of US\$50,000 for registered funds.
- Consider transferring responsibility for the Stock Exchange to CIMA.

Table 10. Recommended Action Plan to Improve Implementation of IOSCO Objectives and Principles

| Reference Principle | Recommended Action |
|---|---|
| Principles Relating to the Regulator (CP 1–5) | Remove legal impediments that could compromise independence. Increase staff numbers and prioritize training. |
| Principles of Self-Regulation (CP 6–7) | Remove provision in SIBL, that stipulates that broker must receive copy of CSX inspection report at same time as CIMA. Stock Exchange Law should be amended to give Stock Exchange Authority clear authority to carry out inspection of Exchange. Carry out inspection of Exchange. Consider transferring supervisory responsibility for the Stock Exchange from the Stock Exchange Authority to CIMA. |

| Reference Principle | Recommended Action |
|---|---|
| Principles for the Enforcement of Securities Regulation (CP 8–10) | <p>Ensure sufficient staff numbers to continue inspection program, particularly following introduction of Securities Investment Business Law.</p> <p>Consider obtaining additional information (e.g. half yearly management accounts) from licensees to enhance supervision.</p> |
| Principles for Cooperation in Regulation (CP 11–13) | <p>Give CIMA sole responsibility for dealing with requests from overseas regulators.</p> <p>Consider removing provisions which introduce an element of subjectivity into the decision-making process in respect of overseas requests for information.</p> <p>Provision should be made for the exchange of information between CIMA and the Stock Exchange Authority.</p> <p>CIMA should have sole discretion in deciding with whom to enter into a memorandum of understanding.</p> <p>Extend the scope of memoranda of understanding beyond consolidated supervision.</p> |
| Principles for Issuers (CP 14–16) | No recommendations. |
| Principles for Collective Investment Schemes (CP 17–20) | <p>Introduce a more prescriptive regime from a consumer protection perspective for funds open to the general public.</p> <p>Require all funds to calculate their net asset values.</p> <p>Revise upwards the threshold figure of \$US50,000 for registered funds.</p> <p>Provide for the cancellation of registered and administered funds.</p> <p>Revise Mutual Funds Law generally to bring it more in line with modern supervisory concepts, for example, include a parallel provision to s. 16 SIBL; include specific inspection provisions in MFL rather than rely on general supervisory powers in MAL.</p> |
| Principles for Market Intermediaries (CP 21–24) | <p>Ensure sufficient staff resources to implement Securities Investment Business Law.</p> <p>Remove provision which requires an auditor’s report to be sent to the licensee at the same time as it is being sent to CIMA.</p> |
| Principles for the Secondary Market (CP 25–30) | No recommendations. |

Authorities' response

CIMA notes that the IMF mission has assessed securities regulation against the IOSCO 30 Principles as “implemented” or “broadly implemented” for 17 Principles, “partially implemented” for eight and “not implemented” for one, with four “not applicable.” The mission’s recommendations are under review or implementation, as set out below, unless otherwise indicated.

CP 1–5

CIMA does not consider that the putative “legal impediments that could compromise independence” rise to that level. Respecting the sections of the MAL referenced in that regard, Section 33(1) allows the issuance to CIMA of “general directions as appear to the Governor to be necessary in the public interest.” This section is not intended and has not been interpreted to mean directions on operational matters. Indeed, the only such direction ever issued, in October 2000, required CIMA to “advise all regulated service providers that aggressive marketing policies based exclusively or primarily on confidentiality or secrecy are not in the public interest.” Section 49(3)¹⁴ requires CIMA to send a copy of each request for assistance from an overseas regulatory authority that is not a routine request to the Financial Secretary and the Attorney General. This requirement does not amount to a veto on CIMA’s decision to provide assistance: while CIMA is obliged to take any advice proffered by the FS or AG into account, it is not legally bound to follow the advice if there is good reason not to do so. Indeed, this requirement is not repeated in Section 49(9) setting out the circumstances in which CIMA is obliged to refuse assistance.

Regarding the recommendation on staffing, CIMA is actively addressing this matter at Board level, in terms of required numbers of staff and funding, as well as, training programmes. It is aimed to implement the agreed HR plan for the Investment & Securities Division in 2005.

