



## Intertrust Cayman Fined over US\$5m for AML Due Diligence Breaches

On the 13th of May, 2021, the Cayman Islands Monetary Authority (“CIMA”) issued a notice reporting that it had fined Intertrust Corporate Services (Cayman) Limited (“Intertrust”) a total of CI\$4,232,607.50 (approximately US\$5.1m) for “its pervasive and protracted non-compliance” with AML regulations.

CIMA stated that failures included not verifying source of funds, not obtaining documentary evidence on the purpose and intended nature of business relationships, inadequately performing ongoing monitoring, not identifying beneficial owners, and not considering all relevant risk factors in their CDD assessments.

CIMA further noted that the fine is a result of Intertrust demonstrating persistent failings during a number of onsite inspections, therefore emphasising the cumulative effect of CIMA’s repeated identification of breaches and failure on behalf of Intertrust to remediate them.

### Our Analysis

The lapses in question have been seen in enforcement notices across the globe and are in themselves neither new nor rare, especially in industries with a high volume of client intake. Nonetheless, it is yet another warning to companies not to dismiss the value of strong back office or third-party support in the AML discipline in both analysis and review, and internal/external audit.

From the regulator’s perspective, this is the second fine to be issued for AML breaches since the Cayman Islands was placed on the FATF list of jurisdictions under enhanced monitoring in February, after Star Insurance Company (Cayman) Limited was fined CI\$72,800 in March, and by far the heaviest AML-related fine issued by CIMA since the new Anti-Money Laundering Regulations (“AMLRs”) were promulgated in 2018, dwarfing the \$482,717.50 fine handed down to Western International Trust Company in December, 2020.

Fines, such as the one just imposed upon Intertrust, shall demonstrate to their peers within FATF that the Cayman Islands is striving towards fulfilling two of the three criteria for which they have been placed on the FATF grey list, namely: (1) applying sanctions that are effective, proportionate and dissuasive, and taking administrative penalties and enforcement actions against obliged entities to ensure that breaches are remediated effectively and in a timely manner; (2) imposing adequate and effective sanctions in cases where relevant parties (including legal persons) do not file accurate, adequate and up to date beneficial ownership information.

Furthermore, this action is a public statement of CIMA’s resolve in ensuring that the gatekeepers to the financial industry, such as company service providers, bear responsibility for limiting the Islands’ exposure to money laundering and illicit financing. A robust AML/CFT programme is essential to this goal, and CIMA has shown that compromising the integrity of the financial services industry will be met with stern action.

We expect to see more fines as CIMA continues to uncover non-compliance in this area.

### How AML Services by ComplianceAsia Can Help

The AML breaches found within Intertrust’s AML regime highlight the need for relevant financial businesses to carry out regular audits of their AML policy and procedures, to identify absent information and documentation, perform gap analyses, and to regularly assess risk factors affecting their business.

The most important element is an expert lead approach and detailed, consistent application of relevant policies.

AML Services by ComplianceAsia has been working with financial services providers since the new Anti-Money Laundering Regulations were promulgated in 2018, providing packages aimed at this critical back office function. By appointing an experienced, independent party to fulfil the audit requirements of the AMLRs, relevant businesses take the best steps possible towards avoiding oversights and bringing fresh perspective into their due diligence processes.

We are experts at AML and CFT. We do not perform other fund administration or corporate services and are well positioned to assist you either structure an appropriate function or take that in a delegated way from fund administrators or corporate services entities.

## About ComplianceAsia

Founded in 2003, ComplianceAsia is the longest established compliance consulting firm in Asia Pacific, with offices in Hong Kong, Shanghai, Singapore, Tokyo, and London. We have an unmatched track record of completing complex compliance consulting projects for financial firms in the APAC region.

With over 70 staff, including compliance experts with experience in dealing with the SFC, HKMA, MAS, CSRC, JFSA and Asian exchanges, we provide independent, unbiased advice on Asian financial industry legislation and regulations. Our international client base consists of asset managers, hedge funds, private equity funds, family offices, broker-dealers, insurers, wealth managers and investment banks.

We have dedicated AML units in Hong Kong and Singapore servicing a wide range of organisations from banks, asset managers, Cayman funds and insurance intermediaries, to money service providers, crypto market participants, trust companies, company incorporation agents, accounting firms, precious metals dealers and real estate agents.

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