

**AML/CFT/CPF/TFS
ANNUAL REPORT**

MARCH 2022

1. INTRODUCTION

1. We produce this report in accordance with Part X1B of the Anti-Money Laundering (“AML”) Regulations (“the Regulations”) and Regulation 53D, which states a supervisory authority shall submit to the Anti-Money Laundering Steering Group (“AMLSG”) an annual report on its supervisory activities.
2. This is our second AML/CFT/CPF annual report and provides the required information as detailed in AML Regulation 53E. The relevant reporting period is 1 January to 31 December 2021.
3. The Cayman Islands Legal Practitioners Association (“CILPA”) is the professional representative body for attorneys-at-law in the Cayman Islands. By virtue of section 4(9) of the Proceeds of Crime Law, the Cabinet of the Cayman Islands Government (“CIG”) assigned CILPA the responsibility for monitoring compliance with the AML Regulations in relation to firms of attorneys-at-law, including sole practitioners. CILPA Council constituted the ‘Cayman Attorneys Regulation Authority’ (“CARA”), as an operationally independent sub-committee of CILPA. Under the internal CARA Regulations, the Council delegated its statutory powers and duties to supervise and enforce on AML compliance matters, to CARA.
4. CARA is the independent regulatory arm of CILPA for the purposes of AML supervision. Our purpose is to ensure a high standard of AML compliance across the legal sector within the Cayman Islands. We employ operationally independent professional staff and are governed by the CARA Board. Our Board is comprised of seven prominent members of the Cayman Islands community from varying backgrounds including regulation, enforcement, government, and the legal sector.
5. We are funded wholly by government and report on progress made on our AML supervisory and enforcement mandate to the Honourable Attorney General’s Office. This reporting process takes place quarterly and is made pursuant to CILPA’s contractual purchase agreement with Cabinet and CIG.
6. In accordance with the Regulations, attorney-at-law firms including sole practitioners, conducting ‘relevant financial business’ (“RFB”) are required to register with CARA, comply with the requirements under the Regulations, and be supervised and monitored by us in respect of such compliance.
7. We act in the public interest, working with supervised firms to help strengthen public confidence and trust in the legal profession, both locally and internationally, by ensuring

firms have effective AML/CFT/CPF processes, procedures, and systems and controls in place.

2. OUR WORK AS AN AML SUPERVISOR

8. The Regulations categorise all firms of attorneys-at-law in the Cayman Islands as Designated Non-Financial Businesses and Professions (“DNFBPs”) which includes:
 - a. A body corporate, association, partnership, or limited liability partnership of attorneys who are admitted to practice law in the Cayman Islands; or
 - b. An attorney admitted to practice in the Cayman Islands who is in independent practice as a sole proprietor or who provides legal services to an employer other than the CIG.
9. All law firms (including sole practitioners) who provide, or intend to provide, RFB must register with CARA. We also ask that firms and sole practitioners who do not provide RFB notify us of the same. Firms and sole practitioners not providing RFB are recorded as DNFBPs but do not form part of our supervised population.
10. On 31 December 2021, CARA was responsible for supervising and monitoring 57 attorney-at-law firms comprising 19 general partnerships, 3 Limited Liability Partnerships, 16 companies, and 19 sole practitioners. Of the 57 supervised firms, 36 were domestic practices and 21 were multi-jurisdictional and/or internationally affiliated.
11. Our registry of supervised firms conducting RFB is publicly available on our website.

Risk Based Approach

12. We are required to adopt a risk-based approach to supervision. In this section we outline our current risk-based approach to supervising and monitoring the efficacy of AML compliance in the firms we regulate. We also provide an overview of the methodology we apply in risk rating supervised firms.
13. In early April 2021, we implemented an ‘AML Return’ process by which all supervised firms are required to submit an AML Return on annual basis. The Return provides CARA with more granular detail on firms inherent ML, TF and PF risks and information on their AML compliance frameworks. The Return is an electronic questionnaire with over 80 data sets. Other indicators of risk we consider include whole firm risk factors such as ‘fit and proper’ status of a supervised firm’s principals, complexities associated with firm ownership, staff ratios, reliance on third parties, fee dependency issues, recent mergers

and acquisitions, regulatory history, complaints in connection with poor service, and professional conduct and/or adequacy of compliance controls. Other such factors also include adverse media, information from informants, whistle-blowers, law enforcement agencies and other AML supervisors. All this data feeds into our enhanced risk profiling assessment of firms.

14. The type, frequency, and intensity of our supervisory measures are based on, and driven by, a firm's individual risk assessment / profile. We risk profile each firm/ sole practitioner in our supervised population based on the prevalence of red flag indicators. During the relevant period, we revised and finessed our risk profiling classifications, and each supervised firm is now assessed as being either High, Medium High, Medium Low, or Low.
15. In the relevant period, there were 14 firms / sole practitioners classified as High Risk, 20 as Medium High, 17 as Medium Low, and 6 as Low risk.
16. We update a firm's risk profile when any new information is received that may affect the firm's inherent and/or control risks and after the occurrence of the following events: on-site inspection; desk-based review and submission of an annual AML Return. Changes and movements in firms' risk profiles are logged, audited, and tracked.
17. All supervised firms profiled as either High or Medium High risk are subject to an on-site inspection. Firms rated Medium Low or Low risk are supervised by desk-based review in the first instance and can be escalated to an on-site inspection, if necessary.
18. Newly established law firms are automatically classified as 'High risk' until a review has been carried out. New firms are more likely than not to be subject to an on-site inspection at an early stage. This is so we can fully understand the nature of the practice and ensure the approach taken to AML compliance by the firm at the outset is sufficient and commensurate to the size and risk appetite of the firm and the services offered.

