

# Cayman Islands Funds and Regulatory Update: Q2 2021

Newsletters - 13/07/2021

## Cayman Islands Funds and Regulatory Update: Q2 2021

We are pleased to note that the second quarter of 2021 has been relatively quiet on the regulatory front in the Cayman Islands. As the year progresses we are approaching a number of key deadlines for investment funds and this briefing serves as a useful reference guide for upcoming deadlines, as well as an update of certain regulations and guidance issued over the last quarter.

### Summary of deadlines and recent regulatory notices

|  |  |
|--|--|
| DITC Portal open for 2020 FATCA and CRS reporting                              | The Cayman DITC Portal is now open for submission of FATCA reports, CRS reports and CRS filing declaration for the 2020 period. The reporting and filing deadline is <b>31 July 2021</b> .   |
| Cayman Islands economic substance legislation extended to include partnerships | The Cayman Islands economic substance regime has now been expanded so as to bring into scope Cayman Islands partnerships. As a result, all types of Cayman Islands partnerships (exempted limited partnerships, general partnerships, limited partnerships and foreign limited partnerships) will be required to make an annual notification through their corporate services provider (typically a registered office service provider) as to whether or not they are in scope of the economic substance regime and whether or not they were carrying on one or more of a defined list of activities in the previous reporting period. |
| CIMA confirms deadline of 30 September   | Pending the release of the fund annual return (FAR) form for private funds   |

|  |   |
|--|---|
| September 2021 for filing of Private Fund FAR pending release of FAR Form            | registered under the Private Funds Act (Revised) ( <b>Private Funds</b> ), the deadline for the first filing of audited accounts and the associated FAR form by all Private Funds has been extended to <b>30 September 2021</b> .   |
| CIMA reminder regarding the appointment, duties and responsibilities of AML officers | In an industry <u>notice</u> CIMA has reminded all persons carrying out relevant financial business (as defined under Cayman's AML regime) that they are expected and required to ensure that their AML Compliance Officers, Reporting Officers and their deputies are aware of their respective duties responsibilities as set out in the Anti-Money Laundering Regulations (2020 Revision) (as amended) and will act in accordance with them. |

## DITC Portal open for 2020 FATCA and CRS Reporting

In a recent press release the Cayman Department for International Tax Cooperation (**DITC**) has informed industry that the DITC Portal (**DITC Portal**) is now open for submission of FATCA reports, CRS reports and CRS filing declaration for the 2020 period. The reporting and filing deadline is 31 July 2021. The DITC has indicated that it is not currently planning any extensions to this deadline and financial institutions are encouraged to commence their reporting early to ensure it is submitted before the 31 July deadline. The inability to log in to the DITC Portal and submit returns will not be a defence for a failure to submit reports by the deadline. The CRS Compliance Form submission deadline for the 2019 and 2020 periods remains 15 September 2021.

In the press release, the DITC reminds each Cayman Islands company, partnership and trust, and its directors or equivalent fiduciaries, to ensure that it has been correctly classified for the purposes of the CRS and /or FATCA Regulations (**Regulations**). The DITC will match FATCA and CRS notification data against other data sources, such as Economic Substance notifications, CIMA licences/registrations, General Registry nature of business classifications, and the IRS GIIN registration list. It is an offence under the Regulations for FIs to fail to notify the DITC of their correct classification under the Regulations. The DITC will consider appropriate compliance and enforcement action where mis-classification is discovered.

As a reminder here are the FATCA & CRS reporting deadlines for the 2019 and 2020 reporting period:

| Reporting obligation        | Deadline      |
|-----------------------------|---------------|
| Registration (notification) | 30 April 2021 |
| 2019 & 2020 CRS Reporting   | 31 July 2021  |

**Economic substance legislation extended to**

|                                    |                   |
|------------------------------------|-------------------|
| 2019 & 2020 CRS Filing Declaration | 31 July 2021      |
| 2019 & 2020 FATCA Reporting        | 31 July 2021      |
| 2019 & 2020 CRS Compliance Form    | 15 September 2021 |

