

KPMG REG FATCA/CRS Alert

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Cayman Islands: Updated CRS Guidance Notes, AEOI Portal User Guide and new Entity Self-Certification Form; Reopening of the AEOI Portal

On 15 March 2018, the Cayman Islands Tax Information Authority ("TIA) published:

- a revised AEOI Portal User Guide (Version 4.0);
- updated CRS Guidance Notes (Version 3.0); and
- an updated Entity Self-Certification Form.

Additionally, the Cayman Islands TIA has re-opened the Cayman Islands AEOI Portal and it is expected the TIA will begin to accept submissions for 2017 FATCA and CRS returns this week.

Also, during the week of 12 March 2018, all Authorizing Persons (which were required as part of the CRS Notification process for all Cayman Islands Financial Institutions) were added to the AEOI Portal. This means that all Cayman Islands Financial Institutions have an account on the AEOI Portal under both the PPoC and the Authorizing Person. As a reminder, only the Authorizing Person can designate the PPoC.

KPMG Observations:

Updated Entity Self-Certification Form:

In line with the revised Cayman Islands AML Regulations, TIA has updated the Entity Self-Certification Form to indicate that the new threshold for a Controlling Person is 10% (as opposed to the 25% threshold previously in place) of the shares or the voting rights of an entity. This impacts any Cayman Islands Financial Institution opening a new Entity Account to require the new and updated Self-Certification Form to be obtained.

Cayman Islands Contacts:



David Conen
Partner
dgconen@kpmg.ky



Todd Armstrong
Director
toddarmstrong@kpmg.ky



Catherine Houts
Director

The DITC has also implemented a deadline of 31 December 2018 for Cayman Islands Financial Institutions to remediate any Accounts held by legal persons that are Passive NFEs by obtaining an updated form of Entity Self-Certification.

Updated CRS Guidance Notes:

The DITC have made a number of updates to the CRS Guidance Notes, some of which we have highlighted below.

- Clarified that Cayman Islands Financial Institutions, for any financial accounts opened after 1 February 2018, for any account holders whom are Passive NFEs, must use the updated Entity Self-Certification Form (reflecting the lower 10% threshold). Cayman Islands Financial Institutions also have until 31 December 2018 to collect the new Entity Self-Certification Forms from pre-existing Passive NFEs. Note: There is no change in the ownership threshold for FATCA for Passive NFFE (which remains at 25%).
- TIA has confirmed that a Cayman Islands Financial Institution which is being liquidated or wound up should arrange for a third party to perform any obligations under the CRS which will arise prior to final dissolution and which cannot be completed prior to such final dissolution, whether that is due to the AEOI Portal being offline or for any other reason.
- TIA has included guidance on Cayman Islands Financial Institutions who are migrating to another jurisdiction. They have clarified that a final return is required and a “stub” period return is required until the date of migration.
- In the updated Guidance Notes, TIA has confirmed that those receiving an indirect distribution from a trust will be considered to be a beneficiary and may be reportable (e.g. the trust pays tuition fees).

Updated AEOI Portal User Guide:

As with 2016 CRS reports, for their 2017 CRS reports, Cayman Islands Financial Institutions will be required to submit separate reports for each jurisdiction where there are reportable account holders.

TIA have made a number of updates to the AEOI Portal User Guide, some of which we have highlighted below.

The User Guide includes guidance on how to correct CRS returns as well as further detail on termination of a Cayman Islands Financial institution.

Also, see below for some specific items noted by the DITC in respect of differences to the IRS FATCA XML Schema v2.0:

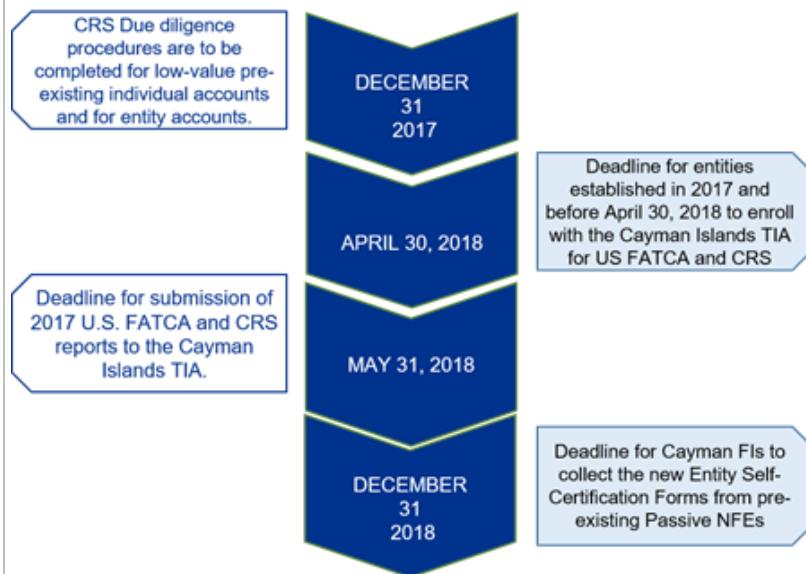
catherinehouts@kpmg.ky



Gautam Ganeshan
Senior Manager
gautamganeshan@kpmg.ky

Topic	TIA instructions to FIs (i.e. notwithstanding IRS FATCA XML Schema v2.0 User Guide)	Explanation	
Reporting FI - TIN Value for either <ul style="list-style-type: none"> — Trustee Documented Trust — Sponsored FFI that is a sponsored, closely held investment vehicle 	Insert the Sponsoring Entity's 'SP' GIIN or, if the TDT or Sponsored FFI has its own GIIN, use that GIIN	TDTs and those types of Sponsored FFIs are not required to obtain a GIIN from the IRS. Users cannot leave the field blank due to the TIA's validation rules which are required to prevent IRS record level error notifications.	
Reporting FI – DocRefId for either: <ul style="list-style-type: none"> — Trustee Documented Trust — Sponsored FFI that is a sponsored, closely held investment vehicle 	Insert the same GIIN used in the TIN field and a unique value (i.e. not used for any other US FATCA return made using the same GIIN at any other time), separated by a full stop, in this format: [GIIN].[unique value]	The TIA's validation rules will reject any US FATCA Return where TIN component of the Reporting FI's DocRefId does not match its GIIN which, in the case of TDTs and those types of Sponsored FFIs that have not obtained their own GIIN from the IRS, is the Sponsoring Entity's 'SP' GIIN	
<p>TIA has also clarified that for US FATCA reporting, when a TIN has not been obtained, nine uppercase "As" must be used when a US TIN has not be obtained (AAAAAAA) provided certain conditions are met. <u>TIA noted in the User Guide that if the TIN field is left blank the Account Holder will be considered recalcitrant and TIA may take regulatory action.</u></p> <p>KPMG Observation: This is a clear indication to industry of the importance of obtaining TINs for all account holders – whether for FATCA or CRS – as the account holder information is of little use to a foreign tax authority without the applicable TIN. All Cayman FIs should follow up on any missing or incomplete TINs with the respective account holders.</p>			

AEOI Timeline:



Reference: [CRS Guidance Notes](#) [PDF 2,384KB], [AEOI Portal User Guide](#) [PDF 10,408KB], [Entity Self-Certification Form](#) and [Industry Advisory Notice](#) [PDF 480KB]

For information on KPMG's global AEOI network professionals, please email KPMGREGqueries@kpmg.com.

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