



NOVEMBER, 2019

## Cayman Islands – Local substance (BEPS) requirements – DITC User Guides issued

The Cayman Islands published The International Tax Co-operation (Economic Substance) Law, 2018 and The International Tax Co-operation (Economic Substance) (Prescribed Dates) Regulations, 2018 on 27<sup>th</sup> December, 2018. Subsequently, the International Tax Co-operation (Economic Substance) (Amendment of Schedule) Regulations, 2019, the International Tax Co-operation (Economic Substance) (Amendment of Schedule) (No. 2) Regulations, 2019 and the International Tax Co-operation (Economic Substance) (Amendment of Schedule) (No. 3) Regulations, 2019 were also enacted (together, the “ES Law”).

The Cayman Islands Tax Information Authority (“TIA”) issued version 2.0 of its Guidance on Economic Substance for Geographically Mobile Activities on 30 April 2019 and it is expected that this will be re-issued shortly in a version 3.0 with additional industry sector specific details. In the meantime, the Cayman Islands Department for International Tax Cooperation has published additional supporting materials for all Cayman Islands companies, LLCs, LLPs and foreign companies relating to the method and required content for making the required annual ES Notification for economic substance in accordance with section 7(2) of the ES Law – see [http://www.tia.gov.ky/pdf/Economic\\_Substance.pdf](http://www.tia.gov.ky/pdf/Economic_Substance.pdf)

The annual ES Notification is distinct from the annual ES Report required under section 7(4) of the ES Law. The ES Notification is required of all of foregoing entities whether or not they are claiming an exemption from being a *relevant entity*<sup>1</sup> by reason of being a *domestic company*, an *investment fund* or tax domiciled somewhere other than in the Cayman

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)

<sup>1</sup> Italicised terms used herein are defined in the ES Law.

Islands. Partnerships and trusts are not required to file an ES Notification or an ES Report.

The ES Notification is a prerequisite to filing an entity's annual return with General Registry and will be due no later than 31 January in each year commencing 2020. Foreign companies, although not required to make an annual return to General Registry, will also be required to make the ES Notification.

All entities will be required in the ES Notification to confirm whether or not they are conducting any *relevant activity (banking business, holding company business, distribution and service centre business, insurance business, financing and leasing business, intellectual property business, fund management business, and/or shipping business.)* Filings will be made via an electronic portal and certain supporting information will also be required.

Specifically, investment funds which are claiming an exemption from being a relevant entity will be deemed not to be carrying on any relevant activity, but will be required to provide a Cayman Islands Monetary Authority ("CIMA") issued registration number (if any), Global Intermediary Identification Number ("GIIN"), and FI Number ("FIN") issued by the Cayman TIA.

Similarly, an entity which conducts fund management business will as part of its ES Notification also need to provide its CIMA registration number, GIIN, and FIN whether or not it is claiming an exemption from being a relevant entity by virtue of being a domestic company or tax domiciled somewhere other than in the Cayman Islands.

Entities which claim an exemption by virtue of being a domestic company, an investment fund, or tax domiciled somewhere other than in the Cayman islands will not be required to file the annual ES Report. An entity which is a relevant entity but which does not conduct any relevant activity will also not be required to file an annual ES Report.

ES Reports relating to relevant activity (-ies) must be filed within 12 months of the relevant entity's financial year end. For example, a relevant entity with a financial year end of 31 December will need to file its first ES Report prior to 31 December 2020. The filing timetable for relevant entities conducting fund management business will be dependent upon when the entity is registered with CIMA under the Securities Investment Business Law, as amended.

## 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:

© 2019 Dillon Eustace. All rights reserved.