

Recent developments in Cayman's international transparency frameworks

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This update looks at recent and upcoming developments in the international tax transparency regimes of the OECD's¹ Standard for Automatic Exchange of Financial Account Information in Tax Matters (the **AEOI Standard**) (which covers both the Common Reporting Standard (**CRS**) and the Crypto-Asset Reporting Framework (**CARF**)), the US Foreign Account Tax Compliance Act (**FATCA**) and Country-by-Country Reporting (**CbCR**), as well as the economic substance (**ES**) regime. It does not cover international transparency via access to beneficial ownership information of Cayman entities.

The Cayman Islands has an impressive history when it comes to the implementation of and reporting under international tax transparency regimes. Looking first at the AEOI Standard, the Cayman Islands was one of the first countries to commit to implementing the Standard and completed its first exchange in 2017. Since then, Cayman was most recently assessed by the OECD's² Global Forum on Transparency and the Exchange for Information for Tax Purposes (the **Global Forum**) in November 2022³ as being 'on track' in terms of the effective implementation of the Standard. This is the highest rating possible, and Cayman was reconfirmed as having a legal framework implementing the AEOI Standard which is consistent with the AEOI Terms of Reference in the 2024 peer review update.⁴

Looking forward, the Global Forum is currently conducting further peer reviews of the AEOI Standard participating jurisdictions, including the Cayman Islands, but with a more detailed assessment of effectiveness of each jurisdiction's administrative compliance framework and their exchange of information in practice, and a particular focus on the quality of information reported.

Cayman has been preparing for this effectiveness review for some time; introducing the CRS Compliance Form in 2019, adopting the CRS Enforcement Guidelines in 2020 and issuing an increased number of enquiries and warnings, leading to the proactive enforcement of the CRS including, in particular, the issue of breach and enforcement notices and the imposition of financial penalties in relation to missing filings. Industry in Cayman has also been made aware, via in-person outreach sessions (such as the annual Mourant Regulatory Conference) and industry advisories (such as that relating to the required reporting of date of birth information⁵) of the commitment of the Department for International Tax Cooperation (**DITC**) to ensure compliance by Cayman Islands financial institutions (**FIs**) with their CRS obligations, along with particular areas of focus.

¹ The Organization for Economic Co-operation and Development.

² The Organization for Economic Co-operation and Development.

³ https://www.oecd.org/en/publications/peer-review-of-the-automatic-exchange-of-financial-account-information-2022_36e7cded-en.html.

⁴ https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/11/peer-review-of-the-automatic-exchange-of-financial-account-information-2024-update_af50b473/1aa02413-en.pdf.

⁵ <https://www.ditc.ky/press/industry-advisory/date-of-birth-information-crs/>.

The most recent development announced by the DITC was the commencement of a programme of comprehensive reviews testing practical compliance by Cayman Islands FIs with their CRS obligations. This programme commenced in November 2024, with the reviews being similar to an onsite inspection or audit and looking at areas of concern such as governance, classification, consistency of reporting and data quality.⁶ Directors and other governing bodies of Cayman Islands investment funds should, accordingly, consider conducting their own internal review of the entity's CRS compliance programme and history or hire an appropriate service provider to conduct a CRS compliance review for them. Governing bodies should be aware of each entity's obligations and responsibilities and look at how, and indeed whether, compliance has been achieved in the past. Where, as is common, CRS compliance has been outsourced to a fund administrator or other third-party service provider, the governing body should ensure that the entity itself has suitable written CRS policies and procedures in place providing, amongst other things, for the outsourcing relationship, and has a consistent record of reporting from the service provider.

With the second round of AEOI effectiveness reviews ongoing, industry can expect the DITC's focus on cleaning-up data quality and enforcement of non-compliance to continue. In addition, it is anticipated that the Cayman AEOI legislation will soon be amended; first, to include CARF to capture transactions involving crypto-assets and, secondly, to include amendments made to the CRS ('CRS 2.0') to cover digital financial products and, in part, to dovetail with and not duplicate CARF. CARF is a new OECD global standard for the automatic exchange of information on crypto-assets, addressing the rapid growth of the crypto-asset market with the aim of increasing transparency in the fight against tax evasion and money laundering. The Cayman Islands was one of 48 jurisdictions which endorsed a collective engagement to implement CARF in November 2023⁷ and it is anticipated that the first exchanges of information will be made under CARF in 2027. Cayman Islands FIs must keep abreast of these developments to ensure continuing compliance.

Thankfully, very little change is anticipated under the CbCR and FATCA regimes. However, large multinational companies with consolidated annual group revenue of US\$850 million (€750 million) or more should note that CbCR reporting is required in relation to any vehicles established in Cayman. In addition, the financial threshold applicable to the CbCR regime is the same for Pillar Two of the OECD's Inclusive Framework on Base Erosion and Profit Shifting (BEPS), known as the Global Anti-Base Erosion (GloBE) Rules. The GloBE Rules require any group with a consolidated annual revenue of more than US\$850 million (€750 million) to pay a minimum 15 per cent tax on its profits in each jurisdiction it operates in. Whilst the Cayman Islands is not anticipated to impose any level of domestic taxation, it is expected that the country will leverage its existing tax reporting and exchange framework to ensure that in-scope groups are paying the new 15 per cent minimum tax rate in the relevant jurisdictions, in compliance with the GloBE Rules.

With economic substance, Cayman introduced its ES regime with effect from 1 January 2019, with reporting once again implemented through, and enforcement of the regime conducted by, the DITC. This regime has remained stable for some time and was assessed by the OECD's Forum on Harmful Tax Practices as 'not harmful', a positive outcome.⁸

However, one question facing industry at the moment is how the ES regime will work alongside the GloBE Rules, albeit that this question only applies to those multi-national enterprises (MNEs) with consolidated annual revenue of more than US\$850 million (€750 million). For example, if tax is levied in the jurisdiction of an MNE's parent company in relation to a Cayman entity's profits, should the Cayman entity be penalised for not having substance in Cayman? The ES regime is aimed at determining where companies generate revenue and conduct core activities, ensuring that tax is incurred appropriately in the jurisdictions where revenue is earned. However, if income from a relevant activity under the ES regime is subject to tax in a country outside the Cayman Islands due to the application of Pillar Two, it would not be in-keeping with the purpose of the BEPS initiative for such entity to be subject to the Cayman Islands ES regime. The application of the substance requirements in such a scenario may lead to the entity being penalised regardless of the fact that appropriate tax has been paid on the Cayman entity's income.

⁶ See our [Update](#) for more information.

⁷ <https://www.ditc.ky/wp-content/uploads/Collective-engagement-to-implement-the-Crypto-Asset-Reporting-Framework.pdf>.

⁸ <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/harmful-tax-practices/harmful-tax-practices-consolidated-peer-review-results-on-preferential-regimes.pdf>.

As it is still 'early days' as far as the GloBE Rules are concerned, this issue has not yet been addressed by the DITC. Whilst MNEs should watch this space, we may be getting ahead of ourselves. The Pillar Two initiative itself may be revisited following President Trump's inauguration in January 2025, the US' subsequent withdrawal from the OECD's global minimum tax initiative and, in particular, President Trump's initiation of an investigation into whether Pillar Two results in countries imposing extraterritorial tax disproportionately impacting US companies and which may, in the future, be subject to protective counter-measures.

However, as a secure and international financial centre of excellence, we can expect that the Cayman Islands will continue to be a leader in not only adopting but also enforcing initiatives aimed at increasing international tax cooperation and transparency, and reducing tax evasion, money laundering and other financial crimes.

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