

Cayman Islands Automatic Exchange of Information – Further Update for Cayman Islands Investment Funds

The Cayman Islands Tax Information Authority (**TIA**) recently issued further updates on the compliance obligations of Cayman financial institutions under the Cayman Islands legislation implementing the Common Reporting Standard (**CRS**), US FATCA¹, UK CDOT² and the European Union Savings Directive (**EUSD**).

The vast majority of Cayman Islands investment funds will be classified as Cayman Reporting Financial Institutions under the Cayman Islands automatic exchange of information (**AEOI**) legislation and so have notification, reporting and other ongoing obligations, as we detailed in our [earlier alert](#).

This update sets out key dates and developments that have changed since then.

What are the key dates for 2017?

Early May 2017	New AEOI portal user guide for CRS/US FATCA/ UK CDOT available
Week of 10 May 2017	CRS and US FATCA notification/registration function available on AEOI portal here
Week of 12 June 2017	CRS and US FATCA reporting function available on AEOI portal
30 June 2017	CRS and US FATCA notification/registration deadline for Cayman financial institutions
31 July 2017	CRS and US FATCA reporting deadline for Cayman reporting financial institutions, for the 2016 reporting year
31 July 2017	Deadline for correcting any errors for US FATCA reports for 2014 and/or 2015
31 December 2017	The review of Pre-existing Lower Value Individual Accounts and Pre-existing Entity Accounts for CRS purposes must be completed

A Timely Reminder for CRS Compliance

Updated Guidance Notes: The TIA has issued an updated version of the CRS Guidance Notes, available [here](#), which provide a timely reminder in respect of differences between CRS and FATCA and also some much needed clarification on a number of matters that the local financial services industry have been discussing with the TIA over the course of the last 12 months.

All Cayman Financial Institutions must register with the TIA: All Cayman Financial Institutions (both Reporting and Non-Reporting) must register with the TIA on the AEOI portal and provide the required information, which includes details of the new role of ‘Change Notifier’ (see below).

Confirmation of 2017 Reportable Jurisdictions: The 2017 CRS Reportable Jurisdictions were recently published and updated by the Government to include Jersey and these are set out as an appendix to the Guidance Notes.

Also included is a provisional list of 2018 Reportable Jurisdictions so that Cayman Reporting Financial Institutions can start planning for 2018 reporting.

Liquidation reporting obligations: The Guidance Notes confirm that Cayman Financial Institutions which are in liquidation or being wound up in 2017 must fulfil their CRS notification and reporting obligations as normal. Any Cayman Reporting Financial Institutions that are being liquidated in 2017 will have reporting obligations in respect of the 2016 calendar year for the 2017 Reportable Jurisdictions, and for that part of 2017 until their final dissolution or winding up, in respect of both the 2017 and 2018 Reportable Jurisdictions. Unlike under US FATCA, under CRS a Cayman investment entity, like an investment fund, remains classified as such even if it is closed (has no remaining participating investors or is not open to further investors), or is in liquidation. Additionally, the TIA has confirmed that they will not expect any Cayman Reporting Financial Institution which has been dissolved while the AEOI Portal has been offline to fulfil its CRS registration or reporting obligations.

Updated Self-Certification Forms: Individual and entity self-certification forms are being updated and will be available soon on the TIA legislation webpage [here](#).

Written policies and procedures: Every Cayman Reporting Financial Institutions must have written policies and procedures in respect of their obligations under CRS. Investment funds which have delegated this role to their administrator or another third party service provider must still have written policies and procedures in place, which describe the functions delegated, the oversight of the delegation and performance of any CRS obligations that have not been delegated. For Cayman Reporting Financial Institutions which have not delegated these obligations, more comprehensive written policies and procedures must describe the performance of those obligations in a way that is reasonable for their business.

Separate reports for each Reportable Jurisdiction with a Reportable Account: when the AEOI portal is re-opened, separate XML files must be submitted for each Reportable Jurisdiction for which a Cayman Reporting Financial Institution has Reportable Accounts. If it has no Reportable Accounts, the new AEOI portal is expected to allow a nil return check box to be selected.

Change Notifier: each Cayman Financial Institution must appoint an individual as its change notifier. The same person cannot be appointed as both change notifier and principal point of contact. The change notifier will be the only person from whom the TIA will take instructions that the principal point of contact has changed. Any changes to the principal point of contact and/or change notifier must be notified to the TIA within 10 business days.

Phasing out of UK CDOT and EUSD obligations

The TIA has confirmed that Cayman Financial Institutions which have reporting obligations under UK CDOT should not file a separate report under UK CDOT this year but instead must include certain details in their single CRS file for the UK as a Reportable Jurisdiction under CRS:

- all information that would be reportable under UK CDOT
- if it has reporting obligations under CRS, any information that is reportable under CRS for the UK as a Reportable Jurisdiction which is not already reported above

From 2018 on, all reporting on UK persons will be under the CRS obligations, as UK CDOT is phased out. The DITC has also confirmed that from 2017, reporting is not required under EUSD legislation as the information will be covered by reporting under CRS.

Harneys

At Harneys we have a dedicated team of FATCA and CRS specialists who can help advise on your compliance with these obligations. In addition, we can also provide registration, reporting and Principal Point of Contact and Change Notifier services.

Please contact your usual Harneys contact or visit www.harneys.com/cayman if you have any questions or would like further advice on your AEOI obligations.

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¹ Which means the US Foreign Account Tax Compliance Act, the intergovernmental agreement between the United States and the Cayman Islands and the Cayman Islands Tax Information Authority (International Compliance) (United States) Regulations (as revised)

² The intergovernmental agreement between the Crown Dependencies, the British Overseas Territories and the UK and the Cayman Islands Tax Information Authority (International Tax Compliance) (United Kingdom) Regulations (as revised)