

The Cayman Islands – advantages as an offshore jurisdiction

Last reviewed: May 2024

Introduction

The Cayman Islands is one of the world's leading offshore jurisdictions. Although particularly renowned for the establishment of investment funds (both hedge funds and private equity funds), Cayman Islands entities are customarily used for transactions of all types including equity, debt and insurance capital markets transactions, in mergers and acquisitions and in joint ventures. The Cayman Islands Monetary Authority (CIMA) supervises and regulates providers of a wide range of financial services, including banking, insurance and investment management.

Absence of tax

The Cayman Islands have no direct taxes of any kind. There are no corporation, capital gains, income, profits or withholding taxes. Under the terms of the relevant legislation, it is possible for exempted companies, exempted limited partnerships, limited liability companies (LLCs) and unit trusts to register with and apply to the Cayman Islands government for a written undertaking that they will remain tax-free for a minimum period; 20 years in the case of exempted companies and 50 years in the case of exempted limited partnerships, LLCs and unit trusts.

Absence of exchange controls

There are no exchange control restrictions or regulations under the currently applicable laws in the Cayman Islands. Funds can be freely transferred in and out of the Islands in unlimited amounts. The Cayman Islands dollar is tied to the US dollar and the latter is freely accepted and used within the local economy.

Reliable legal system

Cayman Islands law derives from English common law, supplemented by local legislation. The court system is well developed and experienced. Major civil cases are heard in the Grand Court with appeals to the Cayman Islands Court of Appeal and ultimately to the Privy Council in London. It is common practice for leading advocates from the UK to appear before the Cayman Islands courts on major litigation matters.

Availability of banks and professional services

More than 40 of the world's 50 leading banks have a presence in the Cayman Islands. All the leading accountancy firms are represented in the Islands. Institutions and arrangers doing business in the Cayman Islands also benefit from top quality professional service providers (attorneys, fund administrators, trust companies, company managers, etc) with extensive experience.

Speed and cost

As Cayman Islands entities can be formed on the day of filing and there is no lengthy regulation or filing procedures; transactions can be brought to market very quickly. The cost of forming and maintaining Cayman Islands entities is competitive and usually minimal in the context of most transactions.

Political and economic stability

The Cayman Islands is a British Overseas Territory and has a history of stable government. The British government retains responsibility for internal security, defence and external affairs. Prudent economic policies and a strong financial services sector have resulted in the Cayman Islands enjoying an Aa3 sovereign risk rating. The Cayman Islands enjoy a high standard of living.

Excellent communications

The Cayman Islands are situated in the western Caribbean, 480 miles south of Miami and 180 miles northwest of Jamaica. The Islands are five hours behind Greenwich Mean Time in the Eastern Standard Time zone. The Cayman Islands benefit from state-of-the-art telecommunications facilities and direct flights are available from a number of major international centres.

Cayman Islands Monetary Authority

The mission of CIMA is to regulate and supervise the financial services industry in order to maintain a first-class financial system. CIMA has regard to international standards and the need for operational freedom by financial services providers and for the maintenance of a dynamic and competitive industry. As at the end of Q1 2024, CIMA regulated over 12,800 open-ended mutual funds and over 16,700 closed-ended funds or private equity funds (referred to here as **private funds**).¹

Cayman Islands Stock Exchange

The Cayman Islands Stock Exchange (**CSX**) was established in 1996 to provide a highly competitive listing facility for Cayman Island's specialist products, mutual funds and debt securities. Since then, the CSX has expanded its facilities for listing of derivative warrants, depositary receipts and Eurobonds. The CSX has admitted more than 8,168 securities to listing and currently maintains a market capitalisation over US\$850 billion.²

Anti-money laundering

The Cayman Islands has long committed to implementing best international practice in line with the requirements of the Organisation of Economic Co-operation and Development (**OECD**) and the Financial Action Task Force (**FATF**). A comprehensive legislative framework has been enacted in relation to anti-money laundering, countering the financing of terrorism and countering proliferation financing.

Types of Cayman Islands entities

Below we give a very brief summary of the main features of Cayman Islands entities. A Cayman Islands entity is required to maintain a registered office in the Cayman Islands. Mourant Governance Services (Cayman) Limited will typically act as registered office for entities that we incorporate.

Exempted companies

Cayman Islands exempted companies have distinct legal personality. They need only have one shareholder and there is no minimum capital requirement. Shares can be denominated in any currency and denomination. There is no minimum or maximum amount prescribed for authorised issued or paid-up share capital.