Supervisory Engagement

19. In the first half of the relevant period, our resources were focused primarily on (i) work in connection with the FATF Joint Group assessment; (ii) designing and implementing the new AML Annual Return. As outlined in the section above, the AML Return exercise was key piece of analysis underpinning our risk-based approach and the data was also used to assist the CIG's National Risk Assessment 2021 project; and (iii) closing open inspections carried over from 2020, issuing final inspection reports and implementing a follow up inspection process.

20. During the relevant period, CARA commenced five onsite inspections and issued 12 inspection reports including those inspections which had completed towards the end of 2020. The inspection reports contained remedial action plans which detailed a total of 105 potential failures to comply with the Regulations.
21. It is to be noted that during the relevant period, CARA operated with significantly reduced staff (50%). Whilst this adversely impacted the number of new on-site inspections and desk-based reviews which were commenced, we were able to maintain proactive supervisory engagement by way of off-site follow up assessments. These follow up assessments related to firms subject to remediation as detailed in the firms' inspections reports. Follow up assessments take place monthly until a firm has completed its remedial action plan in full to the required standard set by CARA.
22. In November 2021, CARA also commenced a thematic review of supervised firms' Business Risk Assessments ('BRA'). We chose BRAs as the topic of our first thematic review based on the importance of getting the BRA right. The BRA is the foundation of an AML compliance framework and drives a firm's risk-based approach. We have also identified through our general supervision some deficiencies and weaknesses in in this area. On completion of our thematic review, we will publish our findings in a report which will include consolidated examples of good and poor practice on an anonymised basis. It is hoped that supervised firms will find the report useful when reviewing their BRA. We will also consider how supervised firms have incorporated findings from the report as part of our ongoing supervision.
23. We also draw attention to the impact the Legal Services Act in January 2021, and in particular the delay in establish the Legal Services Council, has had on CARA. During the relevant period and as at the date of this report, CARA has only four full-time operational staff and several vacancies. Presently, CARA is unable to recruit additional staff or back fill vacancies given its uncertain future. It was also recognised by the CARA Board, the challenges, and concerns in conducting inspections, which may lead to enforcement action, in a time of transition. It is hoped the Legal Services Act will be commenced in 2022 and the first item of business of the LSC will be the transition of CARA.

3. ENFORCEMENT

24. The administrative fine regime is laid out in the Regulations. For breaches prescribed as serious and very serious, a supervisory authority has a discretion to decide whether to

impose a fine and the amount of the fine, taking into consideration the criteria under Regulations 55V, 55X and 55Y.

25. Additional supervisory powers available to CARA include, cancelling a firm's registration if a firm fails to comply with the Regulations or if a firm (or connected person in relation to the firm) is deemed not fit and proper. We can also make a referral to the Office of the Director of Public Prosecutions for consideration of criminal prosecution.
26. The effective and proportionate use of our powers and supervisory tools to monitor firms' compliance with the Regulations plays an integral role in the pursuit of our regulatory objectives. We seek to exercise our supervisory powers in a manner that is transparent, lawful, rational, proportionate, and consistent with its publicly stated policies and guidelines.

Administrative Fines

27. In 2020, we issued Discretionary Fine Notices to six firms. All six firms have sought to appeal, and the fines have been stayed pending the outcome of the appeal, which CARA is contesting.
28. In connection with the above mentioned, CARA is subject to litigation proceedings. Presently, there are seven Causes in total filed by several appellants granted leave to apply for judicial review, leave to appeal the administrative fines and or constitutional petitions.

4. GUIDANCE AND OUTREACH

29. Our website (www.cara.ky) is a key tool we use to provide information to our supervised firms on both our role, responsibilities, and what we expect to find during our inspections in relation to best practice. The website includes relevant forms, webinars, training presentations, national and sectoral risk assessments, FATF reports, and information on suspicious activity reporting. The website is updated regularly.

Outreach in 2021

30. We are committed to raising awareness and understanding of money laundering, terrorism financing, and proliferation financing risks in the legal sector and promoting a clear understanding of AML obligations. During the relevant period, we circulated relevant information to our supervised population and hosted a webinar event as follows:

- Issued an alert to supervised firms in relation to a money laundering scam targeting lawyers.
- Circulated FATF's public statements and FATF's report on Trade-Based Money Laundering: Risk Indicators.
- Hosted a webinar with Kim France (FRA) on the Financing of Terrorism TF/PF/TFS Risks.
- Circulated a notice on the Global Anti-Corruption Sanctions regime.

5. STAFF TRAINING

31. We aim to ensure our staff are sufficiently trained to carry out supervisory and enforcement activities. During the relevant period, various CARA staff undertook professional qualifications such as CAMS certification and the Certified Global Sanctions Specialist program provided by ACAMS. Staff also attended online webinars and virtual conferences delivered by a variety of training providers.