CP 6–7

The Stock Exchange Authority (SEA) notes that the mission’s assessment of the operations of the CSX is positive (of the relevant 11 Principles, 5 were rated as “implemented,” 2 as “broadly implemented” and 4 as “not applicable”) and will consider the recommendations made, with particular regard to CSX inspections by the SEA. In fact, an inspection of the CSX commissioned by the SEA using external consultants was overtaken by the IMF assessment, and thus not pursued at that time.

CP 8–10

¹⁴ In the 2004 revision of the MAL, Section 49 is numbered 50.

Previous comments under CP1–5 regarding staffing relate. CIMA proposes to address the recommendation regarding the obtaining of additional information by the introduction in early-mid 2005 of a new periodic reporting form (RF-2) for mutual funds.

CP 11–13

Previous comments under CP1–5 regarding independence of the regulator relate. Regarding the potential for subjectivity, CIMA does not consider that the decision-making process for providing assistance to overseas regulators in Section 49 MAL involves objectionable subjective elements. Many jurisdictions have similar legislative provisions in relation to the provision of assistance to overseas regulators. Indeed, the criteria set out in Section 169(4) of the U.K. Financial Services & Markets Act 2000 are identical to those in Section 49(4).

Regarding MOU's, CIMA has developed criteria for the execution of these with overseas regulators. The criteria have been approved by Cabinet and Cabinet has approved all MOUs that CIMA has submitted for approval. The scope of MOUs has been extended beyond consolidated supervision by virtue of an amended Section 50(1) MAL enacted in January 2004.

CP 17–20

CIMA has made initial recommendations to the government covering revisions to the MFL, which include an increase in the registered funds threshold to US\$100,000. While, as the mission notes, the number of retail mutual funds is small, CIMA proposes to address the related IMF recommendation in early-mid 2005. A Statement of Guidance regarding the cancellation of registered and administered funds has been issued.

Regarding CP 20, which received the sole "not implemented" assessment, as the mission noted, CIMA is in the process of developing rules on net asset value calculation.

CP 21–24

Previous comments under CP1–5 regarding staffing relate. CIMA will address the IMF recommendation regarding auditors' reports with a view to making a recommendation to government on the relevant MFL provision.

D. IAIS Insurance Core Principles

General

97. This section provides summary findings from the assessment of the IAIS Core Principles.¹⁵ The assessment was based on discussions held with staff of the Insurance

¹⁵ The assessment was conducted by Mr. D. N. Davies, International Monetary Fund.

Division of the Cayman Islands Monetary Authority, representatives from domestic insurance companies, Insurance Managers Association of Cayman (who administer captive insurers), an auditor, and a consulting actuary. The assessment considered several documents: Insurance Law (2003 Revision); Monetary Authority Law (2003 Revision); On-site Inspection Manual; Off-site Inspection Manual; Staff Handbook; Reporting Schedule For Prudential And Statistical Returns To The Cayman Islands Monetary Authority 2002–2003; and the formats of the supervisory filings.

98. In addition, the assessment considered the *Review of Financial Regulation in the Caribbean Overseas Territories and Bermuda* undertaken by KPMG on behalf of the U.K. Government.

Institutional and macroprudential setting—overview

99. There are currently 769 insurance licensees; 28 domestic Class “A” Insurers, 615 Class “B” Insurers, 28 Licensed Managers, 22 Brokers, and 76 Agents. Class “A” insurers are permitted to underwrite domestic risk; there are 4 locally incorporated companies and 24 branches of non-Cayman companies in this class. Class “B” companies are not permitted to underwrite domestic business and constitute the offshore insurance market. The majority of business (87 percent as at September 29, 2003) underwritten in the offshore market emanates from North America, and the major classes of business are workers’ compensation, medical malpractice, and products liability being 25 percent, 25 percent, and 17 percent by premium volume, respectively.

100. The supervision of insurance activity is based on the Insurance Law (2003 Revision) and it is the duty of the Cayman Islands Monetary Authority to undertake this task. CIMA is established as an independent Authority pursuant to the Monetary Authority Law.

101. There is a strong professional infrastructure, with accountants and lawyers supporting the business operations; for example, insurance managers are experienced professionals, often qualified accountants. There is one actuary on the Island who is employed by a firm of accountants, but there appears to be an adequate supply of actuarial services from elsewhere. It is a characteristic of the Cayman Islands that the industry, the professionals, and the Authority work closely for the furtherance of the good reputation and financial well-being of the Islands as an international financial center.