## include partnerships

The Cayman Islands economic substance regime has recently been expanded<sup>[1]</sup>, so as to now bring into scope Cayman Islands partnerships. As a result, all types of Cayman Islands partnerships (exempted limited partnerships, general partnerships, limited partnerships and foreign limited partnerships) will be required to make an annual notification to the Cayman Tax Information Authority (TIA) through their corporate services provider (typically a registered office service provider) as to whether or not they are in scope of the economic substance regime and whether or not they were carrying on one or more of a defined list of activities in the previous reporting period. Entities which conducted relevant activities (such as fund management business or holding company business) are required to file an economic substance report for that period. The earliest such filing is likely to be required for existing partnerships would be March 2022, although this deadline is currently under consultation and so may be extended; we will advise once further clarification has been received. The TIA has, however, published revised Economic Substance Guidance (version 3.1 available on the DITC website [here](#)) to include guidance in respect of partnerships.

### *Investment funds are excluded from the requirement to submit an economic substance report*

For further details, including any steps to be taken in due course, see our client briefing [Cayman Islands economic substance legislation extended to include partnerships](#).

## CIMA confirms deadline of 30 September 2021 for filing of Private Fund FAR pending release of FAR Form

Due to the delay in the publication of the Fund Annual Return (FAR) Form for funds registered under the Private Funds Act (Revised) (Private Funds), CIMA have confirmed that the deadline for the first filing of audited accounts and the associated FAR Form by all Private Funds has been extended to 30 September 2021. Absent this extension, a Private Fund would generally be required to file its FAR form within six months of each financial year end falling after 7 February 2020. It should be noted that as a consequence of this extension, a Private Fund which had a 31 March financial year end would need to file its FAR for both the 2020 and 2021 financial years on 30 September 2021. CIMA has in an industry notice confirmed that Private Funds will not be subject to penalties for non-compliance with annual audit filing requirements prior to the revised 30 September 2021 deadline. The publication of the FAR form is expected imminently.

The Private Funds (Annual Returns) Regulations, 2021 (FAR Regulations) which set out the operating and financial information required to be submitted in the Fund Annual Return (FAR) for Private Funds on an annual basis, were published on 25 March 2021 and may be accessed [here](#). For

further discussion of the operating and financial information to be contained in the FAR and related fund entities, including fees payable, see our [Cayman Islands Funds and Regulatory Update: Q1 2021](#).

## CIMA reminder regarding the appointment, duties and responsibilities of AML officers

In an [industry notice](#) dated 7 June 2021, CIMA has reminded all persons carrying out relevant financial business (as defined in the Proceeds of Crime Act (Revised)) that they are expected and required to ensure that their AML Compliance Officers, Money Laundering Reporting Officers and Deputy Money Laundering Reporting Officers (**AML Officers**) are aware of their respective duties responsibilities as set out in the Anti-Money Laundering Regulations (2020 Revision) (as amended) (**AML Regulations**) and will act in accordance with them.

Under the Guidance notes issued in respect of the AML Regulations, appointed AML Officers must be fit and proper to conduct their role and must be, inter alia,

- suitably qualified and experienced;
- persons at a management level who report directly to the Board of Directors or equivalent;
- natural persons;
- autonomous (meaning the AML Officer is the final decision maker as to whether to file a suspicious activity report); and
- able to have access to all relevant material in order to make an assessment as to whether the activity is or is not suspicious.

Ogier's affiliated corporate administration arm, Ogier Global, has a dedicated and experienced team offering AML Officer Services from the Cayman Islands. For an introduction to Ogier Global, or for advice concerning any of the above matters, please contact your usual Ogier attorney or any of the contacts listed in this briefing. In addition, our 'key dates' calendar continues to be updated to reflect any revised deadlines. This is available on request.

*[1] See the International Tax Co-operation (Economic Substance) (Amendment of Schedule) Regulations, 2021 and the International Tax Co-operation (Economic Substance) (Prescribed Dates) (Amendment) Regulations, 2021 which came into effect on 30 June 2021*

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Regulatory information can be found under [Legal Notice](#)

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