

Cayman Islands Economic Substance Requirements – 'Relevant Activity' of 'Insurance Business'

For general background on The International Tax Co-operation (Economic Substance) Law, 2018 (as amended by relevant regulations the "Economic Substance Law"), the related Guidance on Economic Substance for Geographically Mobile Activities (the "Guidance") and for the meaning of 'relevant entity', please click [here](#).

This update assumes that an entity has already been determined to be a 'relevant entity' under the Economic Substance Law and that the 'relevant entity' is now considering whether it is carrying on one of the nine categories of geographically mobile 'relevant activities' - in particular, under the 'insurance business' category.

What is 'insurance business'?

'Insurance business' in the Economic Substance Law has the meaning given in section 2 of the Insurance Law, 2010 (the "Insurance Law"), namely 'the business of accepting risks by effecting or carrying out contracts of insurance, whether directly or indirectly, and includes running-off business including the settlement of claims.'

Economic Substance Test

If a 'relevant entity' carries on the 'relevant activity' of 'insurance business' it will be subject to the economic substance test set out in the Economic Substance Law. The economic substance test can be satisfied in relation to that 'insurance business' if the 'relevant entity':

- (a) conducts 'Cayman Islands core income generating activities';

- (b) is directed and managed in an appropriate manner in the Cayman Islands; and
- (c) has adequate operating expenditure, physical presence and personnel in the Cayman Islands.

Cayman Islands Core Income Generating Activities

The relevant 'Cayman Islands core income generating activities' in the context of 'insurance business' include:

- (a) predicting or calculating risk or oversight of prediction or calculation of risk;
- (b) insuring or re-insuring against risk;
- (c) preparing reports or returns, or both, to investors or the Cayman Islands Monetary Authority, or both.

Guidance on 'Insurance Business'

At present, there is no specific section on 'insurance business' in the Guidance. The Guidance does, however, provide that:

'Given the stringent regulatory requirements in the Cayman Islands, which result in significant overlap with the substance requirements, it is expected that relevant entities licensed to carry on insurance business...will already generally be operating in the Islands with adequate resources and expenditure. However, those relevant entities will still be subject to the [Economic Substance] Law (i.e. filing requirements, Cayman Islands CIGA

performed in the Islands, and monitoring by the Authority).'

What to do if a 'Relevant Entity' is Carrying on the 'Relevant Activity' of 'Insurance Business'

It is worth noting that there are a range of consequences for breaches of the Economic Substance Law (including financial penalties and potential striking-off).

If you have any specific questions in relation to a 'relevant entity' conducting 'insurance business' or this update, please speak to your usual Maples Group contact or:

Tim Frawley

+1 345 814 5354

tim.frawley@maples.com

Abraham Thoppil

+1 345 814 5366

abraham.thoppil@maples.com

March 2019

© MAPLES GROUP

This update is intended to provide only general information for the clients and professional contacts of Maples Group. It does not purport to be comprehensive or to render legal advice.