General preconditions for effective insurance supervision

102. The legislative framework for insurance supervision has been in place since 1979, with the first enactment of the Insurance Law. The current version of this law is the fifteenth revision, and it now contains a wide range of grounds for supervisory intervention and an appropriate range of remedies. The Insurance Division of CIMA has clearly made rapid progress in upgrading its legal base and working practices, but further progress is still needed to give a substantive legal or regulatory base to some of the more central prudential requirements.

Main findings

103. There is a very high number of licensees, and a high frequency of supervisory events; for example, there were 425 business plan changes and 195 prudential meetings in the first half of 2003. The Insurance Division is currently comprised of nine highly competent members of staff and the headcount is budgeted to increase to fourteen. The program of on-site inspections was in abeyance at the time of the mission but was planned to recommence when the Division was up to full strength. (The authorities have indicated that on-site inspections recommenced in December 2003.) On-site inspections are a key supervisory tool ensuring adherence to strong corporate governance procedures and internal controls. Strong governance reduces the risks in an operation and focused inspections in this, and other areas of prudential importance, serve to increase the stability of a sector. The shortage of resources is, therefore, a pervasive supervisory issue.

104. The Cayman insurance sector chiefly comprises of offshore captive insurers. It has been common to regard captives as being of lower risk than open market insurers because each of them has a very limited policyholder base. Nevertheless, major classes of business are third party liability protections where the beneficiaries are other than the policyholders. In this context, consumer protection is a wider issue than policyholder protection. Under such circumstances, it is appropriate to impose prudential requirements that protect beneficiaries from the effects of asset and liability volatilities.

105. Recommendations are proposed for the Authority to consider its prudential conventions over asset valuation, liability valuation, solvency, and capital adequacy. The considerations should account for asset price volatility (which has become more pronounced in recent years), reserve volatility (which is historically high in liability classes of business), and the capital buffers necessary to protect consumers. Considerations should also account for the nature of the Cayman market.

106. Prudential rules governing assets, liabilities, solvency, and capital adequacy should be risk-based and formalized in law, regulation, or rule to ensure transparency and consistent application.

107. The Insurance Division has an effective automated system for the collection and analysis of data from the supervisory filings. However, the data contained in such filings could be extended to include some of the information required to be given in a business plan. This would broaden the analytical capabilities of the system and could be designed to reduce the manual input into the ad hoc supervisory events. The benefit of this would be to allow staff to spend greater time on risk-based activities such as focused on-site inspections.

Table 11. Recommended Action Plan to Improve Observance of IAIS Core Principles

| Reference Principle | Recommended Action |
|---|---|
| Organization of an Insurance Supervisor | |
| i.e., CP 1 | Staffing levels should be increased to supervise the large number of licensees in the jurisdiction (CP1). |
| | |
| Licensing and Changes in Control | |
| i.e., CPs 2–3 | |
| | |
| Corporate Governance and Internal Controls | |
| i.e., CPs 4–5 | Implement a systematic program of risk-based on-site inspections (CP 4). Embody supervisory working practices in law, regulation, or rule, as appropriate (CP4). |
| | |
| Prudential Rules | |
| i.e., CPs 6–10 | Consider asset, liability, solvency, and capital adequacy conventions appropriate for the types of company, lines of business, and the nature of the Cayman insurance sector and embody them in law, regulation, or rule as appropriate (CPs 6, 7, and 8). |
| | |
| Market Conduct | |
| i.e., CP 11 | |
| | |
| Monitoring, Inspection, and Sanctions | |
| i.e., CPs 12–14 | Undertake a feasibility study to extend the use of the computerized reporting system, collecting more data and automating more of the analytical processes, with the aim of releasing staff resources to more risk-based processes such as focused on-site inspections (CP 12). |
| | |
| Cross-Border Operations, Supervisory Coordination and Cooperation, and Confidentiality | |
| i.e., CPs 15–17 | |

Authorities' Response

CIMA notes that the IMF mission has assessed insurance regulation against the IAIS 17 Core Principles as “observed” or “largely observed” for 11 Principles and “materially non-observed” for six. The latter assessments are based on either lack of staff or lack of codification of rules or practices. The mission’s recommendations are under review or implementation, as set out below, unless otherwise indicated.

