



April 2017

## The Common Reporting Standard for Cayman Funds Key Differences from FATCA

The OECD's Common Reporting Standard (the "**CRS**") builds upon the framework introduced by the US Foreign Account Taxation Compliance Act ("**FATCA**") extending a similar automatic exchange of financial information regime across a broad network of participating jurisdictions. The Cayman Islands has implemented the CRS under the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (the "**Cayman CRS Regulations**") which impose similar obligations on Cayman funds as those imposed under FATCA but also require additional steps to be taken by those funds. The Cayman CRS Regulations also impose obligations on Cayman managers and general partners of investment entities which extend beyond those imposed under FATCA. This briefing outlines the key steps which will need to be addressed by Cayman funds and their managers and general partners in order to ensure compliance with the Cayman CRS Regulations.

The key changes introduced by the Cayman CRS Regulations require:

- all reporting financial institutions including Cayman funds, their managers and general partners to implement written policies and procedures to ensure compliance with the Cayman CRS Regulations;

[www.dilloneustace.com](http://www.dilloneustace.com)

For further information on any of the issues discussed in this article please contact:



**Matt Mulry**  
DD:+1 345 814 4054  
[matt.mulry@dilloneustace.ie](mailto:matt.mulry@dilloneustace.ie)



**Jonathan Law**  
DD:+1 345 814 4057  
[jonathan.law@dilloneustace.ie](mailto:jonathan.law@dilloneustace.ie)



**Derbhil O'Riordan**  
DD:+1 345 814 4052  
[derbhil.o'riordan@dilloneustace.ie](mailto:derbhil.o'riordan@dilloneustace.ie)

- Cayman managers and general partners of funds to register with the Cayman Tax Information Authority, to specifically appoint individual points of contact and to notify the authority of their CRS status; and
- Cayman funds, managers and general partner to continue to comply with the Cayman CRS Regulations until their dissolution despite the cessation of any relevant activities or operations during the course of their winding up.

Administrators of Cayman funds are best placed to ensure that the fund complies with its due diligence and reporting requirements under both CRS and FATCA and generally a Cayman fund will have delegated its compliance obligations under these regimes to its administrator. The Cayman CRS Regulations specifically acknowledge that delegation of a fund's obligations will be made to third party service providers but introduce a requirement to specify the extent of any such delegation in the required policies and procedures and to detail and responsibilities which are not delegated and for which the fund retains responsibility. The entry into a delegation agreement for the purposes of the Cayman CRS Regulations will not by itself satisfy the obligation to implement written policies and procedures. As part of their services administrators may offer written policies and procedures which can be adopted by their client funds but where this service is not offered, or not taken up, a Cayman fund will need to ensure that it has its own written policies and procedures in place.

Cayman managers and general partners will not have any reporting requirements under the Cayman CRS Regulations provided that they are able to make an anti-avoidance declaration to the Cayman Tax Information Authority. Their obligations under the Cayman CRS Regulations in these circumstances are limited to implementing written policies and procedures, authorising points of contact, registering with the Cayman Tax Information Authority and giving the required anti-avoidance declaration. Fund administrators may also be willing to extend their CRS compliance services to Cayman managers and/or general partners and if in that case Cayman managers and general partners will need to ensure that a specific agreement is entered into for that purpose. They will also need to ensure that any gaps in the compliance requirements are specified in their policies and procedures and covered by the manager or general partner themselves.

Where a Cayman fund, manager or general partner is being wound up steps will need to be taken to ensure that the Cayman CRS Regulations continue to be complied with until the final dissolution of the entity either by the continued provision of CRS compliance services by the fund administrator or by the liquidator of fund, manager or general partner ensuring such compliance directly.

For advice on the specific requirements on FATCA or CRS as implemented in the Cayman Islands and for assistance with ensuring compliance with these requirements please get in touch with your usual Dillon Eustace contact.

**Dillon Eustace**  
**April 2017**

DILLON  EUSTACE**Dublin**

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

**Cayman Islands**

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

**New York**

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

**Tokyo**

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

**DISCLAIMER:**

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

**Copyright Notice:**

© 2017 Dillon Eustace. All rights reserved.