

LEGAL ALERT

Common Reporting Standard Enters Into Effect For Investment Funds In The Cayman Islands on 1 January 2016

What is CRS?

The Common Reporting Standard (**CRS**) will impact Cayman Islands domiciled investment funds with effect from 1 January 2016. The CRS framework represents a globally coordinated approach to the disclosure of income earned by individuals and organizations in order to combat tax evasion. The CRS represents a significant step towards the global automatic exchange of information ("**AEOI**") for tax purposes. Among other things, the application of CRS in the Cayman Islands and other "early adopter" jurisdictions (including the BVI, Jersey, Guernsey, Ireland, and the United Kingdom) will require investment funds (and other financial institutions) to collect tax identification and tax residency information from all new subscribers and transferees (including debt-holders and equity-holders) who become investors on or after 1 January 2016. There are currently more than 90 jurisdictions that have committed to the implementation of CRS. The Cayman Islands are one of the first countries or early adopter jurisdictions that have agreed to implement AEOI exchanges under CRS by September 2017. On 16th October 2015, the Cayman Islands brought into force regulations which implemented the CRS regime into Cayman Islands law.

With effect from **1 January 2016**, CRS will impose new investor due diligence and reporting obligations on investment funds and other financial institutions based in the Cayman Islands. Financial institutions should now be preparing for the commencement of CRS by ensuring that marketing and subscription documentation are updated and that appropriate due diligence and reporting procedures are in place, especially for new funds.

How is CRS different from US FATCA?

Unlike US FATCA which requires Financial Institutions to register with the United States Internal Revenue Service to obtain a Global Intermediary Identification Number (**GIIN**), under CRS there are no additional registration requirements for Cayman Islands domiciled financial institutions with overseas tax authorities. Information provided to the Cayman Islands Department for International Tax Cooperation

("DITC") will be exchanged automatically between the DITC and overseas taxing authorities. In order to facilitate the collection of this information, the DITC published self-certification forms on 8 December 2015. These self-certification forms can be used to collect the information required under CRS from individual and entity investors in Cayman Islands investment funds. Along with the publication of these forms, DITC announced that, while investment funds should strive to collect self-certifications from new investors upon subscription, investment funds have 90 days from the subscription date to collect the necessary self-certifications.

The United States (US) has not yet agreed to adopt the CRS. The US will continue to rely on US FATCA and its related network of intergovernmental agreements to achieve the AEOI on tax matters.

Key Timetable Dates

The Cayman Islands Ministry of Financial Services has outlined the following key dates with respect to CRS in the Cayman Islands:

1 January 2016 - All financial accounts opened with Reporting Financial Institutions from this date and onwards are required to be subject to "new account"ⁱ due diligence procedures.

1 January 2016 - All financial accounts existing as at 31 December 2015 with Reporting Financial Institutions are required to be subject to "pre-existing account"ⁱⁱ due diligence procedures.

31 December 2016 - Due diligence procedures for identifying high-value pre-existing individual accounts shall be completed by 31 December 2016.

30 April 2017 - Deadline by which a Reporting Financial Institution is required to make certain notifications as to its CRS reporting status to the Cayman Islands Tax Information Authority. The CRS requires notification of: (i) the name of the Reporting Financial Institution; (ii) categorization of the Reporting Financial Institutions (i.e. reporting status); and (iii) certain details of its principal point of contact.

31 May 2017 – The first reporting date to the Cayman Islands Tax Information Authority in respect of relevant Reportable Accounts under CRS.

31 December 2017 - Due diligence procedures for identifying lower-value pre-existing individual accounts and for entity accounts shall be completed by 31 December 2017.

What steps should CI Financial Institutions take?

Financial Institutions (e.g. investment funds and banks) will need to have updated on-boarding procedures to determine CRS status of new account holders from 1 January 2016. Offering documents and subscription agreements for investment funds should be updated to incorporate appropriate references to CRS. Investment funds should be consulting with their administrators with regard to implementing updated on-boarding procedures.

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ⁱ new accounts being those opened on or after 1 January 2016.

ⁱⁱ Pre-existing accounts are those that are open as at 31 December 2015.