CP 1

There were five staff vacancies at the time of the mission visit. Subsequently, two senior analysts and one analyst were hired, and the staffing needs of the Insurance Division are being dealt with at Board level as a priority. It is aimed to implement the agreed HR plan for the Insurance Division in 2005.

CP 4–5

The Insurance Division already has a programme of risk-based on-site inspections in place. At the time of the mission, the programme of full inspections had been suspended because of staff shortages. It resumed in March 2004, and will be enhanced by a revised risk analysis procedure to be implemented for the 2005 timetable for on-site inspections. Focused inspections resumed in November 2003.

The formalisation of supervisory working practices is currently being addressed.

CP 6–10

The mission recommendation is being actively considered, with a view to making recommendations to government regarding changes required to the Insurance Law in early 2005.

CP 12–14

The Operations Division of CIMA has commenced a study of the present IT system and is mapping, on a divisional basis, the necessary upgrades.

Legislation and Regulations

Company laws

Companies Management Law (1997 Revision)—The Companies Management (Exemption) Regulations (1998 Revision).

The Companies Management Law (2000 Revision)—The Companies Management (Amendment) (License Applications) Regulations, 2001.

The Companies Management Law (2001 Revision)—The Companies Management (Amendment) (Fees) Regulations, 2001.

The Companies Management Law (Amendment) Law, 2002 (Law 39 of 2002)—Companies Management (Amendment) Law, 2002 (Commencement) Order, 2003.

Companies Management Law (2003 Revision).

Companies Management Law (2003 Revision)—Companies Management Regulations (2003 Revision).

The Companies Law (2003 revision).

The Companies Law (1998 Revision)—The Companies (Forms) Rules (1998 Revision).

Local Companies (Control) Law (1999 revision).

The Local Companies (Control) Law (1995 Revision)—The Local Companies (Control) Regulations (1998 Revision).

General financial laws

Confidential Relationships (Preservation) Law (Law 16 of 1976) (1995 Revision).

Monetary Authority Law (2001 Revision)—Monetary Authority Law (Fees) Regulations, 2001.

Monetary Authority Law (2000 Revision) Direction.

The Monetary Authority (Amendment) Law (2002) (Law 34 of 20002)—The Monetary Authority (Amendment) Law, 2002 (Commencement) Order, 2003.

Monetary Authority Law (2003 Revision).

Deposit-taking institutions legislation

Building Societies Law (2001 Revision).

Cooperative Societies Law (2001 Revision).

Banks and Trust Companies Law (1995 Revision)—Banks and Trust Companies (Designation) Order (1997 Revision).

The Banks and Trust Companies (Amendment) Law, 2002 (Law 35 of 2002)—The Banks and Trust Companies (Amendment) Law, 2002 (Commencement) Order, 2003.

Banks and Trust Companies Law (2003 Revision).

Banks and Trust Companies Law (2003 Revision)—Banks and Trust Companies Law (License applications and Fees) Regulation (2003 Revision).

Securities industry laws¹⁶

The Securities Investment Business Law, 2003 revision

The Securities Investment Business Law (2003 revision)—The Securities Investment Business (License Applications and Fees) Regulations, 2003.

The Securities Investment Business Law (2003 revision)—The Securities Investment Business Law, 2001 (Further Commencement) Order, 2003.

The Securities Investment Business Law (2003 revision)—The Securities Investment Business (Conduct of Business) Regulations 2003.

The Securities Investment Business Law (2003 revision)—The Securities Investment Business (Financial Requirements and Standards) Regulations, 2003.

The Mutual Funds Law (1999 Revision)—The Mutual Fund Administrators Licence (Applications) Regulations, 2001.

Mutual Funds Law (2001 Revision)—The Mutual Funds (Amendment) (Further Variation of Fees) Regulations, 2001.

Mutual Funds Law (2001 Revision)—Mutual Funds Regulations (2002 Revision).

¹⁶ The Laws and Regulations have been enacted and issued; the following Statements of Guidance are in the draft form and issued for industry consultation.

The Mutual Funds (Amendment) Law, 2002 (Law 36 of 2002)—The Mutual Funds (Amendment) Law, 2002 (Commencement) Order, 2003.

