

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

For general background on The International Tax Co-operation (Economic Substance) Law (2020 Revision) (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 refer to our main update<sup>1</sup>.

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 ("ES 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 ES Test can be satisfied in relation to that insurance business if the relevant entity:

- (a) conducts '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.

## Core Income Generating Activities

The relevant core income generating activities ("CIGA") in the context of insurance business include:

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<sup>1</sup><https://maples.com/knowledge/cayman-islands-update-economic-substance-guidance-notes-v3-0-issued>

- (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 ("CIMA"), or both.

### Guidance on Insurance Business

The Guidance on Insurance Business makes it clear that reinsurance business is also included in the scope of the Economic Substance Law. CIMA licensed Class A insurers and Class D insurers could qualify for the domestic company exemption under the Economic Substance Law if case they meet certain criteria. Class B insurers, Class C insurers and Portfolio Insurance Company ("PIC") insurers are however within the scope of the Economic Substance Law.

The Guidance does, however, provide that:

*"It is possible for a relevant entity which is licensed as a Class B or Class C insurance company, or registered as PIC under the Insurance Law to satisfy the ES Test...by outsourcing performance of its CIGA in the [Cayman] Islands to its CIMA-licensed insurance manager."*

### 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 reach out to your usual Maples Group contact or:

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