



**AML/CFT/CPF
ANNUAL REPORT**

MARCH 2023

1. INTRODUCTION

1. We produce this report in accordance with Part X1B of the Anti-Money Laundering (“AML”) Regulations (2023 Revision) (“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 third AML/CFT/CPF annual report and provides the required information as detailed in Regulation 53E. The relevant reporting period is 1 January to 31 December 2022.
3. The Cayman Attorneys Regulation Authority (“CARA”) is the independent regulatory arm of the Cayman Islands Legal Practitioners Association (“CILPA”) for the purposes of AML/CFT/CPF supervision. CARA’s purpose is to ensure a high standard of AML/CFT/CPF compliance across the legal sector within the Cayman Islands.
4. On 16 December 2020, the Legal Services Act (“the Act”) was passed by the Cayman Islands Parliament. The purpose of the Act is to repeal and replace the Legal Practitioners Act (2015 Revision), to regulate the practice of Cayman Islands law, to provide for a system of legal education, to provide for a mechanism to deal with professional misconduct, and to establish the Legal Services Council (“the LSC”). The Act shall come into force on such date as may be appointed by Order made by the Cabinet.
5. On 14 October 2022, Cabinet signed a commencement order, specifically commencing Parts 1 and 2, and sections 99 and 101 of the Act, in turn formally establishing the LSC.
6. One of the functions of the LSC is to carry out the functions imposed on the LSC under the Proceeds of Crime Act (2020 Revision), in relation to attorneys-at-law, in accordance with the assignment of the LSC as the AML supervisory authority under section 4(9) of that Act.
7. It is anticipated that the designation of AML supervisory authority will be re-assigned from CILPA to the LSC this year and that the work of CARA will be subsumed by the LSC.
8. During the relevant period and as at the date of this report, CARA has four full-time operational staff and several vacancies. CARA has been unable to recruit additional staff or back fill vacancies given its uncertain future. CARA’s proactive inspection programme has also been on hold owing to the challenges and concerns in conducting inspections, which may lead to enforcement action, in a time of transition.

2. OUR WORK AS AN AML SUPERVISOR

9. Presently, CARA is responsible for supervising and monitoring 60 law firms comprising 16 sole practitioners, 17 general partnerships, seven limited liability partnerships and 20 companies. Of the 60 supervised firms, 37 are domestic practices and 23 are multi-jurisdictional and/or internationally affiliated.
10. Our registry of supervised firms conducting relevant financial business is publicly available on our website.

Risk Based Approach

11. Since 2021, we have implemented an annual AML Return process by which all supervised firms are required to submit a completed AML questionnaire. The Return provides CARA with detail on firms' inherent ML, TF and PF risks and information on their AML compliance frameworks. This data feeds into our risk profiling assessment of firms. In the relevant period, we received and analysed 53 AML Returns.
12. 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. Accordingly, we have currently classified 20 firms / sole practitioners as High Risk, 19 as Medium High, 17 as Medium Low, and four as Low risk.
13. 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, intelligence/information received, submission of an annual AML Return. Changes and movements in firms' risk profiles are logged, audited, and tracked.
14. In April 2022, the Annual Self-Declaration form was issued to firms and sole practitioners registered with CARA as a Designated Non-Financial Business and Professions ("DNFBP") not conducting Relevant Financial Business ("RFB"). The declaration confirms their non-RFB status has not changed and allows CARA to maintain the DNFBP register with up-to-date contact and firm details as required under the Regulations.

Supervisory Engagement

15. During the relevant period, we registered and onboarded eight new firms and six firms were de-registered. Reasons for de-registration included firms closing/ceasing to practice and or no longer providing RFB.
16. During the relevant period, CARA operated with significantly reduced staff. Whilst this adversely impacted our inspection regime, we were able to complete our thematic review of supervised firms' business risk assessments. In August 2022, we published our thematic review findings in a report which included consolidated examples of good and poor practice on an anonymised basis. All supervised firms are required to use this report to determine whether their business risk assessment is fit for purpose, meeting CARA's expectations of an organised and informative business risk assessment, and the standards required by the Regulations.
17. In latter half of 2022, we also carried out supervisory engagement to assess firms' compliance with Regulation 5 (a)(ix) – 'independent audit function'. Audit reports and plans were requested for review from 43 firms to gain a clearer understanding of our supervised population's compliance with the requirement to have an audit function that is effective, risk-based, and independent. The exercise stemmed from the responses received from the 2022 AML Return submissions, in which firms disclosed whether they had or had not conducted an AML audit for the purposes of the Regulations. We requested that firms submit either their most recent AML audit report or a provide a copy of their proposal to implement an AML audit. We conducted an evaluation of the AML audit reports received, which included a review of the scope of the audit, the expertise and independence of the audit function as well as the severity of any deficiencies noted in the audit report. We also took into consideration the firm's implementation of the recommendations arising from the AML audit report. All firms confirmed that they have either completed or are in the progress of completing the relevant AML audit recommendations. On completion of this exercise, CARA intends to update its guidance in this area and issue a supervisory notice on the requirements of an AML audit and setting out our expectations.

3. ENFORCEMENT

18. In 2020, we issued Discretionary Fine Notices to six firms. At the time, all six firms sought to appeal, and the fines were stayed pending the outcome of the appeal which CARA is contesting. Presently, there are seven Causes in total filed by the appellants granted leave to apply for judicial review, leave to appeal the administrative fines, and or constitutional petitions. In each of the appeals the grounds are essentially the legitimacy of the appointment of the CILPA as a Supervisory Authority, alleged unlawful delegation by CILPA of its functions to CARA, and alleged illegality by CARA in the issue of the breach and fine notices. An agreed timetable for a directions hearing is yet to be set.
19. In the relevant period, we received and managed two confidential disclosures from the Cayman Islands Financial Investigation Bureau (“CIBFI”), including a POCA Production Order.
20. We also referred a matter to the Attorney General Chambers’ Office for legal advice and assistance in connection with a firm’s failure to cooperate.
21. In February 2022, we assisted CIMA in accordance with a request for information pursuant to the Multilateral MOU protocol.
22. Throughout the year Enforcement worked closely with the Cayman Islands Judicial Administration (“the JA”) to ensure any new law firms/sole practitioners which had registered with the JA were also registered with CARA and were licensed to practice within the Cayman Islands. As a result, five firms were contacted with respect to either being incorrectly registered, had not registered with CARA, or had attempted to register with CARA but were not shown as being licensed to practice in the Cayman Islands with the JA.

4. GUIDANCE AND OUTREACH

23. In March 2022, CARA delivered outreach to its supervised population on the Cayman Islands National Risk Assessment, 2021.
24. In October 2022, we delivered outreach on our business risk assessment thematic review findings via an interactive online seminar. We will consider how supervised firms have incorporated findings from the report as part of our ongoing supervision.
25. We also circulated the FRA's public announcement on Russian Sanctions with a reminder to supervised firms of their sanctions obligations and to sign up to the FRA’s alerts system.

26. In October 2022, CARA circulated the FRA's notice on General Licence 2022/0001 regarding Russia sanctions and detailed firms' obligations.
27. All supervised law firms are required to include an assessment of their TF and PF risk in their business risk assessments. All firms' business risk assessments are subject to an annual review by CARA.

5. STAFF TRAINING

28. During the relevant period, CARA staff maintained their professional membership and continued professional development with ACAMS, ICA, and STEP as applicable. Staff also remotely attended the virtual ACAMS Grand Cayman AML conferences held in May and December 2022 respectively.