

Cayman Islands AEOI and CbCR Update

The Cayman Islands Department for International Tax Cooperation ("DITC") issued an advisory¹ on 9 April 2019 (the "Advisory") with respect to FATCA and CRS (together, "AEOI") compliance including an extended 'soft enforcement' deadline for 2019 reporting by Cayman Islands Financial Institutions ("Cayman FIs"). The Advisory also covers a number of other updates on AEOI and Country by Country Reporting ("CbCR").

FATCA and CRS Reporting Deadline Update

The Cayman Islands AEOI Portal ("AEOI Portal") for notification and reporting in relation to FATCA and CRS is now open for notification and reporting. The deadline for notification, i.e. registration to the DITC for entities that became Cayman FIs after 30 April 2018 (the previous statutory deadline for notification) remains 30 April 2019.

The statutory deadline for reporting for the 2018 calendar year remains 31 May 2019. However, the DITC has advised that Cayman FIs with 2018 CRS and / or FATCA reporting obligations that are completed on or before Wednesday, 31 July 2019, will not be subject to compliance measures for late filing or attract adverse consequences, enforcement measures or penalties.

Reporting submitted after that date may be subject to compliance reviews by the DITC. As a reminder, a Cayman FI with CRS reporting obligations must complete a 'nil return' for the relevant reporting period even if it has no reportable accounts.

The DITC have warned that access to the AEOI Portal may be affected due to anticipated increased activity in the final weeks before the reporting deadline. As a result, while no action will be taken in respect of reporting obligations that are completed before 31 July 2019, the DITC recommends that Cayman FIs submit their 2018 CRS and US FATCA returns as soon as practicable.

Updated AEOI Portal User Guide (Version 5.0)

The Advisory highlights that the AEOI Portal User Guide has been updated from version 4.0 to version 5.0.² Changes to the new version include:

- A new validation rule has been introduced relating to US FATCA reporting – specifically for reports in the case of a Pre-Existing Account Holder that is a Specified US Person (Entity) or a Substantial US Owner type

¹ http://www.tia.gov.ky/pdf/AEOI_News_&_Updates.pdf

² The updated AEOI Portal User Guide can be found here: http://www.tia.gov.ky/pdf/User_Guide.pdf

organisation where the Cayman FI has been unable to obtain the US Tax Identification Number required;

- Examples of common IRS error notifications have been included, alongside clarifications of required actions; and
- Guidance on how to download a CRS status message is also now included.

CbCR Portal

The Advisory also notes that the Cayman Islands CbCR Portal ("CbCR Portal") is open for CbCR notification and reporting submissions pursuant to the Tax Information Authority (International Tax Compliance) (Country-By-Country Reporting) Regulations, 2017 (the "CbCR Regulations").

In accordance with the CbCR Regulations, any constituent entity (each a "CE") that is resident in the Cayman Islands and forms part of a multinational enterprise group³ must make a one-off notification ("CbCR Notification") to the DITC. If the CE is the "Ultimate Parent Entity" or "Surrogate Parent Entity" of the MNE Group, it will also be required to file a country-by-country report ("CbC Report").

CEs must make the CbCR Notification through the CbCR Portal no later than the last day of the reporting fiscal year of the CE's MNE Group. Any changes to existing CbCR Notifications must be made by uploading a revised CE File and Authorisation Letter through the CbCR Portal, by the end of the fiscal year during which the changes occur.

The CbC Report for a particular fiscal year of an MNE Group is due within 12 months of the end of that fiscal year.

³ Being a group that (i) includes two or more enterprises which are "tax resident" in at least two different jurisdictions and (ii) has a total consolidated group revenue of at least US\$850 million in the preceding fiscal year (an "MNE Group").

Further information about the AEOI regimes can be found on our dedicated FATCA and CRS webpage.⁴ Additionally, you may contact any one of the below members of our dedicated Regulatory & Compliance team.

CAYMAN ISLANDS

Christopher Capewell

+1 345 814 5666
chris.capewell@maples.com

Tim Dawson

+1 345 814 5525
tim.dawson@maples.com

Tim Frawley

+1 345 814 5354
tim.frawley@maples.com

Patrick Head

+1 345 814 5377
patrick.head@maples.com

Martin Livingston

+1 345 814 5380
martin.livingston@maples.com

Hugo Lodge

+1 345 814 5388
hugo.lodge@maples.com

Sarah Farquhar

+1 345 814 5443
sarah.farquhar@maples.com

⁴ <https://maples.com/en/Services/Regulatory-and-Compliance/AEOI-and-FATCA>.

LONDON

Harjit Kaur

+44 20 7466 1655

harjit.kaur@maples.com

Anna Whaley

+44 20 7466 1699

anna.whaley@maples.com

SINGAPORE

Brandon Doffing

+65 6922 8411

brandon.doffing@maples.com

April 2019

© MAPLES GROUP

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