Subject to solvency considerations, dividends or other distributions are payable to investors from amounts standing to the credit of a company's share premium account, even if no profits are available. Shares in a Cayman Islands company may also be redeemed or repurchased out of capital, again, subject to solvency considerations. For the statutory segregation of assets and liabilities between sub-portfolios of the same company, segregated portfolio companies may be established.

There is no statutory restriction on the issue of debt instruments by Cayman Islands companies. Cayman Islands law recognises a number of different types of security interests over assets.

¹ <https://www.cima.ky/investment-statistics>

² <https://www.csx.ky/aboutus/overview.asp>

Management of a company is generally delegated to its board of directors. However, it is possible for an 'exempted limited duration' company to be incorporated, which can be governed by its shareholders, or for an LLC to be formed (see below), which can be governed by its members and/or managers on the terms of its constitutional documents. Such constitutional documents can be bespoke and may, if necessary, be supplemented by a shareholders' agreement.

Although a company's constitutional documents must be registered with the Cayman Islands Registrar of Companies, they are not publicly available.

Exempted limited partnerships

Exempted Limited Partnerships (**ELPs**) are the most common vehicle for private funds. They are also sometimes used in master-feeder open-ended fund structures.

A partnership registered as an ELP, in addition to the limited partners, must have at least one general partner which:

- if an individual, is resident in the Cayman Islands;
- if a company, is incorporated in Cayman Islands or registered as a foreign company; or
- if a partnership, is registered in Cayman Islands.

The general partner is responsible for the conduct of the ELP business, and it (rather than the limited partners) is liable for the partnership's debts or obligation, save as otherwise specified in the limited partnership agreement.

An ELP does not have any separate legal identity distinct from its partners and therefore any property of the ELP held in the name of the general partner or in the name of the ELP will be deemed to be held on trust by the general partner as an asset of the ELP. Limited partners enjoy limited liability (limited to the amount of capital they have advanced to the partnership) but must not take part in the conduct of the business of an ELP and to do so would risk making such limited partner liable for the debt and obligations of the ELP, if the ELP becomes insolvent.

Limited liability companies

A Cayman Islands LLC is a hybrid entity which, essentially, combines the characteristics of a Cayman Islands exempted company with those of a Cayman Islands exempted limited partnership. Like an exempted company, it is a body corporate with separate legal personality, but unlike an exempted company, it does not have share capital. Member liability is limited, and capital accounts are permitted. The members of an LLC are free to determine amongst themselves in the LLC agreement how profits and losses are allocated and how and when distributions are made.

The LLC is suitable to act as a private equity or other closed-ended fund vehicle and allows for simplified fund administration, with its flexibility facilitating easier tracking or calculating of a member's investment in the LLC.

For similar reasons, the LLC is a popular special purpose acquisition vehicle, particularly since lenders benefit from the ability of the LLC to grant security interests over its assets or the members to grant security interests over their membership interests. Equally, the LLC is well-suited to act as a joint venture vehicle on the basis that its members are free to act in their own best interests.

Unit trusts

Cayman Islands trust law is based on English common law and therefore interpreted according to English case law, as modified by any Cayman Islands case law. Under a unit trust arrangement investors (or unit holders) contribute funds to a trustee which holds those funds on trust for the unit holders, and each unit holder is directly entitled to share pro-rata in the assets of the applicable unit trust.

Trusts

The Cayman Islands has a well-established and flexible trusts regime allowing for privacy and asset protection, both in the commercial and private wealth spheres. As an example, if a Cayman Islands incorporated trust company carries out 'connected trust business' only, it can register as a private trust company (**PTC**) with CIMA. The PTC has proved to be a particularly attractive structure for wealthy families

who are, for example, sensitive to issues of confidentiality, or who wish to retain some control or influence over the administration of the trust assets, which may include shares in a family company. PTCs can also be used in a philanthropic or commercial context.

For commercial purposes, especially where a special purpose vehicle is incorporated for the purpose of a particular transaction, the Special Trusts (Alternative Regime) (**STAR**) under Part VIII of the Trusts Act (as amended) can be used so that the shares in the special purpose vehicle are vested in the STAR trustee for the purpose of exercising its voting rights to further the transaction in question.

Contacts

A full list of contacts specialising in Cayman Islands law can be found [here](#).