

Cayman Islands Economic Substance Requirements – 'Relevant Activity' of 'Financing and Leasing 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 'financing and leasing business' category.

What is 'financing and leasing business'?

'Financing and leasing business' in the Economic Substance Law is defined as 'the business of providing credit facilities for any kind of consideration to another person but does not include financial leasing of land or an interest in land, banking business, fund management business or insurance business.'

Economic Substance Test

If a 'relevant entity' carries on the 'relevant activity' of 'financing and leasing business' it will be subject to the economic substance test set out in the Economic Substance Law (unless it has no relevant income in respect of that relevant activity, in which case only notification and reporting obligations will apply). The economic substance test can be satisfied in relation to that

'financing and leasing 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 'financing and leasing business' include:

- (a) negotiating or agreeing funding terms;
- (b) identifying and acquiring assets to be leased;
- (c) setting the terms and duration of financing or leasing; and
- (d) monitoring and revising financing or leasing agreements and managing risks associated with such financing or leasing agreements.

Guidance on 'Financing and Leasing Business'

At present, there is no specific section on 'financing and leasing business' in the Guidance.

What to do if a 'Relevant Entity' is Carrying on the 'Relevant Activity' of 'Financing and Leasing 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 'financing and leasing business' or on this update please speak to your usual Maples Group contact or:

Wanda Ebanks

+1 345 814 5449

wanda.ebanks@maples.com

Scott Macdonald

+1 345 814 5317

scott.macdonald@maples.com

Jonathon Meloy

+1 345 814 5412

jonathon.meloy@maples.com

Alasdair Robertson

+1 345 814 5345

alasdair.robertson@maples.com

June 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.