Mutual Funds Law (2003 Revision).

Client Understanding, Suitability, and Dealing—Statement of Guidance.

Client Assets, Money, and Safekeeping—Statement of Guidance.

Classification of Clients—Statement of Guidance.

Market Conduct—Statement of Guidance.

Reorganization of Structure and Variation of Capital—Statement of Guidance.

Nature, Accessibility, and Retention of Records—Statement of Guidance.

Internal Controls—Statement of Guidance.

Cessation of Business—Statement of Guidance.

Insurance industry laws

The Insurance Law (1999 Revision)—The Insurance (Forms) (Amendment) (Licence Applications) Regulations, 2001.

Insurance Law (2001 Revision).

The Insurance Law (2001 Revision)—The Insurance (Variation of Fees) Regulations, 2001.

The Insurance Law (2001 Revision)—The Insurance (Further Variation of Fees) Regulations, 2001.

The Insurance Law (2001 Revision)—The Insurance (Reduction of Fees) Regulations, 2002.

The Insurance (Amendment) Law, 2002 (Law 37 of 2002).

Insurance Law (2003) Revision.

Insurance Law (2003 Revision)—Insurance (Forms) Regulations.

The Health Insurance Law, 1997 (Law 15 of 1997)—The Health Insurance Law (Commencement) Order 1998.

Health Insurance Law (2002 Revision)—Health Insurance Regulations (2002 Revision).

Health Insurance Law (2003 Revision).

Stock Exchange Laws, Regulations, and Rules

Stock Exchange Company Law (2001 Revision).

Stock Exchange Regulation, 1996.

Listing Rules.

Membership Rules.

Code on takeovers and mergers and rules governing substantial acquisition of shares.

Other financial service laws

The Money Services Law, 2000 (Law 13 of 2000)—The Money Services Businesses Regulations, 2001.

The Money Services (Amendment) Law, 2002 (Law 38 of 2002)—The Money Services (Amendment) Law, 2002 (Commencement) Order, 2003.

Money Services Law (2003 Revision).

AML/CFT Laws

Al Qa'ida and Taliban (United Nations Measures) (Overseas Territories) Order, 2002.

Criminal Procedure Code (1995 Revision).

European Convention on Extradition (Dependent Territories) Order, 1996.

Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order, 1978.

Extradition (Overseas Territories) Order, 2002.

The Misuse of Drugs (Drug Trafficking Offences) (Designated Countries) (Amendment) Order, 1991.

The Misuse of Drugs (Drug Trafficking Offences) (Designated Countries) (Amendment) Order, 1992.

The Misuse of Drugs Law (1995 Revision)—The Misuse of Drugs (Drug trafficking offences) (Designated Countries) (Amendment) Order, 1998.

Misuse of Drugs Law (2000 Revision).

The Misuse of Drugs (International Cooperation) Law, (Law 16 of 1997) (2000 Revision).

Mutual Legal Assistance (United States of America) Law, (Law 16 of 1975) (1999 Revision).

Proceeds of Criminal Conduct Law (2001 Revision).

Proceeds of Criminal Conduct Law (2001 Revision)—The Money Laundering (Amendment) (Client Identification) Regulations, 2001.

Proceeds of Criminal Conduct Law (2001 Revision)—The Money Laundering (Amendment) (Electronic Payments) Regulations, 2001.

Proceeds of Criminal Conduct Law (2001 Revision)—The Money Laundering (Amendment) (No. 2) Regulations, 2002.

Proceeds of Criminal Conduct Law (2001 Revision)—Money Laundering (Client Identification) (Extension of Period) Order, 2002.

Proceeds of Criminal Conduct Law (2001 Revision)—Proceeds of Criminal Conduct (Designated Countries) Order (2003 Revision).

Proceeds of Criminal Conduct Law (2001 Revision)—Money Laundering Regulations (2003 Revision).

Proceeds of Criminal Conduct Law (2001 Revision)—The Money Laundering (Amendment) Regulations, 2003.

Proceeds of Criminal Conduct Law (Amendments) 2003.

Terrorism Law, 2003.

Terrorism (United Nations Measures) (Overseas Territories) Order, 2001.

United States of America (Extradition) Order, 1976.

Other

The Cayman Islands (Constitution) (Amendment) Order, 1993.